

Thirteenth Session of the Open-Ended Working Group

Focus Area: Right to Health and Access to Health Services

Submission by the International Network for the Prevention of Elder Abuse

1. The necessary steps that have to be taken to ensure that every older person has access to affordable and good quality health care and services in older age without discrimination in nursing homes has been laid out in detail in a comprehensive national report by the National Academy of Sciences.

[NASEM Report: The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff (2022).]

As evidence that the human rights of the elderly in nursing homes are not being honored, they report these facts:

- As of February 2022, more than 149,000 nursing home residents have died of COVID-19.
- Despite taking up less than one-half of 1 percent of the US population, nursing home residents accounted for 19 percent of all COVID-19 deaths.

The 604 page NASEM report states that these facts are indicative of a more systemic problem, one that requires systemic solutions. The seven systemic solutions they recommend are (their emphasis):

- Deliver **comprehensive, person-centered, equitable care** that ensures residents' health, quality of life, and safety; promotes autonomy; and manages risks.
- Ensure a well-prepared, empowered, and appropriately compensated **workforce**.
- Increase the **transparency and accountability** of finances, operations, and ownership.
- Create a more rational and robust **financing system**.
- Design a more effective and responsive system of **quality assurance**.
- Expand and enhance **quality measurement and continuous quality improvement**.
- Adopt **health information technology** in all nursing homes.

2. The challenges faced by older persons in the enjoyment of the right to health for every older adult are also extensively analyzed in the NASEM report. In this way they deal with inequality and discrimination in terms of age, sex and race. Thus, the report analyzes not just the average inadequacies, but also how this average is distributed.

Some main findings are:

- The quality of nursing home care is particularly concerning for several high-risk populations who experience significant disparities in care, including racial and ethnic minorities and LGBTQ+ populations.

- In the first 6-8 months of the pandemic, nursing homes serving more than 40 percent non-White residents experienced more than three times as many COVID-19 cases and deaths as those serving primarily White residents.
- White nursing home residents with Alzheimer's disease and related dementias are more likely than Black or Hispanic residents to receive care in nursing homes with Alzheimer's special care units, which results in better health outcomes.
- A myriad of factors contribute to resident racial and ethnic disparities within and between nursing homes, including (1) limited clinical resources, (2) limited financial resources, (3) limited community resources, (4) lower levels of direct care, (5) limited or no bilingual staff or ombudsmen, and (6) larger staffing shortages.
- As a result, residents of racial or ethnic minority groups receive lower-quality care, which may result in higher rehospitalization rates and greater difficulties being discharged into their community as compared with non-Hispanic White residents

3. To summarize: The NASEM report explains and analyzes the data and research available regarding older persons' right to health and access to health care and services in nursing homes. It shows how sub-national data is disaggregated by sex, age and inequality dimensions, and shows what indicators are used to monitor the full realization of the right to health of older persons in nursing homes.

The overall weaknesses of nursing homes have also been substantiated by analyzing a national data set that finds that nursing homes reduce a person's life expectancy by 3.4 years, reduces the quality of life by 2 percent each year a person resides in a nursing home, and increases the symptoms of dementia by 3 points (on a scale of 0 to 18). See Brent, R.J. 2022: "The Benefits of Not Living in Nursing Homes." *Applied Economics*, 54 (32) pages 3740-3750.

The role of the NASEM report is to ensure that these weaknesses are removed and do not continue.

- INPEA regards the NASEM report related to older adults in nursing home as concrete evidence of widespread, continuing, elder abuse.
- It is INPEA's view that the systemic solutions that the NASEM report are recommending are unlikely to be implemented, unless there is a separate, universal legally binding human rights instrument for older adults, which would authorize a Rapporteur to oversee the recommended changes, and ensure that they would be fully implemented.
- We take this view because the 1986 Institute of Medicine report *Improving the Quality of Care in Nursing Homes* had previously recommended fundamental changes, yet as recently as of 2022, the NASEM report states that there are still long-standing shortfalls highlighted by COVID-19 that plague nursing homes.

Robert J. Brent
Professor of Economics, Fordham University

INPEA UN Representative