

Elder Mistreatment Investigations Buried No More: 50 Reasons Why Elder Care IQ is Needed

By Eilon Caspi PhD

“This is fantastic – what a brilliant idea! It will make a huge difference, a life-saving difference. Many of us wish we’d had access a few years ago – it might have spared our loved one from a rapid demise” – Rev. Jean Greenwood

Background

The public’s ability to access completed mistreatment investigation reports on the website of the Minnesota Department of Health (MDH) [Office of Health Facility Complaints](#) (OHFC) has been [limited](#) for many years. [Elder Care IQ](#) (launched on November 29, 2022), a free service established by [Elder Voice Advocates](#), contributes to addressing this major gap by making these investigation reports more easily accessible at the care provider level. The web-based search tool allows anyone to learn about the regulatory history of assisted living residences, nursing homes, and home health care agencies across Minnesota. In doing so, Elder Care IQ serves as one among several means people can use to identify problematic and unsafe care providers.

The following is a list of 50 reasons why Elder Care IQ is needed:

- **Gross asymmetry of power** exists between physically and cognitively disabled residents / families and care providers. Elder Care IQ contributes to balancing this chronic and harmful power imbalance.
- For decades there has been an extreme **lack of transparency** when it comes to basic information about the assisted living and home health care sectors. Elder Care IQ represents a modest but important contribution towards bridging this major gap.
- **Deceptive marketing practices** are common in assisted living residences and home health care agencies. The public has the right to know about problem providers when making the major life decision of moving into a care home and when hiring the services of a home health care agency. Relying on marketing materials displayed on care providers’ websites often results in families being [shocked](#) when residents are harmed.
- **Locating mistreatment investigation reports** on MDH OHFC’s website **is often difficult and very time consuming** for older adults and their families when trying to choose a safe care home (often within short time periods) or hire the services of a home health care agency. Elder Care IQ represents a significant improvement on this critical front.
- **Families often need to make quick decisions regarding a move** of a loved one to a care home during distressing times (at times during crisis situations). For the first time, Elder Care IQ allows them easy and quick access to providers’ regulatory history as part of the overall decision process using other sources of information.

- **Fear of retaliation**, which is [common](#) in long-term care homes, is a persistent barrier for residents and families' reporting of care-related concerns, right violations, and mistreatment. Countless mistreatment incidents are not reported due to fear of retaliation and actual retaliation. Retaliation against residents is a form of elder abuse.
- **Direct care staff** often witness or know about mistreatment of residents, but they do not report it due to **fear of retaliation** from managers or co-workers. Many employees are afraid of losing their jobs if they were to report such mistreatment internally to the administrator or externally to the MDH OHFC or law enforcement.
- **A substantial portion of elder mistreatment incidents** (such as neglect of healthcare and abuse) **are not being detected and/or reported** to the MDH OHFC. Left muted, this violation of federal and state laws and regulations often perpetuates and exacerbates residents' mistreatment.
- **A significant number of mistreatment incidents are not being investigated by OHFC.** Some of these allegations pertain to violations of quality of care, quality of life, safety, and dignity. A [90-year-old woman](#) with Alzheimer's disease lived in an assisted living dementia care home. One evening while in bed she called for staff help 99 times over 39 minutes. No one came to assist her. She then fell off the bed. While on the floor, she called for staff help an additional 143 times. At some point she cried out: "Please help me Lord." No one came to assist her. It was only after her daughter saw it remotely on a hidden camera and notified the staff that staff finally came to assist her. The heartbreaking and emotionally traumatic incident was not investigated by the OHFC.
- **Delays in on-site investigations** often limit MDH OHFC's ability to gather sufficient evidence to substantiate mistreatment allegations. Such delays may also [prolong](#) situations in which residents may be subject to mistreatment resulting in serious harm. The inability to collect critical evidence during delayed on-site investigations may occur due to witnessing staff who are no longer employed at the time of the investigation, residents who can no longer report on incidents due to decline in cognitive function, discharge to another care setting or death, and loss of key nursing documentation and/or internal investigations.
- **Some of the worst care providers** within each sector – assisted living, nursing homes, home health care agencies – **can now be quickly identified.** Practically buried in MDH OHFC website, the likelihood of identifying the full regulatory history of these dangerous care providers would have remained limited without Elder Care IQ. As with the Centers for Medicare & Medicaid Services' (CMS) Special Focus Facility (SFF) Program (which also includes SFF Candidates), enhanced MDH OHFC oversight and enforcement is urgently needed for these failing assisted living residences and home health agencies.

- **Enforcement actions and deterrence** of poor and dangerous care **are often weak** in assisted living residences, nursing homes, and home health care agencies. This is important because as the Minnesota Health Commissioner Jan Malcolm reminds us: “Our protections in law are only as good as the enforcement capabilities.”
- **Fines are often [minimal](#)** for injurious and [deadly neglect](#) in assisted living residences. Elder Care IQ enables the public to more easily learn about care providers’ regulatory histories to assess the extent to which the fines issued for care violations are adequate. It also allows to gather empirical evidence necessary to demonstrate the need to increase the fines to ensure accountability and meaningful deterrence.
- **Direct care staff can** now easily and quickly **locate investigation reports** as part of their decision process as to whether they want to work in a particular care home or chain. Discovering problem providers can enable them to avoid working in these care homes or home health care agencies. Current employees can become informed about the regulatory history of their care home and those care areas in need of improvement.
- **Policy makers** and legislators **can now** easily and quickly locate investigation reports to **learn about problem providers** (across the state and in their jurisdiction). It could also inform their efforts to develop and strengthen laws, regulations, and standards of care.
- **Perpetrators of elder mistreatment could now more easily be identified** as they move between different care settings. For example, after they mistreat older adults in one care setting and their employment is terminated, they may start working in another care setting and continue to mistreat older adults there. One RN stole opioid pain medications from an older woman from her home in the community. With her medications stolen and replaced, he left her in excruciating pain for a few months. An investigation by [KARE 11](#) discovered that prior to caring for this woman, the nurse was fired from two other home health agencies after being accused of stealing medications from eight other clients. Early detection could have been facilitated using Elder Care IQ.
- **The care industry stated that unsubstantiated and inconclusive investigation reports should not be included** on Elder Care IQ. First, these investigation reports, which are required under [Minnesota Statute](#) to be made “public,” were posted on MDH OHFC’s website for many years; thus, in this regard, nothing has changed with the introduction of Elder Care IQ. Second, two care homes may have no substantiated investigation reports. However, one may have 10 unsubstantiated and 5 inconclusive investigation reports over the past 2 years while the other doesn’t have any unsubstantiated or inconclusive investigation reports during the same period. How willing are you to move your mother, father, spouse/partner, or close friend to the former care home? Omitting these investigation reports from OHFC website and Elder Care IQ will create a critical gap in knowledge for consumers when forming decisions about moving to a care home or hiring the services of a home health care agency.

- **Inconclusive and unsubstantiated investigation reports are important because they often enable to detect** care-related problems and safety issues *before* they escalate into more serious and harmful incidents. This preventive principle has been repeatedly recognized by the MDH OHFC and the Office of the Legislative Auditor of Minnesota. In 2017, MDH stated, “If less serious issues like these [falls, abuse by staff, resident-to-resident altercations, medication mismanagement, drug thefts] were addressed early on, individuals might not be seriously harmed in subsequent incidents.”
- **A significant number of investigations determined by MDH OHFC as unsubstantiated and inconclusive end up being confirmed as mistreatment in lawsuits.** One [resident](#) suffered a severe brain injury after being attacked by his roommate. MDH investigation determined that the neglect allegation was unsubstantiated. Knowing about the warning signs prior to the attack and the nursing home’s lack of action to adequately address them, the daughter [sued](#) the nursing home for neglect and won.
- **The industry claimed that posting substantiated investigation reports determining that an individual employee “perpetrator” (not the care home) was responsible for mistreatment will damage the reputation of care providers.** This is like saying that that the care provider has no responsibility for an employee who horrifically neglects, abuses, retaliates against, financially exploits residents, or steals their opioid pain medications. The suggestion to release care providers from all responsibility for an individual employee’s mistreatment of residents sets a dangerous standard.
- **Insufficient regulations** such as in assisted living residences **set low standards of care** and safety. **This, in turn, limits MDH surveyors’ ability to** investigate, substantiate, and **hold care providers accountable** for various forms of mistreatment and right violations. While substantial improvement became a reality when the [new assisted living licensure](#) became a reality (effective August 1, 2021), overall, the regulations (i.e., standards of care) of this largely-for profit sector are nowhere near those established by CMS for nursing homes. This, while in recent years the [resident population](#) – their complex health care needs, need for assistance in activities of daily living (such as bathing and toileting), and rates of dementia – in assisted living residences has become [increasingly similar](#) to those living in nursing homes and thus so does their [risk of mistreatment](#).
- **Oversight and monitoring of quality of care and safety in assisted living residences** such as those settings labeled as “**memory care**” **is often limited.** For example, the frequency of MDH OHFC’s regular inspections of assisted living residences (once in two years) is insufficient given residents’ levels of physical and cognitive disability and serious complex healthcare conditions in those care settings. Many of these individuals are at high risk of experiencing neglect of healthcare and other forms of mistreatment. With a median length of stay of 22 months nationwide, a resident with dementia may never get to see an OHFC surveyor throughout the duration of her or his residency.

- **Identification of for-profit chains with concerning regulatory history** is now made easier due to the ability to quickly retrieve, aggregate, and analyze investigation reports on Elder Care IQ. This is important in general but also because care settings operating under the same chain and/or ownership structure often strategically use different names to avoid being held accountable and to protect their reputation.
- **Out of state corporations buying struggling care providers** and driving the quality of care and safety into the ground is becoming a growing problem in recent years. The nursing home *North Ridge Health and Rehab*, where [more than 100 residents died of COVID-19](#), is one such example. With Elder Care IQ, it is now a bit easier to detect these companies, prevent them from harming residents, and hold them accountable.
- The rapid growth of **Real Estate Investment Trusts and Private Equity Firms** increasingly purchasing care homes in recent years is a major concern. Elder Care IQ can support efforts aimed at early detection of these bad actors and holding them accountable.
- **Different state agencies can now benefit from easy and quick access to investigation reports.** These include, among others, the Minnesota Office of [Ombudsman](#) for Long Term Care, law enforcement agencies, Emergency Medical Services (EMS), Coroners / Medical Examiners, Medicaid Fraud Control Units (MFCU), the Medicaid program, and the Boards of Nursing, Medicine, and Pharmacy.
- **All too often the Minnesota Board of Nursing is not being notified by MDH about substantiated mistreatment whereby a nurse was directly responsible for** or has contributed to **mistreatment** in a care home. Elder Care IQ enables to more easily identify these investigation reports and bring them to the Board of Nursing's attention.
- **Hospital discharge planners** who are often under great pressure to discharge older adults to long-term care settings or to their home in the community can now more easily and quickly identify problematic and unsafe providers and make sure that individuals are not being referred to these care settings or receive care services from these home health care agencies.
- **Signs of elder mistreatment such as neglect can often be [detected](#) during [E.R. visits](#).** Using Elder Care IQ, E.R. staff in hospitals suspecting mistreatment can now quickly learn about the regulatory history of a particular assisted living, nursing home, or home health agency – to inform their assessment as to whether an older adult arriving from a care setting has been neglected or abused while receiving care services there. It can assist them in fulfilling their duty to screen for, detect, and promptly report suspected elder mistreatment to state agencies such as MDH OHFC and law enforcement.

- **Emergency Medical Services personnel and Funeral home directors** suspecting elder abuse and neglect could now use Elder Care IQ to learn about the regulatory history of a care provider where an older adult has been injured or died as a result of mistreatment. It can serve as one among several tools for supporting such suspicions.
- **Discharge planners in care homes** can quickly learn about the regulatory history of other care providers when assisting the resident and her/his family during the stressful and difficult decision process of discharge and move to another care setting. By doing so, they could ensure that they meet their requirements for a proper discharge process.
- **Elder law attorneys** can now save precious time by easily and quickly accessing investigation reports for a particular care provider or chain as they evaluate their regulatory history as part of their decision process as to whether to file a lawsuit.
- **Media reporters** can use Elder Care IQ to quickly learn about the regulatory history of a particular care provider or chain. Media reporters often work under tight deadlines and thus their ability to locate such critical and reliable information is precious for them as they cover stories of elder mistreatment in long-term care homes and the community.
- **Trade associations** such as Care Providers of Minnesota and LeadingAge Minnesota can now **save precious time** when trying to identify problem providers as well as concerning trends related to mistreatment and other care violations across the state. They can now use the information to strengthen their efforts to address systemic care-related problems, improve care practices, and bring about sorely needed policy and legislative changes.
- Elder Care IQ allows **trend analysis of mistreatment sub-types** in general and over time. Routine analysis and public reporting of these trends could assist care advocacy organizations, MDH OHFC, and other agencies in developing targeted prevention measures to fulfill their duty to protect the safety of vulnerable and frail older adults.
- Elder Care IQ creates **an incentive for care providers to improve** their care practices and safety culture. Due to weak enforcement of care standards and safety in assisted living residences and home health care agencies – and in many federally regulated nursing homes – such incentive is clearly of critical importance.
- The easy access to investigation reports on Elder Care IQ **can be used to inform the development of staff training programs** and supportive guidance from managers with the aim of raising awareness to and the prevention of psychological harm, physical injuries, and death in similar circumstances. The precious clinical insights contained in OHFC’s investigation reports – inconclusive, unsubstantiated, and substantiated ones – can go a long way in strengthening these educational programs. On average, it takes

about 26.5 hours for OHFC surveyors to complete a mistreatment investigation. Wouldn't be wise to learn from these reports?

- It is important to **preserve the reputation of good care providers**. Elder Care IQ can assist MDH OHFC in correcting errors related to investigation reports. Examples include investigation reports that should not be posted online could now be more easily identified and removed while investigation reports that should be posted but aren't could be added. This quality improvement effort is now made easier with Elder Care IQ.
- The new ability to quickly **compare care providers' regulatory histories in a particular locality** could contribute to a **healthy competition** between care providers and encourage them to proactively invest resources upfront to ensure provision of adequate and dignified care and the prevention of elder mistreatment.
- Elder Care IQ enables to more easily **detect substantiation rates of investigations** (generally and across mistreatment sub-types) to ensure that those rates meet professional standards (to see that the rates are not too low). It is not uncommon to see very low substantiation rates in certain forms of mistreatment and other care violations.
- The ability of Elder Care IQ to quickly retrieve and aggregate investigation reports (such as by sub-type) and the insights that could be gleaned from examining them could be used by MDH OHFC to **strengthen surveyors and investigators' specialized knowledge** and skill set in professionally investigating various forms of elder mistreatment.
- **Many long-term care providers use the [secretive appeal process](#) to avoid having completed and substantiated investigation reports posted online**. Dragging the process for months or longer limits consumer's ability to learn about care providers' full and updated regulatory history. Elder Care IQ can assist in the process of detecting completed but not posted investigation reports and assess the validity of the reasons for not being publicly available online.
- The need for **applied and policy research** in assisted living and home health care agencies is urgent. The vast majority of research studies are conducted in nursing homes. Elder Care IQ opens up new opportunities for conducting research and policy studies that could generate practically useful insights for prevention and policy changes in the assisted living and home health care sectors.
- **Geographical trends** in various forms of mistreatment could now be more easily identified across the state. This, in turn, could assist in proactive resource allocation, targeted interventions, and necessary policy changes to address these care problems. Two examples include patterns underlying care-related problems unique to providers in **rural areas** and those operating in **low socioeconomic regions** of the state.

- Elder Care IQ can assist MDH OHFC and other state agencies in fulfilling their commitment to a **culture of learning** using the centralized and readily accessible mistreatment dataset on the new web-based platform.
- Due to the easier access to completed investigation reports, **the need to file [Data Practices requests to MDH OHFC](#) may be reduced** in some cases. This, in turn, may decrease the burden on the agency and allow it to direct its resources to fulfilling its critical mission to protect the health and safety of vulnerable populations.
- Elder Care IQ is anticipated to help raise public awareness to and **break the silence and dangerous normalization of elder mistreatment** and other care violations. No longer buried in [MDH OHFC website](#), the new and easier access to mistreatment investigation reports will help realize the foundational principle: The public right to know. It will help the public and families in shifting away from a [dark](#) reality described by Ralph Nader as “The Freedom *From* Information” towards one that is characterized as “The Freedom *of* Information” as intended in the [Freedom of Information Act](#). To learn more about the ways in which access to these investigation reports can enable to reduce elder mistreatment in long-term care homes, you can watch my [UConn Grand Rounds](#) talk.
- Elder Care IQ **strengthens care providers’ transparency**. Transparency is not just a nice word. It is the basis for care providers’ accountability. Accountability lies at the heart of the public’s trust of care providers, the MDH OHFC, and all other state agencies.
- Elder Care IQ contributes to the long-awaited **modernization of** the state (such as MDH OHFC’s) **maltreatment IT data management system**; a critical issue identified by the Office of Legislative Auditor in its 2018 [audit](#) of MDH OHFC.
- Patti Cullen, President, Care Providers of Minnesota, stated recently that the long-term care industry has **“zero tolerance” for mistreatment** of older adults. Elder Care IQ is one among several important tools essential for making this statement a reality.

Taken together, the leadership of the long-term care industry should recognize and applaud the launch of Elder Care IQ as a search tool urgently needed by multiple stakeholders as they work to realize MDH’s vision of dignified and safe care for older and vulnerable Minnesotans.

In conclusion, it is worth remembering that according to the U.S. Office of Inspector General:

“The complaint process is considered “the front-line system for addressing consumer concerns” and “a critical safeguard to protect vulnerable residents.”

Elder Care IQ contributes to ensuring that this safeguard is practically meaningful.

In the words of Kate and Eric Goebel:

“This tool will save lives. It gives families powerful information to make difficult decisions that are best for their loved ones.”

For more information and to support the administration and additional improvements needed in Elder Care IQ, please contact:

Kris Sundberg

kris@eldervoicefamilyadvocates.org

952-239-6394

Acknowledgements

Scott Zerby, board member, Elder Voice Advocates, IT wizard and the creator of Elder Care IQ

The development of Elder Care IQ was made possible with the generous support of [Stevens Square Foundation](#) and generous donations from individuals.