



**New York StateWide Senior Action Council, Inc.**

# THE FUTURE OF NURSING HOME CARE

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Coalition of New York State (1982 to 2012)

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# CHRONIC PROBLEMS IN OUR STATE'S NURSING HOMES: LONG BEFORE THE PANDEMIC

Residents in our state's nursing homes face many quality problems yet the DOH's surveys, complaint investigations and enforcement actions do not identify the problems and hold providers accountable.

# INADEQUATE STAFFING

- ❑ Cutting the numbers of adequate staff or hiring inadequate numbers of staff to care for our most vulnerable elderly has always been a strategy for nursing home providers looking to increase profit or surplus.
- ❑ Facilities had low staffing levels long before the pandemic.

# INADEQUATE STAFFING

- ❑ NYS's direct care workers, nurses and aides, spend about 3 hours and 14 minutes a day with each resident, while many studies indicate at least 4 hours are needed. Some studies found that even more time was needed to care for nursing home residents.
- ❑ The new law passed by the State requires only 3.5 hours, which is still too low. Although some homes may come up to 3.5 hours, some may come down to 3.5 hours.

# ANTI-PSYCHOTIC DRUGS (PSYCHOTROPIC)



- ❑ According to publicized numbers by CMS, large numbers of NYS nursing home residents are on psychotropic or antipsychotic drugs (11.5% or 11,000 NYS nursing home residents).
- ❑ For many residents on these drugs, they are “**chemical restraints.**”
- ❑ They are used as a sedative, a convenience for staff so they don’t have to deal with a resident’s symptoms.
- ❑ They are dangerous for residents with dementia, doubling their chance of death from heart problems, infections, falls and other ailments.

# ANTI-PSYCHOTIC DRUGS

- ❑ The number reported to the public excludes those residents who have been diagnosed with schizophrenia, Tourette's Syndrome, or Huntington's Disease since these medications are to be used with residents with psychosis.
- ❑ The New York Times recently reported that some homes are diagnosing residents with schizophrenia who may not be schizophrenic so they can prescribe anti-psychotics. The share of residents with schizophrenia diagnoses in the country soared 70 percent since 2012.
- ❑ One in 9 residents has received a schizophrenia diagnosis. In the general population, it is one in 150 and is almost always diagnosed by the age of 40.

# PRESSURE ULCERS (BED SORES)



- ❑ Our numbers of high risk residents with pressure ulcers is higher than the national average.
- ❑ Most pressure ulcers should not have developed if appropriate care is given.
- ❑ Most ulcers are avoidable. In fact, the presence of pressure ulcer is now generally considered an indicator for quality of care.
- ❑ Almost 10 % of our residents have pressure ulcers.

# DEPRESSION

- Our average of residents who are depressed is twice the national average
- 14.2 percent of our residents have symptoms of depression.





# LOSE OF BOWEL OR BLADDER CONTROL

- Our numbers of residents who lose control of their bowels or bladder is higher than the national average.
- This happens when staff is not available to help residents go to the bathroom and when bowel and bladder training is not implemented.
- 54.1 percent of our residents have lost control of their bowels or bladder.

## “Reduced Expectations”

Researchers found low levels of toileting assistance to nursing home residents, even for those on a toileting program: 1.3 assists/per day.

Not surprisingly, older adults in nursing homes needing toileting of assistance have come to expect very low levels of toileting assistance.  
(Schnelle et al, 2003)



# INFECTION CONTROL

- ❑ Infection control deficiencies have been widespread and persistent in our country's nursing homes prior to the pandemic.
- ❑ The Government Accounting Office found that prior to the COVID-19 pandemic, most nursing homes in the country were cited for infection prevention and control deficiencies (82%).
- ❑ About half of these homes had persistent problems and were cited across multiple years.

# DOH SURVEYORS AND COMPLAINT INVESTIGATORS DO NOT SEE THE PROBLEMS

**YET, when a problem is identified (a deficiency is found) it rarely is labeled as harm even as residents and families see harm**

- Any deficiency found by a surveyor is labeled as to
  - Its scope: how many residents are affected, and
  - Its severity, did it cause harm, jeopardy?

# DOH SURVEYORS AND COMPLAINT INVESTIGATORS DO NOT SEE THE PROBLEMS

- ❑ The label is very important: if no harm is found, little or no penalties are levied.
- ❑ In 2016, only 3% of all nationally identified deficiencies were found by surveyors to have caused harm; only .01 percent were found to have put residents into jeopardy. Eighty percent of all the nursing homes in the country were cited at having caused no harm. Yet studies and consumers indicate major harm.

# INFECTION CONTROL: NO ACCOUNTABILITY

- ❑ According to the GAO, in each year from 2013 through 2017, nearly all infection prevention and control deficiencies (about 99 percent in each year) were classified by surveyors as not severe, meaning the surveyor determined that residents were not harmed.
- ❑ And enforcement actions for these deficiencies were typically rare: from 2013 through 2017, CMS implemented enforcement actions for 1 percent of these infection prevention and control deficiencies classified as not severe.

# ENFORCEMENT IS POOR: FACILITIES ARE NOT HELD ACCOUNTABLE

If no harm is found, little or no penalties are levied.

# RECOMMENDATIONS

- ❑ Clear message from the top (Health Commissioner, Governor) must be sent to surveyors: you are crucial to the protection of nursing home residents. We want you to identify non-compliance; we want to hold providers accountable.
  - Your job is to make sure rules are followed and to protect residents.
  - Your job is not to counsel providers.
  
- ❑ Facilities must be penalized for poor care.

# RECOMMENDATIONS

- ❑ More money must be found to hire more competent surveyors.
- ❑ The training of surveyors must be strengthened so that surveyors identify the problems seen everyday by residents, ombudsmen and families.
- ❑ Supervisors of surveyors must randomly review surveyors and survey team that never seem to identify deficiencies or harm.



# RECOMMENDATIONS

- ❑ The Department of Health's complaint system needs an overhaul. There must be enough well trained intake counselors to respond to complaints over the phone. An on-line form is not adequate for understanding the complaints. Training must include similar issues as noted for surveyors.
- ❑ Strong enforcement actions and penalties must be levied, not only for harm deficiencies, but for any identified non-compliance and for any deficiency caused a potential for harm.

# RESIDENT FAMILY VIRTUAL COUNCIL