



By: Renee C. Rock, Esquire, Shober & Rock

Nursing Home Residents Face Even Greater Barriers to Vote Amid Coronavirus Pandemic

Renee C. Rock, Esq., is a partner in Shober & Rock, a Bucks County law firm specializing in elder law. Renee helps her clients with all planning issues including comprehensive case management services for the elderly and their families. The legal and financial details she handles are often related to long-term care, including nursing home and assisted living admissions, as well as Medicare and Medicaid, Wills, Living Wills, Powers of Attorney and Trusts. She can be reached at (215) 345-4301 or by email at rcrock@elderlawattorney.org.

systematically disenfranchised in this election.”

Even before the pandemic, compliance with residents’ right to vote was spotty. From 2018 to 2019, Medicare documented complaints from at least 55 U.S. nursing homes in which residents said they were not given the opportunity to vote or were unable to get help casting a vote. This year, during the pandemic, nursing home residents will find it even harder get the opportunity to vote.

In past years, nursing homes and assisted living facilities often acted as polling places, but many of those are being moved due to the pandemic. They will now have to rely on absentee or mail-in ballots, if available.

In addition, nonpartisan organizations have historically

been able to enter nursing homes to assist residents with their ballots, but it is unclear whether that will be allowed this year. North Carolina and Louisiana specifically prohibit nursing home staff from assisting residents with their ballots; but, even in states that don’t explicitly prohibit it, overworked staff may not have the time to help residents.

Before the pandemic, recognizing the barriers the elderly and disabled voters in nursing homes already faced, almost half of the states offered some form of assistance. Florida was one of those states, but its program is now suspended because of the pandemic.

The reality is that nursing home residents have a right to vote, although they are vulnerable to fraud by political

groups seeking to direct their votes. They may also be unfairly prevented from voting even if still competent to do so because they are in the early stages of dementia. Nevertheless, fewer than half of U.S. states have absentee voting procedures that specifically address the needs of nursing home residents.

Writing in the latest issue of the *Journal of the American Medical Association (JAMA)*, a group of geriatric and legal experts recommends that election officials take steps to prevent political groups from taking advantage of institutionalized voters and to protect the voting rights of patients who are in the early stages of dementia but who are still competent.

The writers warn that voting by people with Alzheimer’s disease and other forms of dementia is “an emerging policy problem”.

About 4.5 million Americans have dementia, and by 2050 the figure is expected to be 15 million, according to *The New York Times*. At the same time, voting rates are highest among people 65 to 74, and age is the main risk factor for dementia. About 1.6 million Americans are in nursing homes, and another million are in assisted living facilities.

One solution the experts propose is for election officials to supervise voting in nursing homes and other long-term-care facilities and give brief mental tests to residents with dementia to determine whether they are competent to vote. However, this year, these mental tests cannot be done because of the pandemic.

The experts also urge that laws regarding the competence to vote, which now vary by state, be changed to conform to a 2001 court decision that helped define a person’s “capacity to vote”. In that case, a U.S. District Court in Maine ruled that three women under guardianship because they were mentally ill had been unconstitutionally deprived of their right to vote. *Doe v. Rowe* (U.S. Dist. Ct., Me., No. 00-CV-206-B-S, Aug. 9, 2001).

While 23 states have laws that address voting by people in nursing homes, the other 27 do not and may be more vulnerable to voting fraud.

Pennsylvania allows mail-in and absentee ballots for the 2020 election. They must be received by your county election office by 5 pm on Tuesday, October 27, 2020. You can apply online for a mail-in or absentee ballot at www.votespa.com. Talk to your loved ones who are homebound or in nursing homes and assisted living facilities about registering for mail-in and absentee ballots.

A nursing home resident, David from Wilmington, North Carolina, cast his first vote for president for Dwight D. Eisenhower in 1952. The last thing he wants is for his “68-year streak,” as David proudly calls it, to end in November. This year, what stumps David is how he is going to exercise his basic constitutional right to vote during the pandemic. It makes him angry that something like this could happen and that he might be denied the right to vote just because of his age and condition.

The coronavirus pandemic has forced nursing homes to place restrictions on their residents. These constraints are having the unintended consequence of making it more difficult for nursing home residents to vote.

Older Americans are some of the most reliable voters, but nursing home residents face challenges to vote even in normal times are encountering even greater barriers this election season. In response to the pandemic, nursing homes have locked down, prohibiting family and friends from visiting residents and residents from leaving the facilities. This means residents may not be able to leave to vote and will not be able to have help from family members or organizations in obtaining and filling out mail-in ballots.

While federal law requires nursing homes to protect their residents’ rights, including the right to vote, it is “a really open question to what extent people in long-term care institutions are going to be able to participate in our election in November,” says Nina Kohn, a law professor at Syracuse University who has studied facility residents’ voting-rights issues. Kohn warns that “we should be clear that there is tremendous reason to be concerned that nursing home residents will be . . .

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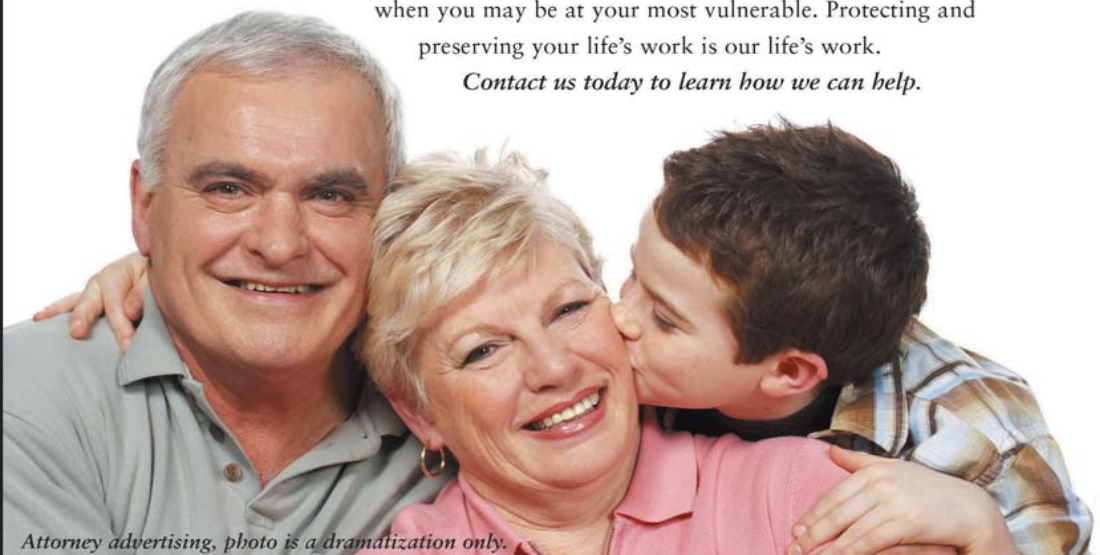
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