The Dignity Digest

Issue # 119 December 19, 2022
The Dignity Digest is information compiled by Dignity Alliance Massachusetts concerning long-term services, support, living options, and care issued each Monday.

	*May require registration before accessing article.
Editor's Note	*The Dignity Digest* will not be distributed the week of December 26. Issue #120 will be distributed on Tuesday, January 3, 2023. Best wishes throughout the holiday season and all the new year.
Spotlight	*BRIEF OF AMICI CURIAE* *LONG TERM CARE COMMUNITY COALITION, DIGNITY ALLIANCE MASSACHUSETTS, AND DISABILITY POLICY CONSORTIUM IN SUPPORT OF APPELLANT* Submitted to the Massachusetts Supreme Court December 14, 2022 STATEMENT OF INTEREST The Long Term Care Community Coalition (LTCCC) is a non-partisan, nonprofit organization dedicated to improving quality of care, quality of life, and dignity for elderly and disabled persons in nursing homes, assisted living, and other residential settings. For over 30 years, LTCCC's work has focused on the legal and regulatory standards for nursing home care, their implementation by nursing home operators, and their enforcement by government regulatory agencies and via our judicial system. In addition to our policy and regulatory work, LTCCC provides a broad range of information and resources to the public on nursing home quality, resident rights, and other standards of care. LTCCC is interested in this case because of its profound concerns for the safety and welfare of vulnerable nursing home residents, for whom the responsibilities of facility administration are essential. Dignity Alliance Massachusetts (DignityMA) is a statewide, non-profit organization dedicated to transformative change to ensure the dignity and rights of older adults, people with disabilities, and their caregivers. DignityMA is committed to advancing new ways of providing long-term services, support, living options, and care, while respecting choice and self-determination. DignityMA pursues its mission through education, legislation, regulatory reform, and legal strategies. The Disability Policy Consortium is a statewide disability led public policy, legislative advocacy, and research organization dedicated to improving the quality of life for all people with disabilities in Massachusetts. Priority areas include healthcare, housing, antiracism, and economic equity.

Amici are organizations that represent the interests of older adults and nursing facility residents. The focus of this brief is on the following two issues raised by the appeal: (1) The duties and responsibilities of a nursing home's administrator and medical director, and (2) Whether the actions of a nursing homes' leadership and staff had a significant impact on the likelihood that residents would fall victim to COVID-19.

SUMMARY OF ARGUMENT

The important responsibilities of nursing facility administrators have been defined in the federal code for over 30 years. The section of the code dedicated to Administration explicitly states that, "[a] facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident." Likewise, the duties of, and requirements for, a nursing home medical director are laid out in the federal code, which explicitly states that "the medical director is responsible for - (i) Implementation of resident care policies; and (ii) The coordination of medical care in the facility."

As set forth in the facts of this case, residents suffered substantial negative consequences, including avoidable suffering and death, because of the superintendent's (administrator's) decisions. Specifically, staff, acting under the directive of the superintendent and the medical director, physically merged vulnerable residents with and without indications of COVID-19 infections into a single congregated space. This directive conflicts with longstanding infection control standards and protocols, including professional standards of care and federal requirements for infection protection and control in nursing homes.

ARGUMENT

I. The Superior Court erred in its construction of "caretaker" under G.L. c. 265 § 13K(a) by excluding administrators.

The Superior Court erred in its construction of "caretaker" by excluding administrators on the ground that they do not generally interact directly with residents. This conflicts with the plain meaning of the statutory language, which defines a caretaker as one whose responsibilities to an elder or person with disabilities can "arise as the result of a family relationship, or by a fiduciary duty imposed by law, or by a voluntary or contractual duty undertaken on behalf of such elder or person with a disability." As noted above, longstanding federal rules explicitly require that a nursing home "must be administered in a manner that enables it to... attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident." Courts have found that a nursing home administrator's license is one to "provide health care," and although an administrator may not frequently interact directly with residents, they are inseparable from the caretaking continuum and duty to "provide health care" to residents in their facility. Moreover, a nursing home administrator has a specific obligation to ensure that all residents are free from abuse or neglect. In its recent landmark report on nursing home care, the National Academies of Science,

	Engineering, and Mathematics stated that "[a] nursing home administrator has oversight and operational responsibilities, including ensuring regulatory compliance [with standards of care], supporting the rights of residents, and maintaining financial accountability." The medical director at the Soldiers' Home was, likewise, subject to professional standards as a caretaker under federal and state law. Under 42 C.F.R. § 483.70(h), a medical director is responsible for: "(i) Implementation of resident care policies; and (ii) The coordination of medical care in the facility." In Massachusetts, under the standards for long-term care facilities, "Direct Care Worker" means a staff member whose work involves extensive resident contact or administrative decisions regarding their care. "Direct Care Worker" is defined to include, "but not be limited to… the medical director." These government requirements are well known and widely recognized. For example, a journal article on the role of a nursing home medical director explicitly states that [t]he medical director is an important member of the healthcare team in a nursing home, and is responsible for overall coordination of care and for implementation of policies related to care of the residents in a nursing home. The residents in nursing homes are frail, medically complex, and have multiple disabilities. The medical director has an important leadership role in assisting nursing home administration in providing quality care that is consistent with current standards of care. As the law and professional standards dictate, it is indisputable that the medical director had an important caretaker role at the Soldiers' Home. Nursing facility administrators and medical directors are subject to longstanding professional standards under both federal and state law. Under these rules, the superintendent (administrator) and medical director both had substantive duties to oversee the health care, safety, and conditions for every resident at the Soldiers' Home. Their decision to consolidate two floors of vulnerable veterans with dementia, some COVID-19 positive and others asymptomatic, into a single floor, had a significant and foreseeable likelihood of leading to more COVID-19 cases and the death of many residents. Any conclusion that the superintendent and medical director, who were acting at the top of the facility's chain of command, were not caretakers with a duty to "provide health care" in a safe manner would be contrary to clearly established state and federal law and regulation, federal guidance, and professional standards. It would also establish a dangerous precedent. A nursing home administrator's actions and competence directly impacts the care and quality of life for residents in their facility. The administrator is responsible for the "overall implementation" of facility policies and procedures. Federal guidance for nursing home surveyors (inspectors) cites to the role and/or responsibilities of a nursing home administrator 97 times. Importantly, in respect to the present case, the guidance explicitly states that: "The facility administration and medical director should ensure that current standards of practice based on recognized guidelines are incorporated in the

resident care policies and procedures." In addition to these longstanding federal requirements, under the state rules in Massachusetts, an administrator supervises or is in general administrative charge of a nursing home. In light of the affirmative duties imposed on administrators, "and the important social policy behind these duties of protecting the health and safety of the patients who have surrendered themselves to the custodial care of the nursing home," this Court should directly review the Superior Court's interpretation of "caretaker" that improperly excluded the administrator (superintendent) and the medical director.

II. The increased rate of transmission and death toll associated with COVID-19 was not inevitable at the Soldiers' Home.

Nursing homes have been required to establish and implement comprehensive infection control measures for over three decades, long before the onset of COVID-19. This includes having a "system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, [and] visitors… [with] [w]ritten standards, policies, and procedures…."

The ability to effectively implement those measures depends, essentially, on two factors: (1) effective oversight and administration of the care and services provided to residents and (2) the availability and competency of the nursing staff working under, and in accordance with, the facility's leadership. The superintendent at the Soldiers' Home concedes to short staffing in the facility during the pandemic. However, dangerous short staffing preexisted COVID-19 at the Soldiers' Home. In fact, the Massachusetts Office of the Inspector General found extensive evidence that "Superintendent Walsh failed to manage the Home's staffing issues effectively." His persistent failure to address the staffing issue put residents at risk every day and exacerbated the dangers to which they were exposed by the COVID-19 pandemic.

Decades of studies have consistently found that more nurses mean better care and safety for nursing home residents. This is especially true when there is a crisis, such as that brought on by the COVID-19 pandemic. A cross-sectional analysis on Connecticut nursing homes found that higher RN staffing and quality ratings have the potential to better control the spread of COVID-19 and reduce deaths. Based on these findings, among facilities with at least one death, "every 20-minute increase in RN staffing of the nursing home significantly predicted a 26% reduction in COVID-19 deaths." This suggests that a lower death rate from COVID-19 was achievable at the Soldiers' Home. As noted above, knowledge of the short staffing issue at the Soldiers' Home preexisted COVID-19. Had short staffing been remediated rather than encouraged through a merger, fewer deaths most likely would have occurred. By comparison, nearly ten months after the merger at Soldiers' Home, a nursing home that "caters mostly to low-income people of color, who as a group have been hit disproportionately hard by the disease" reported zero cases of COVID-19 at their facility (Maryland Baptist Aged Home). Their administrator did not implement a merger as a response to short staffing; they recruited additional staff and implemented screening for the employees

	who would have contact with the residents. This facility showed that an outbreak of COVID-19 was not inevitable in a nursing home setting. The Soldiers' Home was a larger facility, and at one point it was also reported their staff, "managed an account of donations of over one million dollars… and its Board of Trustees (Board) considered these donations to be Board funds." Allocating more resources into staffing recruitment efforts and resident care, rather than a merger, may have mitigated the COVID-19 outbreak at the Soldiers' Home and prevented the death(s) of vulnerable residents. CONCLUSION For the reasons stated above, we respectfully request this Court allow for direct appellate review of the Superior Court's decision. https://dignityalliancema.org/2022/12/20/amicus-brief-re-soldiers-home/
Quotes of the Week	*"A lot of people think of long covid as associated with long-term illness. This shows it can be a cause of death."* Farida Ahmad, a health scientist at the Centers for Disease Control and Prevention, *Long covid can be deadly, CDC study finds,* **Washington Post (free access),** December 14, 2022, https://www.washingtonpost.com/health/2022/12/14/long-covid-deaths/ *"A big part of the message is changing the paradigm of long-term care from a reactive approach—you end up in a nursing home, we'll support you when you run out of money—to putting the investment up front, create bridges that will support you when you need the support so you can live at home for as long as you need to, in the hands of trained caregivers that will care for you."* *Will Healthcare Be Able to Handle the Silver Tsunami in 2030?,* **healthleaders,** December 7, 2022, https://tinyurl.com/SilverTsunamiIn2030 *(T)he United States Census Bureau stated that, for the first time ever, there will be more older adults (over the age of 65) than children. By 2034, there will be 77 million people 65 years and older compared to 76.5 million under the age of 18.* *Will Healthcare Be Able to Handle the Silver Tsunami in 2030?,* **healthleaders,** December 7, 2022, https://tinyurl.com/SilverTsunamiIn2030 *While reputable and well-run care facilities can provide security and support for patients, such safety is typically accomplished by providing diligent supervision and*

significant restrictions to the personal freedom of residents. In such environments, the comforts and familiarity of home are also often left behind.

An Elevated Approach to Alzheimer's Care: Inside the European Facilities Prioritizing Autonomy, **Nicenews.com,** December 9, 2022, https://tinyurl.com/ElevatedApproach

With updated COVID-19 vaccines, at-home tests, and effective oral antiviral treatments widely available, the [Biden] Administration encourages every individual American to have a plan for how to prevent and respond to COVID-19 this winter. CDC has launched a COVID-19 Personal Action Plan, an easy-to-use guide for individuals, caregivers, and clinicians that helps guide individuals through making a plan for where to access free tests, the location of their closest Test to Treat site, and what to ask their provider on treatments if they test positive.

Biden Administration Announces COVID-19 Winter Preparedness Plan, **The White House,** December 15, 2022, https://tinyurl.com/WinterPreparednessPlan

"I never imagined that I would get the reaction that I got. 'Oh, absolutely no, we cannot send you a power plug,' he recalled them telling him. "'You're not qualified to work on our pressure-driven transport ventilator. You haven't attended our service school.'"

Scot Mackeil, a senior biomedical engineering technologist based in Quincy, Massachusetts, *'Right to repair' movement gains momentum in the tightly controlled world of medical devices,* ***STAT+ ,** December 14, 2022, https://tinyurl.com/RightToRepairSTAT

"We're still being incredibly myopic about our viewpoint of what long Covid is. And so, we're not studying all of the ways that it is causing loss of life. It's very, very clear that the majority of these cases were related to individuals who had severe acute disease and were struggling to recover from severe acute disease. The truth is, there are many, many more — orders of magnitude more — folks who

initially did not have severe acute disease but went on to develop these highly debilitating symptoms."

David Putrino, director of rehabilitation innovation at Mount Sinai Health System who started one of the first long Covid clinics in the U.S., *Death certificate records of long Covid are a 'floor of an estimate,' experts say,* **STAT News,** December 14, 2022, https://tinyurl.com/FloorOfAnEstimate

Amid a weakening macroeconomic environment and ongoing pressure by private and public payers to reduce healthcare costs, a growing number of healthcare companies are faced with credit rating downgrades and potential default.

Healthcare companies' default risk steadily rising, with most owned by private equity: Moody's, **Fierce Healthcare,** December 12, 2022, https://tinyurl.com/DefaultRiskRising

For-profit programs consistently excel on one measure: making money. The Medicare Payment Advisory Committee reported that for-profit hospices achieved a Medicare aggregate financial margin of 19.2% in 2019 compared to 6.0% for nonprofit programs. . .
The founder of hospice, Dame Cicely Saunders, once observed, "How people die remains in the memory of those who live on." Her statement inspired a generation of hospice workers. It now reads as a warning about the hazards of commodified hospice care.

Dr. Ira Byock, emeritus professor of medicine and community and family medicine at the Dartmouth Geisel School of Medicine and a past president of the American Academy of Hospice and Palliative Medicine, *Hospice care needs saving,* **STAT News,** December 14, 2022, https://tinyurl.com/HospiceCareNeedsSaving

"When a veteran who has given so much to the country can't access services because of a problem like that, that shouldn't just be a cause for concern but should be a call for action."

	Sen. Robert P. Casey Jr. (D-Pa.), *Blind and disabled veterans can't access VA websites, report says,* ***Washington Post,** December 14, 2022 (updated), https://tinyurl.com/VeteransCantAccessWebsites *For the reasons stated above, we respectfully request this Court allow for direct appellate review of the Superior Court's decision.* BRIEF OF AMICI CURIAE, LONG TERM CARE COMMUNITY COALITION, DIGNITY ALLIANCE MASSACHUSETTS, AND DISABILITY POLICY CONSORTIUM IN SUPPORT OF APPELLANT, December 14, 2022, https://dignityalliancema.org/2022/12/20/amicus-brief-re-soldiers-home/
Reports	**1. The Assistant Secretary for Planning and Evaluation (ASPE)** December 15, 2022 *Ownership of Skilled Nursing Facilities: An Analysis of Newly-Released Federal Data* To enhance transparency in health care markets, in September 2022, the Centers for Medicare & Medicaid Services (CMS) publicly released comprehensive data on the ownership of all U.S. skilled nursing facilities (SNFs) that are enrolled in Medicare. This report provides an overview of the available data, a methodology for calculating the ownership shares by individuals vs. organizations, and several preliminary analyses to showcase the data, including information on ownership patterns and market concentration. The report finds that individuals directly or indirectly own half of the ownership shares of SNFs, and organizations own the other half. The largest ten chains (representing less than 2% of all chains) own over 10% of all SNFs, while the remaining 597 chains own 55.6% of SNFs, and a third of SNFs (33.8%) are independent. Each of the top ten chains operates in at least half a dozen states. **KEY POINTS** • In September 2022, the Centers for Medicare & Medicaid Services (CMS) released publicly for the first-time comprehensive data on the ownership of all U.S. skilled nursing facilities (SNFs) that are enrolled in Medicare. This report analyzes this new dataset. • Most SNFs are for-profit (71.7%), 22.5% are non-profit, and 5.7% are government-owned. Across all ownership types, 63.5% are structured as corporations and 16.2% as limited liability companies. • The largest ten chains (representing less than 2% of all chains) own over 10% of all SNFs, while the remaining 597 chains own 55.6% of SNFs, and a third of SNFs (33.8%) are independent. Each of the top ten chains operates in at least half a dozen states. • Individuals directly or indirectly own half of the ownership shares of SNFs, and organizations own the other half. • Market concentration was typically low based on traditional measures (mean Herfindahl-Hirschman Index [HHI] index of about 1000) at the level of the hospital referral region. However, HHI does not account for cross-market ownership. https://tinyurl.com/ASPENursingHomeOwnershipData

Dignity Votes 2022	**2. Healey / Driscoll Transition Team** https://healeydriscolltransition.com **3. Andrea Campbell Transition Committee** https://www.andreacampbell.org/transition/
Biden / Federal Policy	**4. The White House** December 15, 2022 *Biden Administration Announces COVID-19 Winter Preparedness Plan* The Administration's COVID-19 Winter Preparedness Plan includes: Expanding easy access to free COVID-19 testing options in the winter. • Making free at-home, rapid COVID-19 tests available through COVIDTests.gov. • Distributing more free tests to Americans at trusted locations. • Making vaccinations and treatments readily available to all Americans as cases rise. • Offering resources and assistance to increase vaccinations and respond to a possible surge. • Collaborating with communities to open pop-up and/or mobile vaccination sites. • Getting additional resources to community health centers and aging and disability networks to support COVID-19 vaccination efforts. • Readying clinical personnel for deployment as needed to support jurisdictions. • Pre-positioning critical supplies from the Strategic National Stockpile. • Closely monitoring emerging variants and assessing their potential impacts on testing, treatments, and vaccines. • Releasing a winter playbook for nursing homes and long-term care facilities. • Expanding the pool of providers that may administer COVID-19 vaccinations. • Reaching out to governors on nursing home vaccinations. • Encouraging hospitals to offer COVID-19 vaccinations to patients before discharge. • Expanding access to high-quality masks in communities. • Ensuring that every individual has a plan for COVID-19 this winter. https://tinyurl.com/WinterPreparednessPlan
The Consumer Voice	**5. Consumer Voice Leadership Council** **Former Senator Richard T. (Dick) Moore** DignityMA's Legislative Workgroup Chair and member of the Coordinating Committee has been elected to The Consumer Voice Leadership Council (https://theconsumervoice.org/). The Consumer Voice is the leading national voice representing consumers in issues related to long-term care, helping to ensure that consumers are empowered to advocate for themselves. **Arlene Germain**, DignityMA's Facilities Workgroup Chair and a founding member of DignityMA, is completing several terms on the Leadership Council. She has been the recipient of two prestigious awards from The Consumer Voice.
Webinars and Online Sessions	**6. Patient Safety and Quality Healthcare** Tuesday, December 20, 2022, 1:00 p.m. *Fireside Chat: Patient Safety and Workforce Retention* One of the biggest challenges facing the healthcare industry is workforce retention. Burnout and stress are taking their toll on healthcare workers, especially after the last few years dealing with the COVID-19 pandemic.

	This fireside chat with Patricia McGaffigan, RN, MS, CPPS, vice president, Institute for Healthcare Improvement, will look at the current state of healthcare safety, the challenges that must be overcome, what needs to be done to maintain a healthy work environment, and how organizations can improve worker retention. Learning Objectives: The current state of safety Workplace violence Retention Next steps Speaker: Patricia A. McGaffigan, RN, MS, CPPS Vice President, Institute for Healthcare Improvement https://tinyurl.com/FiresideChatDec202022 **7. Transformation Tuesdays (Gray Panthers of NYC)** Tuesday, December 27, 2022, 2:00 to 3:00 p.m. *Nursing Home Resident Voices: A Wishlist for 2023* Featuring: Hon. Crystal Hudson, Chair of the NYC Committee on Aging New York City Council Rachel Bennett, Founder of the Nursing Home Card Project Nancy Stevens, Nursing Home Resident And others **RSVP here** **8. Centers for Medicare and Medicaid Services** Thursday, January 5, 2023, 3:00 p.m. *National Nursing Home Stakeholder Call* Long-term care providers, facility staff and resident advocates are encouraged to attend. This event is open to the public; registration is required. https://tinyurl.com/StakehoiderCallJan52023
Previously posted webinars and online sessions	**Previously posted webinars and online sessions can be viewed at:** **https://dignityalliancema.org/webinars-and-online-sessions/**
Nursing Homes	**9. The Assistant Secretary for Planning and Evaluation (ASPE)** December 15, 2022 *Ownership of Skilled Nursing Facilities: An Analysis of Newly-Released Federal Data* To enhance transparency in health care markets, in September 2022, the Centers for Medicare & Medicaid Services (CMS) publicly released comprehensive data on the ownership of all U.S. skilled nursing facilities (SNFs) that are enrolled in Medicare. This report provides an overview of the available data, a methodology for calculating the ownership shares by individuals vs. organizations, and several preliminary analyses to showcase the data, including information on ownership patterns and market concentration. The report finds that individuals directly or indirectly own half of the ownership shares of SNFs, and organizations own the other half. The largest ten chains (representing less than 2% of all chains) own over 10% of all SNFs, while the remaining 597 chains own 55.6% of SNFs, and a third of SNFs (33.8%) are independent. Each of the top ten chains operates in at least half a dozen states. **KEY POINTS**

	• In September 2022, the Centers for Medicare & Medicaid Services (CMS) released publicly for the first-time comprehensive data on the ownership of all U.S. skilled nursing facilities (SNFs) that are enrolled in Medicare. This report analyzes this new dataset. • Most SNFs are for-profit (71.7%), 22.5% are non-profit, and 5.7% are government-owned. Across all ownership types, 63.5% are structured as corporations and 16.2% as limited liability companies. • The largest ten chains (representing less than 2% of all chains) own over 10% of all SNFs, while the remaining 597 chains own 55.6% of SNFs, and a third of SNFs (33.8%) are independent. Each of the top ten chains operates in at least half a dozen states. • Individuals directly or indirectly own half of the ownership shares of SNFs, and organizations own the other half. • Market concentration was typically low based on traditional measures (mean Herfindahl-Hirschman Index [HHI] index of about 1000) at the level of the hospital referral region. However, HHI does not account for cross-market ownership. https://tinyurl.com/ASPENursingHomeOwnershipData
Hospice	**10. STAT News** December 14, 2022 *Hospice care needs saving* Hospice in America is gravely ill. An extensive investigation jointly published by The New Yorker and ProPublica documented outright fraud, predatory practices, and flagrant mistreatment by specific publicly traded and private equity-owned hospice companies. . . Key hospice and palliative care associations need to express contrition and commit to do whatever is necessary to protect and rebuild trust with the public. Instead, one official response from the National Association for Home Care and Hospice and the National Hospice and Palliative Care Organization mostly complained that the article unfairly characterized the industry due to the acts of a few bad actors. Another, from the American Academy of Hospice and Palliative Care Medicine, discouraged members from calling attention to the piece on social media. Hospice in the United States began in the mid-1960s as a social movement to improve care for dying people, and gradually became a vital component in the health care continuum. In England, where modern hospice originated, early ones were special facilities created to care for dying people. In the U.S., hospice developed instead as specialized clinical programs, comprised of interdisciplinary clinical teams of nurses, doctors, social workers, chaplains, and others who cared for people mostly in their own homes. . . HealthPivots, a company that analyzes national hospice datasets, found that in 2021 nonprofit hospices provided substantially more physician visits, 92 visits per 100 patients, than for-profit programs, with 54 visits per 100 patients. Medicare requires every hospice program to be able to deliver four levels of care: routine home care, respite care, continuous care, and general inpatient care. Alarmingly, 53% of American hospices, including 61% of for-profits, provided no general inpatient care at all, depriving suffering patients of this "hospice ICU" level of care. Overall, nonprofits delivered general inpatient care two and a half times more often than for-profits. And a 2019 study by the Milliman consulting group found that nonprofit hospice programs spent more

	than twice as much on grief services for families than their for-profit counterparts. For-profit programs consistently excel on one measure: making money. The Medicare Payment Advisory Committee reported that for-profit hospices achieved a Medicare aggregate financial margin of 19.2% in 2019 compared to 6.0% for nonprofit programs. https://tinyurl.com/HospiceCareNeedsSaving
Alzheimer's and Other Dementia	**11. Nicenews.com** December 9, 2022 *An Elevated Approach to Alzheimer's Care: Inside the European Facilities Prioritizing Autonomy* Families of relatives who are no longer able to care for themselves often turn to nursing homes to provide safe long-term care for their loved ones. For elderly patients living with Alzheimer's disease and other forms of dementia, independent living becomes increasingly difficult due to the progressive loss of memory and brain function and an accompanying decline in the ability to perform everyday tasks that were once rote. . . [A] handful of nursing homes in Europe are challenging this standard approach to Alzheimer's care by creating vibrant and engaging environments for their patients, without sacrificing safety. . . This curated experience allows residents to enjoy the appearance of life as they once knew it, minus the stressors of the day-to-day that are otherwise exacerbated by dementia. The grocery store omits cash registers and prices, so that the "the cognitive work of budgeting and paying has been conveniently edited out." According to the *New Yorker*, "hallways are designed as loops, without dead ends, to reduce confusion; each resident has her own bathroom, with a mirror that can be folded up when she no longer recognizes her own reflection." While such facilities are made affordable due to their respective country's socialized healthcare system, their successes are inspiring a closer look at how dementia is treated everywhere. *The Atlantic* notes that these facilities helpfully "call into question how much of dementia is a result of disease, and how much is a result of how we treat it." With any luck, the lessons learned will have positive repercussions for Alzheimer's patients the world over. https://tinyurl.com/ElevatedApproach
Covid	**12. NPR Shots Moring Edition** December 14, 2022 *How did COVID warp our sense of time? It's a matter of perception* The COVID era distorted time perception around the world. https://tinyurl.com/CovidWarpTime
Long Covid	**13. Washington Post (free access)** December 14, 2022 *Long covid can be deadly, CDC study finds* A study released Wednesday by the National Center for Health Statistics found that more than 3,500 Americans died of long-covid-related illness in the first 2½ years of the pandemic. While those deaths represent a small fraction of the 1 million deaths from the coronavirus, they reinforce the danger of ignoring the lingering symptoms that many patients say their physicians have dismissed. . .

	While CDC data show that women are more likely than men to develop long covid, the study found that men accounted for a slightly higher percentage of long-covid deaths. Most of the documented long-covid deaths occurred in older people, with adults between 75 and 84 years old accounting for almost 30 percent of the deaths, closely followed by adults 85 and older. Almost 80 percent of the deaths occurred among non-Hispanic Whites. The death rate was highest — at 15 in every 100,000 people — among American Indian and Alaska Native people, and lowest among Asians. . . [T]he study reflects the need for further research into long covid and potential treatments, experts said. As many as 1 in 13 adults, or 7.5 percent of the U.S. population, are experiencing symptoms that last three or more months after contracting the virus, according to the CDC. https://www.washingtonpost.com/health/2022/12/14/long-covid-deaths/ **14. STAT News** December 14, 2022 *Death certificate records of long Covid are a 'floor of an estimate,' experts say* Long Covid has begun appearing on death certificates for a small percentage of people who have died during the pandemic, but that tiny fraction of records only hints at the whole story, two experts told STAT, while another has doubts about drawing any conclusions from it at all. Death certificates listing long Covid as a cause of death numbered 3,544, representing 0.3% of the 1,021,487 Covid deaths in the United States from January 2020 through June 2022, according to an analysis issued Wednesday by the National Center for Health Statistics, part of the Centers for Disease Control and Prevention. . . "Mental health issues often fly under the radar, but we know that folks with long Covid are taking their own lives," [David] Putrino [director of rehabilitation innovation at Mount Sinai Health System], said. "It's very rare for their death records to be labeled as related to long Covid. It's important to investigate all of the ways that Covid is continuing to cause the loss of life and loss of function." https://tinyurl.com/FloorOfAnEstimate
Veteran Services	**15. *Washington Post** December 14, 2022 (updated) *Blind and disabled veterans can't access VA websites, report says* [A] new report from the Senate Special Committee on Aging is taking VA to task for neglecting accessibility issues on its websites. Despite the fact that 27 percent of all veterans have a service-connected disability — and more than 1 million veterans are blind or have low vision — only 8 percent of VA's public-facing websites and 6 percent of its internal sites are fully compliant with federal accessibility law, according to the report released Wednesday. . . A separate, independent 2021 report from the Information Technology and Innovation Foundation found that 30 percent of the most popular federal websites did not pass an automated accessibility test for their homepage. Disability advocates say other common issues on federal websites for blind users include issues with managing student loans, signing up for benefits or receiving federal workplace training. For veterans, another common issue is that many are unable to download their own records in an accessible format or they're unable to use newly released VA apps, according to Timothy Hornik, director of special initiatives for the Blinded Veterans Association. https://tinyurl.com/VeteransCantAccessWebsites

Health Care	**16. *STAT+** December 14, 2022 *Nine in 10 health care companies with financial stress are owned by private equity* Almost 90% of the health care companies deemed to be under financial stress by a leading credit rating agency are owned by private equity, a stark indicator of the toll financial investors have taken on a vital sector. https://tinyurl.com/FinancialStressPrivateEquity **17. *STAT +** December 14, 2022 *'Right to repair' movement gains momentum in the tightly controlled world of medical devices* The Covid-19 pandemic crystallized a problem that has long plagued hospitals and biomedical engineers: many can't maintain or repair their machines without the green light from medical device makers. In a survey of 222 medical repair professionals conducted by the U.S. Public Interest Research Group in June 2020, 92% reported that manufacturers had refused to provide them with service information for critical equipment including defibrillators, ventilators, and anesthesia and imaging machines, and 89% had been denied replacement parts. https://tinyurl.com/RightToRepairSTAT **18. Fierce Healthcare** December 12, 2022 *Healthcare companies' default risk steadily rising, with most owned by private equity: Moody's* Amid a weakening macroeconomic environment and ongoing pressure by private and public payers to reduce healthcare costs, a growing number of healthcare companies are faced with credit rating downgrades and potential defaults. . . Among 193 rated North American-based healthcare companies, 34, or nearly 18%, were rated B3 negative or lower as of Nov. 30, up from nine, or about 4%, of rated healthcare companies as of Dec. 31, 2015. About 80% of North American healthcare companies are now speculative grade, as compared to around 73% in 2015 and 71% in 2010, Moody's reported. . . Healthcare companies now represent approximately 16% of the 207 companies on Moody's Investors Service B3 Negative and Lower List (B3N List) as of Nov. 30. . . Nearly 90% of the North American healthcare issuers on the B3N List are controlled by private equity, reflecting "aggressive financial policies, high leverage and debt structures predominantly funded with floating-rate loans," analysts wrote. As credit conditions worsen and interest expense rises, these companies' cash flow have increasingly come under pressure, which limits their ability to adapt to changing industry dynamics such as increasing social risk, new legislation, and litigation. https://tinyurl.com/DefaultRiskRising **19. healthleaders** December 7, 2022 *Will Healthcare Be Able to Handle the Silver Tsunami in 2030?* KEY TAKEAWAYS

	• Going forward, it's important that the industry invest in a better infrastructure to support nursing facilities and older adults. • The pandemic introduced home care as an option for receiving care and has since increased in popularity. • While additional regulations and accountability measures are well intended measures, they won't be successful unless the people following them have the proper support. It's predicted by 2030 that senior citizens will make up 20% of the nation's population. In a 2018 press release for its 2017 National Population Projections, the United States Census Bureau stated that, for the first time ever, there will be more older adults (over the age of 65) than children. . . When we say ''long-term care,'' what we think about is nursing homes, but I think long-term care starts by supporting folks to stay at home when they need that support. Supporting them by having caregivers that are trained, qualified, and well-compensated to take care of them at home in an affordable way. Many people cannot afford caregivers in the home. [We need to] create or support more long-term care insurance that is affordable to everybody, that is easily accessible, that is subsidized for those folks that we care for who don't have much of an income, and that will allow them to tap into this insurance if they need to stay at home. https://tinyurl.com/SilverTsunamiIn2030
Ageism	**20. National Center on Elder Law and Rights** December 2022 *Addressing Ageism and Promoting Elder Rights* December marks National Human Rights Month, a time to stand up for equity, justice, and the dignity of all humans. Legal assistance, elder rights, and aging and disability service providers engage in this work by providing services and supports to advance elder rights. Promoting and protecting elder rights is critically important in the face of pervasive ageism in society. Ageism threatens justice, personal choice, and even contributes to poor health outcomes. Ageism and other forms of structural discrimination also hurt older adults with intersecting marginalized identities, like older adults of color and older women. Person-directed approaches and collective action to advance equity can lead to better conditions and outcomes for everyone. This month, NCLER is sharing resources advocates can use to learn more about ending ageism and engaging in work that preserves the rights and dignity of older adults in this month and beyond. • National Center on Elder Abuse: Research Brief - Ageism • Old School: Anti-Ageism Clearinghouse • Frameworks Institute: Aging & Talking Elder Abuse Toolkits • NCLER: Advancing Equity for Older Adults Training Series • NCLER: Representing a Person with a Guardian • NCLER: Decision-Making Supports: The Role of the Supporter or Advocate • NCLER: Elder Justice Toolkit: Client Centered Advocacy
Aging Topics	**21.**
	*May require registration before accessing article.

Dignity Alliance Massachusetts Legislative Endorsements	Information about the legislative bills which have been endorsed by Dignity Alliance Massachusetts, including the text of the bills, can be viewed at: https://tinyurl.com/DignityLegislativeEndorsements Questions or comments can be directed to Legislative Work Group Chair Richard (Dick) Moore at rmoore8473@charter.net.
Websites	
Previously recommended websites	The comprehensive list of recommended websites has migrated to the Dignity Alliance MA website: https://dignityalliancema.org/resources/. Only new recommendations will be listed in *The Dignity Digest.*
Previously posted funding opportunities	For open funding opportunities previously posted in *The Tuesday Digest* please see https://dignityalliancema.org/funding-opportunities/.
Nursing Home Closures	• **Quincy Health and Rehabilitation Center LLC, Quincy** 126 beds; current census: 77 Owner: Waschusett Healthcare Star rating: 2 stars Target closure: December 7 • **Attleboro Healthcare, Attleboro** 120 beds Owner: Next Step Healthcare Star rating: Special Focus Facility Target closure: December 29 • **Dedham Healthcare, Dedham** 145 beds Owner: Next Step Healthcare Star rating: 1 star Target closure: December 29 • **Gloucester Healthcare, Gloucester** 101 beds Owner: Next Step Healthcare Star rating: 3 stars Target closure: December 30 • **Chetwynde Healthcare, West Newton** 75 beds Owner: Next Step Healthcare Star rating: 2 stars Target closure: December 30 **NOTE: Admission freezes have been initiated in all facilities with closure plans.** Closure Notices and Relocation Plans available at: https://tinyurl.com/MANursingHomeClosures
Pending nursing home change of ownership in Massachusetts	• Royal Health Cape Cod • Royal Health Cotuit • Royal Health Falmouth • Royal Health Megansett • Royal Health Meadow View – North Reading • Royal Health Wayland • Royal Wood Mill – Lawrence • Royal Health Fairhaven • Royal Health Braintree

<table>
<tr><td></td><td>• Royal Health Norwell
https://www.royalhealthgroup.com</td></tr>
<tr><td>Websites of Dignity Alliance Massachusetts Members</td><td>See: https://dignityalliancema.org/about/organizations/</td></tr>
<tr><td>Nursing homes with admission freezes</td><td>Massachusetts Department of Public Health
Temporary admissions freeze
On November 6, 2021 the state announced that it would require certain high risk nursing homes and rest homes to temporarily stop all new admissions to protect the health and safety of residents and prevent further COVID-19 transmission. Stopping admissions enables homes to focus resources such as staff and PPE on the health and safety of its current residents and enables the home to stabilize before taking on new residents. Homes that meet certain criteria will be required to stop any new admissions until the Department of Public Health has determined that conditions have improved, and the facility is ready to safely care for new residents. The Commonwealth will work closely with homes during this time and provide supports as needed to ensure resident health and safety. There are a number of reasons why a facility may be required to stop admissions, and the situation in each facility is different. Some of the factors the state uses to make this decision include:
• Number of new COVID-19 cases within the facility
• Staffing levels
• Failure to report a lack of adequate PPE, supplies, or staff
• Infection control survey results
• Surveillance testing non-compliance
Facilities are required to notify residents' designated family members and/or representative when the facility is subject to an admissions freeze. In addition, a list of facilities that are currently required to stop new admissions and the reason for this admissions freeze will be updated on Friday afternoons, and as needed when the Department of Public of Health determines a facility can be removed from the list.
Updated on December 8, 2022. Red font – newly added
<table>
<tr><th>Name of Facility</th><th>City/Town</th><th>Date of Freeze</th><th>Qualifying Factor</th></tr>
<tr><td>Attleboro Healthcare</td><td>Attleboro</td><td>8/31/2022</td><td>Closure notice</td></tr>
<tr><td>Cape Heritage Rehab and Health Cen.</td><td>Sandwich</td><td>10/26/2022</td><td>Infection Control</td></tr>
<tr><td>Charwell House Health and Rehabilitation</td><td>Norwood</td><td>9/14/2022</td><td>Infection Control</td></tr>
<tr><td>Chetwynde</td><td>West Newton</td><td>9/1/2022</td><td>Closure notice</td></tr>
<tr><td>Dedham Healthcare</td><td>Dedham</td><td>7/6/2022</td><td>Closure notice</td></tr>
<tr><td>Gloucester Healthcare</td><td>Gloucester</td><td>9/1/2022</td><td>Closure notice</td></tr>
<tr><td>Quincy Health and Rehabilitation Center LLC, Quincy</td><td>Quincy</td><td>8/10/2022</td><td>Closure notice</td></tr>
</table></td></tr>
<tr><td>List of Special Focus Facilities</td><td>Centers for Medicare and Medicaid Services
List of Special Focus Facilities and Candidates
https://tinyurl.com/SpeciialFocusFacilityProgram
Updated October 26, 2022
CMS has published a new list of Special Focus Facilities (SFF). SFFs are nursing homes with serious quality issues based on a calculation of deficiencies cited during inspections and the scope and severity level of those citations. CMS</td></tr>
</table>

publicly discloses the names of the facilities chosen to participate in this program and candidate nursing homes.

To be considered for the SFF program, a facility must have a history (at least 3 years) of serious quality issues. These nursing facilities generally have more deficiencies than the average facility, and more serious problems such as harm or injury to residents. Special Focus Facilities have more frequent surveys and are subject to progressive enforcement until it either graduates from the program or is terminated from Medicare and/or Medicaid.

This is important information for consumers – particularly as they consider a nursing home.

What can advocates do with this information?

- Include the list of facilities in your area/state when providing information to consumers who are looking for a nursing home. Include an explanation of the SFF program and the candidate list.
- Post the list on your program's/organization's website (along with the explanation noted above).
- Encourage current residents and families to check the list to see if their facility is included.
- Urge residents and families in a candidate facility to ask the administrator what is being done to improve care.
- Suggest that resident and family councils invite the administrator to a council meeting to talk about what the facility is doing to improve care, ask for ongoing updates, and share any council concerns.
- For long-term care ombudsmen representatives: Meet with the administrator to discuss what the facility is doing to address problems and share any resources that might be helpful.

Massachusetts facilities listed (updated July 27, 2022)

Newly added to the listing

- None

Massachusetts facilities not improved

- Attleboro Healthcare, Attleboro
  https://tinyurl.com/AttleboroHealthcare

Massachusetts facilities which showed improvement

- Marlborough Hills Rehabilitation and Health Care Center, Marlborough
  https://tinyurl.com/MarlboroughHills

Massachusetts facilities which have graduated from the program

- Oxford Manor, Haverhill
- Worcester Health Center, Worcester

Massachusetts facilities that are candidates for listing

- Charwell House Health and Rehabilitation, Norwood
  https://tinyurl.com/Charwell
  Nursing home inspect information:
  https://projects.propublica.org/nursing-homes/homes/h-225208
- Medway Country Manor Skilled Nursing and Rehabilitation, Medway
  https://www.medwaymanor.com/
  Nursing home inspect information:
  https://projects.propublica.org/nursing-homes/homes/h-225412
- Mill Town Health and Rehabilitation, Amesbury
  No website
  Nursing home inspect information:

	https://projects.propublica.org/nursing-homes/homes/h-225318 • Plymouth Rehabilitation and Health Care Center https://plymouthrehab.com/ Nursing home inspect information: https://projects.propublica.org/nursing-homes/homes/h-225207 • Savoy Nursing and Rehabilitation Center, New Bedford No website Nursing home inspect information: https://projects.propublica.org/nursing-homes/homes/h-225423 • South Dennis Healthcare, South Dennis https://www.nextstephc.com/southdennis Nursing home inspect information: https://projects.propublica.org/nursing-homes/homes/h-225320 • Tremont Health Care Center, Wareham https://thetremontrehabcare.com/ Nursing home inspect information: https://projects.propublica.org/nursing-homes/homes/h-225488 • Vantage at Wilbraham No website Nursing home inspect information: https://projects.propublica.org/nursing-homes/homes/h-225295 • Vantage at South Hadley No website Nursing home inspect information: https://projects.propublica.org/nursing-homes/homes/h-225757 • Watertown Rehabilitation and Nursing Center, Watertown (added in June) No website Nursing home inspect information: https://projects.propublica.org/nursing-homes/homes/h-225425 https://tinyurl.com/SpeciialFocusFacilityProgram
Nursing Home Inspect	**ProPublica** ***Nursing Home Inspect*** Data updated November 2022 This app uses data from the U.S. Centers for Medicare and Medicaid Services. Fines are listed for the past three years if a home has made partial or full payment (fines under appeal are not included). Information on deficiencies comes from a home's last three inspection cycles, or roughly three years in total. The number of COVID-19 cases is since May 8, 2020, when homes were required to begin reporting this information to the federal government (some homes may have included data on earlier cases). Massachusetts listing: https://projects.propublica.org/nursing-homes/state/MA **Deficiencies By Severity in Massachusetts** (What do the severity ratings mean?) # reported Deficiency Tag 250 **B** 82 **C** 7,056 **D** 1,850 **E** 546 **F**

	487 G 31 H 1 I 40 J 7 K 2 L
Nursing Home Compare	**Centers for Medicare and Medicaid Services (CMS)** *Nursing Home Compare Website* Beginning January 26, 2022, the Centers for Medicare and Medicaid Services (CMS) is posting new information on the that will help consumers have a better understanding of certain staffing information and concerns at facilities. This information will be posted for each facility and includes: • **Staff turnover:** The percentage of nursing staff as well as the number of administrators who have stopped working at a nursing home over the past 12-month period. • **Weekend staff**: The level of weekend staffing for nurses and registered nurses at a nursing home over a three-month period. Posting of this information was required as part of the Affordable Care Act, which was passed in 2010. In many facilities, staffing is lower on weekends, often meaning residents have to wait longer or may not receive all the care they need. High turnover means that staff are less likely to know the residents, recognize changes in condition, or implement preferred methods of providing care. All of this contributes to the quality-of-care residents receive and their quality of life. https://tinyurl.com/NursingHomeCompareWebsite
Data on Ownership of Nursing Homes	**Centers for Medicare and Medicaid Services** *Data on Ownership of Nursing Homes* CMS has released data giving state licensing officials, state and federal law enforcement, researchers, and the public an enhanced ability to identify common owners of nursing homes across nursing home locations. This information can be linked to other data sources to identify the performance of facilities under common ownership, such as owners affiliated with multiple nursing homes with a record of poor performance. The data is available on nursing home ownership will be posted to data.cms.gov and updated monthly.
Long-Term Care Facilities Specific COVID-19 Data	**Massachusetts Department of Public Health** *Long-Term Care Facilities Specific COVID-19 Data* *Coronavirus Disease 2019 (COVID-19) reports related to long-term care facilities in Massachusetts.* **Table of Contents** • COVID-19 Daily Dashboard • COVID-19 Weekly Public Health Report • Additional COVID-19 Data • CMS COVID-19 Nursing Home Data

<table>
<tr><td>DignityMA Call to Action</td><td colspan="3">

The MA Senate released a report in response to COVID-19. Download the DignityMA Response to Reimagining the Future of MA.
Advocate for state bills that advance the Dignity Alliance Massachusetts' Mission and Goals – State Legislative Endorsements.
Support relevant bills in Washington – Federal Legislative Endorsements.
Join our Work Groups.
Learn to use and leverage Social Media at our workshops: Engaging Everyone: Creating Accessible, Powerful Social Media Content

</td></tr>
<tr><td>Access to Dignity Alliance social media</td><td colspan="3">Email: info@DignityAllianceMA.org
Facebook: https://www.facebook.com/DignityAllianceMA/
Instagram: https://www.instagram.com/dignityalliance/
LinkedIn: https://www.linkedin.com/company/dignity-alliance-massachusetts
Twitter: https://twitter.com/dignity_ma?s=21
Website: www.DignityAllianceMA.org</td></tr>
<tr><td>Participation opportunities with Dignity Alliance Massachusetts

Most workgroups meet bi-weekly via Zoom.

Please contact workgroup lead for more information</td><td colspan="3">
<table>
<tr><th>Workgroup</th><th>Workgroup lead</th><th>Email</th></tr>
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<tr><td>Housing</td><td>Bill Henning</td><td>bhenning@bostoncil.org</td></tr>
<tr><td>Legislative</td><td>Richard Moore</td><td>rmoore8743@charter.net</td></tr>
<tr><td>Legal Issues</td><td>Jeni Kaplan</td><td>jkaplan@cpr-ma.org</td></tr>
<tr><td>Veteran Services</td><td>James Lomastro</td><td>jimlomastro@comcast.net</td></tr>
</table>
</td></tr>
<tr><td>The Dignity Digest</td><td colspan="3">For a free weekly subscription to The Dignity Digest:
https://dignityalliancema.org/contact/sign-up-for-emails/
Editor: Paul Lanzikos
Primary contributor: Sandy Novack
MailChimp Specialist: Sue Rorke</td></tr>
<tr><td>Note of thanks</td><td colspan="3">Thanks to the contributors to this issue of The Dignity Digest

Marianne DiBlasi
Dick Moore

Special thanks to the MetroWest Center for Independent Living for assistance with the website and MailChimp versions of The Dignity Digest.
If you have submissions for inclusion in The Dignity Digest or have questions or comments, please submit them to paul.lanzikos@gmail.com.</td></tr>
<tr><td colspan="4">Dignity Alliance Massachusetts is a broad-based coalition of organizations and individuals pursuing fundamental changes in the provision of long-term services, support, and care for older adults and persons with disabilities.
Our guiding principle is the assurance of dignity for those receiving the services as well as for those providing them.
The information presented in "The Dignity Digest" is obtained from publicly available sources and does not necessarily represent positions held by Dignity Alliance Massachusetts.</td></tr>
</table>

Previous issues of The Tuesday Digest and *The Dignity Digest are available at: https://dignityalliancema.org/dignity-digest/*
For more information about Dignity Alliance Massachusetts, please visit www.DignityAllianceMA.org.