

# Animal Care Standards vs. Nursing Home Resident Experiences

An Appraisal of the Extent to which Nursing Home Conditions Fail to Meet the Standards of Care for Animals in Zoos and Other Settings

Long Term Care Community Coalition

[www.nursinghome411.org](http://www.nursinghome411.org)



## What is the Long Term Care Community Coalition?

- **LTCCC:** Nonprofit, nonpartisan organization dedicated to improving care & quality of life for the elderly & adult disabled in long term care (LTC). Home to the Hudson Valley, NY, LTC Ombudsman Program.
- **Our focus:** People who live in nursing homes & assisted living.
- **What we do:**
  - Policy analysis and systems advocacy in NYS & nationally;
  - Education of consumers and families, LTC Ombudsmen and other stakeholders.



## Today's Speakers:

- **Richard Mollot**: Executive director of LTCCC.
- **Dara Valanejad**: Attorney with LTCCC and the Center for Medicare Advocacy. Dara is an advocate for older adults in long-term care facilities, focusing on protecting and expanding the rights of residents. He has a J.D. from American University Washington College of Law and is a member of the D.C. Bar.
- **Eric Goldwein**: Policy Fellow with LTCCC. Eric graduated last May from the Mailman School of Public Health at Columbia University with a Master of Public Health in Sociomedical Sciences.



# What Will We Be Talking About TODAY?

LTCCC's New Report

## LONG TERM CARE COMMUNITY COALITION

*Advancing Quality, Dignity & Justice*

### Animal Care Standards

**VS.**

### Nursing Home Resident Experiences

*An Appraisal of the Extent to which Nursing Home Conditions Fail to Meet the Standards of  
Care for Animals in Zoos and Other Settings*



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# + Why Did We Write This Report?

## NURSING HOME ABUSE & NEGLECT ARE PERSISTENT, PERVASIVE PROBLEMS

- Many family members over the years have complained to us, “they wouldn’t treat a dog” the way their loved one was treated.
- News headline: **Former SNF mogul ‘sold his patients like cattle,’ jurors told** [McKnight’s Long-Term Care News, February 14, 2019.]
- Two U.S. Senate Hearings:
  - Woman testifies “[m]y final memories of my mother's life now include watching her bang uncontrollably on her private parts for days after the rape, with tears rolling down her eyes, apparently trying to tell me what had been done to her but unable to speak due to her disease.”
  - A federal assessment found that, “[i]n light of the increased number and severity of abuse deficiencies, it is imperative that CMS have strong nursing home oversight in place to protect residents from abuse.”

# + Why Did We Write This Report?

## How did CMS Response to Reports of Resident Suffering?

- **Propose Relaxing Standards of Care.** CMS issued proposed rules to rollback nursing home Requirements of Participation. The proposed rules gut the grievance process, make it easier to administer antipsychotic drugs to residents, and water down the role of infection preventionists.
- **Propose Reducing Survey Frequency.** CMS has asked Congress for the authority to reduce the frequency of standard nursing home surveys (health inspections) for “top-performing” facilities from annually to every 30 to 36 months. This disregards numerous reports indicating that, too often, even high-rated nursing homes have serious health violations. A June 2019 report by the Government Accountability Office suggests that more than 1 in 5 nursing homes that CMS considers “above average” and “much above average” have been cited for abuse in a single year.
- **Cut Penalties for Abuse & Neglect.** At the end of 2017, CMS reduced fines against nursing homes that harm residents or place them in grave risk of injury.

*How bad does nursing home care have to get before our state and federal leaders take action?*



# Purpose of the Report

- Though federal requirements for nursing homes are strong, our research and experience indicate that the nursing home industry often treats minimum regulatory standards of care as aspirational goals rather than actual requirements.
- CMS and state enforcement agencies typically allow nursing homes to operate with numerous health violation citations every year, essentially sanctioning (and paying for) substandard care and abuse.
- Powerful nursing home industry lobbyists claim that their clients are the victims who need help and “relief.”

**We know that, too often, the resident experience falls far short of both the promise that nursing homes make to residents when they enter a facility and the federal requirements for nursing home care.**

**Ultimately, we questioned how the experiences of residents even stack up against the requirements and expectations for the care and treatment of animals.**

**Please Note:** The point of this work is not to trivialize the experiences of either nursing home residents or animals but, rather, to illustrate how systemic failures to hold nursing homes accountable for abuse and neglect too often subject residents to conditions that not only fall below the federal nursing home standards of care, but also below accepted standards for the humane treatment of animals.

## + What's in the Report?

This report provides a comparison of animal standards versus the experiences of many nursing home residents and families in regard to 11 key categories of interest and concern. They are:

- Freedom from Abuse and Neglect
- General Care and Treatment
- Sufficient Staffing with Appropriate Skills/Competencies
- Nutrition and Hydration
- Safe Food Handling
- Medical Supervision
- Stimulating and Safe Environment
- Freedom from Restraints
- Treatment of Injuries
- Appropriate Medications
- Infection Control and Prevention

Each of the brief chapters provides a comparison of a resident's experience vs an animal care standard, statistics on the prevalence of the issue for nursing home residents, highlights of public reports, and information on the relevant nursing home standard that can be used to support resident-centered advocacy.



## Results of the Assessment of 11 Categories of Interest & Concern



# Before We Begin...

## PLEASE NOTE:

- For purposes of this presentation, I will be focusing on various nursing home standards of care and animal care standards. However, that does not mean that there are no other relevant standards that either directly or indirectly relate to the topic being discussed.
- Many nursing home requirements are connected. In fact, CMS guidance advises surveyors to inspect compliance with other standards when noncompliance is identified in a given requirement.

# + Freedom From Abuse and Neglect

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## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



Physical abuse, deprivation of food or water, aversive spraying with a hose, and other forms of negative reinforcement or punishment-based training are never used to train, shift or otherwise handle primates.

*-Standards for New World Primates, GFAS*



At a for-profit Iowa facility, an 87-year-old resident with dementia was denied water for several days and died after suffering extreme dehydration and extreme pain. The facility had a five-star rating at the time of the incident.

*-U.S. Senate Finance Committee Hearing*



# + Freedom From Abuse and Neglect

## RESIDENT CARE STANDARD

- Strong federal standards have been implemented to protect residents from *any* kind of abuse.
- **FREEDOM FROM ABUSE, NEGLECT & EXPLOITATION [42 CFR 483.30(A) F-710]**
  - The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation... This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms.
- Unfortunately, these standards are poorly enforced by the state and federal oversight agencies. For information on these standards and resources for resident-centered advocacy, see LTCCC's **Abuse, Neglect & Crime Reporting Center** available at <https://nursinghome411.org/learning-center/abuse-neglect-crime/>.



# Freedom From Abuse and Neglect

## ANIMAL CARE STANDARD

**Animal Welfare Act:** Zoo handling of “all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort.



# Freedom From Abuse and Neglect

## QUICK FACTS:

- **1 in 10 people age 60 or older experience some form of elder abuse** in a given year, including emotional abuse, physical abuse, sexual abuse, potential neglect, and financial abuse.
- **Nursing home abuse citations more than doubled** between 2013 and 2017 (July 2019 GAO report).
- Nursing homes **failed to report 84 percent** of the sampled 7,831 potential abuse and neglect incidents to state survey agencies, according to a 2019 OIG report. The report also estimated that **1 in 5 Medicare claims** for emergency room visits from nursing homes were the result of potential abuse or neglect.



**1 in 5 Medicare claims for ER visits**  
from nursing homes were the result of  
potential abuse or neglect.



# Freedom From Abuse and Neglect

## ONE RESIDENT'S EXPERIENCE

- At a Minnesota facility, an 83-year-old resident with Alzheimer's disease was raped by a male caregiver.
- The caregiver had been a main suspect in at least two sexual abuse cases at the facility.
- The resident's daughter testified during the Senate Finance Committee hearing that "[m]y final memories of my mother's life now include watching her bang uncontrollably on her private parts for days after the rape, with tears rolling down her eyes, apparently trying to tell me what had been done to her but unable to speak due to her disease."

# + General Care and Treatment

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## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



“[A]ll animals must be well cared for and presented in a manner reflecting modern zoological practices in exhibit design, balancing animals’ welfare requirements with aesthetic and educational considerations.”

*-Accreditation Standards, AZA*



A Maryland nursing home failed to properly implement baseline care plans for two residents. One resident was admitted to the facility for rehabilitation after surgery. Unfortunately, “the baseline care plan did not address the potential for pain/discomfort, potential for post-operative infection or other concerns specific to the medical condition . . .”

*-Elder Justice “No Harm” Newsletter*

# + General Care and Treatment

## RESIDENT CARE STANDARD

- Though poorly enforced, there are strong federal standards to ensure that nursing home residents receive care that meets recognized professional standards and that is responsive to the needs and goals identified in the resident's assessment and individualized care plan.
- **RESIDENT ASSESSMENT [42 CFR 483.20 F-636]**
  - The facility must conduct initially and periodically a comprehensive, accurate, standardized reproducible assessment of each resident's functional capacity.
  - A facility must make a comprehensive assessment of a resident's needs, strengths, goals, life history and preferences, using the resident assessment instrument (RAI) specified by CMS.
- For more information and resources, including fact sheets on requirements for nursing home staff competency and resident assessment and care planning, visit the [Learning Center](http://www.NursingHome411.org) of our website, [www.NursingHome411.org](http://www.NursingHome411.org).

# + General Care and Treatment

## ANIMAL CARE STANDARD

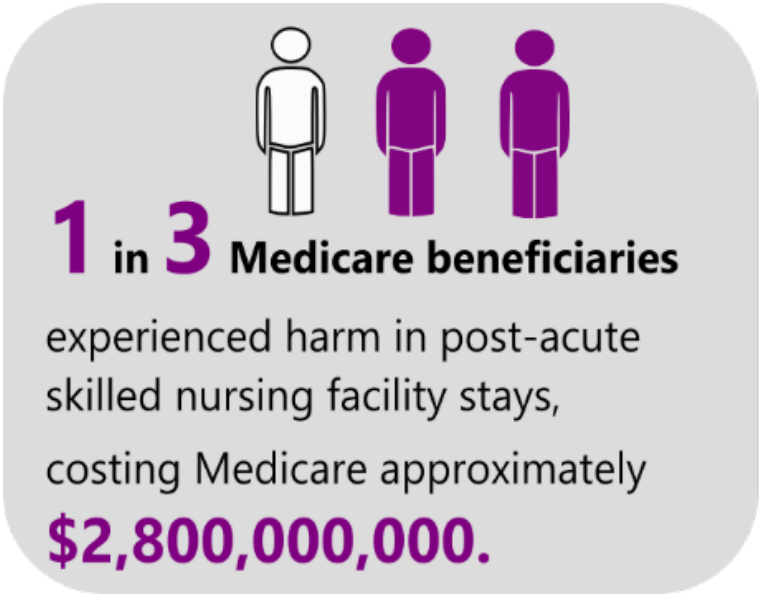
**American Association of Zoo Veterinarians:** “All procedures and treatments performed on animals must employ current professionally accepted methods of diagnosis and treatment” and that there should be “a standard operating policy of providing appropriate medical care for all sick and injured animals.”



# + General Care and Treatment

## QUICK FACTS:

- A federal study found that that an astounding **one in three Medicare beneficiaries** who go to a nursing home for rehab are harmed within an average of about two weeks of entering a facility.
- Hospital care associated with treating this harm – more than half (59%) of which was preventable – **cost Medicare approximately \$2.8 billion in a single year.**
- Though pressure ulcers are largely preventable with professional care and monitoring, **close to 90,000 nursing home residents suffer** from them every day.



The infographic features three stylized human figures at the top. The first figure on the left is white with a black outline, while the second and third figures on the right are solid purple. Below the figures, the text reads: '1 in 3 Medicare beneficiaries experienced harm in post-acute skilled nursing facility stays, costing Medicare approximately \$2,800,000,000.' The numbers '1' and '3' are large and purple, while the rest of the text is in a smaller, black font.

**1 in 3 Medicare beneficiaries** experienced harm in post-acute skilled nursing facility stays, costing Medicare approximately **\$2,800,000,000.**

# + General Care and Treatment

## ONE RESIDENT'S EXPERIENCE

- A 2017 *Kaiser Health News* report detailed how a 58-year-old woman, Anita Willis, was pushed out of a for-profit nursing home in California.
- Willis experienced “a months-long odyssey from budget motels to acquaintances’ couches to hospital ERs—at least five emergency visits.”
- Across the country, improper discharges – the most frequent complaint received by LTC Ombudsmen – are leaving residents like Willis without access to permanent housing or regular medical care.

# + Sufficient Staffing with Appropriate Skills Competencies

## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



A minimum of two qualified elephant keepers must be present any time a keeper is within trunk's reach of an elephant in order to allow a second person to intervene if required.

*-Accreditation Standards, AZA*



A resident suffered a fractured femur after the facility improperly transferred her with only one staff member despite the resident's care plan instructing staff to transfer the resident with assistance of two staff members.

*-Statement of Deficiencies, CMS*

# + Sufficient Staffing with Appropriate Skills Competencies

## RESIDENT CARE STANDARD

- Under federal law, nursing homes are required to have a registered nurse on duty eight hours a day, seven days a week. Additionally, nursing homes must have sufficient care staff to meet every resident's care, monitoring, and psycho-social needs.
- **SUFFICIENT STAFFING LEVELS [42 CFR 483.35(a) F-725]**
  - The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans: (i) ...licensed nurses; and (ii) Other nursing personnel, including but not limited to nurse aides.
- Unfortunately, “sufficient staff” is not a concept that is well-understood or enforced by many state surveyors, which is why so many nursing homes are woefully understaffed. For more information, see our *Fact Sheet: Requirements for Nursing Home Care Staff & Administration* for more information available at <https://nursinghome411.org/fact-sheet-requirements-for-nursing-home-care-staff-administration/>.

# + Sufficient Staffing with Appropriate Skills Competencies

## ANIMAL CARE STANDARD

- **Association of Zoos & Aquariums:** “There must be an adequate number of trained paid and unpaid staff to care for the animals and to manage the institution’s diverse programs.” Although there is no set formula for prescribing the size of the staff (paid and unpaid), some of the criteria that may be used to define what is considered “adequate” include the number and type of species within the institution, the general condition of the animals and exhibits, and past staffing practices.

# + Sufficient Staffing with Appropriate Skills Competencies

## QUICK FACTS:

- Federal data indicate that the average nursing home maintains only **3.4 total care staff hours per resident per day** which is well below the suggested requirements indicated in a 2001 landmark federal study (**at least 4.1 hours**) as well as those indicated by current research (**4.5 hours**).
- A recent *Health Affairs* study found that “**75 percent of nursing homes were almost never in compliance** with what CMS expected their RN staffing level to be, based on residents’ acuity.”

# + Sufficient Staffing with Appropriate Skills Competencies

## ONE RESIDENT'S EXPERIENCE

- A resident at a Wisconsin facility suffered a fractured femur after the facility improperly transferred her with only one staff member rather than two.
- The resident's care plan instructed staff to use a Hoyer lift (a lifting device) with the assistance of two staff members, but the certified nursing assistant (CNA) attempted to transfer the resident alone because the two "other aides were busy," according to the CNA's statement.
- During the transfer, the resident "lunged forward and began to slide out of her chair," and was later observed with a baseball-sized lump in her right leg. Despite the serious injury, the violation was cited as no harm.





# Nutrition and Hydration

## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



Guinea pigs and hamsters shall be fed each day . . . The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the guinea pig or hamster.  
-Animal Welfare Act, USDA



A New York facility failed to provide food of nutritive value, palatable and served at the proper temperature” with residents complaining that the food – including hot meals – were served cold.  
-Statement of Deficiencies, CMS

# + Nutrition and Hydration

## RESIDENT CARE STANDARD

- Federal standards require that resident meals are healthy, appropriate for the individual, and appetizing.
- **FOOD AND NUTRITION SERVICES [\$483.60]**
  - The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets his or her daily nutritional and special dietary needs, taking into consideration the preferences of each resident.
- In addition, it is required that the dining experience fosters resident dignity. For more information on relevant regulatory standards, see **LTCCC's *Primer: Nursing Home Quality Standards*** available at <https://nursinghome411.org/ltccc-primer-nursing-home-quality-standards/>.
- See our *Fact Sheet: Resident Dignity & Quality of Life Standards* for information on requirement in respect to promoting resident dignity and independence in dining available at <https://nursinghome411.org/fact-sheet-resident-dignity-quality-of-life-standards/>.



# Nutrition and Hydration

## ANIMAL CARE STANDARD

**Association of Zoos & Aquariums:** Institutions follow “a written nutrition program that meets the behavioral and nutritional needs of all species, individuals, and colonies/groups in the institution.” Further, animal diets must meet the quality and quantity necessary to ensure each animal’s nutritional and psychological needs



# Nutrition and Hydration

## QUICK FACTS:

- Multiple studies have found that 64 to 80 percent of nursing home residents' "mealtime food and fluid consumption is less than the federal criterion.
- Researchers have found that 46 percent of older people in long-term care (nursing homes and other residential care settings) had impending or current dehydration



# Nutrition and Hydration

## ONE RESIDENT'S EXPERIENCE

- A woman with dementia in an Ohio nursing home suffered “significant weight loss (greater than 5% in one month).”
- The weight loss occurred because of the facility’s failure to carry out a dietician’s order to provide snacks to counter decreases in her weight.
- A surveyor’s investigation found falsification of records (to indicate that the resident had received and eaten food which she had neither received nor eaten) and, when interviewed, the LPN “denied that she was aware of [the resident] having had any weight loss.”



# Safe Food Handling

## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



Food should be stored in facilities which adequately protect against “spoilage or deterioration and infestation or contamination by vermin,” and should be “stored in containers with tightly fitting lids or covers or in the original containers as received from the commercial sources of supply. . . .”  
-*Animal Welfare Act, USDA*



Cockroach infestations, moldy ice machines, and mouse droppings were among the many food handling incidents detailed in a recent report on food safety violations in nursing homes. Such violations pose serious health risks, as demonstrated by the norovirus outbreak that sickened 29 residents and 32 staff members at a for-profit Wisconsin facility.  
-*FairWarning*



# Safe Food Handling

## RESIDENT CARE STANDARD

### ■ FOOD SAFETY REQUIREMENTS §483.60(i)

- Federal regulations require that nursing homes obtain food from government-approved sources and that they “[s]tore, prepare, distribute and serve food in accordance with professional standards for food service safety.”





# Safe Food Handling

## ANIMAL CARE STANDARD

- **Animal Welfare Act:** Food should be stored in facilities which adequately protect against “spoilage or deterioration and infestation or contamination by vermin,” and should be “stored in containers with tightly fitting lids or covers or in the original containers as received from the commercial sources of supply. Refrigeration shall be provided for supplies of perishable food.”



# Safe Food Handling

## QUICK FACTS:

- -A 2018 CMS survey found that food storage was the second-most cited deficiency in nursing homes.
- Nursing home residents are highly vulnerable to viral infections, particularly those involving the norovirus, which is the “leading cause of acute gastroenteritis and foodborne disease in the United States.”
- A CDC study found that “most (80%) nonfoodborne outbreaks occurred in long-term care facilities such as nursing homes.”

“Across the country, **230 foodborne outbreaks** were reported from 1998 to 2017 in long-term care settings. . . . The outbreaks resulted in **54 deaths** and **532 hospitalizations**, and sickened **7,648 people**—figures experts say are almost certainly an undercount.”

- FairWarning



# Safe Food Handling

## RESIDENT EXPERIENCE

- Accordius Health at Harrisonburg (VA) was cited for failing to safely store and prepare food.
- Its freezer was not sealed properly, and ice formed on the food stored near the freezer door. The dietary manager told the surveyor that they were “having a lot of maintenance issues with [their] freezer.”
- The surveyor found many of the food products covered with ice due to the malfunctioning freezer.
- The surveyor also found a can opener covered in “dried brown food debris,” which the dietary manager said had not been washed in a while.



# Medical Supervision

## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



The attending veterinarian shall conduct on-site evaluations of each cetacean at least once a month. The evaluation shall include a visual inspection of the animal; examination of the behavioral, feeding, and medical records of the animal; and a discussion of each animal with an animal care staff member familiar with the animal.

*-Animal Welfare Act, USDA*



A physician at a for-profit Buffalo nursing home inappropriately administered insulin injections to a diabetic resident despite a hospital discharge note stating, "PLEASE AVOID GIVING THIS PATIENT INSULIN." The physician, who signed an order to administer insulin, blamed a nurse for inaccurately reading to him the resident's discharge directives.

*-Buffalo News*

# + Medical Supervision

## RESIDENT CARE STANDARD

### ■ FREQUENCY OF PHYSICIAN VISITS [42 CFR 483.30(c) F-712]

- Though too often residents lack access to a doctor (especially one of their choosing), in fact nursing homes are required under federal rules to “ensure that the medical care of each resident is supervised by a physician. . .[and to] be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 thereafter.”
- Federal rules also dictate that a resident has the right to choose his or her attending physician [42 CFR 483.10(d) F-555].
- For more information, see LTCCC’s *Fact Sheet: Requirements for Nursing Home Physician, Rehab & Dental Services* available at <https://nursinghome411.org/fact-sheet-requirements-for-nursing-home-physician-rehab-dental-services/>.



# Medical Supervision

## ANIMAL CARE STANDARD

- **Animal Welfare Act:** The “attending veterinarian shall conduct on-site evaluations of each cetacean at least once a month. The evaluation shall include a visual inspection of the animal; examination of the behavioral, feeding, and medical records of the animal; and a discussion of each animal with an animal care staff member familiar with the animal.”



# Medical Supervision

## QUICK FACTS:

- In 2018, there were **3,876 citations** for failing to provide sufficient nursing and physician services.
- There are an average of **300 citations per year** for failure to administer a nursing home in a way that maintains the well-being of each resident.
- In 2018, there were **938 citations** for failure to ensure that nursing staff have the appropriate competencies and/or skills to care for residents in the facility.



# Medical Supervision

## RESIDENT EXPERIENCES

- Portland Health & Rehabilitation Center (OR) “failed to provide appropriate services and devices” to increase range of motion for one resident and prevent further decrease in range of motion for another resident.
- Both residents had left hand contractures but were observed not wearing splint devices despite records indicating they should.
- While the surveyor determined the residents were at risk for worsening contractures and conditions, the violation was cited as no harm.





# Stimulating & Safe Environment

## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



The physical environment in the primary enclosures must be enriched by providing means of expressing noninjurious species-typical activities. Species differences should be considered when determining the type or methods of enrichment.

*-Animal Welfare Act, USDA*



At a Minnesota facility, a resident who was unable to communicate had a care plan which called for “daily independent activities” and interventions including “stimulating music, television and other activities.” Instead, the surveyor observed several days in which the resident “was lying in bed with the lights on without any music, television or interaction from staff.”

*-Statement of Deficiencies, CMS*



# Stimulating & Safe Environment

## RESIDENT CARE STANDARD

- “The facility must provide, based on the comprehensive assessment and care plan and the preferences of each resident, an ongoing program to support residents in their choice of activities, both facility-sponsored group and individual activities and independent activities, designed to meet the interests of and support the physical, mental, and psychosocial well-being of each resident, encouraging both independence and interaction in the community.”
- As CMS’s Interpretative Guidance notes, “[a]ctivities are meaningful when they reflect a person’s interests and lifestyle, are enjoyable to the person, help the person to feel useful, and provide a sense of belonging.”



# Stimulating & Safe Environment

## ANIMAL CARE STANDARD

- **Animal Welfare Act:** An animal's physical environment "must be enriched by providing means of expressing noninjurious species-typical activities" and that differences in species should be considered when determining forms of enrichment (i.e., perches, swings, mirrors, and other increased cage complexities; providing objects to manipulate; varied food items; foraging or task-oriented feeding methods; interaction with caregivers).



# Stimulating & Safe Environment

## QUICK FACTS:

- A CDC study estimated that about half of nursing home residents have a diagnosis of depression, approximately twice the rate found in adult day services centers (24%) and residential care communities (25%).
- A 2010 *Aging & Mental Health* article noted that “studies have found that nursing home residents with dementia spend the majority of their time engaged in no activity at all, with unstructured time accounting for two-thirds of the day or more . . . .”



# Stimulating & Safe Environment

## ONE RESIDENT'S EXPERIENCE

- A surveyor observed a resident sitting in bed, staring at the wall. The surveyor documented that the room did not have a television, radio, or reading materials. The resident stated, “no one visits me except when they feed me.” The resident added that he would like someone to read him the news or have a television.
- The social services assistant told the surveyor that, although placed in isolation because of a possible infection, the resident should have been provided with activities. Observations the next day again showed that the resident did not have any activities.
- The Statement of Deficiencies indicated that this violation had the potential to impact the resident's mental well-being.
- See our newsletter, *Elder Justice: What No Harm Really Means for Residents*, Volume 1, Issue 2. Available at <https://nursinghome411.org/elder-justice-newsletter-december-2017/>.



# Freedom from Restraints

## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



Nonhuman primates must not be maintained in restraint devices unless required for health reasons as determined by the attending veterinarian or by a research proposal approved by the Committee at research facilities. Maintenance under such restraint must be for the shortest period possible.

*-Animal Welfare Act, USDA*



A resident's death at a non-profit Massachusetts facility serves as a cautionary tale for the dangers of bed rails. Staff at the facility recalled that the resident's head was twisted sideways and stuck between the bottom of the bed rail and the bedframe.

*-Statement of Deficiencies, CMS*



# Freedom from Restraints

## RESIDENT CARE STANDARD

- Every nursing home resident has the right to be treated with respect and dignity.
  - This includes the “right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident’s medical symptoms . . . .”
  - “When the use of restraints is indicated, the facility must use the least restrictive alternative for the least amount of time and document ongoing re-evaluation of the need for restraints.”
- According to CMS’s Interpretative Guidance,
  - Physical side effects include **skin breakdown**, **incontinence**, and **entrapment**.
  - Psychological side effects include **anxiety**, **aggression**, and **dehumanization**.



# Freedom from Restraints

## ANIMAL CARE STANDARD

- **Animal Welfare Act:** “Nonhuman primates must not be maintained in restraint devices unless required for health reasons as determined by the attending veterinarian or by a research proposal approved by the Committee at research facilities. Maintenance under such restraint must be for the shortest period possible. In instances where long-term (more than 12 hours) restraint is required, the nonhuman primate must be provided the opportunity daily for unrestrained activity for at least one continuous hour during the period of restraint, unless continuous restraint is required by the research proposal approved by the Committee at research facilities.”





# Freedom from Restraints

## QUICK FACTS:

- **Approximately 20 percent of nursing home residents are administered off-label antipsychotic drugs.**
  - Often used as a way of chemically restraining residents exhibiting the behavioral symptoms of dementia, despite the F.D.A.'s "black box" warning against such use among elderly patients.
  - Recently published studies indicate that the percentage of residents being administered antipsychotic drugs may be much higher.
  - Other psychotropic drugs, such as Nuedexta, are also being administered off-label to residents.
- **About 550 bed rail-related deaths occurred from 1995 to 2012.**
  - An estimated **36,000 injuries** were treated in emergency room departments between from 2003 to 2011.



# Freedom from Restraints

## ONE RESIDENT'S EXPERIENCE

- A resident was found “wedged” between the wall and her bed. Records indicated that the resident’s head was caught between the side-rail and mattress. Most of her weight was dangling, “pulling on her neck.” A certified nurse aide told the surveyor that it was difficult to pull out the release knob and that there was “[n]o way” the resident could move the side rail.
- Sadly, this was not the first time the resident attempted to get out of bed. Her roommate told surveyors that she attempted to get out of bed often and “she fell just the other evening trying to get out.”
- The facility was cited for failing to “identify the use of bed rails as a restraint and failing to reassess their use after the resident attempted to climb over the bed rail.”
- See *Elder Justice*, Volume 1, Issue 8. Available at <https://nursinghome411.org/elder-justice-no-harm-newsletter-volume-1-issue-8/>.



# Freedom from Restraints

## POLICY UPDATE

In 2019, CMS issued a proposed rule that lowers the standards for both bed rails and antipsychotic drugs.

- **Bed rails:** Current regulations require attempts to implement appropriate alternatives *before* installing bed rails. CMS's proposal allows facilities to place residents in beds with rails already installed, instead of requiring staff to assess residents for entrapment prior to "use."
- **Antipsychotics:** Current regulations limit PRN ("as needed") orders to 14 days. Extensions require the physician or practitioner to directly examine the resident to determine the appropriateness of the medication. CMS's proposal allows extensions without a direct examination and assessment as long as the rationale and duration is recorded.
- For more information, please visit:  
<https://nursinghome411.org/comments-on-requirements-for-long-term-care-facilities-regulatory-provisions-to-promote-efficiency/>.



# Treatment of Injuries

## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



An elephant's skin must be thoroughly inspected on a daily basis and cared for as needed through bathing, removal of dead skin, and treatment of dry skin or other skin problems. The elephant's skin should be supple, free of dead skin buildup, not cracked or dry and free of folliculitis.

*-Accreditation Standards, AZA*



Several residents at a for-profit Tennessee nursing home were harmed after the facility failed to provide prevent and treat their pressure ulcers. One resident, who had not received body audits 35 days of the 37 days since admission, developed a Stage 4 pressure ulcer on their left buttock.

*-Statement of Deficiencies, CMS*



# Treatment of Injuries

## NURSING HOME STANDARD

- Facilities must ensure that—
  - “A resident receives care, consistent with professional standards of practice, to prevent pressure ulcers and does not develop pressure ulcers unless the individual’s clinical condition demonstrates that they were unavoidable; and
  - A resident with pressure ulcers receives necessary treatment and services, consistent with professional standards of practice, to promote healing, prevent infection and prevent new ulcers from developing.”



# Treatment of Injuries

## ANIMAL CARE STANDARD

- **Association of Zoos & Aquariums:** “An elephant’s skin must be thoroughly inspected on a daily basis and cared for as needed through bathing, removal of dead skin, and treatment of dry skin or other skin problems. The elephant’s skin should be supple, free of dead skin buildup, not cracked or dry and free of folliculitis.”



# Treatment of Injuries

## QUICK FACTS:

- Over **93,000 current U.S. nursing home residents** – 7.3 percent – have pressure ulcers and about 85 percent of nursing home residents are at risk of developing pressure ulcers.
- LTCCC periodically publishes the pressure ulcer rates for every licensed U.S. nursing home and updates on which facilities have been cited for inadequate pressure ulcer care. For the latest data, visit <https://nursinghome411.org/other-nursing-home-information/>.

# Treatment of Injuries

## ONE RESIDENT'S EXPERIENCE

- A resident's care plan noted that the resident had an unstageable pressure ulcer on his left heel. The care plan called for staff to reposition the resident every two hours while the resident was awake, float the resident's heel off the bed, use a heel boot, and stop using socks until the wound healed.
- Observations showed that the resident had been wearing socks, the resident's heel was not being elevated to relieve pressure, and the heel boot was not being properly used.
- The surveyor cited the facility for failing to "provide necessary treatment and services to prevent the development of an unstageable pressure ulcer . . . ."
- See *Elder Justice* newsletter, Volume 1, Issue 1. Available at <https://nursinghome411.org/elder-justice-no-harm-newsletter-november2017/>.





# Appropriate Medications

## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE

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Written, formal procedures must be available to paid and unpaid animal care staff for the use of animal drugs for veterinary purposes, and appropriate security of the drugs must be provided  
*-Accreditation Standards, AZA*



A certified nursing aide at an Indiana nursing home was accused of administering her own prescription narcotic to three patients who were acting 'disruptively,' reportedly putting her personal Clonazepam (Klonopin) into their food.  
*-Evansville Courier & Press*



# Appropriate Medications

## NURSING HOME STANDARD

Facilities must ensure that—

- “Residents who have not used psychotropic drugs are not given these drugs unless the medication is necessary to treat a specific condition as diagnosed and documented in the clinical record;
- Residents who use psychotropic drugs receive gradual dose reductions, and behavioral interventions, unless clinically contraindicated, in an effort to discontinue these drugs;
- Residents do not receive psychotropic drugs pursuant to a PRN order unless that medication is necessary to treat a diagnosed specific condition that is documented in the clinical record . . . .”
  - **Note:** Current regulations require physicians or practitioners to evaluate residents for extensions of antipsychotic drugs beyond 14 days.



# Appropriate Medications

## ANIMAL CARE STANDARD

- **Association of Zoos & Aquariums (AZA) Accreditation Standards:**  
“Written, formal procedures must be available to paid and unpaid animal care staff for the use of animal drugs for veterinary purposes, and appropriate security of the drugs must be provided.”
  - Such procedures should include:
    - Those persons authorized to administer animal drugs;
    - Situations in which drugs are to be utilized;
    - Location of animal drugs and the individuals with access to them; and
    - Emergency procedures in the event of accidental human exposure.



# Appropriate Medications

## QUICK FACTS

- A systematic review published in the *Journal of the American Geriatrics Society* found that **16 to 27 percent of residents in studies were victims of medication errors**.
- A 2018 study found that nursing homes underreport antipsychotic prescribing. Nursing homes did not identify **up to 6,000 residents per calendar quarter** as having received antipsychotics despite these prescriptions being paid by Medicare and dispensed by a pharmacy.
- A 2019 study found that nursing home residents with Parkinson's disease who were taking inappropriate atypical antipsychotics had an **increased risk of pneumonia** compared to residents taking appropriate atypical antipsychotics.



# Appropriate Medications

## ONE RESIDENT'S EXPERIENCE

- A resident was observed asleep at 10:30 A.M. while other residents were eating breakfast. At 11:45 A.M., the resident was still asleep.
- The following day, the resident's breakfast was untouched and a staff member tried to help the resident eat. According to the Statement of Deficiencies, the resident "could not keep . . . [her] eyes open."
- On the third day, the resident was asleep with her neck hyperextended and she was "starting to slide from the wheelchair." This pattern continued for three additional days.
- The resident's record showed that she was receiving 10mg of an antipsychotic drug twice a day. However, the order was changed to one single 20mg dose every morning. The medical director said that the dose was changed because the "insurance company would not cover the current form ordered in [the] divided dose."
- See *Elder Justice*, Volume 1, Issue 12. Available at <https://nursinghome411.org/elder-justice-no-harm-newsletter-volume-1-issue-12/>.



# Appropriate Medications

## Policy Update

- **Reminder:** In 2019, CMS issued a proposed rule that lowers the standards for administering antipsychotic drugs.
  - Current regulations limit PRN (“as needed”) orders to 14 days. Extensions require the physician or practitioner to directly examine the resident to determine the appropriateness of the medication. CMS’s proposal allows extensions with a direct examination and assessment as long as the rationale and duration is recorded.
- For more information, please visit:  
<https://nursinghome411.org/comments-on-requirements-for-long-term-care-facilities-regulatory-provisions-to-promote-efficiency/>.



# Infection Prevention & Control

## ANIMAL CARE STANDARD VS. NURSING HOME RESIDENT EXPERIENCE



AZA standards state that “[i]nstitutions should be aware of, and prepared for periodic disease outbreaks in wild or other domestic or exotic animal populations that might affect the institution’s animals. . . . Plans should be developed that outline steps to be taken to protect the institution’s animals in these situations.”

*Accreditation Standards, AZA*



A Massachusetts facility that had a gastrointestinal outbreak affecting 55 residents failed to provide and implement an infection prevention and control program. The facility did not consistently follow precautions related to use of personal protective equipment and did not ensure staff training on hand washing.

*-Statement of Deficiencies, CMS*



# Infection Prevention & Control

## RESIDENT CARE STANDARD

- “The facility must establish and maintain an infection prevention and control program designed to provide a safe, sanitary and comfortable environment and to help prevent the development and transmission of communicable diseases and infections.
- The facility must establish an infection prevention and control program (IPCP) that must include, at a minimum, the following elements:
  - A system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, visitors, and other individuals providing services under a contractual arrangement based upon the facility assessment conducted according to §483.70(e) and following accepted national standards . . . .”
    - This includes “[t]he hand hygiene procedures to be followed by staff involved in direct resident contact.”





# Infection Prevention & Control

## ANIMAL CARE STANDARD

- **Association of Zoos & Aquariums (AZA) Accreditation Standards:**
  - “Institutions should be aware of, and prepared for periodic disease outbreaks in wild or other domestic or exotic animal populations that might affect the institution’s animals. . . . Plans should be developed that outline steps to be taken to protect the institution’s animals in these situations.”
  - “The institution should design facilities, develop animal care protocols and present animals for public contact in ways that minimize this risk (e.g., hand-washing or hand sanitizing stations and signage, where applicable, etc.).”
- **AZA Policy for Animal Contact with Public:** “[T]he most effective method for disease prevention is a complete and thorough veterinary program and common sense sanitary measures.”



# Infection Prevention & Control

## QUICK FACTS

- Infections in long-term care facilities lead to approximately **388,000 deaths each year**.
- Failure to provide sufficient infection control and prevention is **the number one cited deficiency** in the United States.
- **Handwashing is the number one issue** that “surveyors keep tripping on” when it comes to infection prevention.
- An estimated **1.6 to 3.8 million infections** occur in residential care facilities across the nation each year, leading to annual costs ranging from **\$673 million to \$2 billion**.
- A *Kaiser Health News* analysis of four years of federal inspection records found that lapses in infection control were the most frequent health violation citation with **74 percent of nursing homes cited**. Nonetheless, **only one of 75 homes** found deficient received a high-level citation that is likely to result in a financial penalty.



# Infection Prevention & Control

## One Resident's Experience

- A resident was in bed with liquid feces overflowing from his brief and pooling between his legs. For two hours, staff came in and out of the resident's room without providing care.
  - The surveyor asked a certified nurse aide (CNA) to provide care. The CNA stated that she had just checked the resident's brief a few minutes ago. After seeing the resident, the CNA admitted that she had not checked on him.
  - The CNA cleaned and changed the resident's brief. She then wet a washcloth and approached the resident. The surveyor intervened and told the CNA to remove her gloves. The CNA acknowledged that she should have "removed her gloves after cleaning the feces but she was rushing to finish so she could go home."
  - The facility was cited for failing to ensure proper infection control procedures.
- See *Elder Justice*, Volume 1, Issue 9. Available at <https://nursinghome411.org/elder-justice-no-harm-newsletter-volume-1-issue-9/>.



# Infection Prevention & Control

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## POLICY UPDATE

**CMS's 2019 proposed revisions to the nursing Home Requirements of Participation rolls back the infection preventionists standards.**

- Current regulations (promulgated in 2016 and implemented in 2019) require facilities to have a “part-time” infection preventionist (IP).
- CMS's proposed rule removes the requirement for a part-time infection preventionist and requires instead that the IP devote “sufficient” time to infection prevention and control.
- For more information, please visit:  
<https://nursinghome411.org/comments-on-requirements-for-long-term-care-facilities-regulatory-provisions-to-promote-efficiency/>.



# Concluding Note

## ADDING INSULT TO INJURY...

- Many of the nursing home violations discussed in the “One Resident’s Experience” slides were identified by state surveyors as causing neither actual harm nor immediate jeopardy to resident health, safety, or well-being.



# WANT TO SPEAK OUT IN SUPPORT OF NURSING HOME RESIDENTS?



Please use one of our templates to send a letter to your representatives! Visit LTCCC's Action Center: <https://nursinghome411.org/action-center/>.



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Conclusion



<https://nursinghome411.org/ltccc-report-animal-care-vs-nursing-home-care/>

The screenshot displays the website of the Long Term Care Community Coalition (LTCCC). The header features the organization's logo and a navigation menu with links to the Learning Center, Nursing Home Info & Data, Action Center, News & Reports, Assisted Living, LTC in NY State, HV Ombudsman Program, About LTCCC, and Upcoming Events. The main content area is titled "LTCCC Report: Animal Care Standards vs. Nursing Home Resident Experiences". It includes a paragraph about the quality and safety of nursing homes, a section for downloading issue briefs, and a "Please Note" section. A sidebar on the right lists four issue briefs: Freedom from Abuse and Neglect, General Care and Treatment, Sufficient Staffing with Appropriate Skills/Competencies, and Nutrition and Hydration. The footer features the LTCCC logo and the title "Animal Care Standards vs.".

**LONG TERM CARE COMMUNITY COALITION**  
Advancing Quality, Dignity & Justice

**LTCCC Report: Animal Care Standards vs. Nursing Home Resident Experiences**

The quality and safety of nursing homes are longstanding public concerns. Numerous studies over the years have identified widespread and significant deficiencies in care, including serious abuse and neglect, and degrading, inhumane conditions.

In light of these concerns, and the widespread persistence of substandard care and abuse, we undertook this analysis to compare the experiences of nursing home residents with the basic standards of care for animals. **Can animals in a zoo or kennel expect better treatment and conditions than that which many human nursing home residents actually receive?**

The following report provides the results of our findings in relation to 11 key categories of interest and concern. Click on a button on the right hand side to download an Issue Brief on any of the categories covered in the report.

**Please Note:** The point of this work is not to trivialize the experiences of either nursing home residents or animals but, rather, to illustrate how systemic failures to hold nursing homes accountable for abuse and neglect too often subject residents to conditions that not only fall below the federal nursing home standards of care, but also below accepted standards for the humane treatment of animals.

**LONG TERM CARE COMMUNITY COALITION**  
Advancing Quality, Dignity & Justice

**Animal Care Standards vs.**

**ISSUE BRIEF: FREEDOM FROM ABUSE AND NEGLECT**

**ISSUE BRIEF: GENERAL CARE AND TREATMENT**

**ISSUE BRIEF: SUFFICIENT STAFFING WITH APPROPRIATE SKILLS/COMPETENCIES**

**ISSUE BRIEF: NUTRITION AND HYDRATION**

In addition to the report, our website also has 11 issue briefs, one for each of the care areas covered in the report.

These can be used to support understanding and advocacy.





# Thank You For Joining Us Today!

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Visit <https://nursinghome411.org/join/> or call 212-385-0355 if you would like to...

- Receive alerts for future programs or
- Sign up for our newsletter and alerts.

You can also...

- Join us on **Facebook** at [www.facebook.com/ltncc](http://www.facebook.com/ltncc)
- Follow us on **Twitter** at [www.twitter.com/LTCconsumer](http://www.twitter.com/LTCconsumer)
- Visit us on the **Web** at [www.nursinghome411.org](http://www.nursinghome411.org).

## For LTC Ombudsmen in NY State

If you would like us to let your supervisor know that you attended this training program, please take the quick survey at:

[www.surveymonkey.com/r/ltncc-ltcop1](http://www.surveymonkey.com/r/ltncc-ltcop1).

## For Family Members in NY State

connect with the Alliance of NY Family Councils at

[www.anyfc.org](http://www.anyfc.org) (or email [info@anyfc.org](mailto:info@anyfc.org)).



Questions?

Comments?

**Next Program:** February 18 at 1pm Eastern.

**Topic:** Using Data to Strengthen Your Nursing Home Advocacy