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Ethical Issues in Long-term Care: A Human Rights Perspective

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Abstract Nursing home residents do not relinquish human rights just because they need care. In nursing homes in the USA, federal law guarantees certain rights to residents. This article provides a broader context for understanding the federal resident rights in the USA by examining them within the context of the United Nations Universal Declaration of Human Rights and the National Association of Social Workers Code of Ethics. In the USA, resident, family, and staff education of resident rights is typically the social worker's responsibility. Two challenges, both of which can lead to ethical dilemmas and human rights violations, are discussed: substance use and resident-to-resident aggressive behavior. Social workers have an important role in developing sound organizational policies which support resident rights and in educating and supporting staff, families, and residents in understanding these rights with the intention of preventing conflicts when possible and addressing conflicts when necessary. Because many long-term nursing home residents will spend their remaining months or years within the nursing home, the home becomes their world where their rights should be respected and realized.

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Introduction

Worldwide, the majority of older adults live independently or with minimal assistance in the community as they have for decades. That said, it is also true that the need for assistance increases with advancing age. Many (but not all) adults over the age of 80 require assistance in performing daily activities due to increased frailty associated with physical or cognitive changes. The United Nations projects that the number of persons age 80 and older worldwide will increase from 125 million in 2015 to 434 million in 2050 (United Nations 2016). Throughout the world, when older adults require assistance in daily living, in most cases, families (generally women) respond to meet these needs, often with the assistance of neighbors, friends, or local organizations, if available. In more industrialized countries, when older adults need more assistance than is available through their family, some turn to nursing homes.

The focus of this article is the rights of people who live in nursing homes in the USA. Through the lens of human rights, resident rights, and ethical principles, we examine two common issues in nursing homes: substance use and resident-to-resident aggression. Each threatens the rights and the quality of life of residents. After describing characteristics of nursing homes and nursing home residents in the USA, we discuss the federal nursing home resident rights and the NASW Code of Ethics before connecting these two documents to the UN Universal Declaration of Human Rights. The second part of the paper examines the two issues by linking them to principles that can assist social workers in addressing these and other challenging issues.

Nursing Homes in the USA

The definition of a nursing home varies from country to country. In the USA, the federal government uses the term "nursing facility" to refer to organizations that provide long-term custodial care that goes beyond room and board and uses the term "skilled nursing facility" to refer to nursing facilities that also provide skilled nursing and rehabilitative services, generally on a short-term basis (Social Security Administration 2017). Most facilities in the USA provide both long-term and skilled nursing care services. There are over 15,000 nursing homes in the USA, and over 95% are certified to receive government funding through the Medicare and/or Medicaid programs for the services they provide to residents. Medicare is health insurance for persons, who are entitled to social security payments and have reached age 65 or are disabled, and pays towards the cost of short-term rehabilitative care. Medicaid is a means-tested social program that helps pay for the cost of long-term care. Most people cannot afford the high cost of nursing home care—estimated in 2015 to be about $91,250 per year (Genworth 2015)—and eventually turn to the Medicaid program for public assistance. Medicaid is the largest payer towards long-term care costs in the USA (Reaves & Musumeci 2015).

Seventy percent of nursing homes are for-profit businesses and 6% are government owned; the remaining 24% are not-for-profit organizations (CMS 2015). Nearly half (44%) of the nursing homes in the USA have fewer than 100 beds (CMS 2015). This is particularly relevant because only nursing homes with more than 120 beds are required to employ a full-time social worker (CFR 2017, Title 42, part 483), although most nursing homes, even those with fewer than 120 beds, currently do hire at least one social worker (Bern-Klug et al. 2009; NCHS 2015). Unlike all other health care settings that receive federal funds, according to federal regulations, nursing homes can hire people without a social work degree to serve as the facility's social worker, although some states do require a social work degree for this position (Bern-Klug 2008). Half the nursing home social services directors in the country have earned a degree in social work (Bern-Klug et al. 2009). Nursing homes are challenged to recruit and retain staff members at all levels. The median annual turn-over rate for direct care staff and for registered nurses in 2012 was 50% (American Health Care Association 2013). There are no comparable data on social work turn-over.

Although the percentage of older Americans who reside in a nursing home on any given day continues to decline, in 2014, there were 1.4 million people living in a nursing home. While the age structure of nursing home residents continues to be dominated by people over the age of 75, who account for 68% of all residents, the number of persons younger than age 65 continues to increase slightly and is now 15.5%. People age 95 and older comprised 8% of all residents in 2014 (CMS 2015).

Two thirds of nursing home residents were women, and the race and ethnicity of the vast majority of residents (78%) were classified as non-Hispanic White (CMS 2015). The functional status and daily needs of residents vary widely. While about 20% have no limitations in activities of daily living, two thirds have four or more Activities of Daily Living (ADL) limitations (CMS 2015). Cognitive impairment is common among nursing home residents. One quarter of residents have moderate cognitive impairment and 36% are severely cognitively impaired. In other words, 61% of US nursing home residents have moderate or severe cognitive impairment (CMS 2015).

In addition to adjusting to the loss of physical and cognitive function, residents must adjust to other losses such as the loss of privacy and loss of former social relationships. Some residents also experience discrimination on the basis of their age (ageism), their sex (sexism), their disability (ableism), their sexual identity (heterosexism), and/or their religious or ethnic status. The concept of "intersectionality" takes into account the ways in which one person who belongs to multiple marginalized groups may experience compounded discrimination (Crenshaw 1993), which is a violation of federal resident rights and human rights. Social workers should take an active role in working with fellow staff members to assess organizational policies and procedures that may be inadvertently perpetuating discriminatory treatment of residents, especially those from marginalized groups.

Federal Nursing Home Resident Rights

In the USA, nursing homes are regulated by a combination of federal and state laws which provide nursing home residents with rights and protections. The Nursing Home Reform Act of 1987 specified that Medicare and/or Medicaid certified nursing homes must protect and promote residents' rights. Examples of protected rights include the right to be treated with respect, to participate in activities, to be free from discrimination, to be free from abuse and neglect, to have access to proper medical care, and to access to social services (*See* Table 1). In many nursing homes, the responsibility for educating residents, families, and staff about resident rights is a core responsibility of the social worker.

The National Association of Social Workers Code of Ethics

Social work practice in the USA is guided by the National Association of Social Workers (NASW) Code of Ethics. This code includes guidance and expectations for how social workers should conduct themselves towards clients, colleagues, employers, the social work profession, and to the broader society. A key point in the Code of Ethics is the framework that "the mission of the social work profession is to enhance human well-being and help meet the basic human

needs of all people, with attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty" (NASW 2008). Nursing home residents are considered physically, cognitively, and often socially vulnerable, because of diminished physical and/or cognitive capacity. The Code of Ethics consists of broad ethical principles (*See* Table 1) that are "based on social work's core values of service, social justice, dignity and worth of the person, importance of human relationships, integrity, and competence" (NASW 2008). Ethical standards further define these principles as they relate to different areas of social work practice. Ethical standards are featured on Table 1, relevant examples include supporting client self-determination, appreciating cultural competency and social diversity, avoiding derogatory language, taking reasonable safeguards when acting on behalf of clients who lack decisional capacity, reporting unethical and incompetent behavior of colleagues, and addressing personal problems such as psychosocial distress, legal problems, substance abuse, or mental health difficulties that interfere with job performance (NASW 2008).

It is important to underscore that not all social work challenges are ethical issues; some are uncomfortable or complicated interpersonally, or involve a high degree of conflict, but do not involve any of the standards. On the other hand, social workers often encounter situations in which more than one ethical standard applies and in some cases, the potential remedies are at odds; these situations are ethical dilemmas. Sometimes the solution involves choosing the least harmful of several less than optimal outcomes. The NASW Code of Ethics does not prioritize elements of the Code. The Code "cannot resolve all ethical issues or disputes or capture the richness and complexity involved in striving to make responsible choices within a moral community. Rather, a code of ethics sets forth values, ethical principles, and ethical standards to which professionals aspire and by which their actions can be judged" (NASW 2008).

Human rights author and social worker, Elisabeth Reichert (2003), commenting on the NASW Code of Ethics, observed that in the USA, social workers seem to be more focused on social justice than on human rights. She encourages US social workers to embrace a human rights approach because "human rights encompass a more comprehensive set of guidelines for the social work profession" (p. 7).

Human Rights and the United Nations

Human rights are "norms that help to protect all people everywhere from severe political, legal, and social abuses" (Nickel 2014, p. 1). In the *Stanford Encyclopedia of Philosophy*, Nickel (2014) identifies four defining features of human rights: (1) human rights are rights which impose a duty on others to respect; (2) human rights are plural and people or nations should not pick and choose among the rights to be honored; all human rights are important; (3) human rights are universal and apply to all persons; and (4) human rights have high priority and (in most cases) their violation represents a grave injustice. One of the most frequently cited collection of human rights comes from the United Nations.

The United Nations was founded in 1945 at the conclusion of World War II by 51 member nations who wanted to unify to prevent the atrocities that occurred during wartime by "developing friendly relations among nations and promoting social progress, better living standards, and human rights (United Nations, 2015)." The following quote is from a United Nations Educational, Scientific, and Cultural Organization (UNESCO) resource:

> Human beings are born equal in dignity and rights. These are moral claims that are inalienable and inherent in all human individuals by virtue of their humanity alone. These claims are articulated and formulated in what today we call human rights, and have been translated into legal rights, established according to the law-creating processes of societies, both on the national and international level. The basis of these legal rights is the consent of the governed, that is the consent of the subjects of the rights (Levin 2012, page 19).

The Universal Declaration of Human Rights of the United Nations defines human rights practices agreed upon by member nations. The Universal Declaration of Human Rights was adopted by this body in 1948 to establish the foundations for acceptable practices to promote peace and security. The preamble of the Declaration outlines the basic principle as respecting the "inherent dignity and of the equal and inalienable rights of all members of the human family [as] the foundation of freedom, justice, and peace in the world" (United Nations 1948).

The Declaration consists of 30 articles that establish parameters for social and human rights to which all people should be entitled. As a member nation of the United Nations, social workers in the USA should be concerned with upholding these principles in their practices, including in nursing homes. While many of these relate to government's responsibility to an individual, "reframing a social problem like domestic violence, poverty, or discrimination into a human rights issue also creates an international context in which to combat the social problems (Reichert 2011, p. 218)."

In order for the UN Universal Declaration of Human Rights to be more than a list of aspirations, countries must commit to accepting and enforcing them. One way to do so is to incorporate them into laws. In the USA, the Social Security Act is a law that includes language about the rights of nursing home residents and other responsibilities of nursing homes that wish to receive payments through Medicare health insurance (Title 18 of the Social Security Act) for older adults

Table 1 US federal government nursing home resident rights, National Association of Social Workers (NASW) ethical principles, and the United Nations Universal Declaration of Human Rights

Federal resident rights	NASW ethical principles	United Nations Universal Declaration of Human Rights
Right to be treated with dignity	Dignity and worth of the person: *Social workers respect the inherent dignity and worth of the person.*	Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
Freedom from discrimination	Social justice: *Social workers challenge social injustice.*	Article 2. Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional, or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing, or under any other limitation of sovereignty.
Right to participate in activities	Integrity: *Social workers behave in a trustworthy manner.*	Article 3. Everyone has the right to life, liberty, and security of person
Freedom from abuse and neglect	Importance of human relationships: *Social workers recognize the central importance of human relationships.*	Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.
Freedom from restraints (physical and chemical)	*Service: Social workers' primary goal is to help people in need and to address social problems.*	Article 5. No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.
Right to make complaints	Competence: *Social workers practice within their areas of competence and develop and enhance their professional expertise.*	Article 6. Everyone has the right to recognition everywhere as a person before the law.
Right to proper medical care		Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.
Right to have your representatives notified (physician, legal representative, or family member)		Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.
Right to information about services and fees		Article 9. No one shall be subjected to arbitrary arrest, detention, or exile.
Right to manage your money		Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.
Right to privacy, personal property safety, and notification of roommate changes		Article 11. 1. Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense. 2. No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offense was committed
Right to form or participate in resident groups		Article 12. No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Table 1 (continued)

Federal resident rights	NASW ethical principles	United Nations Universal Declaration of Human Rights
Right to leave the nursing home for visits or to move out		Article 13. 1. Everyone has the right to freedom of movement and residence within the borders of each State. 2. Everyone has the right to leave any country, including his own, and to return to his country.
Freedom from unfair transfer or discharge from the facility		Article 14. 1. Everyone has the right to seek and to enjoy in other countries asylum from persecution. 2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.
Right to social services		Article 15. 1. Everyone has the right to a nationality. 2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality
Right to spend time with visitors, privately if desired, at any time (as long as it does not interfere with the care and rights of others)		Article 16. 1. Men and women of full age, without any limitation due to race, nationality, or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage, and at its dissolution. 2. Marriage shall be entered into only with the free and full consent of the intending spouses. 3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.
Right to have your family and friends involved		Article 17. 1. Everyone has the right to own property alone as well as in association with others. 2. No one shall be arbitrarily deprived of his property.
		Article 18. Everyone has the right to freedom of thought, conscience, and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship, and observance.
		Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.
		Article 20. 1. Everyone has the right to freedom of peaceful assembly and association. 2. No one may be compelled to belong to an association.
		Article 21. 1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. 2. Everyone has the right to equal access to public service in his country. 3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures
		Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity, and the free development of his personality.

Table 1 (continued)

Federal resident rights	NASW ethical principles	United Nations Universal Declaration of Human Rights
		Article 23. 1. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment. 2. Everyone, without any discrimination, has the right to equal pay for equal work. 3. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. 4. Everyone has the right to form and to join trade unions for the protection of his interests.
		Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay
		Article 25. 1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control. 2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.
		Article 26. 1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit. 2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance, and friendship among all nations, racial, or religious groups and shall further the activities of the United Nations for the maintenance of peace. 3. Parents have a prior right to choose the kind of education that shall be given to their children.
		Article 27. 1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts, and to share in scientific advancement and its benefits. 2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which he is the author.
		Article 29. 1. Everyone has duties to the community in which alone the free and full development of his personality is possible. 2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order, and the general welfare in a democratic society. 3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Table 1 (continued)

Federal resident rights	NASW ethical principles	United Nations Universal Declaration of Human Rights
		Article 30. Nothing in this Declaration may be interpreted as implying for any state, group, or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.
Source: https://downloads.cms.gov/medicare/Your_Resident_Rights_and_Protections_section.pdf	Source: http://socialworkers.org/pubs/code/code.asp	Source: http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

and persons with disabilities and Medicaid (Title 19) for persons who have limited financial resources to access health care. Because many long-term nursing home residents spend their last months or years of their lives within the nursing home, the home becomes their world. If they are to experience human rights, they will do so within the context of the nursing home setting.

Human Rights Issue 1: Substance Use and Abuse Among Staff and Families

The first issue we will explore within the context of resident rights, human rights, and the NASW Code of Ethics is substance use and abuse among nursing home staff and the families of nursing home residents. Protected Human Rights include provisions in the social, civil, cultural, economic, and political domains (Office of the United Nations High Commissioner for Human Rights 2008). Despite this, examinations of human rights violations typically focus on violations of civil and political rights by governments and in war times and exclude consideration of social, economic, and cultural rights. The United Nations declarations avow that governments must respect, protect, and fulfill all human rights. They define these terms as follows: Respect means to "refrain from interfering with the enjoyment of the right"; Protect means to "prevent others from interfering with the enjoyment of the right"; and Fulfill means to "adopt appropriate measures towards the full realization of the right (Office of the United Nations High Commissioner for Human Rights 2008, pp. 11)."

As health care organizations that accept state and federal funds, nursing homes that accept Medicare and Medicaid are agents of the government and thus are also responsible to respect, protect, and fulfill human rights. The following section demonstrates how substance use by workers and family members in nursing homes fails to respect and protect the human rights of the individuals who reside in those settings.

Substance use that threatens the human rights of nursing home residents can take many forms. In this section, we will consider substance use and abuse among nursing home staff members and among those who visit nursing home residents, particularly family members. Substance use in this section will be used in a broad and encompassing way and refers to all substances with the potential to impair job performance or interpersonal interactions, such as alcohol, marijuana, cocaine, heroin, and prescription drugs used for other than intended purposes or by someone other than for whom they were prescribed.

Staff

Nurses and nursing assistants make up the largest group of employees in nursing homes and the ones with the most patient contact. Nurses are not the only ones in a long-term care setting that could have a substance use problem; however, most research has addressed the nursing staff population because of their central role in patient care. Substance abuse among nurses has long been recognized as a significant problem. It was addressed by the American Nurses' Association starting in the 1980's. They recognized that impaired functioning among nurses from alcohol or drug misuse had the potential to interfere with professional judgment and the delivery of safe and quality care (West 2002).

The Universal Declaration of Human Rights states "Everyone has the right to life, liberty, and security of person" (United Nations 1948). Being cared for by a staff member with a substance use problem puts this human right in jeopardy. A resident whose nurse is working under the influence is at increased risk for receiving unsafe care and medication errors. There is also an increased risk of elder abuse associated with caregivers' substance abuse (National Center on Elder Abuse 2005). If the drugs are procured from the workplace, there is the additional threat that patients are being under medicated or that administration records are being falsified to cover the missing medications (Kunyk & Austin 2012).

Nurses have many risk factors for the development of substance use problems and many of those risk factors are structural barriers that put nurses with increased potential for having their own human rights violated. Human rights violations include the risk for attack or injury during work both through interpersonal violence and the physical demands of the work, which may be magnified by overwork from double shifts,

short staffing, and scheduling difficulties. In 2001, the US Department of Justice found that the average non-fatal violent crime rate for nurses was nearly double that for all other occupations, 21.9 per 1000 nurses and 12.6 per 1000 other workers, respectively. Nurses or nursing assistants received 48% of all non-fatal violent workplace injuries (Strickler, 2013). These numbers do not include injuries related to caregiving, such as back and neck injuries from lifting patients. Having their human rights violated increases nurses' risks of developing substance use disorders. Individual level factors such as low self-esteem, depression, self-centeredness, parental drinking, shyness, physical illnesses, dependent personality, and learning problems exacerbate these risks (West 2002).

Staff members who know about the substance abuse problem of a co-worker may be reluctant to report that issue because they believe the individual may lose his or her job (Kunyk & Austin 2012). The issue of job and licensure loss is complicated. The National Nurses Society on Addictions (NNSA) and the American Nurses Association (ANA) have recommended that state nursing boards adopt non-punitive, rehabilitative approaches for nurses with addictions, yet some state boards are reluctant to take this approach due to their duty to protect the public (Monroe et al. 2008). Unfortunately, there are real dangers to patients when a nurse or other staff member operates under the influence. In taking a human rights approach, the rights of both should be protected and the rights of residents are not protected by staying silent.

The NASW Code of Ethics establishes responsibilities that the social worker has to colleagues. In cases where social workers have direct knowledge of a colleague misusing substances in a way that interferes with competent practice, the social worker should first consider the feasibility of addressing the concern with the colleague directly and assisting the colleague in taking remedial action (NASW 2008). "This is an important first step-in some situations, the colleague may have a reasonable explanation for the behavior in question (Elpers & Murray, 2017 page 6)." If the colleague continues to practice while impaired, the social worker should use appropriate organizational and licensing channels to address the problem. If the social worker is the employee with a substance abuse issue, he or she should "seek immediate consultation and take appropriate remedial action by seeking professional help, adjusting in workload, terminating practice, or taking any other steps necessary to protect clients and others (Elpers & Murray, 2017, page 6)."

Family Visitors

Substance use and abuse among family members who visit the nursing home also increases a nursing home resident's risk of having their resident and human rights violated. There are several tenets of human rights relevant here. The first relevant human rights principle is that all human beings are born free and equal in dignity and rights and are endowed with reason and conscience and should act towards one another in a spirit of brotherhood (United Nations 1948). When a family member arrives at a nursing home intoxicated, the resident's dignity may be violated. What would have been a private matter when the resident was in the community becomes visible to other residents and caregivers. A case of this occurred when Mrs. Green's son arrived late at night, smelling like alcohol, asking to see his mother. The staff member who answered the door was reluctant to let him in, but his behavior seemed well-controlled, maybe a little loud for the hour, but otherwise appropriate. Following facility policy, she admitted Mrs. Green's son and asked him to wait in the lobby while she spoke to his mother, as both his mother and her roommate were in bed. Mrs. Green really did not want to visit with her son at that hour, but knowing his problems with alcohol use, feared that if she did not, her son would become loud and belligerent with staff and potentially wake other residents. In this case, Mrs. Green made a choice to visit with her son and acted towards him in brotherhood. But were her human rights protected? She was forced by circumstances to make a less-than-free choice to protect her own dignity. What else could the staff member have done?

If the intoxicated visitor is behaving inappropriately or disruptively, staff members are put into the position of potentially having to restrict visitation to protect the safety of the resident being visited, roommates, and other residents. In this way, staff is able to protect residents' human right to "life, liberty, and security of person (United Nations 1948)." However, the criteria staff use must be clear to avoid violating the human right that says, "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation (United Nations 1948)." This gray area between ensuring safety and interfering inappropriately is difficult to negotiate.

The protection of safety extends to the very substances used by visitors and residents with substance use problems. Visitors are the most common source of illicit substances including alcohol and medications for nursing home residents (Stefanacci, Lester, Kohen, & Feuerman, 2009). Since nursing homes are tasked with ensuring safety of residents, they must be aware of any substances brought into the home. Some states provide clear criteria to permit facilities to restrict visitation by visitors who are disruptive or who bring drugs, drug paraphernalia, and weapons to the facility (Benner 2004), but many do not. Even with support from state regulation, restricting visitation can still result in human rights violations. As was stated earlier, human rights were outlined by the United Nations to protect individuals from, among other things, legal abuses. The Declaration specifically states that everyone is entitled to all the rights and freedoms set forth without distinction of any kind (United Nations 1948).

Human Rights Issue 2: Resident-to-resident Aggression and Other Antagonistic Behaviors

The second issue we will explore in the context of resident rights, human rights, and the NASW Code of Ethics is the issue of aggression and conflict between nursing home residents. Resident rights and human rights issues can arise in nursing home residents' interactions with one another and staff members' responses to those interactions. Although resident interactions may be supportive and comforting (Bonifas et al. 2014), much of the literature focuses on negative exchanges such as resident-to-resident aggression (Bonifas 2015; Rosen et al. 2007; Rosen et al. 2008; Shinoda-Tagawa et al. 2004) and other antagonistic behaviors including peer bullying (Bonifas 2016). This section will address ethical dilemmas associated with balancing the human rights of both aggressors and the recipients of aggression in long-term care facilities. First, definitions and examples of the types of aggressive interactions discussed in this section are presented to provide a context for the reader, followed by examples that illustrate dilemmas and possible solutions.

Resident-to-resident aggression is defined as "negative and aggressive physical, sexual, or verbal interactions between long-term care residents that in a community setting would likely be construed as unwelcome and have high potential to cause physical or psychological distress in the recipient" (Rosen et al. 2007, p. 78). Examples of such behaviors include hitting, kicking, pinching, individually directed use of profanity, and unwanted intimate touch. Peer bullying is a specific form of resident-to-resident aggression that includes "intentional repetitive aggressive behavior involving an imbalance of power or strength (Hazelden Foundation 2011, p. 1)" as well as the experience of "persistent negative interpersonal behavior (Rayner & Keashly 2005, p. 271)" that is directed at a specific individual or a group of individuals. Peer bullying among older adults does not typically involve physical aggression. The most common type of victimization among older adults is relational aggression (Trompetter et al. 2011), defined as non-physical aggression intended to hinder the formation of peer relationships and social connections (Hawker & Boulton 2000). Such behaviors include gossiping, name-calling, excluding, and shunning. Individuals who engage in relational aggression tend to be cognitively intact and struggling with loss of social identity (Bonifas 2016); whereas non-relational aggression tends to occur in the context of dementia, often in response to a perceived threat (Lachs et al. 2007).

Both physical aggression and relational aggression contribute to negative outcomes for the recipient. The targets of peer bullying report experiencing more social isolation, increased anxiety, and exacerbation of existing mental health conditions (Bonifas 2016). Physical aggression contributes to physical injury such as fractures (Shinoda-Tagawa et al. 2004), functional decline, depression, anxiety (Rosen et al. 2007), and post-traumatic stress disorder (Burgess et al. 2005). However, it is easy to overlook that aggressors can also experience negative outcomes. For example, they may not be able to live in their facility of choice (Teaster et al. 2007) or may receive high doses of psychotropic medication with detrimental effects such as over-sedation (Malone et al. 1993). Striving to strike a balance between residents on each side of the negative interaction creates human rights related ethical dilemmas in nursing home settings, as described below. Incidents involving physical aggression are addressed first.

Physical Aggression

The Universal Declaration of Human Rights indicates that everyone has the right to life, liberty, and security of person. Similarly, the NASW Code of Ethics requires social workers to respect the inherent dignity and worth of all persons. Living in an environment where physical aggression occurs jeopardizes these rights. In conjunction with both the Declaration and the Code of Ethics, federal nursing home regulations stipulate that facility staff must work diligently to prevent residents from experiencing any type of abuse, including physical aggression by other residents (Centers for Medicare and Medicaid Services (CMS) 2016). Thus, it would appear straightforward that the rights of the recipients of aggression have preeminence over the rights of aggressor.

However, the nursing home also has a responsibility to protect the rights of the aggressor. "Security of person" implies not being unnecessarily uprooted from one's living environment, and being treated with "dignity and worth" involves assessing and meeting underlying needs that contribute to aggressive behavior in persons with dementia who are also vulnerable. Balancing human rights from the perspectives of both aggressors and recipients of aggression can lead to ethical challenges; a case example may illustrate potential dilemmas more concretely. Consider the following real-life scenario:

> During a busy shift change on a nursing home special care unit for individuals with dementia that does not permit mobility equipment for safety reasons, Mr. Brown, a resident with a history of physical aggression, grabbed a cane leaning against the wall in his double room and held it down across his roommate's throat while the roommate was resting in bed. It was unclear how long the roommate was pinned that way when staff found them when change of shift tasks, which took place in an area that hindered resident supervision, were completed. Mr. Brown was discharged to a psychiatric facility shortly thereafter and not allowed readmission to the facility, an environment in which he had lived for two years and he would have preferred to remain.

The roommate in the above situation was understandably distressed and experienced psychological harm from the experience in the moment, suggesting immediate discharge of Mr. Brown was necessary to promote the roommate's safety and the safety of other residents on the unit. However, the roommate, who also had dementia, did not recall the incident the next day and did not appear distressed. It was difficult to determine if lasting harm occurred or if his emotional state would have been different if he had the visual cue of Mr. Brown's presence.

At the same time, emphasizing the other residents' right to safety may have contributed to neglect of Mr. Brown's human rights, especially those related to security of person, dignity, and worth. Federal regulations address this point. In addition to requiring facility staff to prevent resident abuse, they require a comprehensive assessment of problematic resident behaviors to determine associated triggers, identify potentially unmet needs, and provide appropriate least-restrictive interventions to minimize re-occurrence (CMS 2016). These requirements may not have been met in Mr. Brown's situation. Facility staff may have unknowingly contributed to his aggressive behavior, thus he lost his preferred home for posing a potentially avoidable safety risk.

Similarly, facility processes and procedures need to be evaluated for their contributions to rights violations. For example, on a unit that did not allow adaptive equipment, how did Mr. Brown have access to a cane to use as a weapon? Why were shift change tasks organized in such a way that staff were not able to effectively supervise residents' interactions? Did something rectifiable trigger Mr. Brown's behavior; did he feel threatened by his roommate in some way? Could the two men have been separated and Mr. Brown redirected with meaningful activity while room reassignments were arranged? Was there an underlying medical need contributing to his aggression that could have been identified and treated in the facility? Addressing such issues may lead to less restrictive strategies to better balance the safety needs of other residents with Mr. Brown's needs for environmental interventions to minimize behavioral symptoms.

However, a conundrum still exists. It is not always easy to identify factors triggering aggressive behavior and even when triggers are identified, it may take some trial and error to discover which interventions effectively prevent behaviors from reoccurring. In the meantime, the safety of other residents is at risk. This situation raises the question, how long and how many interventions must facility staff try before determining relocation is the best option? If it is difficult to identify effective interventions, how can we be sure that it is truly the acuity of the resident's underlying condition that is leading to physical aggression rather than facility staff's lack of knowledge of behavioral management? These questions highlight the complex ethical dilemmas that can arise in protecting all residents' human rights.

The NASW Code of Ethics stipulates that social workers be cognizant of their dual responsibility to clients and to the broader society and seek to resolve conflicts between clients' interests and the broader society's in a socially responsible manner. Residents who are aggressive towards peers *do* hinder the safety of others, but their aggressive behavior may be prevented through comprehensive assessment and individually tailored interventions. This requires effectively balancing human rights of all residents. Recently revised federal regulations strengthen requirements for staff training related to managing resident behaviors, especially those associated with dementia, and limit the potential for residents who are hospitalized, like Mr. Brown, to be denied readmission (The National Consumer Voice for Quality Long-term Care n.d.).

Relational Aggression

The Universal Declaration of Human Rights Article 19 states that "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers." Yet what are the implications of this right when long-term care residents' opinions and related sharing involves gossiping and spreading malicious rumors about one another, calling one another derogatory names, or making racial slurs or negative comments about another resident's sexual orientation? The NASW Code of Ethics provides further guidance, stating "social workers must respect the inherent dignity and worth of the person … [and] promote clients' socially responsible self-determination." The phrase *socially responsible self-determination* is key to addressing ethical dilemmas that arise in the context of relational aggression because gossiping, rumor spreading, naming calling, and other antagonistic behaviors are not socially responsible. Let us consider an example to better understand inherent issues.

> Throughout her life, Ms. Anderson has not been around many people of color and is uncomfortable with them, holding generalized negative views of individuals with darker skin. She was socialized by her parents not to associate with people from certain ethnic groups and feels that some communities of color are very different from her. She tells other residents that Ms. James, a woman with dark skin, is a thief and actively encourages them to exclude her from group activities. Staff witness several residents telling Ms. James she cannot play bingo with them because she might steal the prizes although Ms. James has never stolen anything.

In this scenario, Ms. James is being maligned and excluded from activity pursuits of interest based on her skin color. The treatment she is receiving results in a hostile and potentially

dangerous environment for her and is a violation of her human rights. Such statements cannot be tolerated because of the negative effect on Ms. James and on other residents who are witnesses. Typical responses to this situation might focus on engaging in advocacy on her behalf and providing emotional support, but how else could facility staff effectively protect her rights? One approach might be to set limits with Ms. Anderson, informing her that it is unacceptable to engage in rumor spreading or promote exclusion of individuals from certain groups. The care plan would include interventions to manage her intolerant behaviors. Although she has the right to her own opinion and values, she does not have the right to encourage discrimination against another resident.

Such an approach addresses the problem behaviors but it overlooks some of Ms. Anderson's underlying needs. The care plan could be strengthened to better promote her human rights by acknowledging her life history of not interacting with persons of color and thus being uncomfortable. While social workers who value diversity may find it difficult to appreciate such a stance, beginning where the client is, is crucial. Thus, including opportunities for her to share distressed feelings associated with living in an environment that is not entirely comfortable and having those concerns validated without judgment could help assure that Ms. Anderson's needs are also met. Such an intervention over time may result in less discomfort with ethnic differences and create opportunities as trust is built to include interventions that help her see similarities across diverse groups and cope more effectively with perceived differences.

Implications for Social Work Practice

Nursing homes are group settings providing care to vulnerable people, often under difficult circumstances. Difficulties can be related to inadequate resources including inadequate numbers of well-prepared staff at all levels of the facility. Difficulties can also arise between residents and families, staff and families, and residents and residents. These interpersonal challenges often involve the social worker. Having a firm grasp of resident rights within the broader context of human rights and having the benefit of the NASW Code of Ethics to inform social work conduct can enhance the social worker's ability to understand, assess, and address the challenges in ways that are respectful and fair. Nursing home social workers play an important role in educating residents, families, and fellow staff members about resident rights. By understanding the overlap between US federal resident rights and the broader UN human rights, social workers are better able to frame some of the challenges encountered by residents as human rights issues.

While it is essential for nursing home social workers to work with individual residents to advocate for the protection of their human rights, it is also critical that social workers strive to improve the resident experience by making improvements across multiple system levels. This can include working with groups of residents, families, and groups of families to establish new and evaluate existing organizational policies and procedures to support the human rights of all residents, with particular emphasis on the most vulnerable, those who are cognitively impaired, and those who are marginalized by society. Social workers with nursing home experience are also needed to advocate for laws that serve the needs of residents, families, and staff members.

New federal nursing home regulations were issued in Federal Register (2016) and are scheduled to be phased into practice over the next 5 years (Federal Register 2016). These new regulations support a more person-centered environment in nursing homes and call for additional staff training in areas such as trauma-informed care and cultural competence. These and other topics can be framed as human rights and resident rights issues, to underscore the inherent dignity of all residents. Professionally trained social workers can bring their knowledge of resident rights, human rights, and ethical decision-making, to other team members in the organization for the benefit of residents and the organization as a whole.

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