

# Leveraging Federal Policy to Support Caregiving and Mitigate Elder Mistreatment

***Chris Herman, MSW, LICSW (she, her)***

*Senior Practice Associate–Aging*  
[cherman.nasw@socialworkers.org](mailto:cherman.nasw@socialworkers.org)

USC Judith D. Tamkin International Symposium on Elder Abuse  
February 22, 2024

# Social Support: Integral to Elder Abuse Prevention & Mitigation

- ▶ National Elder Mistreatment Study (NEMS): Limited social support=a primary risk factor for elder abuse, regardless of gender, race, or ethnicity (Acierno et al., 2010)



- ▶ NEMS 8-year longitudinal study of outcomes: *“The centrality of social support to the health and well-being of older adults is the core finding of this study”* (Acierno et al., 2017, p. 267)

# Social Support, Race, & Ethnicity

- ▶ Systematic Review of Risk and Protective Factors of Elder Abuse for Community-Dwelling African Americans, Asian Americans, Hispanic Americans, and Native Americans (Wei & Balser, 2022; NCEA, 2023)
- ▶ Common risk factors include social isolation & inaccessibility of services



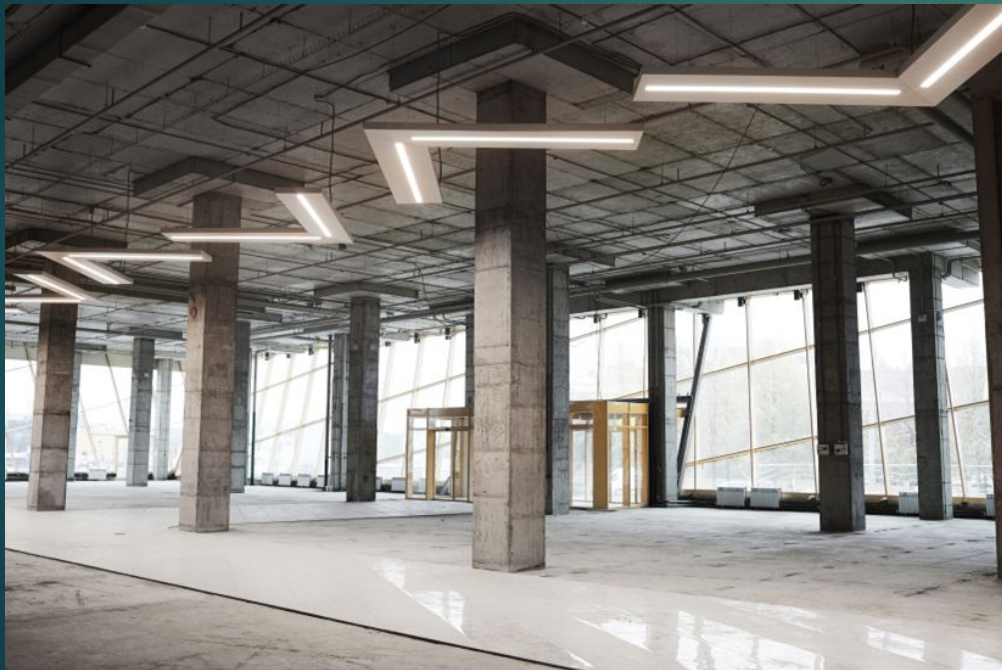
# Social Support, Gender Identity, & Sexual Orientation



LGBTQ+ older adults: Isolation & bias are risk factors for abuse (Movement Advancement Project & SAGE, 2017; NCEA, National Resource Center on LGBT Aging, et al., 2021)

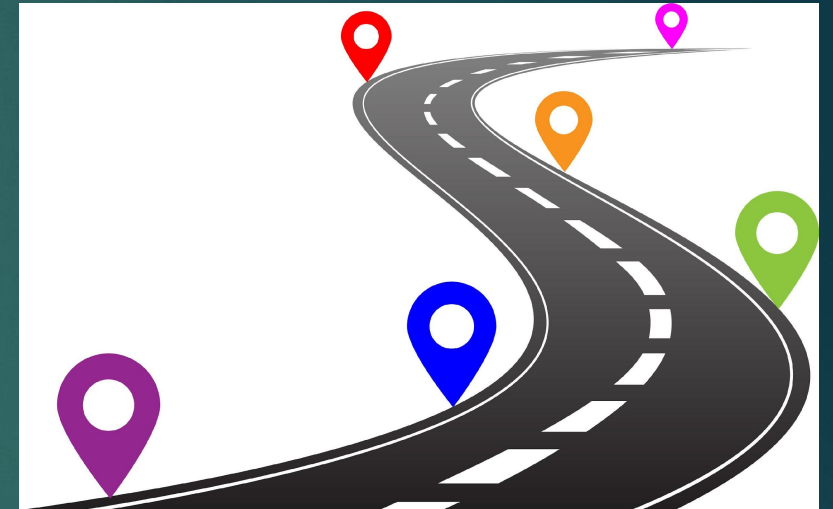
Two-Spirit Elders: History of colonization exacerbates isolation & risk of abuse (NIEJI, SAGE, NCEA, et al., 2021)

# Policy = Structural Foundation



# Elder Justice Roadmap

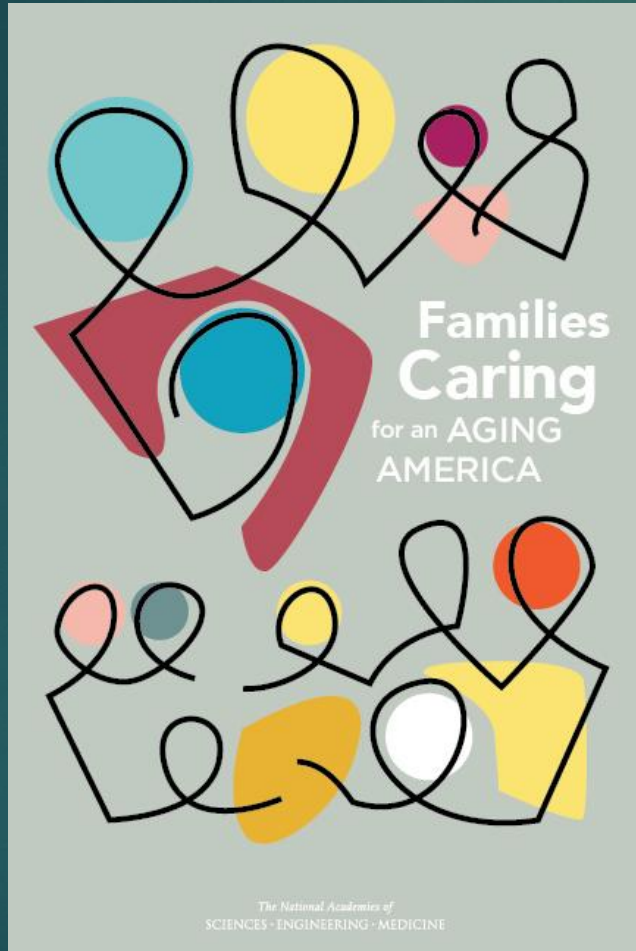
- ▶ Top five priorities include improving support & training for paid & unpaid caregivers, who play a critical role in preventing elder abuse
  - ▶ Respect
  - ▶ Support & services
  - ▶ Compensation & working conditions
  - ▶ Cultural capacity
  - ▶ Coordination between elder justice & caregiving fields



- ▶ “We need to craft messages for caregivers that make them feel respected and help them to recognize, acknowledge, and prevent elder abuse, and learn what supports are available.”

– Connolly, Brandl, & Breckman, 2014

# National Academies 2016 report



- ▶ Recommendations:
  - ▶ National Family Caregiving Strategy
  - ▶ State government action
  - ▶ Public–private multistakeholder innovation fund
  - ▶ Address families' diversity
- ▶ “A potential effect of caregiving stress is elder mistreatment and neglect”
  - National Academies of Sciences, Engineering, and Medicine

# Elder Justice Principles

- ▶ Right to live free from abuse, neglect, & exploitation
  - ▶ Fair access to resources, services, & benefits
  - ▶ Support for family caregivers & direct service workers
- California Elder Justice Coalition; Nerenberg, *Elder Justice, Ageism, and Elder Abuse*, 2019



“Be strong. Let’s look out for each other.”



# National Strategy to Support Family Caregivers (2022)

- ▶ RAISE Family Caregiving Advisory Council (RAISE Family Caregivers Act of 2018, Pub. L. 115–119)
- ▶ Advisory Council to Support Grandparents Raising Grandchildren (Supporting Grandparents Raising Grandchildren Act, Pub. L. 115–196)
- ▶ 350 recommendations for federal government; 150 for states, communities, & other stakeholders
- ▶ Four cross-cutting considerations:
  - ▶ Person- & family-centered approaches
  - ▶ Impact of trauma
  - ▶ Diversity, equity, inclusion, & accessibility
  - ▶ Direct care workforce



# Realizing the National Strategy

- ▶ Act on RAISE Campaign
  - ▶ National Alliance for Caregiving with support from the John A. Hartford Foundation
  - ▶ Implementation of the National Strategy through education of policymakers, mobilization, & public awareness
- ▶ RAISE Act Family Caregiver Implementation and Technical Assistance Center
  - ▶ National Academy for State Health Policy with support from the John A. Hartford Foundation
  - ▶ Resource guides for family caregivers, states, & other stakeholders; topics include kinship & grandfamilies, respite care, direct care workforce, & state policy strategies
  - ▶ *RAISE Act State Policy Roadmap for Family Caregivers (2022)*



# Caregiver Training Services (CTS)



- ▶ Included in Medicare physician fee schedule for CY '24; reimbursable under Part B
- ▶ Help family caregivers support beneficiaries in carrying out the individualized plan of care for certain physical or mental health conditions
- ▶ Provided directly to family caregivers without the beneficiary present, but with the beneficiary's consent
- ▶ Can occur individually or in a group setting
- ▶ Multiple types of practitioners can bill for CTS; NASW & AARP advocated for addition of social workers
- ▶ Billing practitioner must be treating the beneficiary for the condition in question (and be qualified to diagnose that condition)

# Family & Retained Caregiving: Complementary Advocacy



- ▶ Eldercare Workforce Alliance (EWA)
- ▶ Leadership Council of Aging Organizations (LCAO)
- ▶ Together in Care initiative (PHI & National Alliance for Caregiving)

# Geriatrics Workforce Enhancement Program (GWEP)

- ▶ Upcoming HRSA funding cycle: July 2024 through June 2029
- ▶ Required topics for health care & supportive care workforce training & education:
  - ▶ elder justice
  - ▶ health inequities, disparities, & social determinants of health; culturally & linguistically competent health care
- ▶ Education & training to support career advancement for direct care workers within their discipline as geriatrics specialists



# Older Americans Act (OAA)

- ▶ Programs funded (partial list)
  - ▶ National Family Caregiver Support Program (NFCSP) & Caregiver Support Services for Indian Tribal organizations, organizations serving Alaska Natives, & organizations serving Native Hawaiians
  - ▶ Training for family caregivers, paraprofessionals, & professionals in the identification, prevention, & treatment of elder abuse, neglect, & exploitation
  - ▶ LTC ombudsman program
- ▶ OAA expiration: September 30, 2024
- ▶ LCAO reauthorization priorities
  - ▶ Increased funding
  - ▶ Innovation & flexibility
  - ▶ Diversity, equity, & inclusion
  - ▶ Bipartisan process
- ▶ ACL's proposed revisions to OAA regulations  
(summer 2023) included expanded definition of "family caregiver"; final rule released February 2024



# Executive Order: Care Economy

- ▶ “It is the policy of my Administration to enable families — including our military and veteran families — to have access to affordable, high-quality care and to have support and resources as caregivers themselves. It is also the policy of my Administration to ensure that the care workforce is supported, valued, and paid well. Additionally, care workers should have the free and fair choice to join a union.”

– President Joe Biden, 2023



- ▶ Focus areas:
  - ▶ Family caregiver support
  - ▶ LTC workforce recruitment, retention, compensation, & access to mental health services
  - ▶ Training pathways & professional learning opportunities to increase job quality
  - ▶ Multistakeholder engagement, including persons served, family caregivers, & care workforce

# Legislation Supporting Caregiving



- ▶ **American Rescue Plan Act of 2021** (Pub. L. 117–2): state funding for home- & community-based services (HCBS) expansion & enhancement & systemic workforce improvements; states can use funding through March 2025
- ▶ **HCBS Access Act** (S. 762/H.R. 1493; Casey, D-PA/Dingell, D-MI): Medicaid coverage expansion; includes family caregiver support
- ▶ **Supporting Our Direct Care Workforce and Family Caregivers Act** (S. 1298; Kaine, D-VA): national technical assistance center; grants to states et al.
- ▶ **Direct Creation, Advancement, and Retention of Employment (CARE) Act** (H.R. 4720; B. Scott, D-VA): grants to states et al.; innovations & career pathways



# Nursing Home Quality Initiatives

- ▶ Biden Administration initiative (February 2022)
- ▶ *The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff* (National Academies, April 2022)
- ▶ Moving Forward Nursing Home Quality Coalition (supported by the John A. Hartford Foundation)
- ▶ Nursing Home Reform Coalition (convened by the National Consumer Voice for Quality Long-Term Care)



# Proposed Minimum Nursing Staffing Standards for Nursing Homes

- ▶ Comments on proposed rule closed November 2023; > 46,000 received
- ▶ Includes CNAs, LPNs–LVNs, & RNs who provide direct care to residents
  - ▶ 3.0 hours per resident day (HPRD): 0.55 RN & 2.45 CNA; no specified time for LPNs–LVNs & no total nursing HPRD
  - ▶ 2001 CMS study: 4.1 HPRD to prevent harm or immediate jeopardy
  - ▶ Current national average: 3.76 HPRD
- ▶ Allows hardship exemptions & a three- to seven-year phase-in
- ▶ Requires onsite RN 24/7 without specifying direct care requirements
- ▶ Proposes Medicaid institutional payment transparency reporting but lacks specificity
- ▶ Final rule not yet released

# Nursing Home Ownership Disclosure

- ▶ Clear link between ownership, transparency, staffing, & quality
- ▶ Real estate investment trusts (REITs) & other private investment common
- ▶ Complicated, well-hidden ownership, financing, & operational structures
- ▶ “Sec. 6101” (ACA) final rule issued November 2023; took effect January 16, 2024
- ▶ Affects Medicare-funded skilled nursing facilities (SNFs)
- ▶ Required intervals for disclosure of information:
  - ▶ Upon initial Medicare enrollment
  - ▶ At revalidation (every five years)
  - ▶ When ownership or previously submitted information changes
- ▶ Subregulatory guidance to follow; enforcement is crucial



# Elder Justice Act Reauthorization

- ▶ Elder Justice Reauthorization and Modernization Act of 2023



- ▶ S. 1198/H.R. 2718 (Wyden, D-OR, & Casey, D-PA/Neal, D-MA, & Bonamici, D-OR)
- ▶ Provisions
  - ▶ Recruitment & retention of postacute & LTC aides, nurses, & social workers (state & territory grants)
  - ▶ Loneliness & social isolation programming (AAAs & CBOs)
  - ▶ Linkages to legal services & medical-legal partnerships
  - ▶ LTC ombudsman program & training
  - ▶ APS functions & grant programs



“Elder justice serves all who aspire to live long and healthy lives.”  
– Nerenberg, 2019

# National Resources

- ▶ Act on RAISE Campaign: <https://www.actonraise.org/>
  - ▶ Policy brief on Caregiver Training Services & other caregiver-related provisions within the 2024 Medicare physician fee schedule: <https://www.actonraise.org/2024-pfs-caregiver-brief/>
- ▶ Administration for Community Living (ACL): <https://acl.gov/>
  - ▶ Eldercare Locator: <https://eldercare.acl.gov/Public/Index.aspx>
  - ▶ RAISE Family Caregiving Advisory Council: <https://acl.gov/programs/support-caregivers/raise-family-caregiving-advisory-council>
  - ▶ Supporting Grandparents Raising Grandchildren Advisory Council: <https://acl.gov/programs/support-caregivers/supporting-grandparents-raising-grandchildren-0>
  - ▶ 2022 National Family Caregiving Strategy page: <https://acl.gov/CaregiverStrategy>
- ▶ AFL-CIO: <https://aflcio.org/>
- ▶ American Federation of State, County & Municipal Employees: <https://afscme.org/>

# National Resources (2)

- ▶ Caregiver Action Network: <https://www.caregiveraction.org/>
- ▶ Caring Across Generations: <https://caringacross.org/>
- ▶ Center for Medicare Advocacy: <https://medicareadvocacy.org/>
- ▶ Diverse Elders Coalition: <https://diverseelders.org/>
- ▶ Elder Abuse Helpline for Concerned Persons (New York City Elder Abuse Center at Weill Cornell Medicine): <https://nyceac.org/helpline-for-concerned-persons/>
- ▶ Elder Justice Coalition: <https://elderjusticecoalition.com/>
- ▶ Elder Justice Initiative on Eldercaring Coordination (Association for Conflict Resolution & Florida Chapter/Association of Family and Conciliation Courts): <https://www.eldercaringcoordination.com/>
- ▶ Eldercare Workforce Alliance: <https://eldercareworkforce.org/>
- ▶ Family Caregiver Alliance: <https://www.caregiver.org/>
- ▶ Generations United: <https://www.gu.org/>

# National Resources (3)

- ▶ International Association on Indigenous Aging: <https://iasquared.org/>
- ▶ Justice in Aging: <https://justiceinaging.org/>
- ▶ Leadership Council of Aging Organizations: <https://www.lcao.org/>
- ▶ Moving Forward Nursing Home Quality Coalition: <https://movingforwardcoalition.org/>
- ▶ Long Term Care Community Coalition: <https://nursinghome411.org/>
- ▶ National Alliance for Caregiving: <https://www.caregiving.org/>
- ▶ National Alzheimer's Call Center: <https://www.alz.org/help-support/resources/helpline>
- ▶ National Asian Pacific Center on Aging: <https://www.napca.org/>
- ▶ National Caucus and Center on Black Aging: <https://ncba-aging.org/>
- ▶ National Consumer Voice for Quality Long-Term Care (also convener of the Nursing Home Reform Coalition): <https://theconsumervoice.org/>



# National Resources (4)

- ▶ National Domestic Workers Alliance: <https://www.domesticworkers.org/>
- ▶ National Hispanic Council on Aging: <https://nhcoa.org/>
- ▶ National Indian Council on Aging: <https://www.nicoa.org/>
- ▶ National Resource Center on LGBTQ+ Aging: <https://www.lgbtagingcenter.org/>
- ▶ PHI | Quality Care Through Quality Jobs: <https://www.phinational.org/>
- ▶ RAISE Act Family Caregiver Implementation and Technical Assistance Center: <https://nashp.org/policy/aging-and-disabilities/family-caregiving/>
  - ▶ Resource guides for Area Agencies on Aging, direct care workers, family caregivers, employers, funders, kinship & grandfamilies, managed care plans, respite care, & state policy strategies: <https://supportcaregiving.org>
  - ▶ *RAISE Act State Policy Roadmap for Family Caregivers:* <https://nashp.org/raise-act-state-policy-roadmap-for-family-caregivers/>

# National Resources (5)

- ▶ Rosalynn Carter Institute for Caregivers: <https://rosalynncarter.org/>
- ▶ SAGE | Advocacy & Services for LGBTQ+ Elders: <https://www.sageusa.org/>
- ▶ Service Employees International Union (SEIU): <https://seiu.org/>
- ▶ Southeast Asia Resource Action Center: <https://www.searac.org/>
- ▶ Together in Care: The Direct Care Worker and Family Caregiver Initiative (PHI & National Alliance for Caregiving): <https://www.togetherincare.org/>

# NASW Resources



- ▶ Elder abuse & elder justice publications (open access)
  - ▶ *World Elder Abuse Awareness Day 2023: Building Strong Support for Elders* [Tips & Tools for Social Workers]. <https://bit.ly/NASW-WEAAD23>
  - ▶ *Social Work Roles in Elder Abuse Prevention and Response: A Report from the National Association of Social Workers* (2022). <https://bit.ly/NASW-SW-ElderJustice-2022>
  - ▶ *Elder Abuse & COVID-19* (2021). <https://bit.ly/NASW-EA-COVID-2021>
  - ▶ *Elder Justice & Racial Justice* (2021). <https://bit.ly/NASW-EJ-racial-justice-2021>
  - ▶ *Federal Funding for and Administration of Elder Justice Programs* (2021). <https://bit.ly/NASW-fed-funding-EJ-2021>
  - ▶ *Strengthening Communities for Elder Justice* (2018). <https://bit.ly/NASW-ReframingEA2018>
- ▶ Aging practice page: <https://www.socialworkers.org/Practice/Aging>
- ▶ Advocacy page: <https://www.socialworkers.org/Advocacy>

# References

- ▶ Acierno, R., Hernandez, M. A., Amstadter, A. B., Resnick, H. S, Steve, K., Muzzy, W., & Kilpatrick, D. G. (2010). Prevalence and correlates of emotional, physical, sexual, and financial abuse and potential neglect in the United States: The National Elder Mistreatment Study. *American Journal of Public Health*, 100 (2), 292–297.  
<https://doi.org/10.2105/AJPH.2009.163089>
- ▶ Acierno, R., Hernandez-Tejada, M. A., Anetzberger, G. J., Loew, D., & Muzzy, W. (2017). The National Elder Mistreatment Study: An 8-year longitudinal study of outcomes. *Journal of Elder Abuse & Neglect*, 29(4), 254–269.  
<https://doi.org/10.1080/08946566.2017.1365031>
- ▶ Act on RAISE. (2023). *Policy brief: How the 2024 Medicare physician fee schedule advances supports for family caregivers*. <https://www.actonraise.org/2024-pfs-caregiver-brief/>
- ▶ American Rescue Plan Act of 2021, Pub. L. No. 117–2, 135 Stat. 4 (2021).
- ▶ Biden, J. R., Jr. (2023, April 18). *Executive order on increasing access to high-quality care and supporting caregivers*. <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/04/18/executive-order-on-increasing-access-to-high-quality-care-and-supporting-caregivers/>
- ▶ Centers for Medicare & Medicaid Services. (2022, June 3). *HHS extends American Rescue Plan spending deadline for states to expand and enhance home- and community-based services for people with Medicaid* [Press release]. <https://www.cms.gov/newsroom/press-releases/hhs-extends-american-rescue-plan-spending-deadline-states-expand-and-enhance-home-and-community>

# References (2)

- ▶ Connolly, M.-T., Brandl, B., & Breckman, R. (2014). *The Elder Justice Roadmap: A stakeholder initiative to respond to an emerging health, justice, financial, and social crisis* [Report and appendices]. Initiative funded by the U.S. Department of Justice with support from the U.S. Department of Health and Human Services.  
<https://nyceac.org/resources/advancing-elder-justice/>
- ▶ CY 2024 Medicare Physician Fee Schedule, 88 Fed. Reg. 78818 (Nov. 16, 2023) (to be codified at 42 C.F.R. pts. 405, 410, 411, 414, 415, 418, 422, 423, 424, 425, 455, 489, 491, 495, 498, 600).
- ▶ Edelman, T. (2023, September). *Meaningful nurse staffing ratios in nursing homes: If not now, when?* Center for Medicare Advocacy.  
<https://medicareadvocacy.org/meaningful-nurse-staffing-ratios-in-nursing-homes-if-not-now-when/>
- ▶ Keck School of Medicine of USC, National Center on Elder Abuse, National Resource Center on LGBT Aging, & SAGE. (2021). *Mistreatment of lesbian, gay, bisexual, and transgender (LGBT) elders* [NCEA Research Brief].
- ▶ Disclosures of Ownership and Additional Disclosable Parties Information for Skilled Nursing Facilities and Nursing Facilities Rule, 42 C.F.R. §§ 424, 425 (2023).
- ▶ Fiesta, R. J. (2024, January 16). *LCAO chair's letter on OAA reauthorization*.  
<https://www.lcao.org/wp-content/uploads/2024/01/LCAO-Chairs-Letter-on-OAA-Reauthorization.pdf>
- ▶ H.R. 1493, 118th Cong. § 1 (2023).
- ▶ H.R. 4720, 118th Cong. § 1 (2023).

# References (3)



- ▶ *Labor leaders reintroduce legislation to invest in direct care workers* [Press release]. (2023, July 18). Office of Congressman Bobby Scott. <https://bobbyscott.house.gov/media-center/press-releases/labor-leaders-reintroduce-legislation-invest-direct-care-workers>
- ▶ Movement Advancement Project & SAGE. (2017). *Understanding issues facing LGBT older adults*. <https://www.lgbtmap.org/policy-and-issue-analysis/understanding-issues-facing-lgbt-older-adults>
- ▶ National Consumer Voice for Quality Long-Term Care. (2023, November). *CMS issues final rule on disclosure of nursing home ownership*. [https://theconsumervoice.org/news/detail/news\\_list/cms-final-rule-on-nursing-home-ownership](https://theconsumervoice.org/news/detail/news_list/cms-final-rule-on-nursing-home-ownership)
- ▶ National Academies of Sciences, Engineering, and Medicine. (2016). *Families caring for an aging America*. The National Academies Press. <https://doi.org/10.17226/23606>
- ▶ National Academies of Sciences, Engineering, and Medicine. (2022). *The national imperative to improve nursing home quality: Honoring our commitment to residents, families, and staff*. The National Academies Press. <https://doi.org/10.17226/26526>
- ▶ National Center on Elder Abuse & Keck School of Medicine of USC. (2023). *A systematic review: Risk and protective factors of elder abuse in community-dwelling racial minorities* [Research Translation]. [https://pstrapiubntstorage.blob.core.windows.net/strapib/assets/NCEA\\_RT\\_Riskand\\_Protective\\_Factors\\_EA\\_Community\\_Dwelling\\_Racial\\_Minorities\\_2023\\_29a0707ee3.pdf](https://pstrapiubntstorage.blob.core.windows.net/strapib/assets/NCEA_RT_Riskand_Protective_Factors_EA_Community_Dwelling_Racial_Minorities_2023_29a0707ee3.pdf)

# References (4)

- ▶ National Indigenous Elder Justice Initiative, SAGE, University of North Dakota, National Center on Elder Abuse, & Keck School of Medicine of USC. (2021). *A spotlight on Two-Spirit Elders and elder justice facts*. [https://pstrapiubntstorage.blob.core.windows.net/strapib/assets/NCEA\\_Two\\_Spirit\\_Fact\\_Sheet\\_e6c791b382.pdf](https://pstrapiubntstorage.blob.core.windows.net/strapib/assets/NCEA_Two_Spirit_Fact_Sheet_e6c791b382.pdf)
- ▶ Nerenberg, L. (2019). *Elder justice, ageism, and elder abuse*. Springer Publishing Company. <https://doi.org/10.1891/9780826147578>
- ▶ Solomon, J. (2023, December 11). *Geriatrics Workforce Enhancement Program (GWEP) pre-application technical assistance webinar for HRSA-24-018* [Slides]. Health Resources and Services Administration, Bureau of Health Workforce. <https://www.hrsa.gov/sites/default/files/hrsa/grants/gwep-ta-webinar-dec-2023.pdf>
- ▶ The White House. (2022, February 28). *Fact sheet: Protecting seniors by improving safety and quality of care in the nation's nursing homes*. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/28/fact-sheet-protecting-seniors-and-people-with-disabilities-by-improving-safety-and-quality-of-care-in-the-nations-nursing-homes/>
- ▶ Neal, Wyden, Casey, Bonamici introduce legislation to strengthen seniors' protections from abuse and neglect [Press release]. Ways & Means Committee, Office of Ranking Chairman Richard Neal. <https://democrats-waysandmeans.house.gov/media-center/press-releases/neal-wyden-casey-bonamici-introduce-legislation-strengthen-seniors>
- ▶ The Recognize, Include, Assist, Support, and Empower (RAISE) Family Caregivers Act Advisory Council & the Advisory Council to Support Grandparents Raising Grandchildren (with technical assistance from the Administration for Community Living). (2022). *First principles: Cross-cutting considerations for family caregiver support*. [https://acl.gov/sites/default/files/RAISE\\_SGRG/NatlStrategyFamCaregivers\\_FirstPrinciples.pdf](https://acl.gov/sites/default/files/RAISE_SGRG/NatlStrategyFamCaregivers_FirstPrinciples.pdf)

# References (5)

- ▶ The Recognize, Include, Assist, Support, and Empower (RAISE) Family Caregivers Act Advisory Council & the Advisory Council to Support Grandparents Raising Grandchildren (with technical assistance from the Administration for Community Living). (2022). *2022 national strategy to support family caregivers*. [https://acl.gov/sites/default/files/RAISE\\_SGRG/NatlStrategyToSupportFamilyCaregivers-2.pdf](https://acl.gov/sites/default/files/RAISE_SGRG/NatlStrategyToSupportFamilyCaregivers-2.pdf)
- ▶ Recognize, Include, Assist, Support, and Empower Family Caregivers Act of 2017, Pub. L. No. 115–119, 132 Stat. 23 (2018).
- ▶ S. 762, 118th Cong. §1 (2023).
- ▶ S. 1298, 118th Cong. §1 (2023).
- ▶ Supporting Grandparents Raising Grandchildren Act, Pub. L. No. 115–196, 132 Stat. 1511 (2018).
- ▶ Wei, W., & Balser, S. (2022). A Systematic Review: Risk and Protective Factors of Elder Abuse for Community-Dwelling Racial Minorities. *Trauma, Violence, & Abuse*, 15248380221140123. <https://doi.org/10.1177/15248380221140123>