Improving the Fate of Nursing Homes During the COVID-19 Pandemic: The Need for Policy

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See also Erwin et al., p. 540, and the Fixing US Health Policy section, pp. 620–657.

Approximately 40% of all COVID-19 deaths in the United States have been linked to long-term care facilities.[1] Early in the pandemic, as the scope of the problem became apparent, the nursing home sector generated significant media attention and public alarm. A *New York Times* article in mid-April referred to nursing homes as "death pits"[2] because of the seemingly uncontrollable spread of the virus through these facilities. This devastation continued during subsequent surges,[3] but there is a role for policy to change this trajectory.

The circumstances that led to this tragedy, often referred to as a "perfect storm,"[4] started with the attributes of the novel coronavirus itself. The coronavirus that causes COVID-19 is airborne, can be spread asymptomatically, and is particularly risky for older adults with underlying health conditions. It is therefore no surprise that nursing home residents, who fit that risk profile almost by definition, are at high risk for serious complications from COVID-19. Rapid spread of the virus is difficult to control owing to features of the nursing home setting. Nursing homes house, in close quarters, large numbers of residents needing hours of hands-on care on a daily basis. Rooms are often shared by two or more residents. The congregate nature of the setting combined with the need for care make social isolation impossible. Finally, asymptomatic spread means that residents and staff can cause an outbreak without knowing it. This was especially lethal early in the pandemic, when there was less known about asymptomatic transmission.

INFECTION CONTROL AND NURSING HOME QUALITY

Is it inevitable, then, that nursing homes will continue to experience a disheartening number of pandemic-related deaths? This is a key question for formulating federal and state policy moving forward. Policymakers and researchers alike have focused on attributes of nursing homes associated with better and worse outcomes from the pandemic, looking for clues for organizational best practices, warning signs, and where to assess blame. A commonly cited statistic is that before the pandemic, 40% of nursing homes were cited with deficiencies in their infection-control practices, making it the most frequently cited regulatory deficiency.[5] However, research has revealed no significant correlation between previous infection-control citations and COVID-19 cases or deaths.[6,7]

Beyond infection control, researchers have studied the role of nursing home quality more generally, measured by the Nursing Home Compare five-star rating system and baseline staff to resident ratios. Numerous studies using multistate or national data with rigorous research designs found no relationship between nursing home quality and COVID-19 outcomes.[6–8] Instead, by far the strongest predictor of COVID-19 cases and deaths in nursing homes is the prevalence of cases in the surrounding county. Higher baseline staffing ratios appear to be helpful in stemming an outbreak once the virus is in a facility, but the effects of staffing are dwarfed by the effects of community spread.[8] In other words, even high-quality nursing homes in virus hotspots are at risk. The enormous challenge presented to nursing homes is substantiated by the fact that almost all nursing homes nationwide have now had at least one COVID-19 case.

THE INSUFFICIENT FEDERAL POLICY RESPONSE

The federal policy response to the COVID-19 crisis in nursing homes has been slow, misguided, and mostly absent. In part, these failures are not specific to nursing homes; despite the national nature of the crisis and the unique power of the federal

government to force production, the Trump administration failed to secure the necessary supply chains for personal protective equipment (PPE) and testing. In the nursing home setting, fighting the pandemic without access to appropriate PPE and rapid, accurate testing is futile. Policies specific to nursing homes are focused on issuing guidance, increasing inspections, and increasing fines, guidance that is of little use without access to supplies and technical assistance. Punitive measures not only are inconsistent with the evidence that low nursing home quality is not driving outbreaks but also exacerbate the challenge of fighting the pandemic in poorly resourced facilities. The administration has been slow to disburse the money Congress allocated for assistance to nursing homes as well as other health care providers in the March 2020 CARES Act (Pub L. No. 116–136), and additional assistance has stalled. States have filled the gap in inconsistent ways, hampered by the supply chain problem but sometimes facilitating helpful assistance such as "strike teams" of additional workers to compensate for staff shortages during an outbreak.

In an implicit acknowledgment that states and nursing homes cannot solve the supply chain issues themselves, in summer 2020 the federal government began shipping PPE and testing supplies directly to nursing homes. Although a move in the right direction, the shipments were fraught with problems: much of the PPE was of poor or unusable quality, additional testing supplies were hard to come by once the initial shipment was used, and the reliability of the tests was poor. The biggest problem is that these shipments are meant to be stopgaps. After initial supplies run out, nursing homes are expected to obtain supplies on their own, although there are still no guarantees of availability or reasonable pricing.

AMBIVALENCE TOWARD ASSISTING NURSING HOMES

The federal mishandling of the pandemic affects all health care sectors. Yet, in subtle ways, the policy, media, and public responses to nursing homes have been unique. Even as there was an outpouring of support for hospital workers early in the pandemic and outrage over the lack of PPE, nursing home workers were largely ignored. And even as people saw the lack of equipment and staff in hospitals as beyond the control of hospital leaders, nursing homes were criticized for their lack of preparation. These double standards have roots in several key features of the nursing home sector. First, the quality of nursing home care has been a long-standing challenge. Although many high-quality nursing homes exist, low quality and understaffing remain endemic. Second, the majority of nursing homes are for-profit entities, often assumed to value profits over quality. The result is that policymakers feel reluctant to give nursing home operators a pass and offer sufficient assistance, even in the face of a crisis that few anticipated.

PRIORITIZE POLICY ACTION NOW, LEAVE THE BLAME

In the short run, there is an urgent and clear role for better policy. The COVID-19 pandemic in nursing homes has to be treated as the crisis it still is, and policymakers need to focus on the well-being of residents. This means setting aside issues of blame and, yes, giving assistance to low-quality providers. It also means allocating resources to ensure adequate PPE, testing, staffing, and technical assistance to implement best practices—not just on a temporary basis but as long as the pandemic lasts.

In the long run, there is also a role for better policy, not only in addressing infectious disease but in improving the quality of long-term care generally. The long-term care sector suffers from a fragmented payment system and chronic underfunding. Nursing home services are usually delivered in large, medicalized buildings that provide little opportunity for a good quality of life, while staff endure challenging working conditions for minimum wage and no or few benefits. For decades, policymakers have been tinkering with small ways to make incremental improvements to quality. Unless we find the political will to fundamentally change the way we pay for and deliver long-term care, we will never make meaningful improvements and cannot be prepared for the next pandemic.

WILL THE FATE OF NURSING HOMES CHANGE?

A new administration brings the prospect of hope for dramatic shifts in policy. Much of the damage from the pandemic may have already been done, but even with the emergence of effective vaccines it remains unclear how long the pandemic will last. Effective policy change starting with the Biden–Harris administration could still save tens of thousands of lives in nursing homes.

Some of the Biden–Harris plans for addressing the COVID-19 crisis in nursing homes directly address key failures of the Trump administration. According to a published policy statement,[9] the

new administration plans to use the Defense Production Act (Pub L. No. 81–774) to secure supply chains for PPE and rapid-response testing so that nursing homes can follow recommended protocols without heroic procurement efforts. The plan also includes ensuring that each facility has adequate staffing and that staff are properly trained in infection-control procedures. More importantly, the new administration plans to implement systematic public health measures to try to control community spread of the novel coronavirus; it is almost impossible to protect nursing home residents without doing so.

In other ways, the Biden–Harris plans for controlling COVID-19 in nursing homes are less promising. Like policies under the Trump administration, the Biden–Harris plans reflect an ambivalence toward providing assistance to nursing homes and may even amplify the potentially counterproductive effects of current policy. The policy plan is silent on resources to obtain sufficient PPE, testing, and staffing, and rather than increasing technical assistance, punitive measures will be expanded. Inspections will be stepped up, fines for noncompliance with regulations will be increased, more data audits will be required, and pandemic-related limitations on liability will be rescinded. Although these may seem like necessary tools for consumer protection in an industry known for quality problems, the research does not support that bad quality is the reason for COVID-19 cases and deaths. For nursing homes experiencing COVID-19 outbreaks, fining them for it, threatening them with litigation, and diverting staff attention to inspections and audits are all likely to impede their ability to implement the recommended protocols for fighting the outbreak. These measures may be most harmful to poorly resourced facilities serving residents of racial and ethnic minority groups who have already borne a disproportionate toll from the pandemic.

As long as the pandemic lasts, the short-term goal for nursing homes needs to be the prevention of additional COVID-19 cases and deaths. Short-term accountability and transparency can be enhanced by reopening nursing homes to limited, safely conducted visits from family and ombudsmen as well as quality improvement assistance. However, long-run issues of nursing home quality need to take a back seat temporarily; the pandemic needs to be treated as the crisis it continues to be. The single most important thing the Biden–Harris administration can do to advance the short-term goal of preventing nursing home deaths is to effectively use public health measures to stem community spread of the virus. If that fails, nursing home residents and staff are at risk and need our collective help. AJPH

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CONFLICTS OF INTEREST

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