

“Nursing Home Abuse: The Perils of an Institutionalized Life”

Turning Eldercide into Elderpride

The abuse of America’s senior citizens continues despite thousands of media stories and lawsuits. Drowned out by the “flavor of the day” hot issue topics, the cries of victims’ loved ones go unheeded. The elderly have no flags to wave at marches they lack the energy to organize or attend. Pictures of victimized senior citizens never make the evening news. The “evil doers” go unpunished as America remains clueless to the abuse and murder of our senior citizens. This article is dedicated to those victims on the eve of the first annual “World Elder Abuse Awareness Day,” sponsored by the International Network for the Prevention of Elder Abuse, to be held on June 15th.

Elder abuses, the mistreatment of senior citizens and Eldercide in nursing homes are now shockingly common and rising. Eldercide is the systematic institutionalization of the elderly and infirm in nursing homes that leads to their premature death. Today’s victims are our parents, brothers and sisters, and us.

“Nursing home abuse is so widespread that one in three Americans surveyed recently would rather die than live in a nursing home,” says Terry Cochran, a Michigan attorney, in an April 3, 2006 news release. Institutional abuse and neglect has been a sad part of health care history. Many of today’s nursing homes can be compared to mental institutions of the past two centuries. Driven by profit motives, the neglect and abuse of old time institutions continues in the 21st Century in nursing home facilities.

What are the underlying causes and what is needed?

In an August 19, 2004 *PR Newswire* story, Jennifer Kelly, of Nursing Home Watch, commented “Many facilities are understaffed and the care of a loved family member is left to poorly-trained nursing staff and aides who are overworked and underpaid. Many facilities are so short-staffed that they operate in violation of state law. Failure by the facility to do background checks also leads to an inexperienced, low quality worker. The highly stressful nature of the work, due to insufficient staffing and time to complete tasks, can lead to burnout, negative job attitudes, a loss of empathy for the patient, and ultimately abuse.”

Much evidence exists of the staffing issues in nursing homes:

- A September 2, 2003 issue of *Nursing Home Abuse News* reported on a US Department of Health and Human Services statistic that 9 out of 10 nursing homes employ too few workers to provide adequate care, and over 40% of all homes need to increase their nurse aide staff by at least 50%.
- A 2005 study by the General Accounting Office concluded that 90% of the nation's nursing homes are grossly understaffed and that it would cost \$7.6 billion to solve the problem.
- In its October 27, 1997 issue, *Time Magazine* story commented that many nursing homes have become dangerous places largely because they are understaffed and under regulated. In a 2002 book, *The Crisis in America's Nursing Homes: What Are We Doing Wrong?*, Guy Seaton wrote, “Too many nursing homes provide care that would not even be acceptable in a zoo ... the staff's workloads do not permit them to provide the quality of care that is needed.”

The government must share the blame with nursing home operators for the quality problems in facilities. In a March 2004 article from the Utah Eldercare Planning Council, “Nursing Home Abuse: warning call for a deeper problem,” Thomas Day, a long-term care specialist and a Certified Eldercare Advisor (CEA), stated, “Although the majority of nursing homes are not owned by government, operations of the facilities are controlled by government mandates and reimbursement procedures. In reality, nursing home operations, though not directly managed by the government, are nonetheless quasi-government run businesses.”

The fact is that America is funding dying, not living. A study on the management of nursing homes by Caregiver Management Systems, Inc. determined that, currently, 80% of the health care dollar is spent in the last two years of people’s lives. Further, of the \$1.7 trillion health care dollars spent in the United States per year, the study further estimated that \$400 billion is wasted on inefficient and ineffective treatment, instead of accountability for improving patients’ true quality of life.

Jerry Rhoads, CEO of Caregiver Management Systems, Inc., says, “We need a new infrastructure in

existing facilities that focuses on restorative programming not warehousing. We must eliminate wasteful business practices that are costing health care \$400 billion per year; save the 50 state Medicaid programs by nationalizing the coverage; cover the uninsured costs out of savings on wasteful practices; and pay for performance, on the basis of outcomes, not treatments.”

According to the National Institute on Aging, in 2006 nearly one of five Americans - some 72 million people - will be 65 or older. AMA President J. Edward Hill predicts this is just the beginning, "The cuts come as the first wave of baby boomers begin to enter Medicare in five years," he says. "By the time the full force of the cuts takes effect in 2015, 67 percent of physicians say they will be forced to decrease or stop taking new Medicare patients."

Nursing homes and the institutional life

Nursing home residents are a highly vulnerable population and often isolated, making them easy targets for less than humane care. In his 1970 report on nursing homes, Ralph Nader called old age “the last segregation.”

Nursing homes “reflect the prevailing social policy of the times: the sick, the aged, and other nonproductive members of society are an embarrassment; they remind us of our own mortality and therefore should be removed from view,” wrote Renee Rose Shields in *Uneasy Endings: Daily Life in an American Nursing Home*. “While becoming old is not a step down everywhere in the world, the treatment of the elderly in American society closely compares with the abandonment practiced by many primitive societies.”

In 1988, Ms. Shields wrote, “During the 19th century, there was no clear distinction between the purposes of almshouses, workhouses, poor houses, asylums, or hospitals. Early in the 20th century, before the concept of nursing homes developed as part of the Social Security Act of 1935, all of these terms were in use and were the only homes for the aged and infirm.”

Mental institutions – past and present

The conditions within mental institutions of the past can be compared to many nursing homes of today. Patients living in a mental ward in the early 1900's lived under rigid hospital conditions, were told when to get up and when to sleep, ate meals planned and prepared by others, had no responsibilities, stopped making decisions for themselves, and were often neglected. Similar to nursing homes, families would often submit their elderly relatives to asylums because they lacked the resources or time to deal with them appropriately. An April 14, 2006 *Los Angeles Times* article commented that trailblazing journalist Nellie Bly spent time undercover at the asylum and wrote in 1887 that it was a "human rat trap."

While the deinstitutionalization movement in the 1950's radically changed and improved the treatment of mentally ill persons across the nation, many residents at these facilities still face often life-threatening conditions, including neglect, physical, sexual and verbal abuse, and inhuman and degrading treatment. An April 6, 2006 article in the *St. Louis Post-Dispatch* reported that the state's mental health department has been under fire for years for its handling of investigations into negligence, assaults and deaths of patients inside the state's institutions and privately run homes.

According to a May 3, 2006 *Los Angeles Times* article, federal prosecutors filed a consent decree four years after investigators began probing civil rights violations at California's mental hospitals. Problems that have persisted and, in some cases, worsened, include an increase in suicides, assaults and murder, exacerbated by staff shortages and poor training.

Nursing homes and mental institutions – the line is blurring

Is a comparison of today’s nursing homes to mental institutions fair?

According to a March 8, 2006 *New York Times* article, the state illegally sends hundreds of patients from mental hospitals to nursing homes. Patients do not receive proper care and are kept in conditions that approach imprisonment. "The state is warehousing people in nursing homes who don't need nursing home care, and not providing the services that they do need," said Cliff Zucker, executive director of Disability Advocates Inc., one of the groups filing the suit.

An April 27, 2006 *Chicago Tribune* article, profiling a similar situation in Illinois, reported that thousands of mentally ill residents are improperly housed in large nursing homes. Benjamin Wolf, attorney for the American Civil Liberties Union of Illinois (ACLU), said, "the nursing homes are making a huge profit on these places -- tens of millions of dollars [for] warehousing people who should be in the community."

In an April 16, 2006 *Topeka, Kansas Capital-Journal* article, a former state hospital patient, formally convicted of sexually assaulting a 9-year-old boy, stalked a Topeka nursing home that cares for mentally ill adults. Free to mingle with the home's disabled residents, he attacked and beat a male patient, a man in his early 40's with schizophrenia, in the summer of 2004.

Commenting on the incident, Rocky Nichols, executive director of the Disability Rights Center of Kansas, said, "They knew about it. They didn't stop it. That is despicable, deplorable and inexcusable."

Nursing home abuse, assault, neglect and "Eldercide" – a growing problem

The Nursing Home Reform Act of 1987 states that all residents in nursing homes are entitled to receive quality care and live in an environment that improves or maintains the quality of their physical and mental health. However, the care that senior citizens receive ranges widely from genuine compassion to abuse or indifference. A July 11, 2004 *Associated Press* wire story reported that nursing home residents are often the victim of patient assaults, due to the fact that felons are working in elder care.

A U.S. Senate committee report, dated June 18, 2002, *Elder Justice: Protecting Seniors from Abuse and Neglect*, reported on a survey of 80 nursing home residents in 23 Georgia nursing homes which found that 44 percent reported that they had been physically abused, and 48 percent that they had been treated roughly.

In a September 14, 2005 *Global News Wire* story, Senate Finance Committee Chair Chuck Grassley (R-Iowa) commented, "Approximately 1.7 million elderly and disabled residents live in over 17,000 nursing homes in the U.S. Thousands of complaints reported from the ombudsman program, the nurse/aide registries, the Office of Inspector General, and deficiency statements suggest that as many as a third of nursing facilities have one or more incidents or allegations of abuse and neglect."

The Nursing Home Abuse Resource Center reported the number of claims against nursing homes is increasing. Claims were up from 13.8 per 1,000 beds in 2002 to 15.3 per 1,000 beds in 2003. According to a Harvard University study, among abuse or neglect claims against nursing homes, over 50% involved wrongful death, approximately 34% involved bedsores, and approximately 30% involved emotional distress.

An April 21, 2005 *New Orleans Times-Picayune* review of 250 wrongful-death lawsuits filed against nursing homes since 1999 revealed numerous allegations. A resident at a Lake Charles-area home was beaten to death by his roommate after the staff failed to separate them. A mentally impaired man at a north Louisiana home accidentally set himself on fire when staff did not prevent him from smoking a cigarette while an oxygen tube.

CBS News Correspondent Vince Gonzales, during the evening news on February 25, 2000, commented that Helen Love, a 75-year-old woman, weighing 95 pounds, had been attacked by a male nursing home staff member at a nursing home in Sacramento, Calif. The woman decided the only way she could survive was to play dead. Eventually he left her room. Two days after she was interviewed on videotape, the woman died.

Experts believe that a significant number of cases are covered up and unreported. According to a March 1, 2002 *New York Times* article, federal investigators say that physical and sexual abuse of nursing home residents is not being promptly reported to local authorities and is rarely prosecuted.

Abuse by nursing home operators and inadequate staffing – the profit motive

According to the Center for Nursing Home Abuse, shocking stories of abuse and neglect exist because many nursing home owners are driven more by profits than care of residents. The primary motivation is to keep the investors happy, not the residents. Van Robichaux, a New Orleans lawyer who specializes in nursing home lawsuits, commented in an April 18, 2005 *Times-Picayune (New Orleans)* article, "What happens a lot of times in a nursing home is not an accident. It's repetitive, intentional neglect, oftentimes

for profit. And that's not excusable.”

Many of our nation's senior citizens are victims of incompetence and under staffing. In the April 18, 2005 *Times Picayune (New Orleans)* article, Katherine Harrington, an Alabama lawyer who handles nursing home cases in several states, commented, “If you would pay the weakest link – which is often the case – a fair wage for a very difficult job, you would get better-quality employees. But they won't do that because it affects the bottom line.”

There is hope - quality care in skilled nursing home facilities does exist today

While most news about the industry is bleak with stories of poor care, overworked staff, and aides who abuse the residents, many skilled nursing facilities are full of dedicated, caring individuals who go to great lengths to provide the best possible service for their residents.

In a January 17, 2004 story in the *San Diego Union-Tribune*, Marsh Kay Seff, Eldercare Editor, commented that most nursing homes work hard to keep residents safe, secure, happy and engaged in life. “I've discovered from my experience with my parents and from visiting numerous retirement communities that, despite vastly inadequate salaries, most caregivers are angels. They work for minimum wage, doing everything from changing diapers, scheduling doctors' appointments and tidying rooms to conducting exercise classes and chaperoning residents on field trips. And most do it all with a smile and good humor,” Ms. Seff stated.

The Wealshire, located in the Chicago suburb of Lincolnshire, Illinois, is owned and operated by a single family with over 80 years devoted to skilled nursing. The facility pioneered the concept of household living for dementia patients over 10 years ago, and provides a complete continuum of care for their patients. A family member provided this testimonial, “I want you to know how happy my family is with the care my father has received. Everybody knows him and cares about him. When I ask about his medical condition, the information is related to me quickly and openly. Dad is very happy and feels he is well liked by the staff. All of his issues have been addressed in a creative, competent, and caring way.”

In a September 18, 2002 *National Public Radio* story, Mary Ann Kehoe, administrator at Good Shepherd, a nursing home facility in Wisconsin which empowers nurse aides to take charge and solve problems, commented, “[Nurse aides] are the ones who make a difference in our resident's lives. They know how to critically think about information. And they just change things.”

To move to quality care, nursing homes must overcome managing regulatory agency obstacles

Confused by complex JCAHO (Joint Council on Accreditation of Healthcare Organizations) compliance guidelines, government regulations, and profit motives, the nursing home industry hasn't changed in over fifty years and remains an antiquated, bureaucratic management system. The giant chains consolidated 57% of the industry, took “care” out of the equation, and extracted the heart from the business.

An AP/Long Island Newsday, May 2006 article, *Medicare| CMS Fails To Penalize Nursing Homes With Patient Safety Violations, Other Problems, HHS OIG Report* states that, according to a report released by the HHS OIG (Health and Human Services Office of Inspector General), the CMS (Centers for Medicare and Medicaid) should have terminated the contracts of 55 nursing homes between 2000 and 2002, but failed to terminate contracts in 30 of those cases. In some cases, states did not refer problems with the nursing homes to CMS before the required termination date, the report finds. The report also finds that in 28% of 706 cases between 2000 and 2002, CMS failed to deny Medicare reimbursements for new patients when nursing homes take more than three months to return to “substantial compliance” with federal rules.

Senator Grassley said that the report indicated a lack of CMS enforcement against problems in nursing homes and also commented, “Residents in immediate jeopardy at a nursing home need to be somewhere safer. They're the most vulnerable to abuse and neglect. Termination has to be real and enforced, or troubled nursing homes may have no other incentive to clean up their act.”

Jerry Rhoads, CEO of Caregiver Management Systems, Inc., stated, “Waste can be eliminated through the proper utilization of Medicare. Mandating that patients must use 100 days of Medicare coverage before using a patient's life savings and billing to Medicaid, utilizes Medicare as it was enacted in 1966 to restore beneficiaries to his/her highest level of functioning for conditions that resulted from their hospitalization.

“We must standardize long term care plans using ISO 9000 standards. With standardization can come attainable quality measures, evidence based medicine, and pay for performance. Specific components of ISO 9000 standards include restoring the functioning to the highest level and functionalizing the workflow around case management teams, rather than departments. Another standardization component is the use of electronic medical records, rather than keeping records in a narrative, handwritten format. Currently, there are little to no electronic retrieval systems using deductive modeling and probability tables,” Mr. Rhoads continued.

Elderpride – the solution to improve the situation in America's nursing homes

Elderpride is a new infrastructure that focuses on restorative programming, not warehousing; a system that creates incentives for restorative and health preservation services, rather than treatment; and a model that pursues health preservation and wellness, instead of profit and money. The Elderpride solution also calls for the establishment of a National Health Policy to nationalize and privatize health care as a right to receive quality care.

“Elderpride is the systematic de-institutionalization of the elderly in nursing homes using a restorative model of care. The restorative model 'welcomes the patient to a journey back home' by utilizing models of care and computer technology that focus on outcome rather than income. This entails a programmatic approach for the patient's problems, resulting in lower costs by eliminating irrelevant medication, testing and treatment, and replacing it with discharge planning and active pursuit of higher levels of functioning, based on rehabilitation and restorative nursing,” stated Mr. Rhoads.

The concept of restorative care for the elderly seems to be lost on the Centers for Medicaid and Medicare Services. Nursing homes need to focus on positive patient outcomes, discharges back to the community, or improvements in the functionality of patients who need to reside in nursing homes.

Mr. Rhoads stated, “The current paradigm is based on inductive clinical methods that have been with us for 75 to 100 years. The inductive medical model, practiced widely in nursing homes, uses a rule out theory of pursuing a plan of treatment without a destination. 95% of the physicians' orders are for prescriptions filled without a visit, and the outcome is not documented. Most nursing homes do not attempt to reduce the dependence of the elderly on prescribed medications and the majority of patients are low functioning cognitively because of over medication.

“What's needed is to get rid of over medication, over use of wheelchairs, institutionalized inductive medicine, and replace with a standardized process of fitness, wellness, screening, preventive nutrition, natural vitamins, and other proven health preservation approaches using computer models and decision analysis,” Mr. Rhoads added.

To create a paradigm shift in patient treatment focused on restorative care, Caregiver Management Systems, Inc. has adopted the management techniques of Six Sigma, which is used globally and by companies such as Caterpillar, GE, 3M and Motorola. The company focuses on team approach, with complete staff involvement in the decision process. It addresses the real causes of patients' illnesses, using the Medicare laws as originally intended and improving conditions for both staff and patients.

Praveen Gupta, president of Accelper Consulting, who helped prototype Six Sigma while at Motorola, stated, “Six Sigma is a more proactive, well-planned and a dedicated process where you fix the real cause, the source of the problem, so that it doesn't happen again (restorative-deductive care). Everyone becomes performance driven and focused on driving change and improvement, and costs are reduced. Companies can enhance services and pay attention to preventive maintenance activities, design new programs, upgrade technology, and staff can learn new skills and financially benefit from savings when shared by employers. All can be accomplished without any additional significant increase of revenues.

“The health care industry in general has been behind in adapting new methods of improvement (Six Sigma) because they have been regulated for compliance to JCAHO and by other federal guidelines,” concluded Mr. Gupta.

Action must be taken

The 1994 book, *Patients, Pain & Politics*, is an eyewitness account of corruption and cover-up within the Wisconsin nursing home enforcement system. Mary Richards Rollins, RN, BSN, a state/federal supervisor and nursing home inspector for ten years, wrote, "If blame is to be assigned for the untold abuses which occurred in some of the nursing facilities, it must be shared equally with the nursing facilities involved *and* the State Division of Health. How much more suffering, how much more abuse, how many more deaths, how many more scandals will it take to awaken the consciences of legislators and citizens, before we demand accountability of our government agencies?"

The problem still exists today. Our country's leaders and the medical industry need to address this pending crisis, before it increases to the intensity of the immigration, Hurricane Katrina, Medicare, Iraq war and terrorism issues.

Caregiver Management Systems, Inc. is a management consulting firm specializing in long-term care. The Caregiver Management Systems model in currently use in 54 nursing homes in Illinois, California, Indiana, South Carolina, Arkansas, Missouri, Ohio, Iowa and New York. Caregiver Management Systems has implemented the Caregiver model in 117 nursing homes since 1991, and increased their Medicare resources by \$110 million, of which \$40 million went to the bottom line.

The Dorothea C. White Foundation, for which this article was written, was founded by Shari and Jerry Rhoads to campaign for legislation that will require providers of health care to be paid on the basis of outcome and that the regulatory process is incentive not enforcement driven. Shari Rhoads' mother, Dorothea C. White, was abused and neglected in an Illinois nursing home that committed three immediate jeopardy Class A violations after she had suffered an undetected heart attack as a result of being dehydrated and over medicated by the attending physician. Jerry Rhoads is a CPA and licensed nursing home administrator with over 40 years experience in hospital, nursing home, home health and physician reimbursement, and CEO of Caregiver Management Systems, Inc. His mother and father both expired in Iowa nursing homes after being confined in institutional settings.

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