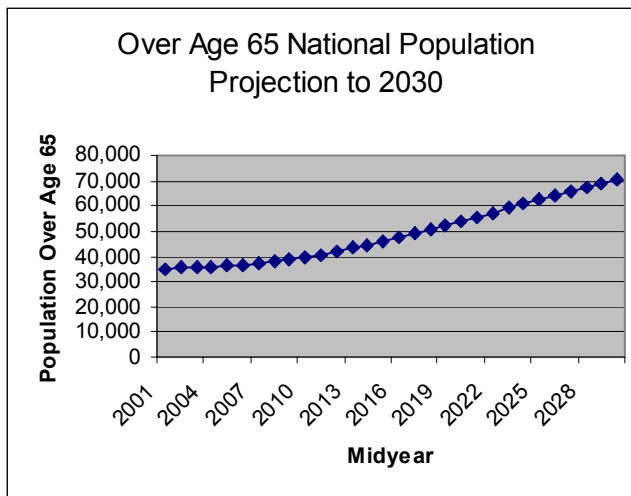


**HEALTH CARE POLICY BRIEF**

**PROTECTING CURRENT AND FUTURE NURSING HOME RESIDENTS & THEIR FAMILIES: GOVERNMENT ACTION IS NEEDED TO MANDATE MINIMUM SAFE STAFFING LEVELS**

**CURRENT SITUATION:** Despite strong legal requirements for nursing homes to provide good care and dignified conditions for residents, the nursing home crisis continues. As a result, too many of our most vulnerable citizens suffer needlessly every day because nursing homes fail to provide good care. OBRA 87, the landmark federal law passed in 1987, requires that every nursing home resident “be provided with services sufficient to attain and maintain his or her highest practicable physical, mental, and psycho-social well-being.” Yet, as we mark OBRA 87’s 20th anniversary, nursing homes too often continue to be unpleasant and hostile environments, the agent of harm rather than provider of care & protection, and, for good reason, “the option of last resort.”



**THE FUTURE:** While there is an increasing trend for people who need long term care to get that care in their communities, there will always be a need for nursing homes for those who need or want to be cared for in a residential setting that is capable of providing professional services 24 hours a day. In fact, the demand for nursing home services will likely continue to increase with the aging of the baby-boomer generation. The population of persons over the age of 85 has increased significantly, and population projections by the US Census Bureau anticipate the over age 65 population to increase by 40% between 2010 and 2030.<sup>1</sup> Projections indicate that the percentage of people in need of nursing home care will increase by up to 25%.<sup>2</sup>

**GOVERNMENT ACTION NEEDED NOW:** Taken together, the persistent crisis in nursing home care and the impending increase in the number of those needing nursing home care as the baby boomers age could result in the breakdown of the nursing home system just when it is needed most. Do we want to risk a return to the scandal-ridden

<sup>1</sup> U.S. Census Bureau. International database. Table 094. Midyear population, by age and sex. Available at: <http://www.census.gov/population/www/projections/natdet-D1A.html>

<sup>2</sup> Lakdawalla D, Goldman D, Bhattacharya J, Hurd MD, Geoffrey FJ, Panis CWA. Forecasting the nursing home population. Med Care. 2003;41(1):8-20.

1970s, when so many residents were tied down, nursing homes frequently smelled badly and it seemed like nobody even thought about caring for people humanely or with dignity? We must take steps now to protect nursing home residents and their families and ensure that our nursing homes are equipped to care for vulnerable residents. As study after study has indicated, sufficient staffing is key to ensuring nursing home quality.

### Need for Legislation

In 1975, *Time Magazine* reported:

*It is no secret that, with some notable exceptions, the nation's 23,000 nursing homes are dismal places owned by investors far more interested in turning a fast profit than in caring for their elderly patients.*

Have we made substantial progress in the three decades since these words were written? Where will we be in another five years or in thirty, as we face the difficult choices for our loved ones and ourselves?

Legislation is needed to mandate minimum staffing ratios. A Government Accountability Office report in 2000 found that staffing levels are below the level needed for resident safety. As of 2002, all state standards and 85% of nursing home facilities did not meet the CMS recommended level of 4.1 hours per resident day (HPRD) and the majority fall below the CMS identified minimum level of 2.75 HPRD.<sup>3,4</sup> Between 1999-2005, RN hours decreased by 25%, LN hours decreased by 22% and CNA hours decreased by 7%.<sup>5</sup> Despite a wide variation of staffing levels within states, states with low staffing standards have similar overall staffing levels to states with no staffing standards. States with higher staffing standards, on the other hand, have significantly greater total staffing levels.<sup>6</sup> A 2007 industry report found that while staffing levels have remained relatively stagnant, resident acuity has increased from a dependency of 3.7 ADLs to 3.98 ADLs.<sup>7</sup> Clearly it is time for Congress to ensure the safety of all Americans who need nursing home care.

According to the CMS report to Congress, of the facilities providing less than an average of at least two hours of daily nurse aide care per resident, 22% had a high rate of avoidable hospitalization and 46% had a high rate of pressure sores compared to 2%

<sup>3</sup> US Centers for Medicare and Medicaid Services (Prepared by Abt Associates Inc.), *Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes. Report to Congress: Phase II Final*. Volumes I-III. Baltimore, MD: CMS, 2001.

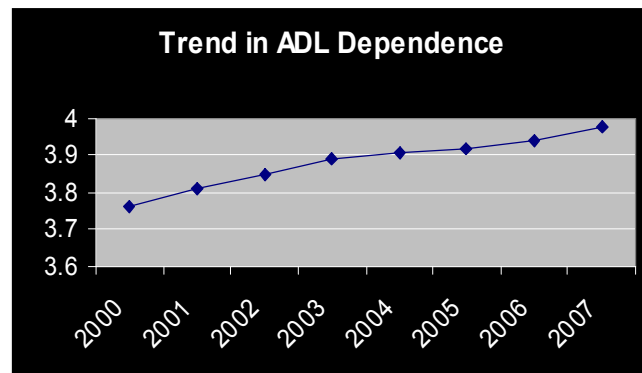
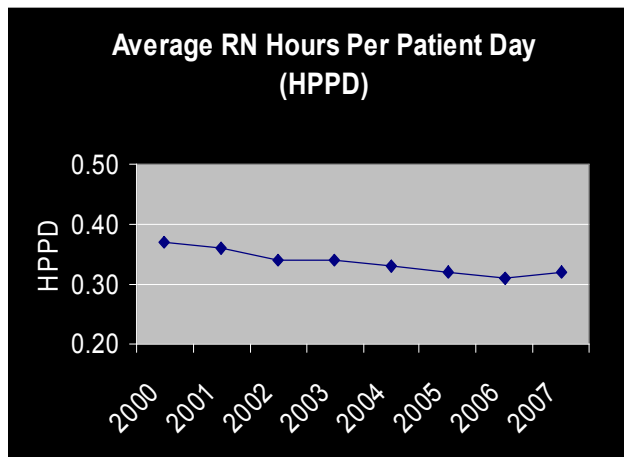
<sup>4</sup> Harrington C. Nursing Home Staffing Standards. Kaiser Commission on Medicaid and the Uninsured. (2002) Available at: <http://www.kff.org/medicaid/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=14106>.

<sup>5</sup> Harrington C, Carrillo H, LaCava C. (2006). Nursing Facilities, Staffing, Residents and Facility Deficiencies, 1999 Through 2005. Available at: [http://www.nccnhr.org/public/245\\_1267\\_13554.cfm](http://www.nccnhr.org/public/245_1267_13554.cfm).

<sup>6</sup> Mueller C, Arling G, Kane R, Bershadsky J, Holland D, Joy A. Nursing Home Staffing Standards: Their Relationship to Staffing Levels. *Gerontologist*. 2006;46(1): 74-80.

<sup>7</sup> American Health Care Association. Reimbursement and Research Department. Trends in Nursing Facility Characteristics. 2007 June. Available at: [http://www.ahca.org/research/oscar/trend\\_graph\\_facilities\\_characteristics\\_200706.pdf](http://www.ahca.org/research/oscar/trend_graph_facilities_characteristics_200706.pdf).

and 12%, respectively, of facilities that provide more than an average of at least two hours of daily nurse aide care per resident.<sup>8</sup>



### Overcoming the Challenges to Legislative Action

Research has shown that there is a strong correlation between nursing home staffing levels and quality of care and between the presence of legislation and actual nurse staffing levels. In short, nursing home residents need an average of 4.2 hours of direct care staff time per day in order to live safely and not suffer or deteriorate because of inadequate care. And without government mandates, most nursing homes will not maintain safe staffing levels on their own. However, many continue to argue against government mandated nurse staffing ratios. The primary arguments are: fear of increased costs and the putative lack of nurses and nurse aides to fill the needed positions.

#### *Challenge #1: Cost – A Look Under the Surface Reveals the High Costs of Low Staffing*

Perhaps the leading argument against establishing minimum staffing standards is that the cost would be prohibitive. Many in the nursing home industry argue that they cannot afford to hire more direct care staff. Government leaders are disinclined to pursue policies that could lead to increased costs to the Medicaid system. However, the financial benefits of safe staffing levels could substantially or entirely offset the increased cost of labor.

Cost of resident care: Numerous studies show that the lower level of resident care resulting from insufficient staffing can be more expensive than maintaining higher staffing levels. For example, adding staff can improve continence care, which would bring significant savings in the cost of laundry and diapers.<sup>9</sup>

<sup>8</sup> Abt Associates, Cambridge, MA. Report to Congress: Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes. Phase II Final Report. Centers for Medicare and Medicaid Services (CMS). 2001 Dec. Contract No.: 500-0062/TO#3.

<sup>9</sup> Rudder, Cynthia and Phillips, Charles. "91 Ideas for Reducing Costs, Enhancing Revenue, and Maintaining Quality in Nursing Homes" (1998).

Another cost associated with resident care is that of psychotropic drugs. Studies have shown that increasing staffing levels allows staff to interact with residents in a productive way that reduces the need for psychotropic drugs.<sup>10</sup> Decreasing the use of psychotropic drugs not only reduces the cost spent for drug use, it can also help to prevent injurious falls resulting in hospitalization. A study found that patients hospitalized due to falls had 63% greater odds of exposure to antipsychotic medication.<sup>11</sup> Zolpidem, which was purported to be a safer sedative-hypnotic, was associated with a 95% increased risk of hip fracture.<sup>12</sup>

Increasing RN staffing levels improves several indicators of health outcomes such as, continence care, mental health and pressure ulcers. This improved quality of care ultimately reduces hospitalization rates, which leads to greater cost savings.<sup>13</sup> A study of RN staffing time found that an increase of 30 to 40 minutes per day could result in an annual savings of \$3,191 per resident.<sup>14</sup>

Management costs: Due to the high risk of worker injury in nursing homes and high rates of litigation against nursing homes, many insurance companies are not providing liability insurance for nursing homes. In a national study

The poor management of her care became the impetus for my brother and me to transfer her to a different care facility.

- Son of nursing home resident, Bronx, NY

of nursing home litigation, the average recovery amount was \$400,000, more than double the average national recovery amount for malpractice suits. In addition, approximately 90% of cases against nursing homes settle out-of-court with plaintiff compensation (compared to the national average of 33%).<sup>15</sup> However, a report found that nursing homes that meet the RN recommended long-stay standards had a rate of litigation that was 23% less than those that did not meet the recommended standards.<sup>16</sup>

Cost of turnover: The problem of high staff turnover affects quality of care and adds significantly to labor costs. A meta-analysis of CNA, LPN and RN turnover rates found a

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<sup>10</sup> Hughes C, Lapane K, Mor V. Influence of Facility Characteristics on Use of Antipsychotic Medications in Nursing Homes. *Med Care.* 2000;38(12): 1164-1173.

<sup>11</sup> Mustard CA, Mayer T. Case-control study of exposure to medication and the risk of injurious falls requiring hospitalization among nursing home residents. *Am J Epidemiol.* 1997;145(8):738-745.

<sup>12</sup> Wang PS, Bohn RL, Glynn RJ, Mogun H, Avorn J. Zolpidem use and hip fractures in older people. *J Am Geriatr Soc.* 2001;49(12):1685-1690.

<sup>13</sup> Horn S, Buerhaus P, Bergstrom N, Smout R.. RN Staffing Time and Outcomes of Long-Stay Nursing Home Residents. *Am J Nurs.* 2005;105(11):58-70.

<sup>14</sup> Dorr D, Horn S, Smout R. Cost Analysis of Nursing Home Registered Nurse Staffing Times. *J Am Geriatr Soc.* 2005;53:840-845.

<sup>15</sup> Stevenson D, Studdert D. The rise of nursing home litigation from a national survey of attorneys. *Health Affairs.* 2003;22(2):219-229.

<sup>16</sup> Johnson CE, Dobalian A, Burkhard J, Hedgecock DK, Harman J. Predicting Lawsuits against Nursing Homes in the United States, 1997-2001. *Health Serv Res.* 2004;39(6, Part 1):1713-1732.

wide range of turnover rates. CNA turnover rates vary from 14% to 346%.<sup>17</sup> The direct cost of turnover per employee ranges from \$4,200 to \$5,000, as calculated by using the rule of thumb for costing turnover at 25% of the employee's annual salary. Applying a conservative 45% turnover rate to the 2.6 million long term care workers results in a cost of over \$4 billion.<sup>18</sup> This does not include substantial indirect costs of turnover, such as those incurred as a result of increased injury to direct care workers, the costs associated with treating residents harmed as a result of inadequate care, etc.... It is worth noting that high turnover rates are highly correlated with a decrease in quality of care, decline in productivity and damage to the nursing home's reputation.<sup>17</sup>

### Challenge #2: *There is a Nursing Shortage*

Opponents to staffing ratios sometimes claim that it will be impossible for nursing homes to meet the nurse staffing levels that CMS<sup>19</sup> and others have determined would yield quality improvements because there are just not enough nurses to hire. Addressing this concern requires a careful examination of occupation growth trends in addition to asking why nurses and nursing assistants are not entering the occupation, are leaving it or are bypassing nursing home work altogether.

At night, there are 4 aides for 82 people.  
- CNA, North Creek, NY

Occupation trends: Despite forecasts of an insufficient nursing supply for the growing population, in 2004 the US Bureau of Labor Statistics reported that the fastest growing occupation is registered

Hiring more nursing professors to train more nurses is a viable solution for the nursing shortage, using the nursing shortage as an excuse to provide a poor quality of care is inexcusable.

nurses. In fact, one explanation for the apparent nursing shortage is the under-utilized workforce. For instance, one-third of nurses in New York State are working part-time. Another factor contributing to the lack of nurses is the lack of professors. Even if more people are recruited to become nurses, nursing

schools do not have the space or instructors to train prospective nurses. In 2006, 150,000 nursing applicants were turned away, a pool containing a conservative estimate of at least 30,000 qualified candidates.<sup>20</sup>

Working conditions: Many experts believe that poor working conditions in nursing homes are the primary motivation for nursing home workers to quit their jobs. Despite the growth of the RN profession, RNs do not and will not choose to work in nursing homes so long as working conditions are intolerable. RNs in nursing homes report the highest levels of workload stress compared to all other RNs working in any other

<sup>17</sup> Castle NG. Measuring Staff Turnover in Nursing Homes. *Gerontologist*. 2006;46(2):210-210.

<sup>18</sup> Seavey D. The Cost of Frontline Turnover in Long-Term Care. *Better Jobs Better Care*. 2004. Available at: <http://www.bjbc.org/content/docs/TOCostReport.pdf>.

<sup>19</sup> US Centers for Medicare and Medicaid Services, Prepared by Abt Associates Inc. *Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes. Report to Congress: Phase II Final*. Volumes I-III. Baltimore, MD: CMS, 2001.

<sup>20</sup> Webber N. The nurse shortage in New York – where we stand now. *New York Nurse*. January (2007).

setting.<sup>21</sup> However, working conditions can be improved by increasing the staffing ratios. A study found that for each 1 hour increase in total staffing time per resident, there is a decrease of 2.4 injuries per 100 full-time equivalent workers.<sup>22</sup> By improving working conditions, nursing homes have a greater chance of maintaining the current staff and subsequently recruiting more new nurses.

For each 1 hour increase in total staffing time per resident, there is a decrease of 2.4 injuries per 100 full-time equivalent workers.

...with each proportionate loss of an RN (per FTE/100beds) the risk of infection increases almost 30% and the risk of hospitalization increased more than 80%.

## Solutions

Innovative nursing homes have found solutions to the challenges to providing quality care.

As mentioned above, one of the most often cited challenge to increasing staffing levels is

the nursing shortage. However, studies have shown that nursing homes that provide a positive work environment have low turnover and vacancy rates. The Long Term Care Community Coalition (LTCCC) conducted a focus group study of nursing home staff which identified four commonly cited aspects of good working conditions: 1) being treated with respect, 2) having enough staff to care for the residents, 3) having a good relationship with supervisors and 4) working together as a team.<sup>23</sup> Opportunities for career growth have also been identified as important to workers. While these and other challenges to improving working conditions will not be overcome overnight, it is crucial to take affirmative steps now to begin improving conditions for current staff and residents as well as those in the future. Studies have shown that self-managed work teams<sup>24</sup> and career ladders for workers effectively reduce turnover. The Extended Care Career Ladders Initiative implemented in Massachusetts reported fewer paraprofessional vacancies, lower agency staff costs and higher retention rates.<sup>25</sup>

Two years ago, I woke up every morning asking myself, 'What will become of me?' Now I wake up trying to decide which of the people I love here I'll get to see today.

- Physically disabled resident of a nursing home managed by self-directed work teams (from "Home, Sweet Nursing Home," *Ms. Magazine*, Spring 2007).

<sup>21</sup> New York State Education Department. Registered Nurses in New York State, 2002 - Volume II: Organizational Climate Factors, Organizational Commitment, and the Culture of Retention, (2003). Available at: <http://www.op.nysed.gov/registered-nurses-2002-volume2.pdf>

<sup>22</sup> Trinkoff AM, Johantgen M, Muntaner C, Le R, Staffing and Worker Injuring in Nursing Homes. *Am J Public Health*. 2005 Jul;95(7):1220-1225.

<sup>23</sup> Rudder, Cynthia. "What Makes for a Good Working Condition for Nursing Home Staff: What Do Direct Care Workers Have to Say?". 2003. Available at: [http://www.ltccc.org/documents/WorkingConditionsBooklet\\_000.pdf](http://www.ltccc.org/documents/WorkingConditionsBooklet_000.pdf)

<sup>24</sup> Yeatts DE, Seward RR. Reducing Turnover and Improving Health Care in Nursing Homes: The Potential Effects of Self-Managed Work Teams. *Gerontologist*.2000;40(3):358-363.

<sup>25</sup> Wilson R, Eaton SC, Kamanu A. Extended Care Career Ladder Initiative (ECCLI) Round 2: Evaluation Report. 2002 Aug. KSG Working Paper Series No. RWP03-006. Available at SSRN: <http://ssrn.com/abstract=385202>

The Win-A-Step-Up Program developed in North Carolina aims to train, educate, and provide incremental pay raises for improved performance. This program is funded through the North Carolina Department of Health and Human Resources with money collected from civil monetary penalties against nursing homes. An evaluation of this program found a modest improvement in turnover, and significant improvement in job performance, job quality and quality of care.<sup>26</sup>

## Nursing Home Residents Continue to Suffer

Nursing home residents and their families continue to suffer as they wait for attention to be paid to this issue. Meanwhile, the evidence is there: numerous studies have shown that higher nurse staffing levels are associated with higher quality of care. Higher staffing levels allow staff to ensure that their residents are properly fed to prevent malnutrition, repositioned to prevent and treat pressure sores, kept clean to maintain hygiene, receive correct medications, etc....A report cited in the 2006 Institute of Medicine report found that more than half of the 350,000 adverse drug events (ADEs) and 80% the 20,000 fatal or life-threatening ADEs that occur in nursing homes are preventable.<sup>27</sup> This is approximately 191,000 preventable ADEs or fatalities that occur each year.

### *Pressure Ulcers*

Pressure ulcers are commonly used as an indicator of quality of care because they correlate closely with lack of attention from nursing home staff and because they are an important measure of resident health.

Untreated pressure ulcers often lead to complications including, cellulitis, chronic infection or osteomyelitis.<sup>28</sup>

Care for residents at risk of developing pressure ulcers requires nursing home staff to reposition residents several times each day. A study in 2005 found that an increase of Certified Nursing Assistants (CNA) and Licensed Practical Nurses (LPN) time correlated with a decrease in pressure ulcers.<sup>29</sup>

...bones grew through then gangrene set in to the point his foot and up to his angle was jet black

- Daughter of a nursing home resident, Buffalo, NY

A pressure ulcer incidence study found that 2.1% of newly admitted residents developed pressure sores within 90 days of admittance.<sup>30</sup> In 1996, there were 1.7 million

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<sup>26</sup> Konrad TR, Morgan JC. "STEP UP NOW for Better Jobs and Better Care: The Evaluation of a Workforce Intervention for Direct Care Workers" Available at: [http://www.aging.unc.edu/research/winastepup/reports/040406\\_UNC\\_Ex\\_Summary\\_Final.pdf](http://www.aging.unc.edu/research/winastepup/reports/040406_UNC_Ex_Summary_Final.pdf)

<sup>27</sup> Gurwitz JH, Field TS, Avorn J, McCormick D, Jain S, Eckler M, Benser M, Edmondson AC, Bates DW. Incidence and preventability of adverse drug events in nursing homes. *Am J Med.* 2000 Aug;109(2):166-168.

<sup>28</sup> Landi F, Onder G, Russo A, Bernabei R. Pressure Ulcer and Mortality in Frail and Elderly People Living in Community. *Arch Gerontol Geriatr.* 2007;44 Suppl 1:217-223.

<sup>29</sup> Horn SD, Buerhaus P, Bergstrom N, Smout RJ. RN staffing time and outcomes of long-stay nursing home residents. *Am J Nurs.* 2005;105(11):58-70.

admissions into nursing homes across the US.<sup>31</sup> If the rate of pressure ulcer development is 2.1%, this would mean that 35,700 *new* nursing home residents will develop pressure sores this year alone: almost 100 every day. Given that federal law requires that nursing homes provide sufficient care to prevent the development of pressure ulcers, unless they are unavoidable, this is simply outrageous.

You know that your father was severely dehydrated. I'm talking bone-dry. How did he get this way, did they even feed him there?

- Daughter of a nursing home resident quoting a pulmonologist, Bayshore, NY

#### *Nutrition*

The prevalence of undernourishment in nursing homes is reported to be as high as 65%.<sup>32</sup> This means that of the 1.7 million nursing home residents<sup>33</sup>, 910,000 residents are undernourished.

Undernourishment increases the risk of

both mortality and morbidity for the frail elderly. Undernourishment weakens the immune system, making affected residents more vulnerable to infection and less able to recover from other health problems. In a trial in which residents received one-on-one feeding assistance, 50% of nursing home residents increased oral food and fluid intake.<sup>34</sup> More nursing home staff is needed to provide proper nutrition.

After several attempts and occasions to get a staff person to assist her, she was eventually told to "go" in her Depends garment, and she began to give up trying to get assistance. On a 5-hour visit by my mother, my grandmother had never been changed...or checked to see if it required changing...

- Granddaughter of a nursing home resident, Brewster, NY

#### *Continence Care*

Incontinence can exacerbate pressure sores and degrade the dignity of nursing home residents. Though federal law requires that nursing home residents who can be continent must be provided with assistance to maintain continence, a shortage of nursing home staff too often results in people being required to wear diapers when they would not otherwise have to. To add insult to injury, staffing shortages often prevents staff from changing soiled sheets, garments and bed pads in a timely manner. Studies have shown that increased staffing can improve continence care and even decrease the rate of incontinence. After the implementation of an incontinence management program in which 60% of participants became dry, the

<sup>30</sup> Berlowitz DR, Brandeis GH, Anderson JJ, Ash AS, Kader B, Morris JN, Moskowitz MA. Evaluation of a risk-adjustment model for pressure ulcer development using the minimum data set. *J Am Geriatr Soc.* 2001;49(7):872-876.

<sup>31</sup> Gabrel CS. An overview of nursing home facilities: Data from the 1997 National Nursing Home Survey. Available at: <http://www.cdc.gov/nchs/data/ad/ad311.pdf>.

<sup>32</sup> Morely JE, Silver AJ. Nutritional issues in nursing home care. *Ann Intern Med.* 1995;123(11):850-859.

<sup>33</sup> Harrington C, Carrillo H, LaCava C. Nursing facilities, staffing, residents and facility deficiencies, 1999 through 2005. Department of Social and Behavioral Sciences, University of California, San Francisco. Available at: <http://www.pascenter.org/documents/OSCAR2005.pdf>.

<sup>34</sup> Simmons SF. Improving Food Intake in Nursing Home Residents With Feeding Assistance: A Staffing Analysis. *J Gerontol A Biol Sci Med Sci.* 2001;56A(12):M790-M794.

rate of pressure ulcers decreased significantly from 16 people developing pressure ulcers to only 3 people developing pressure ulcers.<sup>35</sup>

### **Policy Implications**

There are currently 44.4 million caregivers and 1.7 million nursing home residents in the United States, each of whom wants to be assured that their nursing home is safe. As the demand for nursing homes care increases with the aging baby boomer generation and more and more people living to be very old elderly (into their 80s and 90s), the strain on our nursing home system will continue to increase, perhaps dramatically. Are the nursing homes prepared to care for the aging population?

The relationship between nurse home staffing levels and quality of care is well established by research. Our state and federal leaders must take the opportunity now to protect current residents and prepare for the aging baby boomers. We call on our elected leaders to step forward and pass legislation with meaningful staffing requirements. And we call on our regulatory leaders to act now to require that nursing homes have the staffing levels needed to fulfill the legal requirements passed twenty years ago in the Nursing Law Reform Law. Our most vulnerable elderly and disabled citizens – and their families – are suffering as they wait for their leaders to act.

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<sup>35</sup> Frantz RA. Implementing an incontinence management protocol in long-term care. Clinical outcomes and costs. J Gerontol Nurs. 2003;29(8):46-53.