



QUARTERLY

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NURSING HOME TRANSFER TRAUMA - PART II

1976

The Consumer Commission, in its Spring, 1975 CCAHS QUARTERLY entitled Nursing Home Transfer Trauma discussed some of the effects of closing substandard nursing home facilities. It pointed out that when a nursing home closes, the residents obviously must be moved. And for many of the residents, particularly the non-ambulatory, the shock of moving is such that some simply do not survive. This shock is known as transfer trauma.

The recent nursing home scandal in New York which erupted last year is continuing into 1976. It turned out that a number of nursing homes primarily for the elderly poor, were grossly inadequate. Residents of such nursing homes were often subjected to inhumane treatment, received little or no medical care, and inadequate nutrition. The buildings themselves were often hazardous and decrepit. It also turned out that for some of the owners of such nursing homes, the profits were enormous. The big money wasn't in syphoning off funds which should have been used for feeding and caring for the residents, nor was it in giving no-show staff jobs to relatives and friends.

The money was in acquiring land, overvaluing its worth and, upon receiving the franchise (Certificate of Need), building the health care facility. Using a combination of "dummy" corporations, the nursing home owners trafficked and sold the corporations (which owned the nursing home and land), and with each sale the Medicaid/Medicare reimbursement rate was raised to cover the debt service costs on the mortgage. The profits from this type of financial machinations were enormous. This method also applied to old buildings used as nursing homes.

Historically the State Health Department permitted the operation of nursing homes in old and renovated buildings (structures built for an entirely different purpose) that did not meet State and Federal Life Safety Standards. As an effect of the nursing home scandal, the State Health Department cracked down on the nursing homes in non-conforming buildings. Many owners decided not to invest the money necessary to modernize the facility. They said it was too expensive and could not generate profits. Instead they decided to abruptly close the facility forcing the patients to be moved without proper notice or time to minimize the effects of transfer trauma.

In the issue on Transfer Trauma Part I, we pointed out that for the elderly tenants of a nursing home the prospect of moving is very threatening. Moving is a traumatic experience for most of us; for the old and weak who are least adaptable, it is sometimes fatal. In this issue we will discuss two case histories of nursing homes as a follow-up to our issue on transfer trauma.

CASE I: VILLAGE NURSING HOME

The Village Nursing Home, on Hudson Street, in Manhattan is an old building which has been used as a nursing home since the fifties. The home, already overcrowded, was cited for a number of serious violations by the New York State.

Department of Health.

The sequence of events was this:

- The Department of Health ordered the owner to reduce the number of patients by one hundred and ten.
- The owner began to move patients.
- The Legal Services for the Elderly Poor and other community groups brought a court action against the owner.
- The owner, deciding that the home would become unprofitable with the reduced number of patients, gave notice that he was closing it. This meant that the residents of the home would have to be moved.

GRAY PANTHERS FIGHT BACK

Members of the Gray Panthers (a militant organization that deplors the way old people are treated in this society and are working to improve this) learned from families of the nursing home's patients, that a mass transfer was imminent. The Gray Panthers had been working with community agencies for months and had built up channels of communication between the residents of the home and their families. Some of the patients' families had contacted various state and government agencies -- the New York State Department of Health, the State Department of Social Services, the City Departments of Health and of Social Services - and alerted them to the imminent transfers. But these agencies were unresponsive. It wasn't, they said, their responsibility. The Gray Panthers offered their services to the families of the patients and several actions were immediately taken.

The Gray Panthers and the Consumer Commission, which had also been alerted, referred the families to the Legal Services for the Elderly Poor, and attorneys there agreed to represent a patient in the Village Nursing Home as a plaintiff in a court action. Basing the suit on an administrative letter issued by the New York State Department of Social Services requiring that such transfers be conducted in ways least apt to cause trauma, a class action was brought against the Village Nursing Home, the State, City Health and Social Service Departments. A judge issued a restraining order against transfer, and the State agreed to temporarily keep the facility open.

It is worth quoting from the petition which was based on the Administrative Letter of the New York State Department of Social Services:

"The relocation of infirm aging persons from one facility to another creates a severe risk of death and emotional trauma for these patients. Several studies have already documented dramatic increases in mortality far in excess of what would normally be expected. The State Department of Social Services, among others, has recognized the hazards of this phenomenon, known as 'transfer trauma'. That Department similarly recognized that 'transfer trauma' can be significantly diminished by suitable advance preparations and great care in the handling of the actual transfer..."

FAIR HEARINGS - A HOPE

Residents in nursing homes have very limited protection against bureaucratic decisions, or administrative incompetency which permits abuses, reductions in care and unsafe transfers.

Fortunately, there are laws and regulations at both the state and federal levels which give residents the right to request a fair hearing. At a fair hearing residents can protest arbitrary and life-threatening decisions which affect them. For instance, residents may need more care than they are being or will be provided at a particular institution; or residents may protest being moved because the actual transfer or the place where they are to be transferred is either unsafe or will not meet their needs.

The federal and state regulations receive little publicity and most residents and their relatives are almost completely uninformed of their rights to request a fair hearing. This lack of information is a result of the failure of the Department of Social Services, especially the Chelsea Office (400 Eighth Avenue, 554-8897), which is responsible for the transfer and well-being of nursing home residents in New York City, to inform them of their rights. Once residents are informed of their rights to request a fair hearing, it is important for those residents to have legal representation to deal with the bureaucratic regulations and professional staff of the Department of Social Services.

At the Village Nursing Home seven residents requested fair hearings. These residents protested the decision to move them to institutions which they felt could not provide them with the level of care they needed. Legal services were provided by the Legal Services for the Elderly Poor located in Manhattan, and consumer groups like the Gray Panthers and staff members from the Consumer Commission actively supported the protests of these residents.

The availability and use of fair hearings can save lives. The failure of government to make residents and the general public aware of these rights must be ended.

COMMUNITY ACTS

In addition, as a parallel action, an Ad Hoc Committee to Save the Village Nursing Home was formed, composed of representatives of the Gray Panthers, Consumer Commission, Community Planning Board #2, the Caring Community, several Block Associations, and other local groups. This Committee decided to monitor the Village Nursing Home to see that no transfers were made during the period of the restraining order, and also to look for an established health facility which might assume responsibility for operating the Village Nursing Home. St. Vincent's Hospital indicated an interest and presently discussions between the State Department of Health and St. Vincent's have increased hopes that the Village Nursing Home can be saved. The conversion of this facility in order to meet safety and building code requirements may, however, be more costly than building a new nursing home.

CASE II: RIVERVIEW NURSING HOME

HEW had announced that funds would soon be cut off for Riverview Nursing Home, New York, long condemned as unsafe, and late last year the transfer of patients began. The Consumer Commission learned of this after the transfer of patients had already started. Representatives of other nursing homes - including facilities owned by the proprietor of Riverview were coming into Riverview to pick out the patients they believed would need the least care. One professional staff member at Riverview called it "body-snatching". Two of the patients moved on the first day had been given only five minutes notice and all those moved had been taken without their recent medical records, without notifying their families and without notifying the attending physician. Some of those moved were transferred to other neighborhoods, some distance from friends and relatives, and, as often happens, friends made in the nursing home were not transferred to the same facility.

TIMETABLE FOR DEATH OR ITS PREVENTION

The chronology of events was as follows:

- Thursday: Legal Services for the Elderly Poor contacted the Consumer Commission at the suggestion of a social worker at Riverview.
- Friday: A meeting with the State Health Department was held to discuss the problem of transfers. Simultaneously a State Supreme Court action was planned to obtain an order restraining the nursing home from transferring any more patients.
- Saturday: Another meeting with the State Department was held to enlist the help of volunteers.
- Sunday: State Health Department members went with volunteers to the nursing home.
- Monday: Volunteers and staff of the Consumer Commission's Nursing Home Project went to Riverview to assist with transfers.
- Tuesday: Another court hearing was held at federal court.

DOCTOR SPEAKS OUT

In an affidavit prepared and sworn to by an attending physician at Riverview, the conditions of transfer were described as disgraceful and inhuman. This physician stated:

1. The operators of the nursing home were moving patients at the rate of five or ten a day on extremely short notice - if any - to the patients, their families, and the professional staff.
2. The medical charts of the patients were not up-to-date and did not contain current information on drug dosages, diagnoses, etc. One

patient, scheduled for necessary surgery, was moved to a new facility where the new doctor would have to start from the beginning in treating the patient.

3. There was no emergency which would require such precipitous moving of patients. The health and safety of the patients requires that adequate notice be given them and that these transfers, as conducted, would probably be severely traumatic. The possible trauma could be alleviated by slowing the pace of the transfers and planning them in advance.

WHO'S RESPONSIBLE: NOT ME

At the court hearing on Tuesday, lawyers for HEW, the State Department of Health, the City Department of Social Services, and the owner each disclaimed responsibility and put the blame on the others. The court, however, demanded that the transfers be conducted in an orderly way.

A lawyer for HEW objected to the court's decision ordering that the federal agency continue to pay its half-share of Medicaid at Riverview until the evacuation of patients was completed. "Why can't the State pay?" the federal lawyer asked. "You're forcing us to pay for their incompetence. They're the ones that fouled up..."

"I think it's the pot calling the kettle black," the judge said. But he later modified his order to permit HEW to seek recovery of funds from the State. Lawyers for the State said they might seek recovery from the owner.

TO SUM UP: CONSUMERISM CAN WORK

We mention these two cases- the Village Nursing Home and Riverview - to show that informed consumer groups can actively work to prevent abuses in nursing home practices. In these instances, consumer groups were successful in preventing the precipitous transfer of patients. As long as the care of the elderly poor can be a source of so much profit, however, we can expect abuses of the kind described above to occur.

The protection of patients requires continual consumer vigilance until the State regulatory agencies perform their function as mandated by law.

The problems associated with transfers will continue in the foreseeable future in New York because of the deterioration of some nursing homes, the probable loss of licenses of others, and the increasing numbers of elderly who cannot be cared for in other ways. If transfer trauma is to be avoided, a transfer plan identifying those responsible for the moves, must be settled in advance. One plan developed (implemented since our last issue) is that of Dr. Leon Pastalan, in Pennsylvania).

THE PENNSYLVANIA PLAN

A plan to prepare nursing home patients for relocation has been developed in consultation with Dr. Leon Pastalan of the Institute of Gerontology at the University of Michigan. Dr. Pastalan and his colleagues originated the reloca-

tion plan upon which this program is based. A transfer process which involved a specific program for relocating nursing home patients from one facility to another, was carried out several years ago in Pennsylvania and has recently been formally evaluated and the findings published. Dr. Pastalan was able to demonstrate that subjecting elderly nursing home patients to a specific program prior to their transfer, significantly decreased their rate of mortality when compared to groups who received no advance preparation. In addition, it was discovered that certain procedures for preparation were more successful than others.

The Pennsylvania program has utilized consultation with several other independent authorities with experience in nursing home care and the problems of relocation. An advisory panel of experts from within, as well as outside the responsible department, had been established to provide the management team in charge of directing the relocation program with suggestions and guidance. Representation on this panel is from both the public and private sectors of the nursing home industry, the medical and social work profession as well as professionals with expertise in the field of gerontology.

The plan calls for a relocation team of four relocation specialists to be assigned to a nursing home after the home's administrator is notified that his facility will have to close and he agrees to participate in the relocation program. The teams will alert the staffs of both the closing and receiving homes, as well as other concerned individuals within the community, to the full implications of the relocation program. The teams will provide extensive counseling with the resident and family and conduct a series of site visits to the new facility.

One of the essential elements in this plan is the visit by the resident to his/her new home. This reduces possible anxiety about the new facility. It has been shown in studies by Dr. Pastalan that site visits are vital in reducing mortality rates among transferred patients.

In addition, everyone concerned with the relocation is contacted and their involvement in the relocation is explained. This applies not only to the residents and staff, but to the family. An important factor in this process is time. Enough advance notice must be given to fully prepare those involved for the relocation.

The three primary objectives of the relocation program are:

- a. to preserve lives of nursing home residents being relocated;
- b. minimize the trauma and discomfort of all residents in uncertifiable nursing homes during their relocation;
- c. to avoid the extra hazard and suffering resulting from repeated moves by maximal approximation of final placement at the time of the first move.

The relocation program designed to achieve these objectives is aimed at three goals:

- a. a reduction in the anxiety which arises from confronting the unknown;

- b. a familiarization of residents with the make-up of the physical building of the new facility, its staff members, other residents, social and medical procedures and programs;
- c. a network of supports to ease the burden of psychological, social and environmental adjustment.

The relocation program is designed to achieve these objectives and goals through:

- site visits by residents to their new setting;
- involvement of residents in relocation decisions and activities;
- counseling with residents and encouragement of their maximum feasible participation in the placement decisions;
- a training program at the closing home and the receiving home and other concerned individuals;
- a communication effort to inform and orient the community to both the scope of the nursing home crisis and the role that the community can play in response;
- small group meetings for discussion and ventilation of feelings;
- involvement of the families of residents in relocation activities and placement decisions.

The Pastalan plan uses many of the same methods outlined last year in the New York State Department of Social Services Administrative letter. Unfortunately, those methods have not been used by New York State Department of Social Services officials.

INSTITUTIONAL CARE: IS IT THE ONLY WAY?

A solution to the nursing home problem goes considerably beyond correcting abuses of the kind the Moreland Commission is investigating. People must rethink the question of what to do with the old and weak. What we have now is a short-term solution mended and patched to pass as a long-term one. Years ago, those few elderly who had no family could be accommodated by a few institutional facilities. With the rapid changes in social organization of the last fifty years, the old solution is no longer adequate. Family care is the most desirable care for the elderly. Often this is not possible. What has been done is to expand institutional nursing homes to try to accommodate all those who cannot look after themselves or have no one to look after them.

The present nursing home is, in a sense, an insulated waiting station. One enters, waits a bit, and then dies. There is little continuity with the past, boredom in the present, and no future. Things need not be this way. In some primitive societies for example, old people are esteemed. Their years are believed to have given them wisdom which can be shared by all. Old people feel needed and therefore, wanted. In this society, they frequently feel useless and the psychological consequences of this perhaps partly explain the physical syndromes of old age - a deterioration of capacity and a rapid decline in health.

The majority of old people are placed in nursing homes by social workers, and for many of these elderly the move to a nursing home has been from a hospital. It is probably true, therefore, that hospitals are a logical place to intervene. It is to a hospital that an aging person is brought when there is a crisis - illness, malnutrition or an accident; and it is from the hospital that the aging person goes to a nursing home. The criteria which a social worker uses in choosing a nursing home varies; bed availability, convenience for the patient's family, neighborhood, are some of them.

When the patients leave the hospital, there is presently no system to follow and determine what becomes of them other than through the medical records. No government or state agency can take the responsibility, and once persons are placed in a nursing home there are few channels open to express their feelings about the new environment.

In our view, the most important first step to be taken in reforming nursing homes is to open channels whereby the residents can have some voice in running nursing homes. Funds should be made available, preferably through community groups to hire organizers who could gain the confidence and cooperation of the residents. The object of this would be to establish resident organizations within a nursing home to determine what kind of environment residents want. As it is, the idea that residents of nursing homes ought to have some power to change their own lives seems to have occurred to few people involved in the planning of nursing homes.

In addition, it is necessary to break the isolation that many residents of nursing homes seem to feel. Community groups should "adopt" local nursing homes to provide a sense of belonging for residents and to monitor nursing homes to see that the residents themselves are well cared for and as happy as possible.