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THE EPIDEMIC OF NURSING HOME ABUSE AND NEGLECT

Many recent reports have found substantial amounts of preventable (and costly) abuse and neglect at long-term care facilities.

- According to a 2014 Department of Health and Human Services (HHS) Office of Inspector General (OIG) report, 33 percent of seniors in skilled nursing facilities experienced adverse or temporary harm events, 59 percent of which were preventable.¹ This included excessive bleeding due to medication, falls or other trauma, several kinds of infections, pressure ulcers and acute kidney injury.
- According to the Elder Justice Roadmap, a 2014 initiative funded by the U.S. Department of Justice with HHS support,² “high rates of neglect, poor care or preventable adverse events persist in nursing homes and other long-term care settings where more than two million people (most of them elderly) live.³ In addition, “Most adverse events in nursing homes – due largely to inadequate treatment, care and understaffing – lead to preventable harm and \$2.8 billion per year in Medicare hospital costs alone (excluding additional – and substantial – Medicaid costs caused by the same events.)”⁴
- In 2012, OIG found, “85 percent of nursing facilities reported at least one allegation of abuse or neglect.”⁵
- According to an October 2011 University of California (UC) analysis of Centers for Medicare and Medicaid Services data (in cooperation with state agencies), in 2010 nationwide, about 146,000 deficiencies were issued to nursing homes for violations of federal regulations “indicating many quality issues in the nation’s nursing homes” and “23 percent of the nation’s nursing facilities received deficiencies for poor quality of care that caused actual harm or jeopardy to residents.”⁶ For example, “43 percent of nursing homes failed to provide adequate infection control and 43 percent failed to ensure a safe environment for residents to prevent accidents.”

Sexual assault, rape and abuse of nursing home patients is a widespread and vastly underreported problem.

- According to a 2017 *CNN* report, “this little-discussed issue is more widespread than anyone would imagine. Even more disturbing: In many cases, nursing homes and the

government officials who oversee them are doing little -- or nothing -- to stop it.” More specifically, “more than 16,000 complaints of sexual abuse have been reported since 2000 in long-term care facilities” although this number fails to reflect the problem’s true extent because it includes “only those cases in which state long-term care ombudsmen (who act as advocates for facility residents) were somehow involved in resolving the complaints.” *CNN* also found, “the federal government has cited more than 1,000 nursing homes for mishandling or failing to prevent alleged cases of rape, sexual assault and sexual abuse at their facilities during this period. ... And nearly 100 of these facilities have been cited multiple times during the same period.”

Underreporting of all types of abuse and neglect is likely throughout the industry.

According to the National Research Council, “a vast reservoir of undetected and unreported elder mistreatment in nursing homes may exist. Because nursing home residents as a class are both extremely physically vulnerable and generally unable either to protect themselves or report elder mistreatment they experience, the physical and emotional costs of elder mistreatment in such environments are likely to be very high.”⁷

Large for-profit nursing homes deliver the worst care and harm the most patients.

In a 2011 UC study, researchers found, “The nation’s largest for-profit nursing homes deliver significantly lower quality of care because they typically have fewer staff nurses than non-profit and government-owned nursing homes.”⁸ For example, “[t]he 10 largest for-profit chains were cited for 36 percent more deficiencies and 41 percent more serious deficiencies than the best facilities. Deficiencies include failure to prevent pressure sores, resident weight loss, falls, infections, resident mistreatment, poor sanitary conditions, and other problems that could seriously harm residents.” And, the “four largest for-profit nursing home chains purchased by private equity companies between 2003 and 2008 had more deficiencies after being acquired. The study is the first to make the connection between worse care following acquisition by private equity companies.”

New reports regularly surface about how badly long-term care is deteriorating, and how badly government regulation is failing.

- The *New York Times* reported in July 2017, “While special focus status is one of the federal government’s strictest forms of oversight, nursing homes that were forced to undergo such scrutiny often slide back into providing dangerous care, according to an analysis of federal health inspection data. Of 528 nursing homes that graduated from special focus status before 2014 and are still operating, slightly more than half — 52 percent — have since harmed patients or put patients in serious jeopardy within the past three years.”⁹
- *ProPublica* noted in 2012, “For decades, federal auditors have flagged dangerous and neglectful conditions in U.S. nursing homes and faulted the government’s oversight.”¹⁰

NOTES

¹ *Adverse Events In Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries*, U.S. Department of Health and Human Services Office of Inspector General (Feb. 2014), <https://oig.hhs.gov/oei/reports/oei-06-11->

² *The Elder Justice Roadmap*, U.S. Department of Justice and Department of Health and Human Services (2014), <https://www.justice.gov/file/852856/download>

³ Note 5 of *The Elder Justice Roadmap*, *supra*, is omitted, but the note cites a number of additional studies including *Nursing Homes: Federal Monitoring Surveys Demonstrate Continued Understatement of Serious Care Problems and CMS Oversight Weaknesses*. (GAO-08-517.) Washington, DC: Author; U.S. Government Accountability Office. (2010). *Poorly Performing Nursing Homes: Special Focus Facilities Are Often Improving, But CMS's Program Could Be Strengthened*. (GAO-10-197). Washington, DC: Author; U.S. Government Accountability Office. (2010). *State Ombudsman Data: Nursing Home Complaints*. (OEI-09-02-00160). Washington, D.C.: Department of Health and Human Services; Office of Inspector General, Department of Health and Human Services. (2013). *Long Term Care Ombudsman Program: Complaints Trends*. (OEI-02-98-00350.) Washington, DC, Department of Health and Human Services, Office of Inspector General, Department of Health and Human Services. (2014).

⁴ *The Elder Justice Roadmap*, *supra*.

⁵ *Nursing Facilities' Compliance With Federal Regulations for Reporting Allegations of Abuse or Neglect*, U.S. Department of Health and Human Services Office of Inspector General (Aug. 2014), <https://oig.hhs.gov/oei/reports/oei-07-13-00010.pdf>

⁶ Charlene Harrington et al., "Nursing Facilities, Staffing, Residents, and Facility Deficiencies, 2005 Through 2010" (October 2011) found at <http://theconsumervoice.org/uploads/files/issues/OSCAR-2011-final.pdf>

⁷ Richard J. Bonnie and Robert B. Wallace, Editors, *Elder Mistreatment; Abuse, Neglect, and Exploitation in an Aging America*, National Research Council of the National Academies, National Academy Press, Washington, DC, 2003, http://www.nap.edu/openbook.php?record_id=10406

⁸ Elizabeth Fernandez, "Low Staffing and Poor Quality of Care at Nation's For-Profit Nursing Homes," *UCSF News Center*, November 29, 2011, found at <http://www.ucsf.edu/news/2011/11/11037/low-staffing-and-poor-quality-care-nations-profit-nursing-homes>.

⁹ Jordan Rau, "Poor Patient Care at Many Nursing Homes Despite Stricter Oversight," *New York Times*, July 5, 2017, https://www.nytimes.com/2017/07/05/health/failing-nursing-homes-oversight.html?_r=0

¹⁰ Charles Ornstein, Lena Groeger, "What We Found Using Nursing Home Inspect," *ProPublica*, Aug. 14, 2012, <https://www.propublica.org/article/our-latest-news-app-nursing-home-inspect>