U.S. Nursing Home Violations of International and Domestic Human Rights Standards

Charlene Harrington 1, 2, Richard Mollot 2, Toby S. Edelman 3, Janet Wells 4, and Dara Valanejad 1

Abstract
We present a review of the international covenants and conventions and U.S. domestic laws and regulations that are designed to protect nursing home residents in the United States. Based on a review of research studies, government reports, and news reports, we found extensive evidence of widespread and systematic abuse and neglect of nursing home residents in the United States that needs urgent government action to protect the basic human rights of residents.

Keywords
abuse, neglect, nursing home residents, international covenants, domestic laws, violations

Abuse and neglect of residents and ongoing quality problems in U.S. nursing homes are frequently highlighted in the press and by numerous government reports and research studies. Although the United States subscribes to international laws that protect human rights and has enacted extensive domestic laws and regulations to protect nursing home residents, these laws have not achieved their goals. The Human Rights Watch organization recently provided strong evidence that the United States is violating human rights laws in regard to antipsychotic drugging of nursing home residents. These findings prompted the development of this paper to (1) review the international and U.S. domestic laws and regulations designed to protect nursing home residents and (2) to examine the evidence of violations of these laws in the United States. We find extensive evidence of widespread and systematic abuse and neglect of nursing home residents in the United States. The situation should be considered a national emergency needing urgent government action to increase nursing home staffing levels and to strongly enforce existing laws and regulations.

International Covenants and Conventions
Four key international laws supporting the protection of human rights apply to nursing home residents. The International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes that human beings should enjoy freedom from fear and want so that everyone may enjoy economic, social, and cultural rights. ICESCR includes Article 12, which protects the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and assures access to all medical services and medical attention in the event of sickness.

Abuse and neglect of residents and ongoing quality problems in U.S. nursing homes are frequently highlighted in the press and by numerous government reports and research studies. Although the United States subscribes to international laws that protect human rights and has enacted extensive domestic laws and regulations to protect nursing home residents, these laws have not achieved their goals. The Human Rights Watch organization recently provided strong evidence that the United States is violating human rights laws in regard to antipsychotic drugging of nursing home residents. These findings prompted the development of this paper to (1) review the international and U.S. domestic laws and regulations designed to protect nursing home residents and (2) to examine the evidence of violations of these laws in the United States. We find extensive evidence of widespread and systematic abuse and neglect of nursing home residents in the United States. The situation should be considered a national emergency needing urgent government action to increase nursing home staffing levels and to strongly enforce existing laws and regulations.

International Covenants and Conventions
Four key international laws supporting the protection of human rights apply to nursing home residents. The International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes that human beings should enjoy freedom from fear and want so that everyone may enjoy economic, social, and cultural rights. ICESCR includes Article 12, which protects the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and assures access to all medical services and medical attention in the event of sickness.

Abuse and neglect of residents and ongoing quality problems in U.S. nursing homes are frequently highlighted in the press and by numerous government reports and research studies. Although the United States subscribes to international laws that protect human rights and has enacted extensive domestic laws and regulations to protect nursing home residents, these laws have not achieved their goals. The Human Rights Watch organization recently provided strong evidence that the United States is violating human rights laws in regard to antipsychotic drugging of nursing home residents. These findings prompted the development of this paper to (1) review the international and U.S. domestic laws and regulations designed to protect nursing home residents and (2) to examine the evidence of violations of these laws in the United States. We find extensive evidence of widespread and systematic abuse and neglect of nursing home residents in the United States. The situation should be considered a national emergency needing urgent government action to increase nursing home staffing levels and to strongly enforce existing laws and regulations.

International Covenants and Conventions
Four key international laws supporting the protection of human rights apply to nursing home residents. The International Covenant on Economic, Social and Cultural Rights (ICESCR) establishes that human beings should enjoy freedom from fear and want so that everyone may enjoy economic, social, and cultural rights. ICESCR includes Article 12, which protects the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and assures access to all medical services and medical attention in the event of sickness.
requires states to take effective measures to prevent torture in any territory under their jurisdiction and defines torture as any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person.\textsuperscript{5} In addition, the Convention on the Rights of People with Disabilities (CRPD) requires governments to “take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.”\textsuperscript{5} These laws also argue for ensuring the highest level of physical and mental health through access to appropriate services.

**Domestic Laws and Regulations**

Following decades of controversies about poor nursing home quality and regulation, the United States enacted the Nursing Home Reform Act in 1987 as part of the Omnibus Budget Reconciliation Act of 1987.\textsuperscript{6} The act strengthened the regulatory standards and processes governing nursing homes participating in Medicare and Medicaid, mandated more rigorous inspection procedures that required surveyors to focus on quality of care, and established intermediate sanctions for regulatory violations. Medicare is the public program that pays for individuals who are aged or disabled and some uninsured, and Medicaid is the public program that pays for some individuals who have low incomes. The federal law also requires comprehensive assessments of all nursing home residents; provides for sufficient nursing, medical, and psychosocial services to attain and maintain the highest possible mental and physical functional status of residents; and protects residents’ rights and quality of life.

The Nursing Home Transparency and Improvement Act and the Elder Justice Act were passed as part of the Affordable Care Act (ACA 2010).\textsuperscript{7} These provisions require improved reporting of ownership, financial information, staffing (from payroll records), and complaints; a greater focus on quality improvement and elder abuse prevention, ethics, and compliance; state criminal background checks; and reporting of suspected crimes to local law enforcement and other provisions.

Federal regulations implemented OBRA 1987 by requiring nursing homes to meet detailed conditions for participating in the Medicare and Medicaid programs. In 2016, the federal regulations were comprehensively revised to place a strong emphasis on person-centered care, quality of care and quality of life, and facility assessment and staff competency and to prohibit arbitration agreements.\textsuperscript{8} These regulations implemented ACA requirements and federal initiatives to reduce unnecessary hospital readmissions, lower acquired infections, improve behavioral health care, and prevent unnecessary use of psychotropic medications.\textsuperscript{9} The Centers for Medicare and Medicaid Services’s (CMS) federal and regional offices oversee state survey and certification agencies, which conduct required inspections and investigations. Overall, the U.S. nursing home laws and regulations are comprehensive and detailed, with the exception of the staffing laws, which require only 1 registered nurse (RN) on duty 8 h a day, 7 days a week, in nursing homes and “sufficient” staff to meet the needs of residents.\textsuperscript{9}

Since 2017, however, CMS has reduced the enforcement of some nursing home regulations. In 2019, CMS released new revisions to the CMS nursing home regulations.\textsuperscript{10} These 2019 regulations allow nursing homes to use pre-dispute arbitration agreements as long as they are not mandatory. The regulations also propose to reduce some resident rights; the frequency of facility self-assessments; protections on antipsychotic drug use, infection prevention, quality assurance and performance improvement, compliance, and ethics requirements; and to exempt older facilities from the 2012 life safety code requirements. These regulatory changes may endanger the health and safety of residents in a situation where CMS enforcement has already been weak and ineffective.

**Poor Quality That Constitutes Abuse and Neglect**

In spite of considerable efforts to improve quality, many nursing homes continue to have quality problems that constitute abuse and neglect. CMS developed the Medicare Nursing Home Compare 5-Star Quality Rating System website based on 3 components: (1) annual inspection and complaint survey data, (2) nurse staffing hours per resident day, and (3) resident quality measures based primarily on facility-reported data.\textsuperscript{11} In 2019, the website showed that 38% of nursing homes were rated “below average” or “much below average” (2 and 1 stars, respectively) and only 21% of nursing homes were rated with 5 stars (the highest rating).\textsuperscript{12}

A 2014 Office of the Inspector General (OIG) report found that 33% of Medicare residents experienced adverse events or harm within 15 days of admission to their post-acute skilled nursing facility. Almost 60% of those residents with adverse events had substandard treatment, inadequate monitoring, or failures and delays in treatment that resulted in harm or jeopardy or hospital readmissions, and the cost of these problems was about $2.8 billion.\textsuperscript{13} Frequent news articles have reported deaths and serious injuries to residents from poor care.\textsuperscript{14,15}

Nursing home complaints and violations of nursing home regulations have steadily increased by 33% (from...
47,269 to 62,790) between 2011 and 2015, and in 2015 states classified almost 60% of complaints as immediate jeopardy or high priority. The number of federal nursing home deficiencies for regulatory violations increased by 10% between 2011 and 2016. In 2016 the 15,400 nursing homes in the United States were issued 135,000 deficiencies or an average of 8.76 deficiencies per facility for nursing homes in the United States were issued 135,000 deficiencies or an average of 8.76 deficiencies per facility for violations of regulations on annual surveys and complaint investigations. Only about 7% of nursing homes did not have deficiencies in 2016. Overall, one fifth of nursing homes received deficiencies for causing harm or jeopardy or the potential for harm or jeopardy to residents during the state annual or complaint surveys.

The most common deficiencies issued by CMS to U.S. nursing homes in 2016 were for violations of infection control (45% of all facilities), accidents (43%), unsanitary food (40%), poor quality (34%), unnecessary drugs (25%), inadequate care plans (25%), improper clinical record keeping (23%), violations of resident dignity (21%), and unqualified personnel (18%). In addition, 18% of nursing facilities received violations for failure to prevent pressure ulcers, 8% for abuse or improper treatment of residents, and over 20% for medication errors. These are widespread quality problems throughout the country.

**Specific Resident Quality Problems**

**Abuse and Sexual Assaults**

Abuse and sexual assaults have been widely reported in nursing homes. Based on state and federal data and interviews with experts, regulators, and the families of victims, CNN described incidents of resident abuse and neglect that the federal government had 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 between 2013 and 2016. Nearly 100 of the facilities had been cited multiple times during the same period. The daughter of one of the rape victims, an 83-year-old woman with Alzheimer’s who was immobile and unable to speak, testified at a Senate hearing in March 2019 that the Minnesota health department had investigated previous complaints of sexual misconduct against the male caregiver and done nothing about them. These abuses continue, as a male licensed practical nurse (LPN) was recently arrested for rape of a woman in a vegetative state in an Arizona nursing home who gave birth to a baby.

A new Office of the Inspector General (OIG) report found that 1 in 5 high-risk hospital emergency room Medicare claims were the result of potential abuse or neglect of nursing home residents in 2016. According to the OIG, nursing homes failed to report an estimated 6,608 potential abuse and neglect incidents to the state survey agencies as required by law in 2016. A 2019 Government Accountability Office (GAO) report found that the number of abuse deficiencies cited in nursing homes more than doubled between 2013 and 2017 (430 and 875, respectively). The GAO report concluded that staff perpetrated the abuse 58% of the time.

**Antipsychotic Medications**

In clear violation of the U.S. Food and Drug Administration’s warning against using antipsychotics to treat older people with dementia and neuropsychiatric symptoms, many nursing homes are giving antipsychotic drugs to residents. In 2017, 20.6% of long-stay residents (about 270,000) received antipsychotic medications. In 2019, CMS reported risk-adjusted data – excluding long-stay residents with a psychiatric diagnosis (schizophrenia, Huntington’s disease, and/or Tourette Syndrome) – indicating that 14.6% of residents received antipsychotic drugs and 20.7% received hypnotics or anti-anxiety medications. Given that less than 2% of the population will ever have one of the aforementioned diagnoses, new data indicate that nursing homes are lowering their publicly reported antipsychotic drugging rate not by improving care but, rather, by increasing diagnoses of the risk-adjusted conditions and by using other types of psychotropic drugs, such as mood stabilizers. Federal efforts to reduce antipsychotic drugging appear to have been reduced. The negative consequences of using antipsychotics include a greater risk of death and adverse events that can result in hospitalizations. Low nursing home staffing is associated with increased use of antipsychotics; an increase of 1 additional RN reduces the odds of antipsychotic use by more than 50%.

**Emergency Care Situations**

Fourteen nursing home residents died when Hurricane Irma hit a Florida nursing home that lacked a generator and residents were not evacuated to safety for days when heat temperatures reached record-high levels. The deaths were ruled as homicides, and the facility was eventually closed. Nursing home residents continue to be at risk because many Florida facilities have not complied with requirements to have emergency generators. Nevertheless, CMS has proposed rulemaking that would roll back emergency preparedness requirements for nursing homes.

**Infections**

A former New York model and career woman died in a Georgia nursing home from a skin infection caused by the scabies parasite, which spread to workers and staff
because of inadequate hand washing and infection control. Other residents fell ill with *Clostridium difficile* and other infections. Eleven children died in a New Jersey nursing home in 2018 (which only saw its CMS star rating decline from 5 to 3 stars 6 months after the deaths). Widespread infections were reported in 74% of U.S. nursing homes over a 4-year period, with almost no sanctions or punishments issued for by CMS these infections. Although 45% of nursing homes received deficiencies for poor infection control in 2016, most of these did not involve sanctions. Unfortunately, CMS proposed new regulations to roll back infection preventionist requirements in 2019.

**Pressure Ulcers**

Pressure ulcers are localized damage to the skin or underlying tissue that usually occur over a bony prominence as a result of pressure or pressure in combination with shear or friction and moisture. The breakdown of the skin tissue can range from reddened areas to wounds that expose bones, tendons, and muscles. Overall, 7.4% of long-stay residents had pressure ulcers in 2019 that are painful, cause suffering, decrease the quality of life, and may lead to secondary infections, hospitalizations, and death. The costs of care associated with unnecessary pressure ulcers, considered a common medical error, are billions of dollars. Although some pressure ulcers are unavoidable, the vast majority of cases can be prevented or minimized using simple interventions (such as repositioning, special mattresses, protein and energy supplements, and wound support teams).

**Falls**

Falls are the leading cause of death related to injury for people 65 and older that may be caused by gait and balance problems, neurological and musculoskeletal problems, medications that affect balance, impaired cognition and vision, and environmental hazards. Nursing home falls can lead to serious injuries to residents and high costs, including emergency room visits and hospitalizations. Although falls are likely underreported, 3.4% of long-stay nursing home residents had falls that resulted in major injuries in 2019, and 43% of nursing homes received deficiencies for violations of environmental safety and failure to prevent accidents. Recently, the Department of Labor has proposed to place residents at risk by allowing minors to operate power-driven patient lifts without adult supervision, counter to evidence finding that teenagers underestimate the dangers associated with this hazardous task.

**Emergency Room Visits and Hospital Readmissions**

Many emergency room visits and hospital readmissions are the result of poor quality of nursing home care. An OIG study of nursing homes found that, in a 1-month period in 2011, 25% of Medicare nursing home residents admitted to a skilled nursing facility were readmitted to hospitals at a cost of $14 billion; many readmissions were for common problems that could have been prevented. These readmissions were, in part, attributed to inadequate oversight by CMS and the failure of state survey agencies to enforce regulations. In 2016, nearly 11% of residents were sent to hospitals for conditions that might have been averted with better nursing home care. The federal government issued penalties to about 11,000 nursing homes in 2019 for avoidable hospital readmissions of nursing home patients.

**Other Quality Problems**

Weight loss and dehydration are a common problem; 5.6% of long-stay residents lost too much weight in 2019. Weight loss and dehydration are directly related to inadequate nursing care and lack of assistance with eating and drinking. An Iowa woman testified at a Senate hearing that her mother was admitted from a nursing home to a hospital emergency room “extremely dehydrated” with sodium levels so elevated “she likely had suffered a stroke,” according to a physician, who said it appeared she “had been without water or any type of fluid for at least 4 or 5 days.” Long-stay residents commonly experience a decline in the ability to move independently (17.9%), an increase in the need for assistance with activities of daily living (14.8%), and persistent moderate to severe pain (6.9%). These problems are also related to the lack of staffing to provide basic assistance with activities of daily living in nursing homes.

**Unequal Nursing Home Quality by Race, Ethnicity, and Income**

Significant disparities exist in the type of care that nursing homes provide, based on socioeconomic and racial/ethnic differences. More than a decade ago, researchers found 2 tiers of nursing homes. The lower-tier nursing homes had fewer nurses, lower occupancy rates, and more quality deficiencies and were located in the poorest counties, compared to higher-tier homes that had higher payment rates and higher quality. Lower-tier nursing homes served a higher percentage of black residents than white residents. These disparities have continued over time in nursing homes with high concentrations of minority residents.
Disparities also occur for nursing home residents paid for by both Medicare (for aged and disabled) and Medicaid (for low-income individuals). These dual-eligible residents are more likely to be discharged from hospitals to poorer quality nursing homes with a higher share of Medicaid patients and fewer nurses compared to individuals paid by Medicare only. Moreover, a recent study shows a disproportionate number of racial and ethnic minorities are discharged on day 20 of their Medicare stays (before copayments begin) due to their socioeconomic status. Due to widespread failures to enforce protections from discrimination against residents based on payment source, this problem is becoming more severe. Inappropriate discharges are now the most frequent complaint received by Long Term Care Ombudsman Programs, and reports of discharges to hotels and homeless shelters are becoming more common. Although inappropriate discharges are rarely sanctioned, 1 nursing home recently paid a large fine for illegally dumping a diabetic man on skid row.

### Inadequate Nurse Staffing Levels

For the past 25 years, research studies have documented that nurse staffing, particularly RN staffing, is essential to the provision of adequate nursing home care. Higher staffing levels, especially of RNs, are associated with lower mortality rates; improved physical functioning; less antibiotic use; fewer pressure ulcers, catheterized residents, and urinary tract infections; lower hospitalization rates; and less weight loss and dehydration.

A 2001 CMS study established the need for 0.75 RN hours per resident day (hprd), 0.55 LPN hprd, and 2.8 certified nursing assistant (CNA) hprd, for a total of 4.1 nursing hprd to prevent harm or jeopardy to residents. These recommended thresholds were confirmed in an observational study. A recent study found that a higher level of CNA staffing is needed, ranging from 2.8 to 3.6 hprd, depending on resident characteristics (acuity), to provide basic care to residents. In spite of the research evidence and calls for mandatory minimum staffing standards by experts, professional organizations, and Institute of Medicine (IOM) reports, many nursing homes have made deliberate decisions not to provide adequate staffing levels. Under pressure from nursing home industry complaints about “excessively burdensome” requirements, CMS is proposing to reduce a requirement to conduct an annual facility-wide assessment of staffing needs to 2 years.

Reported staffing levels were inflated by nursing homes until CMS required payroll-based staff reporting in 2017, as mandated by the Affordable Care Act. After implementation of the new reporting system, 70% of homes were found to have lower staffing than previously reported, with a 12% average in lower staffing levels. Based on the new payroll staffing data, Medicare’s nursing home compare report card reduced its star ratings for about 1 out of every 11 nursing homes.

In 2019, the average nursing home reported total nurse staffing levels of 3.89 hprd (which included 0.68 RN hprd, 0.88 LVN/LPN hprd, and 2.33 CNA hprd, including all administrative nurses). Excluding administrative nurses, 74% of nursing homes reported total direct care staffing at less than 4.1 hprd, and over 71% of nursing homes reported RN care staffing at less than the 0.75 hprd recommended by research and the 2001 CMS study.

A 2019 analysis of payroll-based staffing data submitted by facilities to CMS found staffing levels are highly variable and are much lower on weekends than during the week; RN levels were 42% lower, LPN levels were 17% lower, and nurse aide levels were 9% lower. In 2017–2018, 91% of facilities met the CMS “expected staffing,” based on resident acuity for RNs, less than 60% of the time; 28% met LPN expected staffing and 70% met nurse aide expected staffing less than 60% of the time. More than half (54%) of facilities met the total CMS expected staffing, based on acuity, less than 20% of the time. Overall, 75% of nursing almost never met the CMS expected RN staffing based on resident acuity.

Nursing homes that keep staffing low have little to fear because they are rarely given deficiencies or penalties for inadequate staffing. In 2018, CMS cited more staffing deficiencies than in 2010–2013, but most (97%) were inaccurately categorized as not causing harm and therefore few sanctions were imposed.

### Profit-Driven Care Results in Low Staffing and Poor Quality

Nursing home ownership is an important determinant of nursing quality. In the United States, 69% of nursing homes were for-profit, while 24% were nonprofit and 7% were government owned in 2016. A growing percent (58%) were owned or leased by multi-facility organizations (chains with 2 or more facilities). For-profit owners often cut nurse staffing, especially RN staffing, and reduce wages, benefits, and pensions to maximize profits, compared to nonprofit and government facilities, which provide higher staffing and quality care.

For-profit nursing homes reported an average of 16% fewer staff than nonprofits after accounting for differences in resident needs in 2017. Nonprofits had 1 RN for every 28 residents, and for-profit nursing homes had 1 for every 43.

The Medicare Payment Advisory Commission states that Medicare nursing home payments are too high (average 11.2% profits, with some having over 18%...
profits in 2017) and recommends reductions in Medicare payments. Many profits are hidden in property leases; interest rates on loans; and payments to management companies, pharmacy companies, staffing and therapy companies, and other companies separately owned by nursing homes (called related parties). About three-fourths of nursing homes reported a total of $11 billion in related party transactions in 2015.

Homes with the highest profit margins have been found to have the worst quality in the United States. The largest for-profit chains have lower RN and total nurse staffing hours than nonprofit facilities and government facilities and have more deficiencies, which is not surprising considering their low staffing and high acuity levels. Nonprofit nursing homes (compared to for-profits) have fewer 30-day hospitalizations and greater improvement in mobility, pain, and functioning. Many studies show the poor quality of for-profit companies and for-profit chains.

**Underreporting of Violations and Weak Enforcement**

Numerous investigations by the U.S. Government Accountability Office (GAO) have found that state surveyors under-identify nursing home violations and underrate serious violations in terms of scope and severity. Contributing to the underreporting of deficiencies, many state survey agencies have had difficulty meeting CMS requirements for timely complaint investigations. Moreover, state survey agencies often fail to report some substantiated abuse cases to local law enforcement, CMS does not require all incidents of potential abuse or neglect to be referred to law enforcement, and CMS does not record and track many of these incidents in its automated tracking system.

The Government Accountability Office (GAO) and Office of Inspector General (OIG) have recommended stronger federal guidance and oversight of the complaint investigation process and improvement in the reliability of the complaint reporting database. A new OIG report found that the number of nursing home surveys and deficiencies increased slightly between 2013 and 2016 and then declined slightly in 2017. Only 6% of deficiencies were rated as the most serious and given CMS sanctions, which shows state agencies’ continued underreporting of the scope and severity of deficiencies.

Moreover, 31% of nursing homes had a deficiency (violation) that was cited at least 5 times during 2013–2017, indicating that nursing homes are not properly implementing systemic changes to ensure that deficiencies do not recur. Another report found 42% of deficiencies were given for chronic or repeated deficiencies in a 3-year period. The repeated nature of the quality problems shows an intentional disregard by nursing homes of the federal requirements, which often results in abuse and neglect.

Federal sanctions have not been utilized effectively as a means for correcting repeated nursing home violations. Nursing homes with serious violations that caused harm or jeopardy, including deaths, are often not given penalties, or the penalties are so minimal that the enforcement does not result in compliance, especially in nursing home chains. Furthermore, substandard nursing homes are seldom terminated from the Medicare and Medicaid programs.

Over the past decade, the U.S. Department of Justice has settled more than 40 failure of nursing home care cases (known as worthless services) for problems including criminal health care fraud, false statements, mail or wire fraud, and false claims for not providing the type of level of care required by law. Ironically, most of these nursing homes and chains and their owners and managers have been allowed to continue operation in the Medicare and Medicaid programs.

**Discussion**

Overall, many nursing homes continue to allow neglect, abuse, jeopardy to the health and safety of residents, rehospitalizations, and deaths. These problems are clear violations of both international covenants and conventions protecting human rights as well as domestic laws and regulations designed to protect nursing home residents. These widespread violations constitute a failure to protect the basic human rights of residents. In fact, some of the severe abuse and neglect of residents could be considered torture under international standards. The fact that minorities and low-income residents are more likely to be living in nursing homes that cause neglect, abuse, and harm is a violation of agreements that all individuals are equally free from human rights violations.

Neglect and abuse are directly related to the inadequate nurse staffing levels in 75% of U.S. nursing homes, which are primarily for-profit homes and chains that knowingly and deliberately keep staffing, wages, and benefits low to increase profits. Many research studies over the past 25 years have tied inadequate staffing to poor quality, and yet the nurse staffing levels are well below the levels recommended by experts and the CMS expected staffing based on each facility’s resident acuity. The government needs to increase the minimum staffing requirements based on the well-established standards of care.

The survey process has not been effective in properly investigating complaints in a timely way and in identifying the actual scope and severity of violations. Moreover, the enforcement of existing laws and
regulations for nursing homes, using sanctions including monetary penalties, holds of admissions and denial of payments, and termination from the Medicare and Medicaid programs, remains grossly inadequate. The fact that the government has found that many nursing homes are providing worthless services, committing fraud and abuse, and repeatedly jeopardizing the lives of residents, and yet has allowed these facilities to continue to provide care to residents, is evidence of a regulatory system that is not achieving its goals.

Considering the negligence and abuse of nursing home residents, criminal violations rather than civil violations could be a step forward in ending the inhumane treatment of residents. A zero tolerance for repeated abuse and neglect should be instituted. The government would need to develop plans and funding to take over violating nursing homes on a temporary and even permanent basis if appropriate new owners cannot be found. Nursing home companies with serious violations of quality or care and fraud should be permanently banned from the Medicare and Medicaid programs. The current widespread violations of international covenants and conventions and domestic laws and regulations should be considered a national emergency, and government plans should be put in place to address the urgent human rights crisis in nursing home care.

Declaration of Conflicting Interests
The authors declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding
The authors received no financial support for the research, authorship, and/or publication of this article.

ORCID iD
Charlene Harrington https://orcid.org/0000 0001 5716 4362

References


34. Washburn, L. Wanaque nursing home where 11 children died still has 3 star rating from government. North Jersey

36. Medicare and Medicaid Programs; Requirements for Long Term Care Facilities: Regulatory Provisions To Promote Efficiency, and Transparency, CMS 3347 P; Federal Register, Vol. 84, No. 138 (July 18, 2019).


50. Rahman M, Grabowski DC, Gozalo PL, Thomas KS, Mor V. Are dual eligible admitted to poorer quality skilled nursing facilities? Health Serv Res. 2014;49(3):798. 817.


US Department of Justice. Seeking justice: The Department of Justice’s civil and criminal tools and strategies to bring to justice nursing homes who provide grossly substandard care to our nation’s elderly residents. *DOJ J Federal Law Pract*. 2018.

**Author Biographies**

Charlene Harrington is a professor emeritus of sociology and nursing at the University of California–San Francisco and an elected fellow in the American Academy of Nursing and the National Academies of Medicine. She serves on editorial boards and has written more than 250 articles and books on nursing homes, long-term care, health policy, and nursing. She has testified before the United States Congress on long-term care research and policy and has lectured widely in the United States and internationally.

Richard Mollot is the executive director of the Long Term Care Community Coalition, a U.S.-based nonprofit organization dedicated to improving care for individuals in nursing homes and other residential care settings through legal and policy research, advocacy, and education. He has written and presented on a...
variety of long-term care issues, including dementia care; nursing home and assisted living standards; the rights of older adults in residential care; and nursing home financing and quality improvement.

**Toby S. Edelman** has represented older people in long-term care facilities since 1977. As a senior policy attorney at the Center for Medicare Advocacy since January 2000, she provides training, research, policy analysis, consultation, and litigation support relating to nursing homes and other long-term care facilities. She has a JD from the Georgetown University Law Center and is a member of the District of Columbia Bar.

**Janet Wells** has been an advocate for nursing home quality for more than 30 years with the National Consumer Voice for Quality Long-Term Care (formerly National Citizens’ Coalition for Nursing Home Reform), AARP, and currently as consultant to California Advocates for Nursing Home Reform. She has been involved in enacting and implementing major nursing home reform laws, including Affordable Care Act transparency and elder justice requirements. Her publications include Implementation of the Affordable Care Act Provisions to Improve Nursing Home Transparency, Care Quality, and Abuse Prevention, Kaiser Commission on Medicaid and the Uninsured in 2013.

**Dara Valanejad** is a policy attorney at the Center for Medicare Advocacy and the Long Term Care Community Coalition. His work focuses on advocating for the rights and protections of nursing home residents. He received his JD from American University Washington College of Law, where he served on the American University Law Review. He is admitted to practice law in the District of Columbia.