

Updated in February 2019

A report from a caregiver's point of view

Backlash – What can happen to relatives who complain about sub-standard care in long-term care institutions and what to do about it

Lise Cloutier- Steele, <http://www.ottawacaregiver.com/about-lise/>

In early January 2019, The Ottawa Citizen's Elizabeth Payne published an article on long-term care homes, and their representative groups, who want an end to the mandatory inspections conducted by the Ontario Ministry of Health and Long-term Care (MOHLTC). Advocacy groups for the elderly, however, are of a more cautious view. They believe that even though annual inspections may cause an extra burden on the facilities, they are essential to the safety and protection of their vulnerable residents. Self-enforcement would only worsen the crisis in care. Read the rest here:

<https://ottawacitizen.com/news/local-news/long-term-care-homes-want-end-to-mandatory-inspections>

A week later on January 12, 2019, CTV's W5 aired Sandie Rinaldo's latest investigative report on questionable care in nursing homes. As Elizabeth Payne highlighted in her article, the W5 program showed that more - and not less – oversight would be instrumental in preventing ongoing neglect and abuse in care facilities. The program also revealed an unprecedented groundbreaking legal action about to be launched against three of Canada's top 'for profit' long-term care providers: Extencicare, Revera and Sienna.

Watch the 25-minute video here:

<https://www.longwoods.com/audio-video/Shorts/Youtube/8046>

or subscribe here to watch more investigative reports on this topic:

<https://www.ctvnews.ca/w5/>

More recently on February 1, 2019, the CBC's Marketplace (www.cbc.ca/marketplace/) aired another episode as part of its two-year investigation to see what life is really like for our loved ones in long-term care institutions.

The CBC's hidden camera investigation concluded that these facilities are still understaffed, and its front line workers overworked. Although Premier Ford recently announced that the Ontario Government will add 15,000 new beds for long-term care over the next five years, 30,000 in ten years, he did not elaborate on who will care for the people occupying these new beds in facilities where family members find the conditions unacceptable, and staff workers continue to be set up to fail.

At this press conference, newly appointed health minister, Christine Elliott, borrowed one of the preferred media sound bites from her predecessors by saying that she takes the concerns of all front line workers very seriously, and she added that her department is conducting a human resource review. Whether this new review will produce more than words in a report remains to

be seen. A long overdue and swift response might prove more useful to all residents in care who continue to be neglected and abused under her ministry's jurisdiction.

You can watch the CBC episode here:

www.youtube.com/watch?v=CpkSWRdVTo

When I watch reports like these on television, I can't help but make comparisons to my own experience with a parent in care. The similarities in each caregiver's story featured on the W5 program were all rather striking to me, and yet in many such cases governing authorities fail to connect the dots. If they did, they would recognize the familiar patterns in the behaviour and responses of staff and administrative officials of care facilities to avoid a citation. Based on my personal experience and observations, I am convinced that issues of sub-standard care in LTC institutions could be properly addressed in regulations and reports that would ease the equally heavy burden of caregivers who care enough to say or do something about this deplorable and ongoing state of affairs.

Though the administrative staff of 'for profit' and 'not for profit' institutions and that of some of the governing organizations would like people to accept or settle for sub-standard long-term care for our elderly and our sick, I think it's safe to say that these individuals, in particular the Chief Executive Officers (CEOs) of 'for profit' institutions whose annual salaries are in the millions, would expect a lot more for themselves.

To note, and as reported in the W5 program, if these facilities can display compassionate care and efficiency to impress a ministerial official during an inspection for which they received advanced notice, improvements should be just as do-able on a daily basis.

Given these recent reports, the information contained within this update continues to be relevant, as is all of the information on what to expect from regulatory authorities responsible for oversight. At the time of writing, nothing much has changed in the complaint processes of these organizations.

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Part 1

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Introduction

I remember the uncomfortable feeling that all eyes were on me the first time I walked the halls of my late father's care home. It was early May 2007, and though it was warm and sunny outside, there wasn't much evidence of warmth and brightness within the walls of that building. Nor were there any welcoming smiles from staffers, just a cool and distant vibe that I believe was intended to discourage any communication.

This was to be my father's "home" and yet there was nothing home-like about it. Instinctively, I suspected that family and residents at this facility were not free to express concerns, or there would be consequences. Months later, when a nursing inspector from the Ontario MOHLTC offered to intervene on my father's behalf, I shared with her my fear of retaliation from the facility if I proceeded with an official complaint about neglect. She assured me that my fears were completely unfounded because, according to her, reprisal of any kind was not allowed in long-term care (LTC) facilities. Based on my experience, and that of other families in Ottawa, she was definitely wrong about that.

The campaign of reprisal against me began immediately after the facility was cited on four counts as a result of the complaint I consented to have the ministry investigate in October 2008. It continued even after my father passed away in October 2010, and resulted in my banishment from the facility in June 2011 for reasons that remain unclear to this day.

After nearly six years of exploring every possible avenue of complaint about reprisal, that I hoped would re-instate the rights of the residents who were directly affected by the ban, I have to admit that, however frustrating at times, the experience gave me a clear understanding of what to expect from the various complaint processes of organizations mandated to protect the

public. A lot of energy and persistence are required when filing a complaint with health sector authorities who police themselves, but luckily for my dad, his daughter had plenty of both.

I may not have been completely successful with my complaint about reprisal with the MOHLTC, the College of Nurses of Ontario (CNO), the Health Professions Appeal and Review Board (HPARB) and the Patient Ombudsman, but I know that if I had to go through these processes all over again, I would, and I wouldn't have to think twice about it either. In my view, anything anyone can do to protect the rights of a senior in care is worth the effort. I know that if the tables were turned, I'd be grateful to anyone willing to help me. Wouldn't you?

Since 2008, the best advice I received was from the Office of the Ombudsman for Ontario. If it hadn't been for their helpful information, I would not have learned as much as I did about the complaint processes available to caregivers, and how to navigate through them.

As reported on the web site for Ombudsman Ontario, staff were recently successful at helping a senior who was retaliated against by a facility after he complained. The following brief report goes to show that there are times when a caregiver can get a good result from a complaint process.

“In 2016, a senior contacted our Office after restrictions were placed on his visits with his wife at her LTC home, after he raised concerns with a nurse about his wife's care. Although we do not have direct jurisdiction over LTC homes, Ombudsman staff made inquiries with a manager at a regional office of the Ministry's Performance Improvement and Compliance Branch, which sparked a surprise inspection at the home. The home agreed to review the man's visit restrictions and made changes to the care his wife was receiving.”

For more information on the Ombudsman's successful investigations go to:

[https://www.ombudsman.on.ca/Investigations/Selected-Cases/2016-\(1\).aspx](https://www.ombudsman.on.ca/Investigations/Selected-Cases/2016-(1).aspx)

What follows is a report on what I learned from my experience after filing a complaint about reprisal. I hope this information will help others who may find themselves in similar circumstances.

Long-term care of today

It's no secret that LTC in Ontario continues to be a system in crisis. There are dozens of shocking stories online, and media experts cover this issue regularly in newspapers and televised reports that I find disturbing to read or watch.

Several among the health workers at my late father's facility told me that they wouldn't want their own parents living at their place of work. Those were the honest staff members who weren't afraid to speak truthfully about the crisis in care. I found myself empathizing more with this group of workers, primarily because they had the ability to look at this critical situation without being dismissive of a caregiver's concerns.

According to the Ontario Long-term Care Homes Act (LTCHA), *“Every resident – or Power of Attorney authority (POA) for a resident – has the right to raise concerns or recommend changes in policies and services for himself or herself or others, without interference and without fear of coercion, discrimination or reprisal against the resident or anyone else. This includes raising concerns or recommending changes to the Residents’ Council, Family Council, the Home staff members, government officials and any other person inside or outside the Home.”*¹

The reality is that even though caregivers are well within their rights to report systemic abuse and neglect at a LTC facility, backlash may follow. This, in spite of the fact that there are MOHLTC notices posted throughout care institutions urging caregivers to report their concerns. The MOHLTC may say that they welcome complaints, but based on the experience of several Ottawa families, the ministry does little to protect a caregiver against reprisal and intimidation from a care home.

There are, however, whistle-blower protections afforded by Section 26 of the LTCHA, where it is stipulated that care homes and MOHLTC nursing inspectors are bound by legislation *“to protect anyone (including substitute decision-makers, family members and friends of residents who may make complaints) from retaliation as a result of disclosing information to an inspector, making a report to the ministry or providing evidence in a legal proceeding.”*² Sadly, these regulations are not always put into practice.

Retaliation by care homes against families persists. It happened to me, and it happened to other families that I know of. It is also happening in other parts of the country, as well as in cases where an official complaint has not even been made. A good example is the case of a nurse from Saskatchewan who posted on her Facebook page about the sub-standard end-of-life care her late grandfather had received. Her post caught the attention of the staff at her late grandfather’s care facility, and jointly, they filed a complaint against her with the Saskatchewan Registered Nurses Association (SRNA). The Association found her guilty of professional misconduct in its December 2016 precedent-setting decision. This particular case is a prime example of extreme measures that can be taken by a medical institution to punish those who expect a reasonable level of care for a loved one nearing death.

You can read the rest of the story here:

<http://www.cbc.ca/news/canada/saskatchewan/srna-discipline-social-media-nurse-saskatchewan-1.3880351>

In my opinion, complaining about abuse and neglect in LTC facilities is still the most caring and decent thing any caregiver can do. As a good friend pointed out to me recently, although most people know that it’s nearly impossible to succeed with official complaints against any type of medical institution, retaliation tactics shouldn’t stop anyone from trying to improve living conditions for society’s most vulnerable – the sick and the elderly who may not have any other choice but to reside in a care facility, and particularly those who don’t have any family, friends or a POA authority to oversee their institutionalized care. Caregivers who have the courage to complain, she said, should think of themselves as a ripple, and the more people make ripples, the more likely a wave will eventually be made. Only then will concerned authorities be forced to make changes to the LTCHA to improve the level of care in facilities, and prevent retaliatory actions against those who have the determination to speak out.

I think that it is important to stress that when a caregiver finds the courage to voice concerns on behalf of a neglected resident, it is rarely to make an unreasonable demand that would be beyond the capacity of any facility to deliver. All that individual really wants, and expects, is the basic level of care that residents are entitled to - and pay for.

I found that most caregivers who take their responsibility seriously, and visit their loved one's institution regularly, are more than willing to pitch in, do what they can to relieve overburdened staff, or brainstorm ideas with administrators and staff that could lead to the prompt resolution of any care issues. I don't know of anyone who would prefer a prolongation of the stress associated with a valid complaint over what could, in some cases, be a quick solution. If only facilities could acknowledge and accept that they need all the help they can get, and involve caregivers in the solution wherever and whenever possible, it would be a win/win situation for all – especially the residents.

Even the facilities that boast about a "Quality of Care" award from the Ontario Long-term Care Association can use the extra help, and none should view a caregiver's assistance and support as interference or harassment.

"What I find most disturbing is this notion that nobody is ever supposed to complain about anything, and if they do, then no matter how valid the complaint, somehow they are harassing employees. This is too common a theme with government departments, hospitals, police forces and nursing homes. Where people have the option to take their business elsewhere, valid complaints are taken more seriously."

Bruce F. Simpson, Senior Partner
Barnes Sammon, LLP
Ottawa, ON

Caregivers have reason to complain

It is commonly known that LTC institutions face many daily challenges such as mismanagement, staffing shortages, absenteeism, overworked staff, burnout, issues with inexperienced substitute agency workers, and lack of training and requalification programs for every classification of health care workers within their organizations. These are real issues, but they do not justify abuse, neglect or assault.

The preferred speaking point of the ministers for the Ontario MOHLTC is that the ministry has zero tolerance for abuse and neglect in LTC facilities. I have yet to hear a minister talk on camera about taking things a step further by considering and proceeding with changes to the LTCHA that could make a difference.

Dr. Eric Hoskins, minister of the MOHLTC up until last year, offered a partly hopeful message in his interview for the CBC's Marketplace program of January 26, 2018, on the skyrocketing rates of abuse incidents in Ontario LTC facilities. Dr. Hoskins said that his ministry had recently added 15 million more hours across the province to address some of the problems in care homes, but as experts and the workers themselves stated on that show, without more staff or new regulations to enforce a more reasonable staff to resident ratio in all facilities, the ministry will have to come up with a permanent solution to end the daily incidents of violence, abuse and neglect in care homes.

You can view the CBC's Marketplace program here:

https://m.youtube.com/watch?list=PLeyJPHbRnGaZmzkCwy3-8ykUZm_8B9kKM&v=gk5iEo-s_6M

Some may say that the situation is what it is because of a serious lack of funding, but when my late father resided at a LTC facility for a period of over three years, I noted several areas where operational funds from government sources could have been better spent. I also believe that if all concerned authorities showed a greater will, they could find a way to make improvements.

Not all caregivers who report sub-standard care are mistaken or inventing problems where some LTC institutions may claim that none exists. Over the last three years, the CTV's W5 also broadcast deeply troubling reports on staff-to-resident abuse and neglect in care homes in Ontario and across Canada, as well as a segment about 103 reported incidents of sexual assault in 37 Ontario LTC homes alone. These programs, including the one which aired on January 12, 2019, report shed light on widespread incidents that often go undocumented and unreported.

If you haven't seen these programs, you might still be able to view them on the web site for the CTV's W5: www.ctvnews.ca/w5.

Basic care issues may seem minor compared to incidents of assault, but I believe that they are just as important, because they can have a seriously deleterious effect on a resident's quality of life. In any event, the fundamental principle of the LTCHA is that a care home governed by this legislation "*is primarily the home of its residents, and is to be operated so that it is a place where they may live in dignity and in security, safety and comfort, and have their physical, psychological, social, spiritual and cultural needs adequately met.*"³ Anything less is not acceptable, and caregivers must be free to complain about serious issues without fear of reprisal.

In December 2015, Auditor General Bonnie Lysyk released a report confirming that long-term care in Ontario is a system in crisis. Her report highlighted the fact that the MOHLTC had fallen behind on its critical incident and complaint inspections due to the number of complaints, which had doubled between December 2013 and March 2015. The Auditor General's findings were consistent with reports of dissatisfaction from caregivers who have been through the ministry's complaint process, and it was also in keeping with the CTV's W5 investigations, which painted a clear picture of what happens in some LTC institutions when no one is watching, and no one is held accountable.

At the time of the release of the Auditor General's Report, CBC News interviewed health workers and patient advocates who described a system "*where overstretched, underpaid workers are expected to handle more and more residents, many arriving with increasingly complex care issues, because of earlier releases from health-care facilities. Residents miss meals, continent patients are put in diapers, because no one can bring them to the bathroom in a timely fashion, and there aren't enough personnel to ensure violent patients don't hurt others.*"⁴

You can read the CBC article by Amanda Pfeffer and the Auditor General's report here:

<http://www.cbc.ca/news/canada/ottawa/long-term-care-ontario-1.3352550>

Given the numerous media reports on poor conditions in care homes since the release of the Auditor General's report, it would appear that caregivers and substitute decision-makers continue to have reason to complain. Below are just two examples of serious neglect reported by Tom Blackwell in The Ottawa Citizen and the National Post in October 2016.

Class action accuses one of Canada's biggest nursing-home chain companies of neglecting residents

A Toronto malpractice lawyer is launching what she calls an unprecedented class-action lawsuit against one of Canada's biggest nursing-home companies, charging that it routinely neglects or mistreats elderly residents. The multi-million-dollar suit was prompted by the case of Ross Jones, a 68-year-old man who allegedly spent the last days of his life in agony, an infected pressure sore left untreated by a Revera Inc. facility.

You can read the rest of the article here:

<http://news.nationalpost.com/news/canada/class-action-accuses-one-of-canadas-biggest-nursing-home-companies-of-neglecting-residents>

Police probe Ottawa nursing home after elderly woman found with maggots in wound

"I was in shock," said the daughter who believes either hospital employees or paramedics called the police. "It means the wound was not cleaned properly ... It means they're not even looking." The discovery suggests flies laid eggs and larvae hatched in the sore before anyone noticed, raising anew questions about the quality of care in Canadian LTC facilities.

You can read the rest of the article here:

<http://news.nationalpost.com/news/canada/i-was-in-shock-police-probe-ottawa-nursing-home-after-elderly-woman-found-with-maggots-in-wound>

In 2017, The Ottawa Citizen published several investigative reports and found that there has been widespread abuse and incidents of non-compliance in all local care homes. Following a review of the MOHLTC's reports dating back to 2012, The Citizen uncovered 163 reported cases of resident abuse, as well as 2,033 instances of non-compliance with provincial legislation and 17 deaths that led to the homes involved being cited for non-compliance.

Up until that time, the web site for the MOHLTC did not provide information on which Ottawa LTC institutions are considered medium to high risk, but on December 18, 2017, The Ottawa Citizen published an exclusive report on local nursing homes where at least 163 cases of abuse were recorded since 2012. At the end of the article below, readers can view a list compiled after The Citizen's review of reports produced by the MOHLTC that reveal the number of times Ottawa facilities have been found non-compliant with provincial legislation governing long-term care since 2012. The list highlights the total number of incidents of non-compliance for each long-term care facility.

December 18, 2017

Exclusive Report on 163 cases of abuse in local nursing homes Drake Fenton, The Ottawa Citizen

Every one of Ottawa's 27 long-term care homes, which house some of the city's most vulnerable residents, has been the site of either violence, sexual abuse or death resulting from improper care, an investigation by this newspaper reveals. Since 2012, there have been at least 163 cases of reported resident abuse – either physical, sexual or verbal – and at least 17 deaths that have led to a home being found non-compliant with provincial legislation governing long-term care. During that same period, there were a total of 2,033 instances of non-compliance at Ottawa long-term care homes. A facility can be found non-compliant for any of a litany of reasons. Some are relatively minor, such as a failure to offer a resident a snack. Some can be serious, even when no resident is harmed, such as leaving an exit door unlocked. And some are very serious, such as cases involving abuse and death. This newspaper's data is the result of an examination of more than 8,500 pages of MOHLTC inspection reports. Inspection reports published between 2012 and 2016, along with all available reports from 2017, were reviewed. The data shows a clear upward trend in non-compliance since 2012. There were 141 instances of non-compliance across the city in 2012, and each year the number has risen, culminating in a 265 per cent increase over a five-year period. There were 516 non-compliance citations in 2016. There have already been 400 citations in 2017, though many reports have yet to be filed. Cases of reported abuse follow a slightly different trend, with the numbers remaining relatively flat before spiking in 2015 and 2016. There were 66 cases in 2016 and only 12 cases in 2012. There have already been 33 reported cases in 2017.

Read the rest here:

<http://ottawacitizen.com/news/local-news/more-than-2000-cases-of-non-compliance-and-163-cases-of-abuse-at-ottawa-long-term-care-homes>

Damned if you do, damned if you don't

If I felt intimidated by some staff members during the ministry's inspection of my complaint of 2008, it was nothing compared to the reprisal I experienced after the facility was cited on four counts of negligence, only one of which was actually directly related to our family's situation.

The glares I received from several health workers, the gossip about me that spread through the building, and the silent treatment I was given if I approached a staff member about anything related to my father's care, were all tactics intended to make me feel as though I had committed a crime by complaining to the MOHLTC. The retaliatory actions of some staff members were so childish that there were times when I felt like I was back in elementary school. In one incident, for example, a housekeeper started singing loudly over my voice so she wouldn't hear me. All I was trying to tell her was that I had already cleaned my father's bathroom.

There would be more such nonsense to come, and I was bracing myself for it especially after a registered practical nurse (RPN) told me that the facility was coming after me with both barrels! But in spite of the facility's retaliatory actions, I kept my head held high each time I walked that long hall to my father's room, and I refused to show workers that their intimidation tactics were getting to me. When my concerns for retaliation against my father became greater, I visited him more often. And I should add that there were such incidents when my father was unfairly

treated, because the day he was transferred to a palliative care centre, he told me that he was happy not to be going back to the care home where he said they were nice to him when I was with him, but not so nice when I wasn't. He might have suffered from dementia, but he knew he wasn't being treated as well as he should have been.

I guess you could say that I found myself between a rock and a hard place. The facility had left me with no choice but to proceed with an official complaint, and I couldn't take it back. Yet, if I hadn't proceeded with a formal complaint with the ministry, care for my father would only have deteriorated further, and so I convinced myself that the reprisal was the price I would have to pay.

Menacing letters preceding a ban

There's a pattern in the imposition of bans by care homes. I was astounded at the similarities in the actions taken by LTC facilities against Canadian families, and even more surprised to learn that many United Kingdom (UK) care homes have subjected caregivers to the same treatment.

According to a recent BBC News report, hundreds of care homes in the UK are banning relatives from visiting elderly residents after they made complaints of sub-standard care. Below is an article about a Somerset care home that prevented a man from visiting his 93-year-old father after he complained about the poor quality of care for his father who is blind and has cancer – and the children of a woman in a home in Essex say their mother was evicted after they made a complaint.

You can read the rest of this story here:

<http://www.bbc.co.uk/news/health-37825745>

As was the case of the families in the above report, Canadian caregivers who complain may not receive any prior warnings that a facility plans to impose a ban or issue a notice of trespass. The administration of a facility may send a menacing letter accusing a caregiver of harassment or "inappropriate behaviours", but specific details about such accusations made by a banning facility are not always provided, and if they are, they are not fully investigated.

In addition, banned relatives may not be asked to provide their version of the facts to clear up a matter, or to determine if a real issue does in fact exist. Some institutions claim that they are not under any obligation to do so according to their internal policies or the Occupational Health and Safety Act on Violence or Harassment in the Workplace.

Two registered nurses (RNs) and a third family with parents in care in city-run Ottawa facilities faced a similar experience. Theirs was almost the exact same experience as mine, except that theirs happened at different institutions. The caregiving RNs had the professional background and expertise to recognize sub-standard care when they see it, but because they insisted on better basic care for their loved ones, their parents' facilities embarked on major campaigns of reprisal against them. It began with letters accusing them of harassment, when all they were doing was advocating on behalf of their parents. Notices of trespass prevented them from freely visiting these facilities at a time when their loved ones needed them the most.

The following article is on the facilities referred to above, and shows that filing official complaints sometimes produces results.

May 1, 2018

Long-term care report details emotional abuse by overworked city staff

Jon Willing, The Ottawa Citizen

Residents of city-run long-term care homes have been subjected to demeaning comments by staff who are overworked and sometimes unsuited for the job, according to the full report filed by an independent consultant. Greg Fougère, the long-term care expert hired by the city to review the four homes, found evidence of “emotional abuse” at each of the facilities during his site visits. His full report was made available to the public after a community and protective services committee meeting Monday. “The prevalence of this type of abuse was lower than neglect, however the emotional impact on the residents involved was high,” Fougère’s report says. “Examples provided by residents and families included insulting and humiliating comments to residents such as ‘You’re fat’; abrupt PSW orders such as ‘Come for your bath’; upsetting comments to a married resident; undignified care to a resident at night by pulling down the covers, feeling the resident’s incontinence brief, and announcing ‘You’re dry’; chastising a resident with ‘Don’t yell at me’; shunning, ignoring, cold, and non-smiling to residents; accusing comments about continence care such as ‘I just did you’ and ‘You go to the bathroom too often’; teasing comments to a resident; dehumanizing comments such as ‘heavy wetter’ and ‘feeder’; and comments such as ‘sweetie’ and ‘dearie’.” Fougère conducted 240 interviews and discussions with staff, volunteers, residents and families and found no evidence to suggest there is additional physical or verbal assaults on residents, beyond what the city discovered prior to the start of his probe last November. Read the rest here:

<http://ottawacitizen.com/news/local-news/long-term-care-report-details-emotional-abuse-by-overworked-city-staff>

Instead of focusing on finding reasonable and practical solutions to benefit a resident, administrators and staff members of some facilities can go to great lengths to discredit a caregiver they view as a malcontent. In doing so, they are setting an example of what can happen to anyone who complains, and as a result, other caregivers are too scared to come forward with a concern of any type, let alone a complaint about neglect, abuse and unprofessional conduct by staff. Problem solved for the institution; business as usual can be resumed, and once again the rights of a resident are ignored.

In early November 2012, when Jackie Storrison contacted the media to report unsanitary conditions at Sunnybrook Veterans Centre in Toronto, she wasn’t alone. Several families complained about neglect at that facility, and raised concerns about delayed bathing and feeding, soiled sheets, dead mice in rooms, lack of toilet paper, and constant room and staff changes. Their complaints were met with indifference and hostility.

On December 30, 2012, the Sunnybrook Veterans Centre had police escort Ms. Storrison from the facility, and threatened her with an arrest if she returned. As reported by Colin Perkel of The Canadian Press, Ms. Storrison was devastated when she was marched out of the building, and

issued a do-not-trespass notice for attempting to advocate on behalf of her father. She found the facility's actions against her to be deliberate and calculated, given that she was among a dozen other relatives who had spoken publicly about the neglect and sub-standard care of the most frail residents at the centre.

The facility lifted the ban on Ms. Storrison on January 6, 2013. She was allowed to visit her father, but only with security sitting outside his room. Ms. Storrison said she felt like she had been convicted of a criminal offense for complaining about poor conditions at the facility.

You can read the full story at the following links:

<http://www.metronews.ca/news/canada/2012/12/30/woman-banned-from-vets-centre-after-complaint.html>

https://www.thestar.com/news/gta/2012/12/30/police_escort_daughter_from_sunnybrook_vets_centre_after_bedbug_complaint.html

<http://thechronicleherald.ca/canada/387182-sunnybrook-lifts-ban-on-veteran-s-daughter>

I can well imagine the effect that this experience must have had on Ms. Storrison, but I applaud her for not being scared to involve the media. There have been other similar cases where the media's involvement resulted in the resolution of a situation more promptly than the MOHLTC or the CNO could have managed.

The fallout

After my father passed away in October 2010, I continued to visit several residents that I had befriended since 2007. A few months later, in June 2011, I was banned from the facility, and although a MOHLTC official eventually convinced the administration to lift its ban, I was promptly issued a list of derogatory parameters for visitation that I felt were intended to demean and humiliate me before the facility's personnel, and anyone else in the building if I attempted a visit. I could not allow this institution to treat me as though I had committed a crime, and so I decided against setting foot in that building until the list of parameters for visitation could be rescinded.

In spite of all my efforts to resolve this conflict through complaints with health sector organizations mandated to protect caregivers who have been subjected to retaliation, the facility's campaign of reprisal against me is still in effect. This I know, because a dear friend, with whom I had kept in regular contact by e-mail, told me that she had approached the facility's new CEO in early 2016, about allowing me to visit her, but her request was denied. Her son contacted me a few months later to let me know that his mother had passed away, and I guess it's safe to say that even in death, my friend's right to visitors of her own choice was denied as I

was unable to attend her funeral mass at the facility. I wear the scarves she knitted for me with great pride.

My father's best friend is still waiting for me to visit him, but his sister and POA authority is nearing 90, and given my experience, I know that asking her to file an official complaint on her brother's behalf would only lead to undue stress, and likely put them both at great risk of retaliatory actions. I remain grateful to her for her honesty when she was approached by the care home's social worker in 2011. He met with her to ask if she found my visits to her brother "problematic", and she told him, and a MOHLTC nursing inspector, that she was pleased with the help I was giving her by visiting her brother regularly, and that her brother enjoyed and looked forward to any time I could spend with him. She had even given the administration a written permission allowing me to take her brother out on special outings since he hadn't been out anywhere since his admission to this facility many years ago. He still talks about our walks outside the building, the meal at a restaurant for my father's birthday, and the ballgame that my husband took him to – and I will never forget how happy those outings made him feel.

Update

This situation has not changed. Over a year ago, and on the advice of an investigator for Ombudsman Ontario, I approached a Ministry official to ask if I could return to my late father's facility to visit his friend only to be told that I would have to file another official complaint, which is what I wanted to avoid at all cost.

Also on the advice of the investigator for Ombudsman Ontario, I sent an e-mail directly to the CEO of the facility to test the waters so to speak. The prompt response was that permission from the resident's POA would be required for any visits from me even though he happens to have all of his cognitive abilities, and he is perfectly able to make decisions on his own. I did not want to spend the next five years writing submissions to the MOHLTC, and decided to drop the issue. Been there, done that, and life is too short.

So, the moral of this story is that when it comes to reprisal against a caregiver, no one cares, least of all a responsible authority, about the rights or the feelings of a resident caught in the crossfire.

Denying residents the right to visitors of their own choice is cruel. No one deserves this form of punishment, and putting an end to a campaign of reprisal, even if it means bending the rules a little, is completely do-able. After all, if the CNO and the HPARB can deviate from their regulations on the timely disposal of complaints, MOHLTC authorities can fall behind on their mandatory inspection deadlines – and if all three organizations can disregard the fundamental principles of procedural fairness when conducting their investigations – someone among the many authorities I approached since June 2011 could easily have done more for these two seniors.

Part 2

Complaining is the right thing to do

The following sections might be helpful to caregivers who may want to proceed with either an internal complaint at a care institution or an official complaint with the MOHLTC, the CNO or the Patient Ombudsman.

- How to avoid reprisal
- Where to go to complain at a LTC facility
- Where to go to raise a concern or file a complaint with an external authority
- The complaint processes of external authorities
- Procedural fairness
- What to expect when filing an official complaint with the MOHLTC
- What to expect when filing an official complaint with the CNO
- When to approach the Patient Ombudsman

How to avoid reprisal

I suppose avoiding institutionalized care if at all possible would be ideal, but challenging circumstances may not always permit caregivers to opt for home care instead.

The first time caregivers visit a LTC institution, they shouldn't do so with blinders on. They should allow their instincts to guide them through the process of finding the best possible facility where a partnership in care can be arranged and respected. The placement of a loved one in an institution is an emotionally charged event, and there's no denying that, which is why first impressions about a facility have to be good. No caregiver or family member should have to settle for less.

The mission statements of facilities and pamphlets featuring a well groomed senior with a bright smile flashing a good set of teeth can be deceiving. Residents who are not allowed more than two regulated baths weekly, and who may not be able to afford to get their hair done on a regular basis, may not look like the happy seniors featured in promotional leaflets. Many don't, particularly those who do not have any family or friends looking in on them. Lastly, care home web sites featuring more pictures of their volunteers and workers than of their residents, can also be deceiving, which is why first impressions from an in-person visit will yield a more accurate picture of the reality of LTC today.

LTC facilities may be referred to as "homes", but in my opinion, they are not. Over the last decade, they have become more like 'total institutions', and several articles and research papers have been written on the subject. As is the case with boarding schools, convents, monasteries and similar institutions, care homes can also be described as such in that all aspects of the lives of their residents are conducted in the same place under a single authority. Rules make sense to some extent, because no institution could function without them, but when the rules strip the residents of all the joys and freedoms they once enjoyed, they are too rigid, and should be amended to allow common sense and reasonableness to prevail every now and then. 'Now and then' is achievable, and would be better than 'never'. My father cried for weeks after his admission, and I observed many others do the same.

Under the UK legal system, however, liberty and dignity matter. On February 26, 2017, a 91-year-old care home resident was awarded £45,000 in damages for being deprived of her liberties. Her son took legal action, because of his dissatisfaction with his mother's care arrangements, which he described as unlawful. If money is no object, such a legal action may be an option caregivers could pursue if they are unsuccessful with all other available complaint processes. As a matter of fact, it may well be the best option of all.

You can read more about this unusual and possibly unprecedented case here:

<http://www.itv.com/news/2017-02-26/council-pays-45-000-to-care-home-patient/>

One of the best strategies to avoid being subjected to any form of retaliatory actions is to invest as much time and effort as possible in the selection of a LTC facility for a loved one. I listed several good tips on how to find an adequate facility in Ottawa in Chapter 4 of my book *There's No Place Like Home*, but a Toronto-based organization called *Concerned Friends* provides a

more comprehensive checklist to help caregivers through the tedious process of rating each facility considered for the placement of a family member or friend. That checklist is here:

http://www.concernedfriends.ca/sites/default/files/LTC_Homes_Check_List.pdf

Below is more information on Concerned Friends, an organization that I found extremely helpful. So, if you have a loved one in care, and you need help and support, know that you really do have friends at <http://www.concernedfriends.ca/>.

Concerned Friends of Ontario Citizens in Care Facilities is an organization that was founded more than 30 years ago. It is a non-profit corporation and registered charity to the reform of the LTC system and the improvement of quality of life for dedicated residents of care facilities. The organization is supported by membership and donations without government funding. Its activities are undertaken entirely by volunteers, and its mission is to:

- advocate for a quality LTC system that meets the needs of residents, families and staff;
- address issues of quality physical and emotional care, and the general conditions facing Ontario residents of LTC;
- bring concerns to the attention of the general public and the provincial government to effect constructive changes in statutes and regulations;
- provide information to families of residents in LTC facilities concerning residents' rights and responsibilities under government legislation, and
- help families advocate on behalf of their relatives in LTC facilities.

Concerned Friends of Ontario Citizens in Care Facilities
140 Merton Street, 2nd Floor
Toronto, ON M4S 1A1
Telephone answering service: (416) 489-0146
Toll-free: (855) 489-0146

Before setting out on tours of facilities, and if financial circumstances permit, caregivers can look into hiring an external service to help supplement the care offered by a facility. And, as a private health care aide once told me, it might also be helpful to arrange for private help to share the POA authority for the personal care of a resident. It would help cover all the bases, and guarantee peace of mind if a caregiver or substitute decision-maker can't always be at the facility on a regular basis. Many families are unaware that it is possible to appoint a co-power of attorney authority for personal care only. I have passed on this tip to many people as such a legal document can help to ensure more effective communication and interaction with nursing home personnel.

There's a reason why organized tours of some institutions are conducted on the same day of the week, and at a specific time on that day. What you see on those tours may not be what your loved one is going to get. I have been to two local facilities where the tours were conducted during a weekly recreational activity, making it difficult to talk to anyone, especially when musicians provided entertainment for the entire duration of a tour. Those facilities were obviously trying to distract anyone from asking questions. If this happens to caregivers shopping for a care home, they should return for an unexpected visit to meet with an administrator or a health care worker who can answer all of the questions on their checklist.

A visit to a care home at a time other than an organized tour would give a caregiver the opportunity to ask additional questions such as the following:

- How committed is the facility regarding its obligation to deliver on all the items listed in its Mission Statement?
- Does the MOHLTC conduct regular inspections of the facility? When was the last one?
- Has the facility been cited by the MOHLTC following an inspection? (This information is made public on the ministry's web site if the facility can't respond).
- How receptive is the facility to advocacy?
- Does the facility have an internal complaint process?
- If a caregiver reports negligence or abuse to a health care worker at the facility, will that information be recorded in the resident's medical file?
- Does this facility allow a POA authority regular access to a loved one's medical file to make sure that all concerns are adequately recorded?
- Is the facility's Family Council a safe place for a caregiver to report concerns, or does the Council have to submit the minutes of all its meetings to the Chief Executive Officer (CEO)?
- What is the facility's usual response time regarding a caregiver's complaint about the sub-standard care of a loved one?
- What kind of protection will the facility provide to a caregiver who might be subjected to retaliation by staff members following an official internal or external complaint?

- In the case of staff complaints and unfounded accusations made against a caregiver, will the facility's administrator meet with the accused individual to ask for his or her version of the events?
- Has the facility banned or issued notices of trespass to caregivers who complained?
- Does the facility have security personnel on staff to protect a loved one from resident-on-resident or staff-on-resident assaults?
- In the case of assault of any kind, will the facility notify the caregiver, document the incident and make an official report to the police?
- Does the facility offer residents and their family members any protection against contagious super bugs such as Clostridium difficile colitis (also known as C. difficile), Methicillin-resistant Staphylococcus aureus (MRSA) or necrotizing fasciitis (also known as flesh-eating disease)? What measures are taken by the facility to prevent cross-contamination?
- What is the facility's policy regarding the prescription of anti-psychotic drugs, and will the caregiver be consulted on all medications administered to a loved one?
- What is the facility's policy regarding restraints?
- Can the facility provide adequate palliative or end-of-life care allowing the caregiver and other family members 24-hour access to a loved one, as stipulated in the LTCHA?

Facilities may not willingly respond to all of the above questions, but if a caregiver's inquiries are met with resistance or indifference, it is usually a good indication that the facility being considered may be having problems providing the basics to its residents, or protection for a caregiver subjected to retaliation by staff members if he or she complains. If this is the case, it might be difficult for a caregiver to engage the facility in a relationship of mutual respect and open communication regarding the care of a loved one.

Finally, installing a video camera in a loved one's room is possibly the best protection for any resident living in a care home. If abusive treatment is captured on film, caregivers would have the proof needed to report incidents to the proper authorities. They might still be viewed as malcontents for sharing any evidence of abuse, neglect or assault to police, or the media, but in such cases, involving the police may be the only option.

There have been cases in Ontario, across Canada, and in the UK, where hidden video cameras revealed shocking instances of abuse. Sadly, punishment for these troubling events rarely fits the crime. When dealing with an individual who harms another in a public place, reaction is

almost always swift and appropriate, which makes it difficult to fathom why assault on society's most vulnerable can go unreported. Here is an example of what should happen more often:

March 6, 2017

Wealthy brothers fined over “depressing, unhygienic and unsafe” care home

PA, AOL, UK News

Two wealthy brothers who ran a dangerous and dirty care home with rooms like “prison cells”, where residents were not bathed or showered for a month have been fined £80,800. Amjad and Amer Latif admitted to 14 offences after a snap inspection horrified investigators, and led to a court order to close the home, Mossley Manor, in Mossley Hill, south Liverpool. The inspectors were called in by a woman who took her mother out of the home just two hours after first arriving. Inspectors from watchdog “The Care Quality Commission (CQC)” gagged at the overpowering stench inside the dirty and dangerous home, which charged a minimum of £1,000 per month to look after each of its 43 residents, many funded by the taxpayer. It is not known how long residents had been forced to live in such squalor.

Read the rest of the story here:

<http://www.aol.co.uk/news/2017/03/06/wealthy-brothers-fined-over-depressing-unhygienic-and-unsafe/>

Crisis in care continues to be a problem in the UK as well. On February 13, 2019, BBC News released a report on allegations of abuse at the Ghyll Grove Basildon care home in Essex which resulted in the suspension of nine staff members. Yet in its latest inspection report of June 2017, the Care Quality Commission (CQC) gave this facility an ‘overall good’ rating. The family of a resident who filmed staff captured a less than good environment of unacceptable care, showing that caregivers shopping for a care home for a family member can’t always rely on published inspection reports.

Read the rest here:

<https://www.bbc.co.uk/news/uk-england-essex-47224347>

Full 2017 CQC report here:

<https://www.cqc.org.uk/location/1-3121813835>

Below are additional media briefs on care home abusive conduct caught on video to further illustrate the need for this type of protective measure, as well as the need for solutions to put an end to the suffering of our loved ones in care.

July 4, 2017

Caught on video: Elderly Ottawa man with dementia punched in the face

11 times by personal support worker

Elizabeth Payne, The Ottawa Citizen

A personal support worker at a city-run long-term care home delivered 11 punches to the face of an elderly, immobile and largely non-verbal dementia patient, a video obtained by The Ottawa Citizen reveals. The high definition video camera that recorded the attack was installed by the patient’s family, and wasn’t even a secret to staff at the Garry J. Armstrong long-term care home on Island Lodge Road where the assault occurred.

Workers were made aware that the video system was being installed in the room of 89-year-old Georges Karam after the family grew increasingly concerned about the number of unexplained injuries he had suffered since moving into the residence two years ago.

Read the rest of the story here:

<http://ottawacitizen.com/news/local-news/caught-on-video-elderly-ottawa-man-with-dementia-punched-in-face-11-times-by-personal-support-worker>

February 28, 2017

Elderly dementia patient who died covered in unexplained injuries sparks care home inquiry

Nicole Morley, Metro News, Metro.co.uk

Blind Pamela Matthews, 85, was left with deep gashes, carpet burns and extensive bruising after a month-long stay at £825-a-week at the Woodbine Manor care home. Daughter Celia Matthews, 63, and other relatives later discovered sore carpet burns on her legs, and were told by carers that the great-grandmother had suffered a fall. Pamela allegedly asked her relatives why the “horrible” night staff had forced her to crawl on the floor. Extremely concerned, the family bought a hidden camera to install in Pamela’s room, but an ambulance was called to the home last July before they could set it up. When paramedics arrived, they peeled back her clothes, and discovered the sickening extent of her injuries. Her family claims that carers didn’t record a single one.

Read the rest of the story here:

<http://metro.co.uk/2017/02/28/elderly-dementia-patient-who-died-covered-in-unexplained-injuries-sparks-care-home-inquiry-6478540/>

February 1, 2017

Family’s spy camera shows Birmingham care home abuse

BBC News, Section from Birmingham and Black Country

A care worker was caught slamming the head of a 77-year-old woman with dementia into a chair on secret CCTV installed by her family. Betty Boylan’s relatives put a camera in her room at Bupa’s Perry Locks home in Birmingham after they found bruises on her, a court heard. Bina Begum, 49, was given a 12-month community order after admitting ill treating and neglecting Mrs. Boylan. Bupa Perry Locks said she had been dismissed and her actions were “unacceptable”. Noreen Ashraf, prosecuting attorney, told Birmingham Magistrates’ Court that Mrs. Boylan was “left slumped in her chair with significant leaning to her side”. She said: “*The complainant does not want to move her arm, and the defendant forces her arm and pushes her back into the chair. The complainant cries out. She slams her back into the chair with significant force to cause the chair to rock.*”

Read the rest of the story here:

<http://www.bbc.co.uk/news/uk-england-birmingham-38833510>

January 27, 2015

Latest videos show “rough” treatment at Kipnes care home

Hidden camera installed by woman who fears for elderly mother’s safety

CBC News

A hidden camera inside a LTC room at the Kipnes Centre for Veterans in Edmonton, Alberta, has captured more disturbing footage. CBC News shared hidden camera footage showing a male patient pulling 89-year-old Eileen Adamson out of her bed at the home run by Capital Care, a wholly-owned subsidiary of Alberta Health Services. Staff at the centre told Adamson's daughter, Susan Carter, that her mother had fallen out of bed. But Carter learned the truth when she reviewed footage from the camera she had set up last summer, because she was worried the male patient had a history of wandering around the facility. After that incident, Carter looked through more video footage and found other incidents that shocked her.

Read the rest of the story here:

<http://www.cbc.ca/news/canada/edmonton/latest-videos-show-rough-treatment-at-kipnes-care-home-daughter-says-1.2932859>

December 4, 2013

Video shows staff beat senior

The Ottawa Sun

Longueuil, Québec – Police have launched an investigation and seized surveillance footage after a woman died at a seniors' home south of Montréal. A source told QMI Agency that the footage shows two staff members beating a woman. "In the video, there are two nurses who are beating a resident at length," the anonymous source said. "The family had hidden cameras in their mother's room." Police, acting on a complaint, confiscated the footage on November 27, and are analyzing it. Nursing home chairman Nathalie Savoie told QMI that two workers have been fired, and that they are "offering police their full cooperation."

Read the rest of the story here:

https://www.google.ca/?gfe_rd=cr&ei=fbOtWMC4NKuC8QfQ16LgBA&gws_rd=ssl#q=Longueuil,+Qu%C3%A9bec+%E2%80%93+Police+have+launched+an+investigation+and+seized+surveillance+footage+after+a+woman+died+at+a+seniors%E2%80%99+home+south+of+Montr%C3%A9al

May 18, 2013

Son's hidden camera records care-home staff abusing mother

David Andreatta, The Globe and Mail

An 85-year-old woman stricken with dementia depended on the staff at an Ontario LTC facility to look after her. Instead, as a hidden video camera showed, a staff member appeared to taunt Helen MacDonald with a rag smeared with her own feces. Another blew his nose on her clean bed sheets. And male and female co-workers canoodled at her bedside. On another occasion, the camera caught an elderly male resident walking into Ms. MacDonald's room, opening her bedside drawer, and helping himself to some of her belongings... A page on the home's web site reads: "*At St. Joseph's at Fleming, we believe that care and compassion are essential in fostering sanctity of life. That's why our primary concern is to create a home for our residents where they can be given the best possible care in an environment of personal worth and dignity.*" According to ministry records available online, the home had been inspected by the province 11 times in the past 28 months. Six of the inspections were generated by reports of "critical incidents" including residents found wandering outside the home at night. Four of the

inspections were prompted by complaints, including one resident attacking another. Health Minister Deb Matthews issued a statement: *“We have a zero tolerance for abuse in long-term care homes. Our loved ones are entitled to nothing less than the best care. While I can’t comment further on this case, I can assure you my ministry officials are investigating.”*

Read the rest of the story here:

<http://www.theglobeandmail.com/news/national/sons-hidden-camera-catches-nursing-home-workers-mistreating-his-mother/article11998764/>

For an update on this story, go to:

<http://ontariocares.org>

Here is a recent example of physical abuse in a local care home where a video camera might have been helpful. Previously in 2017, the MOHLTC investigated another case of physical and verbal abuse at this facility, and found that it had failed to promote zero tolerance of abuse, and failed to immediately put the worker on leave. The article does not provide any details on whether or not the caregiver was successful with her complaint with the Ministry, or if there has been any follow-up to prevent the worker from walloping residents if she has been re-instated in her job.

June 18, 2018

101-year-old woman says caregiver walloped her with a towel

Elizabeth Payne, The Ottawa Citizen

Police and the Ministry of Health and Long-Term Care are investigating after a 101-year-old woman reported being “walloped” with a towel by a caregiver at her Ottawa long-term care home. Evelyn Dick told the head nurse at Extendicare Starwood last Thursday that a personal support worker hit her on the head with a towel and told her to go back to bed when she tried to get up at about 7:15 that morning. Officials at the long-term-care home contacted Dick’s daughter, Margaret Anthony, and told her they had reported the incident to the Ministry of Health and Long-Term Care and to Ottawa police. When Anthony went to see her mother the next day, Dick told her it was not the first time she had been hit with a towel by the same personal support worker. “She does it all the time,” Anthony says her mother told her. “She does it to others too.”

Read the rest here:

<http://ottawacitizen.com/news/local-news/101-year-old-woman-says-caregiver-walloped-her-with-a-towel>

Where to go to complain at a care facility

There’s a definite pecking order for staff at LTC facilities and rank matters. In order for your complaint to have any chance at a good outcome, you will have to work your way up the chain of command, without missing any steps. If you don’t want to ruffle any feathers, it pays to get to know the classification, as well as the extent of the authority of all the health workers involved in your loved one’s basic care. Add this information to a personal log book for future reference.

For the first 18 months that my father was in care, I tried everything I could, without complaining, to get more adequate basic care for him. I started by befriending the health care workers on each shift, rewarding some with praise and gifts to show my appreciation when my father had been shaved, and his urine bag wasn't hanging out of his pant leg, because it hadn't been emptied for hours. I took over the job of changing his bed sheets on his two bath days per week, and on other occasions if a care worker had been negligent with his catheter care. I also cleaned his bathroom as needed, retrieved his clean clothing from the laundry service, and put his clothes away. Anything I could do to help, I did each time I visited my father, which was usually 5 to 6 times a week.

Nothing I did seemed to result in consistency in the provision of adequate basic care, even after I asked the health care aides if there were any other duties I could take on to help them. When that effort failed, I tried my luck with the RPNs whose sole responsibility at that facility seemed to be the dispensing of medications, therefore, issues regarding care were not their responsibility. Charge nurses were difficult to find in the facility, while the physician assigned to my father's room had no set days and times to make his rounds – making him harder to pin down. I wrote e-mails to the director of care, and met with her once or twice. I spoke to the social worker, the facility's spiritual advisors, and eventually I expressed my concerns in e-mails to the CEO, all to no avail.

Looking back to that time, I believe that all I achieved during the first year and a half of my father's residency in a care home was mounting resentment from several of the health care workers. I believe that they viewed my help as interference even though I was only doing what they didn't have the time to do. I also think that by waiting as long as I did to file an official complaint, I gave some staff members more time to organize a campaign of retaliation against me. I know that I didn't give them much to go on, which is why their stories about me were grossly exaggerated. For example, my use of Pine-Sol to clean my father's room became an issue of great importance. Yet, during the first 18 months that my father resided at the home, no one said a word to me about my use of a product which, apparently, wasn't allowed at this facility. In fact, staffers often complimented me on the clean and fresh smell in my father's room compared to the others on the floor. But once the facility was cited by the MOHLTC following my complaint of 2008, the Pine-Sol affair picked up significant momentum, and became the worst possible offense I could have committed.

After I received a written reprimand from the facility's administrator, I immediately switched to vinegar, and started buying two large containers on a weekly basis that I stored in my father's bathroom. You might think that this was a lot of vinegar for me to bring in, but the health workers started helping themselves to my supply to clean medical apparatus belonging to other residents. I had solved one problem only to end up with another, and this is just one more example of how I couldn't win for trying.

To this day, I will always be thankful for the few staff members, and a private health care aide, who provided enormous support through their dedication and compassion. Thanks to them, I

survived the experience of overseeing my father's institutionalized care, and the reprisal I was subjected to for my unwillingness to turn a blind eye to the lack of care that stripped him of his dignity.

Where to go to raise a concern or file a complaint with external authorities

In October 2011, the CTV News Channel aired a report on the importance of complaining. During the segment titled *The Art of Complaining*, the reporter stressed that Canadians don't complain as much as they should, and this is so true in the case of senior caregivers with a partner or a relative in care. The program offered excellent advice to consumers of all types of products and services, and below I have applied those tips to the care facility experience, given that LTC is a service for which a monthly fee is expected:

REACH FOR THE TOP – Complain to the highest authority if your concerns have been dismissed by all other staff members you have approached. But if your attempts to resolve a problem continue to be ignored or dismissed, contact the MOHLTC.

RECORD YOUR DISCONTENT – Put it in writing in all the right places. Take pictures and make extra copies for your loved one's medical chart. In the case of negligence or abuse such as bruises and bed sores left untreated, any POA authority can request to have his or her observations recorded in the personal medical chart of the concerned resident. POAs should also ask to review the medical chart to make sure that their observations are in fact recorded.

KEEP A LOG – Getting into the practice of maintaining a log is crucial. It can help a caregiver or substitute decision-maker keep track of efforts to improve or resolve care issues promptly.

TREAD SOFTLY – Remember that you are dealing with a medical institution, but be firm about your intentions to do whatever it takes to get problems resolved in a satisfactory and professional manner.

DON'T GIVE UP – This is probably the best tip of all, because that's what many authorities who receive complaints are counting on. If a caregiver or substitute decision-maker perseveres with a complaint regarding care, not only can it be beneficial to his or her loved one, but to others who may not have anyone to speak on their behalf. In the case of a complaint about reprisal, it might pave the way for others to come forward if they have been subjected to intimidation or retaliation for having complained.

The complaint processes of external authorities

To report an unsatisfactory response from a LTC facility regarding an internal complaint:

Ministry of Health and Long-Term Care (MOHLTC)
Performance Improvement and Compliance Branch

347 Preston Street, 4th Floor
Ottawa, ON K1S 3J4
(613) 364-2256 or (613) 569-5602
FAX: (613) 569-9670

<http://www.health.gov.on.ca/en/>

To report an unsatisfactory response from the Ottawa Regional Office of the MOHLTC regarding a complaint, or to appeal a decision of the ministry's Ottawa Regional Office about a complaint that was not fully investigated:

Director of Compliance

Ministry of Health and Long-term Care (MOHLTC)

Performance Improvement and Compliance Branch
55 St. Clair Avenue West
8th Floor, Suite 800
Toronto, ON M4V 2 Y7

Note: When a caregiver files an official complaint with the MOHLTC, this information is promptly forwarded to the facility or the health care worker named in the complaint. The facility or the health care worker is given a deadline to respond, but their responses are not revealed to the caregiver. Caregivers or substitute decision-makers have the option to make a request through The Freedom of Information and Protection of Privacy Act to review any information about them used by a facility or a health care worker to defend their actions. There will be a small fee for the release of that information, but it can be well worth it to help a caregiver proceed with a complaint. It is always helpful to know exactly what one may be falsely accused of.

Ministry of Health and Long-term Care (MOHLTC)

Access, Privacy & Corporate Coordination

Corporate Services Division
5700 Yonge Street
6th Floor
North York, ON M2M 4K5
Tel.: (416) 327-7040
Fax: (416) 327-7044

To report an unreasonable and unfair decision of the MOHLTC following an appeal regarding a complaint against a LTC facility:

Ombudsman Ontario

483 Bay Street, 10th Floor, South Tower
Toronto, ON M5G 2C9
416-586-3344
416-586-3334 (fax)

<https://www.ombudsman.on.ca>

Note: Ombudsman Ontario does not have direct jurisdiction over LTC facilities, but it does have the authority to contact the MOHLTC to make inquiries on behalf of a caregiver.

To report the unprofessional conduct of nursing personnel:

College of Nurses of Ontario (CNO)

101 Davenport Road
Toronto, ON M5R 3P1
(416) 928-0900
(416-928-6507 (fax)
800-387-5526 (toll free)

<http://www.cno.org/>

To appeal an unreasonable decision of the CNO regarding a complaint against a nurse:

Health Professions Appeal and Review Board (HPARB)

Registrar
151 Bloor Street West
9th Floor
Toronto, ON M5S 1S4
<http://www.hparb.on.ca/>

Note: To report procedural unfairness regarding a decision of the HPARB, a caregiver can contact the Office of the Ombudsman for Ontario. Though the Ombudsman does not have the authority to overturn decisions made by the HPARB tribunals, it can review a particular process or decision to identify problems. The Ombudsman can make recommendations to the tribunal to address issues such as the following:

- Was the decision of the tribunal authorized by the legislation?
- Was the decision based on the evidence that was before the tribunal?
- Was the tribunal process fair?
- Were relevant and material issues addressed?
- Were adequate reasons provided for the decision?
- Were there any underlying systemic issues related to the decision?

If caregivers or substitute decision-makers have a complaint against a public hospital, a LTC facility or a Community Care Access Centre (CCAC), they can approach the Office of the Patient Ombudsman to make sure that what happened to them will not happen to anyone else. Caregivers will need to show that they have been through every other complaint process available before approaching the Patient Ombudsman.

Patient Ombudsman

Box 130
77 Wellesley Street West
Toronto, ON M7A 1N3
1-(888) 321-0339 (toll free)
(416) 597-5372 (main line)
(416) 597-5371 (fax)
<http://www.patientombudsman.ca>

Procedural fairness

It is important for caregivers to familiarize themselves with information on procedural fairness when proceeding with a complaint with any health sector organization.

My understanding of the objective of the “procedural fairness” principle is to ensure that every reasonable effort is made to follow a fair and proper process when conducting an investigation for the purpose of administrative decision-making.

I’ve recently reviewed several policy documents and guidelines describing the various criteria that must be met to achieve procedural fairness in investigations, and I believe that the following principles should be respected by health sector organizations when investigating complaints.

- Hearing the other side of the story is critical to good decision-making.
- Genuine consideration should be given to any submission. The decision-maker needs to be fully aware of everything written or said by the person, and give proper and genuine consideration to that person’s case.
- Make reasonable inquiries or investigations before making a decision. A decision that will negatively affect a person should not be based merely on suspicion, gossip or rumour. There must be facts or information to support all negative findings.
- Act fairly and without bias. If a person provides information that casts doubt on an issue that is central to a proper decision, it should not be ignored.
- Where the credibility of an individual is at issue, the principles of natural justice and procedural fairness usually require an interview or an oral hearing.

What to expect when filing an official complaint with the MOHLTC

As discussed earlier, a very important tip is to make sure that all serious concerns reported to a staff member at a care facility are properly recorded in the resident’s medical file. The medical file should be reviewed regularly, as it will be an important source of information if a caregiver decides to involve the MOHLTC at a later time.

If a facility is unwilling to address a caregiver’s concerns, and the caregiver is left with no other option but to turn to the MOHLTC for help, a complaint can be more easily investigated if the resident’s medical file has been kept up-to-date.

Caregivers or substitute decision-makers should also review the medical record to familiarize themselves with any information that may be inaccurate or irrelevant. There have been cases where care home retaliation against family members began with notes to file in an effort to build a case against a caregiver that the facility plans to ban.

Without the record of any serious concerns on file, the ministry’s nursing inspectors may be quick to say that their “hands are tied”. A complaint with the ministry can be easily dismissed if it becomes a question of a health care worker’s word against that of a caregiver or substitute decision-maker, unless facts can be verified, of course.

In addition, it might be helpful to review the LTCHA, which was amended in 2010. If a caregiver can highlight a regulation applicable to concerns reported in an official complaint, it might be

easier to get a more satisfactory response from a ministry official. You can review *A Guide to the Long-term Care Homes Act, 2007, and Regulation 79/10* below:

http://www.health.gov.on.ca/en/public/programs/ltc/docs/ltcha_guide_phase1.pdf

When a caregiver has exhausted all the avenues of complaint within a care home, and his or her loved one continues to be at risk of neglect, abuse, assault or retaliation, contacting the regional office of the Ontario MOHLTC is the next step. Here are a few questions caregivers could ask a ministry official before proceeding with a complaint:

- What can you do to help me resolve care issues at the facility?
- Do you have any previous experience investigating a complaint about reprisal against a caregiver or a resident? If so, were you successful?
- Are you going to keep my complaint confidential, or will the facility's employees learn that I was the one who complained?
- If the issue I am reporting has not been recorded in my loved one's medical record, will you still proceed with an inspection?
- If a nursing inspector goes to the facility to investigate my complaint, will he or she talk to employees in front of others, putting them at risk of job loss, or of being ostracized by others – or putting me at risk of retaliation?
- If I provide you with a list of witnesses who can corroborate my facts, will you contact them, or will you limit your investigation to interviewing only employees of the facility?
- Do you have any specific prerequisites regarding interviews of witnesses?

(Note: In my case, nursing inspectors would not interview any witnesses willing to speak on my behalf unless those witnesses had filed a previous official complaint of their own with the ministry, and on the same issue as my complaint about reprisal. To the best of my knowledge, there is no regulation in the LTCHA to support this practice.)

- Should the facility retaliate against me following my complaint, what can you do to protect me or my loved one?

What to expect when filing an official complaint with the CNO

On February 15, 2017, CTV News featured an update on accused serial killer Elizabeth Wettlaufer who was appearing in court by video that morning. Wettlaufer is a former Ontario RN who was fired from the Caressant care home in Woodstock in 2014, because of a medication

error she made that put a resident at risk. Yet, she continued to work as a RN in LTC facilities for two more years until she was officially charged in October 2016. She stands accused of eight counts of first degree murder, four counts of attempted murder and two counts of aggravated assault.

Toronto criminal defense attorney Ari Goldkind was interviewed for this televised report. When asked why Wettlaufer was allowed to continue working as long as she did after the Woodstock care home had notified the CNO about the medication error that led to her dismissal, Mr. Goldkind answered that the CNO is mandated to keep things confidential, and that there always seems to be a cloak of secrecy over such cases despite the fact that among the College's most important responsibilities is their obligation to protect the public. Mr. Goldkind ended his interview with a comment on how there are too many bad things happening in care homes lately, and he added that he hoped that the Wettlaufer case will bring greater awareness to the neglect, the lack of care and the lack of treating people with dignity in LTC facilities.

Here is the recent Toronto Star article on Elizabeth Wettlaufer by Sandro Contenta:

<https://www.thestar.com/news/canada/2017/02/15/elizabeth-wettlaufer-was-fired-over-medication-error.html>

You can view CTV's W5 two programs on Elizabeth Wettlaufer here:

<http://www.ctvnews.ca/w5/who-were-the-victims-of-alleged-nursing-home-killer-elizabeth-wettlaufer-1.3186867>

This is an extreme case, clearly, but I felt that it warranted a mention as it demonstrates that if the College did not do an effective job at protecting the public in this particular situation, their investigators may not be able to do much to protect a caregiver who complains about reprisal from a LTC institution.

Still, if only to have a serious concern on record at the CNO, complaining about reprisal is worth the trouble. In time, maybe investigators will connect the dots between complaints that show a pattern and a trend that should be addressed. They wouldn't be able to do so if everyone kept silent about their experience with retaliation, or the professional misconduct of a nurse employed in a LTC facility.

July 4, 2017

We are failing our elderly patients

André Picard, The Globe and Mail

Elizabeth Wettlaufer is one of the most prolific serial killers in Canadian history. While working as a nurse, she killed at least eight nursing home residents and attempted to kill at least six others. Yet, we know surprisingly little about her methods, her motives and the institutional regulatory failings that allowed her to get away with murder for almost a decade. Most chilling of all, had Ms. Wettlaufer not confessed, we would be none the wiser. The Ontario government, to its credit, announced a public inquiry, but it has yet to specify its scope and mandate.

Read the rest here:

<https://www.theglobeandmail.com/opinion/we-are-failing-our-elderly-patients/article35532626/>

The following media briefs provide an update on this shocking case.

July 24, 2018

Brantford agency should have blown the whistle on Wettlaufer

Jonathan Sher, The London Free Press

A Brantford agency that placed Elizabeth Wettlaufer at nursing homes was wrong not to notify a regulatory college after the nurse admitted she was a “recovered” alcoholic who had resumed drinking, the head of the college told a public inquiry Tuesday. “It’s a huge red flag and warning sign,” Anne Coghlan, the executive director and registrar of the College of Nurses of Ontario, testified. “It definitely (creates) a potential risk of harm (to residents).” Lifeguard Homecare of Brantford, which placed Wettlaufer in a Paris nursing home where she tried to kill a resident, should have reported the nurse’s relapse to the College, Coghlan said. “We all need to be part of the safety net and that is information the College would want to have,” she said. Her testimony comes a month after the head of Lifeguard, Heidi Wilmot Smith, was adamant she was right not to report Wettlaufer, in part because the nurse had shown good judgement in choosing to not work a shift after drinking. But that sort of medical judgement from Wilmot Smith, whose background is in sales, is not supported by evidence, Coghlan said.

Read the rest here:

<https://lfpres.com/news/local-news/brantford-agency-should-have-blown-whistle-on-wettlaufer-regulator-testifies>

Jul 17, 2018

Questions left unanswered after night of suffering by Wettlaufer victim

Jonathan Sher, The London Free Press

Staff at a Woodstock nursing home failed to ask key questions after the death of a non-diabetic resident who spent her last hours suffering from the most grotesque symptoms of plunging blood sugars, Ontario’s chief coroner told a public inquiry Tuesday. Helen Young, a veteran of the Second World War, spent her last night at Caressant Care moaning in pain, her eyes bulging, her words slurred, her legs and arms bent inward and her skin torn after she tried to escape her wheelchair and was restrained by staff. Her descent to death in July 2013 came after killer nurse Elizabeth Wettlaufer twice injected her with large doses of insulin, each time telling Young it was pain medication. While other staff at the home would not learn of the killing spree until three years later, the way Young died should have triggered questions that were not asked, Dirk Huyer, chief coroner of Ontario, told the inquiry. “It would be worth asking more questions. . . . This is not the silent death overnight. This was a clinical change,” Huyer testified.

Read the rest here:

<https://lfpres.com/news/local-news/questions-left-unanswered-after-night-of-suffering-by-wettlaufer-victim>

Jul 16, 2018

Ontario's chief coroner faces scrutiny at Wettlaufer inquiry

Kate Dubinski, CBC News

The province's chief coroner says some long-term care homes are still submitting death records by fax, instead of electronically, forcing a four-year delay in his office's planned data analysis. Dr. Dirk Huyer said his office has been ready to analyze deaths in long-term care homes since 2014, but hasn't been able to because death records are being sent in different formats. To analyze just the electronic records would lead to incomplete and incorrect data analysis, he said. "It defeats the purpose of an analytics model of trying to identify patterns," Huyer said. It's unclear if such an analysis may have found a pattern of problems with patient deaths under nurse Elizabeth Wettlaufer's care.

Wettlaufer admitted to killing eight patients in southwestern Ontario by injecting them with massive amounts of insulin. The Wettlaufer inquiry, which resumed Monday after a two-week break, is hearing from the coroner's office. It's trying to determine what systemic problems led to Wettlaufer being able to get away with the murders undetected.

Read the rest here:

www.cbc.ca/news/canada/london/ontario-long-term-care-inquiry-elizabeth-wettlaufer-alex-van-kralingen-1.4745402<https://www.cbc.ca/news/canada/london/ontario-long-term-care-inquiry-elizabeth-wettlaufer-alex-van-kralingen-1.4745402>

According to the Regulated Health Professions Act, Schedule 2, Health Professions Procedural Code, Section 28(1) regarding the timely disposal of complaints "*a panel shall dispose of a complaint within 150 days after the filing of the complaint*". Section 28(3) of the Procedural Code further states that "*If a panel has not disposed of a complaint within 150 days after the filing of the complaint, the Registrar shall provide the complainant with a written notice of that fact, and an expected date of disposition, which shall be no more than 60 days from the date of the written notice.*"

Caregivers who file complaints regarding the professional misconduct of a nurse should keep track of the time between each step of the CNO's complaint process. In the event of unusual delays, they should ask for an explanation in writing, and follow up with telephone calls when necessary. Don't allow months to go by without any communication at all regarding your complaint.

Though the College's mission is to protect the public's right to quality nursing services, and its vision is "excellence in nursing practice everywhere in Ontario", it may not be able to deliver, and my experience with this process was frustrating, to say the least. Not only did the College ignore its own regulations regarding the timely disposal of my complaint, the investigators did not challenge any of the respondent's information, and they did not interview any of the witnesses who were willing to speak out about their experience of reprisal at the same facility. In this respect, the CNO's complaint investigation process is very much like that of the MOHLTC.

I know of two other Ottawa families who filed complaints with the CNO and their experience paralleled mine. Their complaints about the professional misconduct of nursing personnel were not processed within the expected 150 days, and both were eventually dismissed, because the nurses denied any wrongdoing. The CNO investigators accepted their members' explanations over those of the caregivers, and witnesses other than care home employees were not interviewed.

Before approaching the CNO, I recommend a review of the following documents that can be found on the College's web site. They might prove helpful to writing your complaint in keeping with the CNO's standards and guidelines.

- Professional Standards, Revised 2002
- Reference document on Professional Conduct/ Professional Misconduct
- Conflict Prevention and Management
- Ethics Practice Standard

When to approach the Patient Ombudsman

Former deputy Progressive Conservative leader Christine Elliott was appointed Ontario's first Patient Ombudsman, and officially took the post on July 1, 2016, but on June 29, 2018, she was named as Minister of Health and Long-term Care as well as Deputy Premier during the swearing in of Ontario Premier Doug Ford. She has yet to comment on the fate of her former job.

The interim Patient Ombudsman is Craig Thompson, a healthcare leader with more than 25 years of experience working for public and private organizations in the healthcare and communications sectors. According to a CBC news report dated December 4, 2018, there is speculation at the legislature that Ford does not intend to fill the vacancy. On the Patient Ombudsman web site it says there are "no new job openings", and when I called that office in late January 2019, the person who answered did not have any new information.

For the time being, this team can deal with complaints from patients and families about public hospitals, Community Care Access Centres (CCAC's) and LTC facilities, provided of course that their needs have not been met, and their concerns have not been resolved through existing complaint mechanisms.

Note that unlike the Auditor General, the Privacy Commissioner and the Ombudsman for Ontario, the Patient Ombudsman is not an independent officer of the legislature and reports directly to the Minister of Health on all her activities and recommendations.

Therefore, if a caregiver has been unsuccessful with the complaint processes of the MOHLTC, the CNO and the HPARB, approaching the Patient Ombudsman is the final option, short of proceeding with a legal action through the Divisional Court.

The Patient Ombudsman does not have the authority to overturn decisions made by the above health sector organizations, but it does list several resolution options on its online complaint

form. Where complainants are asked what they would like to happen to resolve their complaint, they are asked to select one or more of the following options:

- Access
- Acknowledgement
- Apology
- Costs/compensation/refund
- Complaint recorded
- Disciplinary action
- Fees waived
- Information or advice
- Policy/process change
- Records
- Response
- Explanation

Even if a new Patient Ombudsman is appointed, this is still a new organization , and time will tell how effective they will be. I recommend reviewing the information posted on their web site to avoid the prompt dismissal of your concerns with a form letter stating that the matter of your complaint does not fall under the jurisdiction of the Patient Ombudsman.

Part 3

- Conclusion
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Conclusion

My experience has been that the various complaints processes have been unnecessarily drawn out, and frustrating to work through. I believe that this has everything to do with the inability of authorities to recognize and accept that a culture of reprisal exists in LTC facilities. If the problem could be properly acknowledged, caregivers who are retaliated against for complaining might stand a better chance at a fair result. And, if more people were able to complain about abuse and neglect in care homes, without fear of reprisal, we might begin to see some meaningful improvements in the level of care provided in these facilities. Ultimately, those who end up in care in future – and it could happen to any one of us – may benefit from a healthier, safer and more dignified experience.

In closing, I would like to thank all of the media experts for their reports on the current conditions in care homes in Canada and abroad. The topic needs to be kept in public view, and media reports are instrumental in prompting authorities to act.

Media reports can make a difference

Below is a prime example of the media's ability to make a difference more swiftly and effectively than any regulatory body:

July 11, 2017

No trespass orders given to family members after complaining about Ottawa long-term care

Elizabeth Payne, The Ottawa Citizen

One woman was escorted from the long-term care home's dining room by a security guard while her elderly mother, who suffers from dementia, watched in shock. Another was handed a notice under the Trespass to Property Act and told she could no longer stay in her severely disabled mother's room while she was being cared for by staff. Both women are retired hospital nurses who say the city-run long-term care home where their mothers live has been using no trespass notices and the threat of fines to limit their visits, and punish them because they have complained about sub-standard care and dangerous hygiene practices.

Read the rest here:

<http://ottawacitizen.com/news/local-news/no-trespass-orders-given-to-family-members-after-complaining-about-ottawa-long-term-care-home>

July 12, 2017

After recent incidents, city working on action plan to improve long-term care

Elizabeth Payne, The Ottawa Citizen

City officials are meeting with families to develop an action plan that addresses recent incidents at city-run long-term care homes, according to the head of the committee that oversees long-term care in Ottawa. "Obviously, some of what we have been seeing and hearing about is troubling and very concerning," said Coun. Diane Deans, who chairs the city's community and protective services committee. "Because we have had some issues, they are working with the ministry and meeting with families to talk about suggestions and they will be looking to make some recommendations for improvements."

Read the rest here:

<http://ottawacitizen.com/news/local-news/after-recent-incidents-city-working-on-action-plan-to-improve-long-term-care>

I would also like to thank my UK contact, Mrs. Gillian Privett, for all the media briefs she provided for this report. Her numerous contributions to this project were most helpful in highlighting the crisis in long-term care in other parts of the world.

References

1. Long-term Care Homes Act, 2007
2. A brand new world: Ontario's new Long-term Care Homes Act , Report by Jane E. Meadus, Institutional Advocate and Staff Lawyer, Advocacy Centre for the Elderly (ACE)
3. *ibid*

4. Ontario long-term care 'a system in crisis,' workers say, CUPE says overstretched facilities are providing inadequate service, CBC News article by Amanda Pfeffer, December 6, 2015