



SHOULD POT BE LEGALIZED?

California voters will face the question of whether to legalize recreational marijuana use in November. A look at the pros and cons of Proposition 64.

SECTION SD

The San Diego Union-Tribune

SUNDAY • JULY 17, 2016

SD

IN DEPTH

SUN DAY

SAN DIEGO NEWSMAKERS, IDEAS + OPINIONS



PERILOUS QUARTERS

CHARLIE NEUMAN U-T PHOTOS

State regulators are threatening to shut down the memory-care center Elmcroft of La Mesa based on inspectors' findings of significant troubles there.

Unclear guidelines for staffing levels at state's assisted-living and memory-care facilities putting patients at risk, advocates say

BY PAUL SISSON

Lack of staffing. Poor training. Inappropriate use of anti-psychotic medications. Regulators and advocates for the elderly said these problems have contributed to a string of sometimes deadly incidents at California's assisted-living facilities and memory-care centers, which house people with Alzheimer's disease or other forms of dementia. They believe the sites are often ill-equipped to manage the complex medical needs of their residents — an assertion the industry disputes.

Recent events at Elmcroft of La Mesa illustrate the longstanding concerns. State regulators are threatening to shut down the memory-care center based on inspectors' findings of significant troubles there.



A photo of Bill Wright is displayed at the El Cajon apartment of his wife, Nancy. Bill died at Elmcroft of La Mesa on Sept. 21, 2015.

FAMILY OBJECTS TO LOVED ONE'S CARE

SD3 • Bill Wright's family says Elmcroft of La Mesa didn't do enough to attend to the retired National City fire chief's needs.

The most severe incident reported at Elmcroft led to the death of 92-year-old Norma Desick, whose autopsy indicates that, amid lack of oversight, she was involved in a violent altercation with another dementia patient on Feb. 20, 2015. She died 16 days later in what the county medical examiner called a homicide.

The incident occurred just as 10 bills passed by the Legislature in late 2014 began taking effect. These laws specify higher fines, greater liability insurance and more training for the people who work in more than 7,500 assisted-living and memory-care centers across California.

By certain standards, it may be too soon to judge whether the measures are creating the intended effects — elevating quality of care and reducing unnecessary injuries and deaths in what are collectively known as residential-care facilities. SEE CARE • SD2

GOOD WEEK / BAD WEEK

Your Weekly News Score Card

GOOD WEEK

▼ **Home team:** San Diego throws one heck of an All-Star Game party, and local reps Wil Myers and Drew Pomeranz do the Padres proud. America's finest grand slam!



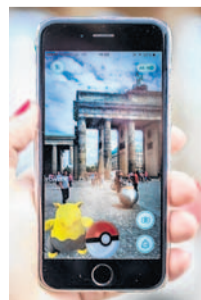
Memories: Ground is broken on Poway's memorial to Tony Gwynn, which will feature a 10-foot-tall bronze statue of Gwynn with his daughter. One giant deserves another.

Boss jocks: San Diego's Jeff (Detrow) and Jer (Jerry Cesak) are chosen as 2016 inductees into the National Radio Hall of Fame. The ceremony is Nov 17. We'll be all ears.

Tritons! The Center for World University Rankings names UC San Diego the 17th best university in the world. But how is it fixed for PokeStops?

POKEMON

► **Pokemon:** Nintendo's "Pokemon Go" smartphone game conquers the digital universe and gets gamers to venture outside. Next challenge? Looking up.



BAD WEEK

Safe havens: A national report finds that California leads the nation in violent crimes against the homeless by the non-homeless. San Diego

contributes one of 20 crimes nationwide.

Smart food: According to a new survey, 4 in 10 UC students lack a consistent source of nutritious food, and increased meal funding is on the way. Brains do not live on ramen alone.

Voters: The San Diego City Council adds a deluge of proposals to a November ballot that already includes 17 statewide measures. Don't forget your reading glasses. And your back brace.

Sneaky sweets: Australian researchers say the artificial sweetener sucralose may increase hunger, as the

brain detects a lack of calories and amps up the appetite to compensate. Wait, what?



◀ **John Collins:** The Poway school board fires the district superintendent, alleging he collected more than \$345,000 in unauthorized pay. The board plans to sue to recover the extra pay.

KARLA PETERSON • U-T



CHARLIE NEUMAN U-T

While his mother, Nancy, listens, Bill Wright Jr. discusses the care received by his father, Bill, at the end of his life at Elmcroft of La Mesa.

State legislation

The following 10 California measures are collectively known as the RCFE (Residential Care Facility for the Elderly) Reform Act of 2014:

Liability insurance: As of July 1, 2015, all assisted-living centers must have \$3 million aggregate annual coverage. Previously, no coverage was required. (Assembly Bill 1523)

Resident and family councils: This bill beefed up existing rights for assisted-living residents to form councils that can advise their facilities' owners. Today it takes only two residents or their family members to form a council, compared with a majority of a center's residents in the past. Facilities must help set up these councils and respond in writing to their concerns, and they can't attend council meetings unless invited. (Assembly Bill 1572)

License forfeiture: People who lost their license to run an assisted-living center or abandoned an operating facility can no longer petition for reinstatement. Previously, operators could petition for reinstatement after two years. (Assembly Bill 1899)

Staffing requirements: Mandates that each facility have an administrator or manager present around the clock. Requires administrators to schedule "a sufficient number of staff members" but does not specify staffing ratios. (Assembly Bill 2044)

Residents' bill of rights: Specifies 29 rights including treatment with dignity, privacy, confidentiality of records and family visitation without prior notice. (Assembly Bill 2171)

Penalties: Specifies fines of \$10,000 for serious bodily injury or physical abuse and \$15,000 for the death of an assisted-living resident. Previously, the maximum penalty was \$150 per incident. (Assembly Bill 2236)

Notification and remediation: Requires facilities to fix certain problems within 10 days and requires regulators to do a better job of notifying the public when those problems occur. Also requires the state to post inspection reports on its website by Jan. 1, 2020. Many reports are already available at <http://bit.ly/DSSreports>. (Senate bills 894 and 895)

Training: Requires employees to complete at least of 80 hours of training before working in an assisted-living center, including education on the adverse effects of psychotropic drugs used to control behavior in patients with dementia. The previous requirement was 40 hours. (Senate Bill 911)

Admissions ban: Allows the state to ban new admissions if a facility fails to pay a fine, violates laws or regulations, or fails to correct problems promptly. (Senate Bill 1153)

Fee increase: Initial and ongoing licensing fees are increased 20 percent and are based on a facility's size as measured by bed count. The additional revenue brought in by fee increases is intended to fund better government oversight. (Senate Bill 1382)

CARE

FROM SD1

But advocates who have been studying such places for decades said the collection of laws do not go far enough to fix problems like those highlighted at Elmcroft.

That's because regulations remain too fuzzy relating to staffing ratios, said Chris Murphy, executive director of the San Diego-based Consumer Advocates for RCFE (Residential Care Facility for the Elderly) Reform, a non-profit group that pushes for changes in the assisted-living industry.

The state requires a minimum staff-to-resident ratio only for nighttime shifts: one staffer on call on the premises for facilities with 15 or fewer beds. Those with 16 to 100 beds must have one "awake" employee on duty along with another who is on call and capable of responding within 10 minutes.

Critics question whether the nighttime thresholds are adequate. About a week after Desick's death, a state report documented an injury at Elmcroft due to lack of supervision when two overnight staffers were on duty caring for 55 residents.

For daytime shifts, California leaves it up to each site to determine how to staff "in sufficient numbers." This standard is the same for both traditional assisted-living facilities and more specialized memory-care centers.

"Sufficient in number is always in the eye of the beholder. ... Until the state of California and the Legislature get serious about real staffing ratios, situations like the one that occurred at Elmcroft should not be unexpected," Murphy said.

Sally Michael, president of the California Assisted Living Association, said the staffing rules provide needed flexibility.

"Rather than attempting to meet arbitrarily assigned numbers, communities have the benefit of matching care levels directly to the needs of the residents they serve. This allows providers to increase staffing if a need arises or to decrease it if appropriate," Michael said.

Other levels of care have much more specific staffing requirements.

For example, nursing homes must provide at least 3.2 hours of nursing care per day per resident. Likewise, state law designates at least one nurse for each patient in operating rooms and trauma bays. The ratio at general medical and psychiatric wards is one nurse for up to six patients.

After a series of high-profile incidents in assisted-living centers in 2013, advocates for the elderly tried to seek clearer staffing ratios but got nowhere, said Patricia McGinnis, director of California Advocates for Nursing Home Reform.

"We looked at ratios in 2014, and we couldn't even get a sponsor" for such legislation, McGinnis said.

Murphy added: "That's a piece of legislation that's long overdue, but it's a very heavy lift. People want these centers to be affordable." The monthly fee for a memory-care center in California is about \$5,000, although Medicare, Medicaid and veterans benefits can defray the expense.

McGinnis and Murphy were part of a statewide coalition that



NANCEE E. LEWIS

"As the brain undergoes additional injury by the underlying disease process, the behaviors that we see can evolve, and sometimes they evolve in a positive way. ... There is a need for ongoing care and assessment, and we don't see that happening as well as it should in our community or, I would venture to guess, anywhere in the United States."

Dr. Daniel Sewell • director of the Senior Behavioral Health Program at UC San Diego, above

did succeed in getting the 10 residential-care bills passed in 2014.

Violence and dementia

The altercation that resulted in Desick's death, and incidents like it, beg another important question: What should caregivers do when residents become aggressive or even violent toward themselves or others?

This is one of the most difficult situations in caring for a loved one with dementia, experts said. As the brain degenerates, a patient can become prone to out-of-character fits of violence.

That appeared to be the case with Desick.

In a lawsuit filed against Elmcroft this spring, her nieces said she was regarded as a "jewel" of the facility when she was admitted in 2011. But things took a turn in 2013 when caregivers learned that she was repeatedly scratching her roommate, according to the suit.

Her patient file at Elmcroft noted four other violent incidents that year, resulting in a prescription for the sedative Lorazepam. Ten more outbursts were logged in her file in 2014, as was a prescription for the anti-psychotic medication Risperidone, the lawsuit said.

The use of sedatives and anti-psychotics to control the most aggressive symptoms of dementia is one of the most fraught areas of elder care.

Dr. Daniel Sewell, director of the Senior Behavioral Health Program at UC San Diego, said while

anti-psychotics can be a valuable tool for helping caregivers to more safely handle patients with dementia, they should never be the first, or even the second, option.

He said physicians should initially check for other underlying medical problems, such as a urinary tract infection or constipation, that might be causing the violent behavior. As neurodegenerative diseases worsen, they often affect people's ability to communicate what's bothering them. The ability for doctors and other caregivers to spot those causes of irritability and treat them can eliminate the need for anti-psychotic drugs.

Even after medical problems have been addressed, Sewell said, doctors should look at a patient's symptoms in the context of normal psychological illness. If an individual appears depressed, for example, there are better medications to prescribe than anti-psychotics.

But if a patient with dementia is delusional and acting violently in reaction to those delusions, then anti-psychotics may be appropriate.

"When we have behaviors driven by false beliefs, then anti-psychotics might have some value," Sewell said.

It is crucial to monitor patients taking anti-psychotics for behavioral changes that can signal trouble, he added, and physicians should reduce the dosage every few months to gauge whether the problems that originally led to use of the drugs are still present.

"As the brain undergoes additional injury by the underlying disease process, the behaviors that we see can evolve, and sometimes they evolve in a positive way," Sewell said. "There is a need for ongoing care and assessment, and we don't see that happening as well as it should in our commu-

nity or, I would venture to guess, anywhere in the United States."

Family is critical

From reviewing the state's inspection reports and the lawsuit filed by Desick's nieces, it is unclear how well Desick's dementia and her medications were managed. The suit does indicate that a supervising doctor checked "no" on a form that asked whether Desick engaged in aggressive behavior during her annual assessments, although Desick's overall file documented many such incidents.

In the world of dementia care, there is some thought that staffing levels and training regimens can have a major bearing on how often patients' violent outbursts occur — and how those incidents are handled.

In California, assisted-living facilities and memory-care centers are not technically medical establishments. They are not required to employ medically trained experts, although most sites specializing in memory problems, like Elmcroft of La Mesa, do have a licensed vocational or registered nurse present for at least part of each day.

Patient advocates said facilities for people with serious medical issues such as dementia should be subject to different staffing levels than standard "board and care" facilities.

At the Consumer Advocates for RCFE Reform, Murphy said the call for stricter ratios needs to come from the public.

"Families need to pay closer attention and start demanding higher staff-to-resident ratios. It's measurable, and it can be verified," she said.

The residential-care industry calls for a more nuanced approach.

Michael, the president of the assisted living association, said a dementia diagnosis is not carte blanche for 24-hour nursing care. The social aspects of living in a less-restrictive environment can help people experiencing memory loss, she noted.

"Treating Alzheimer's and dementia is complex and very person-specific. Memory care within assisted living provides residents with tremendous benefits. Services are provided in a home-like setting rather than a medical setting," Michael said.

Sewell, the UC San Diego specialist in seniors' behavioral health, said most people in his line of work are thankful when dementia patients can live in a memory-care facility, which should be more attuned to Alzheimer's and related conditions, instead of a nursing home.

He said the key is to have enough well-trained staff to identify early-warning signs and report them in a timely manner to each resident's doctor.

In the end, he added, a patient's family members play a key role. They are that person's eyes and ears.

"There is just nothing like family members being visible and involved in their loved one's care. A good facility will welcome that engagement, not try to prevent it," Sewell said.

paul.sisson@suniontribune.com
(619) 293-1850
Twitter: @paulsisson