

Comments on Preliminary Recommendations of Governor Quinn's Nursing Home Safety Task Force

Mental Health America of Illinois (MHAI), founded by Jane Addams more than a century ago, is the oldest, statewide mental health advocacy organization in Illinois. MHAI applauds Governor Quinn for responding promptly and appropriately to the problems raised by the Chicago Tribune's investigation by appointing this special Task Force and we greatly appreciate the time, energy and thoughtfulness which Chairperson Gelder and the other Task Force members have devoted to this serious problem. The recommendations of the Task Force certainly move us in the right direction. However, we have the following concerns:

1. Unfortunately, the problems which the Chicago Tribune's investigation and the Task Force's dramatic hearings have identified were primarily caused by the failure of several state government agencies to enforce *existing* law. This failure was due in large part to the excessive political power wielded by the nursing home lobby. We are concerned that, once the media attention dies down, the state will be under renewed pressure not to enforce either the old laws and rules or the new ones proposed by the Task Force.
2. Nursing homes are not an appropriate place to treat someone with a mental illness who does not have some other reason for being in a nursing home. Almost all of these residents could live safely in the community if the money devoted to their care in nursing homes were used to provide an appropriate array of community mental health services and supportive housing. The remainder of the residents would be better served in hospitals. This dramatic change in state policy would save Illinois taxpayers millions of dollars.
3. Indigent persons with serious mental illnesses whose care is being funded by the state are not in a realistic position to enforce their rights or to exercise choice about their care, including whether they should remain in the nursing home or move to a better one if available. It is doubtful that any reform will provide long-term assurances that persons with mental illnesses get even minimally adequate care in nursing homes.
4. Given the above facts, the only way to improve the care of persons who are in nursing homes solely due to their mental illnesses is to begin the process of moving them into the community. MHAI applauds the Task Force's recommendation that we fund more community alternatives. However, the state must commit itself to removing from nursing homes *all* persons who are there solely due to their mental illnesses. The state should set a deadline for achieving this goal. As one of the steps towards this goal, Illinois must promptly settle the *Williams v. Quinn* federal class action which alleged that the state is violating the Americans with Disabilities Act in its excessive reliance on nursing homes to house persons with mental illnesses.
5. Some of the recommendations seem helpful, but lack important detail. For example the recommendation that facilities serving people with Severe Mental illness comply with state mental health standards (Recommendation II.1) does not state what standards they will be required to comply with or how these standards would be enforced. Additionally,

- this recommendation could lead to the creation of more wasteful Institutions for Mental Diseases (IMDs). IMDs should be abolished, not expanded.
6. The report fails to distinguish between three categories of people with mental illnesses in nursing homes: (a) people in IMDs; (b) people who are in non-IMD nursing homes but are there solely because of a mental illnesses; and (c) people who are in nursing homes for a reason other than mental illness, but also have a mental illness (every nursing home has people in this category).
 7. Illinois law already requires all IMDs and many other nursing homes to comply with the Mental Health Code. We are disappointed that the Task Force has not simply recommended that this law be vigorously enforced and that there be serious consequences for those nursing homes that refuse to comply with the law, rather than listing this for further consideration (Recommendation IV.1).
 8. Illinois has substantial authority over nursing homes which it has failed to use. Of course, the Department of Public Health can fine a nursing home and even remove its license for serious infractions. We applaud the Task Force's recommendation for stricter enforcement of public health regulations. But the Department of Healthcare and Family Services (DHFS) can refuse to pay for care in nursing homes which do not comply with Illinois law and regulations. Indeed, the testimony presented to the Task Force strongly suggests that DHFS is paying for care which is not being provided. Additionally, the Office of State Guardian can and should remove its wards from nursing homes which fail to comply with Illinois law and regulations.
 9. We are hopeful that the Task Force will address the misuse of psychotropic drugs (Recommendation IV.4). Among other things, the state should investigate conflicts of interest (payments from pharmaceutical companies to physicians and pharmacists). Another way to improve the use of medications (and the general level of mental health services in nursing homes) is for DHFS to insure that Medicaid rates are set so that every person with a mental illness in a nursing home has a choice of psychiatrists willing to treat them. That is what people with private insurance have. Our most vulnerable citizens deserve no less.
 10. Recently Senator Heather Steans introduced Senate Bill 2526, imposing additional requirement on nursing home administrators. The Task Force should support this bill.
 11. Encourage the Auditor General to conduct an audit of DHFS expenditures on persons with mental illnesses in nursing homes to determine whether the state has paid for mental services which have not been provided.

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