Producing a Just Culture of Safety and Quality in Nursing Homes

By Anne Montgomery and Sarah Slocum

As the peaks and valleys of COVID-19 cases and deaths create chaos in the health care sector and dominate news feeds across the globe, the pandemic is shining an intense spotlight on nursing homes - what they do and how well they do it. The highly infectious virus is fueling conversations among families about their elderly loved ones, and fostering policy debates about additional reforms, including calls for alternatives. The voices of nursing home residents - always hard to hear - have been effectively silenced by the isolation imposed to stop (or slow) the virus’ spread through populations of elderly adults living in congregate residences, many of whom have multiple physical frailties, chronic conditions, and cognitive impairment. For residents who are accustomed to pursuing active lives, the inability to entertain visitors, to leave the premises or even one’s room; has been frustrating, debilitating, and depressing as per survey results published in late September reveal.

Under increasing pressure from families and advocates across the country the federal government stepped up to provide needed national leadership in restoring visitation rights to nursing home residents in a recent memo. Residents’ rights to have visitors of their choice have long been guaranteed in regulation - but were set aside, as ordered by Centers for Medicare and Medicaid Services (CMS) by most facilities starting in mid-March as the spread of COVID-19 accelerated dramatically in the long-term care residential sector. Also excluded from visitation were state long-term care ombudsmen, often thought of as the “eyes and ears” of residents, and who are legally bound to serve residents’ interests. The federal memo underscores that facilities cannot bar ombudsman from communicating with residents, either in-person or via other safe and private communication channels. Similarly, Protection and Advocacy organizations must be permitted access.

Well beyond visitation, much deeper levels of accountability are needed in nursing homes. The federally appointed Coronavirus Commission on Safety and Quality in Nursing Homes released its final report in mid-September. It includes a call for “a person-centered, resilient system of care that is better for the next generation - one that more deeply values and respects older adults and individuals with disabilities as vital to the fabric of American society.” Similar rallying cries have been presented during many congressional hearings over the years, White House Conferences on Aging, and other national venues.

It is time to call the question on implementing real nursing home reform. Are the urgent circumstances of 2020 a call to action to reform the nursing home model of care? We believe the answer is yes - not just for the next generation - and can point to several encouraging signs that real nursing home reform is possible.

First, congressional interest has re-awakened. Thoughtful, forward-looking bills have been introduced by Sen. Bob Casey (D-PA) and Chuck Grassley (R-IA), and additional proposals are expected soon from
Reps. Dingell and Doggett. The Casey bill, the Nursing Home COVID-19 Protection and Prevention Act, proposes to provide $20 billion in new funding for states to purchase personal protective equipment (PPE) and to pay for testing. It would also provide nursing homes with money to offer employees “premium pay,” overtime and other benefits. The Grassley bill, the Emergency Support for Nursing Homes and Elder Justice Reform Act, would similarly provide additional funding for PPE, testing, “televisitation,” and expanded reporting of neglect and abuse identified in nursing homes.

Second, the dual imperative to improve both safety and quality of life for people who call nursing homes their home is undeniable. The industry’s fate is tied to both, and strategies to achieve better performance must be implemented rapidly to stabilize occupancy and rebuild public confidence. In June 2020, nursing home occupancy hit an all-time low of 74.8%. This dwindling nursing home occupancy follows years of steady decline, so that COVID-19’s impact is compounded by previous years of fewer admissions from hospitals and more people choosing home and community-based care options. Nursing homes already needed to dig out of this hole, which has now become a deep crater.

Third, nursing homes will need to offer personalized services with tailored care plans to strengthen their census and cash flow. By transforming into a more attractive care-with-services option, nursing homes may be able to gain a larger market share. Those that engage in deep culture change focusing on real person-centered and resident-directed care with elders’ preferences for quality of life as the highest priority are likely to fare better in today’s long-term care landscape. Altarum is engaged in work to bring culture change staff training, technical assistance and support to nursing homes through our “Quality Improvement through Culture Change” project in Michigan, and we are working to spread our work to additional states. In this work, a leading culture change organization - The Eden Alternative® - partners with us to provide three years of intensive education, guidance and mentoring, and Altarum measures the impact on quality of life, quality of care, economic impact and resident and family satisfaction. Along the way, we also engage in “teach-back” webinars and staff support. This type of comprehensive quality improvement has strong potential for improving the public image of nursing homes, as staff learn how to adjust their workflows and patterns to offer residents more choice and a better overall living experience.

Notably, COVID-19 has not put a stop to this culture change work - rather, trainings have been adjusted to be online, interviews of residents and staff are conducted on the telephone, and encouragement is offered for participating homes to adjust their expectations for what changes in practices and protocols are doable and realistic in environments that must also prioritize social distancing and safety.

Fourth, effective systems of oversight need to be refined to address this dual task of providing person-centered care and safety. Accountability will be paramount. Over the years, valuable data has been amassed on nursing homes. Between annual inspections, clinical quality metrics that are derived from assessments and person-centered planning and staffing information that is now based on auditable payroll data, much is known about how nursing homes operate. For example, it is now possible to look up the staffing levels of all 15,000+ nursing homes, and to compare these reported levels with long-established recommendations for the threshold of care the average resident requires to prevent harm (4.1 hours per resident per day). Although a robust body of evidence links this level of staffing to better outcomes for residents, CMS is not proactively using this information to adjust reimbursement for nursing homes that demonstrate excellent staffing. It’s time for this to change.
In addition, there are data that are not yet being routinely analyzed at the federal level on ownership and financial investment in nursing homes. This is now a necessary part of accountability, given remarkable shifts in ownership and in financial investment in the nursing home sector over the last two decades. During that period, a growing number of investors (private equity firms, REITs, hedge funds and individuals) have purchased homes and chains, or stakes in them, across the country. These trends have been highlighted in various investigative articles, including a troubling recent piece published this spring by the *New York Times*.

These and other articles point to the need for additional transparency to create a “just culture” of accountability for consistent, good-quality care. Leadership, including ownership, are key factors in reliable and resilient performance. And although detailed data that extends down to 5% of direct and indirect ownership are maintained in a federal database known as the Provider Enrollment, Chain and Ownership System (PECOS), it is not yet being comprehensively mined and used to identify patterns of nursing home purchases and whether there are signs of subsequent changing performance, as reflected in routinely collected quality and safety metrics, and in staffing data.

This suggests that more effective monitoring and accountability at the national level could be attained by establishing an “Early Warning System” to identify and address problems in nursing homes that may need extra attention. This system could be operationalized in an interagency task force composed of officials from CMS, the HHS Office of Inspector General and the Department of Justice. The task force would meet periodically and report to Congress quarterly, and its chief responsibilities would include:

- Analyzing data on nursing-home owners and other individuals and parties that are reported to PECOS, as well as information about staffing that is available in the Payroll-Based Journal (PBJ) database; information from the survey and certification inspection program; data on expenditures derived from Medicare cost reports, and information on quality indicators from resident assessments; as well as

- Identifying patterns of poor quality of care and stress - including financial distress - in individual facilities, chains, and groups of homes that are linked by ownership or financial investment. Information about these patterns would be used to make a wide variety of recommendations, including stepped up oversight and coordinated enforcement as well as coordination with federal and state emergency management systems to activate resources when facilities are not able to assure resident safety.

This would be compatible with the concept of a just culture as reported in one study, described as “balance[jing] the need for an open and honest reporting environment with the end of a quality learning environment and culture.” In health care systems operating based on just culture principles, the organization shares responsibility for the quality of choices made by all employees, and for overall design, risk, safety and quality.

Fifth, a major part of designing a safe, low-risk culture in long-term care is investing in direct care staff. In particular, urgent focus is needed on creating career pathways for Certified Nursing Assistants (CNAs). We urge CMS and nursing homes to offer and reward improved educational and training opportunities for CNAs to broaden and deepen their skills, e.g., with additional specialized training in COVID-19, dementia, and/or other advanced roles. Greater recognition, and subsequently more formal certifications as these become available, would be paired with higher wages. A COVID-19
Specialized CNA, for example, could be compensated 20% more than the prevailing average CNA pay rate. In support of this, CMS could encourage nursing homes to make career advancement a central component of hiring for frontline positions, and examine how to allocate a portion of additional payments for nursing homes, initially tied to reporting of direct care staff wages and wage increases.

Finally, an additional challenge in the era of COVID-19 is the devastating toll that the virus is taking on communities of color. Among many elders of color, a lifetime of poverty and erratic access to health care often produces high levels of chronic disease and functional impairment. Adding to this complexity, today many nursing homes with large proportions of elderly residents of color are heavily dependent on Medicaid as their main revenue source, and in many states, Medicaid nursing home reimbursement is low.

To address these multiple inequities, we urge policymakers and stakeholders alike to commit to ongoing research and implementation of interventions and solutions that aim to address the disproportionate impact of structural racism and health care inequities in communities of color, including nursing homes. To start, better wages and career opportunities for the disproportionate number of long-term care workers who are people of color would ameliorate some of the economic disadvantages these workers experience. Because quality of care and life for those who use nursing home care is linked to the quality of the work that their caregivers have and experience, we must address both through reimbursement reforms that change this unequal landscape.

Many of us hoping to live long lives may need assisted living and/or more intensive nursing care in our later years. Recognizing this, we can start by enhancing the lives of today’s frail elders and those who care for them, and use the challenges and vulnerabilities exposed by COVID-19 as a catalyst to focus closer attention and resources on a cherished population.

About the Authors:

Anne Montgomery is Co-Director of Altarum’s Program to Improve Eldercare where she oversees a portfolio of quality improvement research and policy analysis focused on older adults, particularly with respect to implementing better approaches for coordinating medical care and long-term services and supports. Ms. Montgomery has more than two decades of policy experience working on Medicare, Medicaid and related programs. She is a member of the National Academy of Social Insurance, Academy Health and the American Society on Aging.

Sarah Slocum is Co-Director of Altarum’s Program to Improve Eldercare where she strives to improve the quality of life and care for frail elders living with disability. Ms. Slocum has a decade of experience leading policy change efforts in the state Medicaid program, long-term care regulations, the Certificate of Need program, and with the Michigan legislature. She has also served on the Board of the National Consumer Voice for Quality Long Term Care, and the National Association of State Long Term Care Ombudsman Programs.