

# Protecting Our Elderly in Times of Pandemic and Beyond

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Advocates' Forum

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Over the last two years, the Covid-19 pandemic has brought to light glaring, critical flaws in the regulation of nursing homes in Illinois. The elderly living in these homes have the right to a safe environment, protection, and the cultivation of human dignity, but despite these fundamental human rights, as of 2021, 46% of all deaths from Covid-19 have been in long-term care (Illinois, 2021). This percentage indicates a failure of a care system that has long denied senior citizens those fundamental rights to life, health, dignity, and safety.

Even before the pandemic, Illinois has one of the worst track records for residential elderly care in the country. It consistently ranks last in the United States in terms of adequate staffing (Nowicki, 2021) and the elderly in nursing homes here were already suffering degrading treatment, with disturbing cases of extreme weight loss, dehydration, untreated bedsores, and inadequate hygiene, as well as cases of the elderly being left on floors because they have fallen out of bed or left lying in their own bodily fluids without being washed (Human Rights Watch, 2021). These are affronts to human dignity, meant to be protected by Article 1 of the United Nations Universal Declaration of Human Rights (UDHR), and violations of Article 5, which protects against cases of cruel, inhuman, or degrading treatment (United, 1948).

Specific examples include a resident at Generations at Rock Island in Illinois who reportedly missed a dialysis treatment because there was not enough staff to help her get out of bed for the treatment. Her

statement revealed that she had had only three showers in the nine months that she was at the care home, a fact that was corroborated by the bathing schedule (Hayden, 2021). Such neglect can be especially dangerous for elderly individuals with weakened immune systems. One Illinois nursing home resident's death certificate indicated the cause as sepsis from a staph infection; she was also dehydrated and had a bedsore at her time of death (Human Rights Watch, 2021).

Covid-19 exacerbates, to a dire degree, the effects of this neglect. Elderly individuals are more susceptible to serious illness or death from the virus, and those in care homes due to a decline in mental or physical function cannot care for themselves—those experiencing dementia or Alzheimer's certainly cannot be expected to remember pandemic rules such as physical distancing or masking, and without staff members to help them wash, their likelihood of being fatally exposed to the virus is increased. Having been left without a vital protection against infection, they are suffering a violation of the UDHR (Article 3), which states that everyone has the right to life, liberty, and security of person.

Compounding the issue of having low staffing numbers throughout Illinois nursing homes is the high rates of staff turnover. As new employees enter facilities they receive inadequate training. One resident at Aspen Rehab and Healthcare in Silvis, for example, had a known history of choking while eating, but still died by choking on October 10, 2020. An investigation showed that the staff member in charge of watching the resident had only been there one month, and had allegedly had not been informed of the resident's special feeding needs (Hayden, 2021).

Beyond the staffing and training issues in the homes themselves, Illinois officials have failed elderly care residents as they have not provided proper oversight and protection. Many facilities have been cited repeatedly for the same violations (McCoppin, 2021), and for the first three months of the pandemic, the Illinois Department of Public

Health investigated zero abuse and neglect complaints within nursing homes (Meisel, 2021). This effective ignoring of the state's own obligations denies nursing home patients the right to "effective remedy... for acts violating the fundamental rights granted ... by the constitution or by law" (UDHR Article 8). In fact, Illinois has the second highest number of substantiated complaints per facility compared to other states, with 20% of its facilities receiving the lowest federal rating (McCoppin, 2021).

Further, while the elderly in Illinois care facilities suffer violations of the UDHR Article 2, which insists on freedom from discrimination based on age and disability, Illinois should be understood as also violating rights based on race. Staffing shortages at nursing homes disproportionately affect Black and brown Medicaid patients, who are more likely to live in facilities that are both overcrowded and understaffed (Cantù, 2021). In the pandemic, they were 40% more likely to die of the disease than White patients (Nowicki, 2021) and yet oversight for nursing homes has been shown to be extremely weak in Black neighborhoods (McCoppin, 2021). This is a further violation of the UDHR, Article 8.

In sum, we are witnessing an ongoing violation of Article 25 of the Universal Declaration of Human Rights, which is meant to protect individuals' right to a standard of living and security in the event of sickness, old age, or other disability. This is a situation that deserves the attention of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and its Committee on the Rights of Persons with Disabilities. That committee's convention (OHCHR, 2006) requires that signatories "shall recognize the right of persons with disabilities to an adequate standard of living... including... housing, and to the continuous improvement of living conditions" (Article 28.1) and that "States Parties shall take all... measures to prevent persons with disabilities... from being subjected to... cruel, inhuman or degrading treatment or punishment" (Article 15.2). The same can be said about the Committee Against Torture, which declared in their Convention of 10 December 1984 that signatories

must “prevent... acts of cruel, inhuman, or degrading punishment” (Article 16.1), as Illinois nursing home residents so often suffer (OHCHR, 1984).

The hope is that such international pressure might lead to extensive and even radical changes. One can imagine the impact of an across-the-board wage increase implemented for all nursing homes, with special funding for low-income facilities that disproportionately house people of color and pay the lowest Medicaid reimbursement rates in the country (McCoppin, 2021). Fundamental changes could also be made to the conceptualization of nursing home workers. To prevent high turnover and rushed training that leads to neglect, care workers should have higher pay with additional benefits—creating the conditions for greater employment stability.

Social workers are in a unique position to bridge some of these gaps in needed services. Ground-level improvements to nursing home care can be reinforced by the social workers who engage with families and guardians. Social workers can, in their own way, help facilitate changes that lead to nursing homes providing complete and responsive care, educate residents and their guardians on their human rights, and conduct regular surveys to ensure the needs of residents are being met. Furthermore, social workers should press the Illinois Department of Public Health to check up on abuse and neglect claims to keep facilities accountable.

Finally, social workers should work with their individual employers to develop plans for improving structural issues from within their places of work. For instance, to improve conditions and reduce the transmission of viruses and grave threats, social workers should advocate for smaller dining rooms, outdoor spaces, and single rooms in order to prevent overcrowding. They can also use their expertise regarding mental health for aged care to improve the overall atmosphere of nursing homes so that facilities feel like home, particularly when pandemic social distancing conditions forces them to be separated from the people they love. For example, implementing

the Eden Alternative—bringing live animals or plants into facilities to ensure life and joy continues within facilities (Burgess, 2015)—may help to improve the mental health of residents.

Elderly individuals are human beings, and it is unacceptable that at their end of their lives they should be treated as disposable and undeserving of the same safety and comfort as anyone else. People of color in particular have had to endure a lifetime of racial discrimination, only to end up in facilities that perpetuate this same cycle. As such this report urges the CRPD and CAT to push the state of Illinois to protect the elderly's human rights to a proper standard of living.

## Author Note

While the focus of this piece is the state of Illinois, the safety of elders in care homes has proved to be a global issue during the Covid-19 pandemic. Low standards in facilities established prior to the onset of the virus has led to excess mortality in long-term care around the world. This toll has proved that care of the elderly is sadly undervalued within countries that believe themselves to be developed nations. To me, this is a truth that feels not only tragic but also entirely illogical. Each of us ages, and thus begin and end our lives needing care. It is an essential need, and so we must advocate to restructure our systems to preserve the dignity and comfort of our elderly populations, as it is their human right.

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