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VOTING AND NURSING HOME RESIDENTS: A SURVEY OF PRACTICES AND POLICIES

JOAN L. O'SULLIVAN, J.D.*

INTRODUCTION

This survey found its roots in a federal case filed by a citizens group, Citizens for Democratic Elections, supporting a Maryland gubernatorial candidate. In 1998, the group successfully petitioned in federal court to enjoin the mailing of absentee ballots to nursing homes and assisted living centers.¹ The injunction stood for two days until the court found that the group had no standing and had not alleged racial discrimination when it based its case on the Voting Rights Act.²

We decided to survey nursing home residents and staff to find out how voting is conducted in nursing homes, to ascertain whether anyone screens residents for competency before they vote, and to establish whether the Maryland State Administrative Board of Elections guidelines are followed and how effective they are. We surveyed residents in two jurisdictions of Maryland - Baltimore City, which does not follow the Maryland State Administrative Board of Elections guidelines, and Anne Arundel County, which does follow the guidelines. We interviewed forty two residents in each jurisdiction, as well as staff at the nursing homes who administer elections.

This article first discusses the federal case and its implications. In Part II, the author sets out the guidelines from the Maryland State Administrative Board of Elections for voting in nursing homes and assisted living facilities. Part III sets out the federal law regarding voting, especially concentrating on those who may have disabilities. In Part IV, we examined guidelines in states that protect the voting process. We looked closely at elections in Chicago, where there have been allegations of fraud in voting in nursing homes. Chicago has established a procedure for voting in nursing homes, which is similar to that in Maryland, having residents vote by absentee ballots before the election. Chicago sends in election judges and poll watchers who are

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1. See *Citizens for Democratic Elections v. Boards of Supervisors*, No. 98-CV-3416 (D. Md. Oct. 14, 1998) (order granting motion for temporary restraining order).

2. See *Citizens for Democratic Elections v. Board of Supervisors*, No. 98-CV-3416, slip op. at 2 (D. Md. Mar. 12, 1999).

specially trained to observe voting in nursing homes. Finally, in that section, we address new developments in voting technology which will make it easier and more private for those who have disabilities to vote.

Part V looks at case law regarding voting and age related impairments, and at case law which addresses mental impairments and voting access for those with disabilities. The final section describes the survey process, the results of the survey with residents and staff, and some conclusions.

I. IMPETUS FOR THIS SURVEY

The impetus for this survey came from a lawsuit filed by a group called Citizens for Democratic Elections.³ The plaintiffs successfully persuaded a federal court in Maryland to stay the mailing of absentee ballots to nursing homes, assisted living facilities, senior citizens communities and other institutions.⁴ The court issued the temporary injunction on October 14, 1998, two weeks before a federal and gubernatorial election.⁵

The plaintiffs, Citizens for Democratic Elections, alleged that absentee ballots sent to senior facilities were not filled out by the residents, but were instead filled out by others who were falsifying the votes of the residents.⁶ The group alleged that nursing home administrators were filling out the ballots instead of the residents.⁷ The State Administrative Board of Election Laws had requested counties to adopt practices designed to protect the integrity of the election process when processing ballots from institutions.⁸ Several counties had failed to put these practices into effect before the election, and the plaintiffs filed suit to stay the mailing of ballots in Baltimore City and several other counties.⁹ The court issued the temporary restraining order but dissolved it two days later.¹⁰

3. See *Citizens for Democratic Elections v. Board of Supervisors*, No. 98-CV-3416 (D. Md. Mar. 12, 1999).

4. See *id.* at slip. op. 2; see also *Citizens for Democratic Elections v. Boards of Supervisors*, No. 98-CV-3416 (D. Md. Oct. 14, 1998) (order granting motion for temporary restraining order).

5. See *id.* at slip. op. 2; see also *Citizens for Democratic Elections v. Boards of Supervisors*, No. 98-CV-3416 (D. Md. Oct. 14, 1998) (order granting motion for temporary restraining order).

6. See Plaintiff's Complaint for Injunction ¶ 21, *Citizens for Democratic Elections* (No. 98-CV-3416).

7. See *id.*

8. See *id.* ¶ 11.

9. See *id.* ¶ ¶ 11, 24.

10. See *Citizens for Democratic Elections v. Board of Supervisors*, No. 98-CV-3416, slip op. at 2 (D. Md. Mar. 12, 1999).

The defendants, the several counties and the Board of Supervisors of Elections in Baltimore City, moved to dissolve the temporary restraining order, arguing that the plaintiffs had no standing and had not alleged racial discrimination when it based its suit on the Voting Rights Act.¹¹ The plaintiffs had based their suit on the Voting Rights Act,¹² but had not alleged that racial discrimination had occurred, an essential element in a Voting Rights Act case.¹³ The Voting Rights Act formed the basis for the plaintiffs' jurisdictional claim; thus the court found it had no federal jurisdiction.¹⁴

The court also found that the plaintiffs had no standing to contest the mailing of absentee ballots to residents of nursing homes and other institutions.¹⁵ Although the plaintiffs did not prove that any resident's ballot had been improperly marked, the case presented several issues relating to the practices and policies involving nursing home residents and voting.

II. MARYLAND STATE ADMINISTRATIVE BOARD OF ELECTION LAWS POLICY

The Maryland State Administrative Board of Election Laws has established a procedure for those living in assisted living and nursing homes who wish to vote. The policy was put into place after a gubernatorial candidate, Ellen Sauerbrey, challenged the result of the 1994 election of Governor Parris Glendening.¹⁶ One of her contentions was that absentee ballots were sent to residents in nursing homes and other housing for the aged, who had no capacity to vote.¹⁷ A trial was held in the Circuit Court for Anne Arundel County, and the judge determined that the plaintiff had not proved that fraud had occurred in the election. The election of Governor Glendening stood.

The policy of the election board works this way:¹⁸

11. See Defendants' Memorandum in Support of Motion to Dismiss Temporary Restraining Order at 1, *Citizens for Democratic Elections v. Boards of Supervisors* (D. Md. 1998) (No. 98-CV-3416).

12. 42 U.S.C. § 1971 (1994).

13. See *Citizens for Democratic Elections v. Board of Supervisors*, slip op. at 2.

14. See *id.* at 2-4.

15. See *id.* at 2.

16. See Marcia Myers, *Election Theft Ruled Out*, BALT. SUN, Aug. 24, 1995, at 1A.

17. See generally Charles Babington, *Sauerbrey Sues to Invalidate Election; Republican Asks Court to Declare Her the Winner or Order New Vote*, WASH. POST, Dec. 28, 1994, at A1.

18. See Maryland State Board of Elections, *Absentee Ballot and Voter Registration Procedures for Licensed Nursing Homes and Assisted Living Facilities* (Oct. 6, 1999).

First, the county election board contacts all nursing home and assisted living facilities in its county before an election.¹⁹ Those residents who want to register to vote or who want to vote by absentee ballot are listed by the administrator or other staff person in the nursing home.²⁰ The list is sent to the local board of elections.²¹ The board prepares voter registration forms for each resident who wants to register, and absentee voter applications for those who want to vote by absentee ballot.²²

Next, a team is sent to each facility by the election board to register voters and to help residents apply for absentee ballots.²³ The team must consist of one registered Republican and one registered Democrat.²⁴ They register those who are not registered.²⁵ They are cautioned to ensure that the person is not receiving benefits, such as Medicaid, from another county, since registering to vote in a county is proof of residency in that county.²⁶ If the person changes counties of residence, he or she must apply to receive Medicaid from the new county of residence.²⁷

Well before the primary or general election, the team visits those voters wishing to vote by absentee ballot in a confidential setting.²⁸ The election board team fills out each application for an absentee ballot except for the signature, which the team obtains when it visits the resident.²⁹

Prior to the election, the team sets a date for voting by absentee ballot.³⁰ The teams visit the facility again and assist those residents who ask for help with filling out the absentee ballot.³¹ If they do assist the person, they fill out a form indicating that the person was assisted with the ballot.³² This is especially important for those who are visually impaired.³³

19. *See id.* at 3.

20. *See id.* at 10.

21. *See id.*

22. *See id.*

23. *See id.* at 3.

24. *See id.* at 4.

25. *See id.*

26. *See id.* at 11.

27. *See id.*

28. *See id.* at 5.

29. *See id.* at 4.

30. *See id.*

31. *See id.* at 8.

32. *See id.*

33. *See id.* at 5.

If the resident asks, the team will leave a ballot so that the resident can fill the ballot out herself, or the team will leave it so the resident may be assisted by a family member or friend.³⁴ Facility staff are cautioned that they should not express preferences for particular candidates if residents ask, and that no one can be forced to vote.³⁵ This procedure was in place in many of the twenty-three counties in Maryland at the time of the 1998 election, but was not in place in Baltimore City and a few other counties. Now, every jurisdiction except Baltimore City has adopted the procedure.

III. FEDERAL LAW REGARDING THE RIGHT TO VOTE, ELDERS AND THOSE WITH DISABILITIES

A. *Federal Voting Accessibility for the Elderly and Handicapped*

The Federal Voting Accessibility for the Elderly and Handicapped Act³⁶ states that “[i]t is the intention of Congress. . .to promote the fundamental right to vote by improving access for handicapped and elderly individuals to registration facilities and polling places for Federal elections.”³⁷ This statute, passed in 1984, provides that for each federal election, states shall ensure that all polling places and a reasonable number of registration facilities are accessible to those with disabilities and to the elderly.³⁸

Senators John Kerry and John McCain introduced amendments to this statute in 1999, saying that the act had not eliminated all inaccessible polling places.³⁹ Senator McCain was perturbed that disabled Veterans could not cast their ballots, and said that more needed to be done to make each polling place accessible to those with mobility problems, as well as to those with visual impairments.⁴⁰ Senator McCain stated that jurisdictions self-reported at least 19,500 inaccessible polling places, and that more access was needed since in 1998 only 36% of eligible voters went to the polls.⁴¹

The amendments provide that “no individual may be denied the right to vote in a federal election because of being disabled[,]” and

34. *See id.* at 7, 9.

35. *See id.* at 7.

36. 42 U. S. C. § 1973ee (1994).

37. *Id.*

38. *See id.*

39. *See* S. 511, 106th Cong. (1999); *see also* 145 CONG. REC. S2134 (daily ed. March 2, 1999) (statement of Sen. McCain and Sen. Kerry).

40. *See id.*

41. *See* Letter from Senator John McCain to author (Oct. 5, 2000) (on file with the *Journal of Health Care Law and Policy*).

that "every voter has the right to vote independently in a federal election."⁴² The amendments state further that accessible registration procedures should allow voters to register at home, by mail, or by other accessible means.⁴³ The amendments also change the terminology from "handicapped" to "disabled."⁴⁴ The amendments were referred to committee, where they remain.⁴⁵

Making nursing homes polling places would make the polls accessible to all those who are in wheelchairs, because nursing homes must be accessible to those with disabilities.

The Americans with Disabilities Act

The American with Disabilities Act (ADA)⁴⁶ has been found to apply to state officials and the right to vote. In the ADA, Congress found that "discrimination against individuals with disabilities persists in such critical areas as. . .voting, and access to public services."⁴⁷

The ADA provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by such entity."⁴⁸ Each state is subject to the public entity section of the ADA.⁴⁹

States are further covered by Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act⁵⁰ states that

[n]o otherwise qualified individual with a disability in the United States, as defined in §705(20) of this title, shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . . .⁵¹

42. S. 511, 106th Cong. (1999).

43. *See id.*

44. *See id.*

45. *See* S. 511, 106th Congress (1999) (introduced Mar. 2, 1999).

46. 42 U.S.C. §§ 12101-12213 (1994).

47. 42 U.S.C. § 12101(a)(3) (1994).

48. 42 U.S.C. § 12132 (1994).

49. *See* 42 U.S.C. § 12131 (1994).

50. 29 U.S.C. § 701 (1976).

51. *Id.*

The Code of Federal Regulations, Requirements for Long Term Care Facilities

The Code of Federal Regulations, Requirements for Long Term Care Facilities protect the civil rights of nursing home residents.⁵²

In the section entitled Resident Rights, the regulations state that:

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights:

- (a) Exercise of rights.
 - (1) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.
 - (2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights.⁵³

The "facility must care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life."⁵⁴ "The facility must provide for an ongoing program of activities designed to meet. . .the interests and the physical, mental, and psychosocial well-being of the resident."⁵⁵

IV. SAFEGUARDS IN STATES

Thirty seven states and the District of Columbia have laws which prevent anyone from registering to vote who has been found by a court to be incompetent.⁵⁶ Delaware's Constitution provides that "no idiot or insane person . . .shall enjoy the right of an elector; . . ." ⁵⁷ Hawaii's Constitution provides that "[n]o person who is non compos mentis shall be qualified to vote."⁵⁸ Neither specifies that a court

52. See 42 C.F.R. § 483.10 (1999).

53. 42 C.F.R. § 483.10(a)(1)-(a)(2) (1999).

54. 42 C.F.R. § 483.15 (1999).

55. 42 C.F.R. § 483.15(f)(1) (1999).

56. The states are Alabama, Alaska, Arizona, California, Delaware, District of Columbia, Florida, Georgia, Hawaii, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, New York, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

57. DEL. CONST. of 1897, art. V, § 2.

58. HAW. CONST. art. II, § 2.

must make this finding. Florida⁵⁹ and Ohio⁶⁰ laws provide that the person not be adjudicated mentally incompetent with respect to voting.

Of the fourteen states which do not have these clauses,⁶¹ some have guardianship laws which require a court, when determining competency, to decide whether or not to remove the right to vote. The New Hampshire law, for example, states that anyone found to be incapacitated by a court shall not be deprived of any legal rights except upon specific findings of the court: "The court shall enumerate in its finding which legal rights the proposed ward is incapable of exercising."⁶² Other state laws are silent as to the right to vote.

Nursing Homes Voting and Chicago

It had been reported that voter fraud in nursing homes was rampant in Chicago.⁶³ Precinct captains were able to go into nursing homes and assist nursing home residents in filling out absentee ballots.⁶⁴ There was little inquiry into whether the person was mentally competent to vote.⁶⁵

The law was changed in 1980, instituting a procedure which is similar to the one begun in Maryland.⁶⁶ Any voter who declares under oath that he or she requires assistance to vote because of blindness, physical disability, or inability to read, write or speak the English language shall be assisted by two election judges of different political parties.⁶⁷ He or she may be assisted by a person of his or her choice, other than the voter's employer, agent of the employer, or officer or agent of the voter's union.⁶⁸

59. See FLA. STAT. ANN. § 97.052(s) (2001); FLA. STAT. ANN. § 97.053(7) (2001). See also FLA. STAT. ANN. § 101.655 (2001) (supervised voting by absent electors in certain facilities [assisted living and nursing homes]).

60. See OHIO CONST. art. V, § 6 ("No idiot, or insane person, shall be entitled to the privileges of an elector."); OHIO REV. CODE ANN. § 3503.18 (1996); see also *Baker v. Keller*, 237 N.E.2d 629, 638 (1968) (defines "idiot" and "insane person").

61. Those states are Arkansas, Colorado, Connecticut, Idaho, Illinois, Indiana, Michigan, New Hampshire, New Jersey, North Carolina, North Dakota, Oregon, Pennsylvania, and Vermont.

62. *Id.*

63. See Telephone Interview with Bob Hodge, President of Legal Elections in All Precincts (LEAP) by author (Jan. 24, 2001) (notes on file with the *Journal of Health Care Law and Policy*). Project LEAP is an election watchdog organization. See their website at <<http://www.projectleap.org>>.

64. See *id.*

65. See *id.* <http://www.projectleap.org>.

66. See 10 ILL. COMP. STAT. ANN. 5/17-14 (West 2000).

67. See *id.* <http://www.projectleap.org>.

68. See *id.* <http://www.projectleap.org>.

The Chicago Board of Election Commissioners has established a system in which those who reside in nursing homes vote on the Friday, Saturday, Sunday, and Monday prior to the election.⁶⁹ Election judges are sent to nursing homes.⁷⁰ They have been trained to instruct those who are physically disabled or who cannot read English how to vote on punch cards.⁷¹ The judges should “assist” voters very rarely.⁷² Instructions to judges direct that assisting in voting is a “profound responsibility.”⁷³ It should be undertaken only with the utmost care and attention to procedures that ensure the integrity of the ballot.⁷⁴ It instructs judges how to set up a room for privacy and how to handle voting for residents who are non-ambulatory.⁷⁵

The Handbook published by the Chicago Board of Election Commissioners instructs judges how to communicate with residents in nursing homes, how to assist those in wheelchairs, how to help those who are vision impaired and hearing impaired, and how to speak to those who are ‘sleepy’ or ‘sad.’⁷⁶ Election judges are instructed not to assist those

. . . whose degree of mental impairment makes them unable to understand the voting process or communicate their choices to those attempting to render assistance. When voters appear to be mentally impaired to the degree that their choices cannot be communicated, *you* must determine that assistance is not appropriate. In some instances this will not be easy.⁷⁷

Pollwatchers may be sent to nursing homes while the voting goes on, and they are specially trained to observe nursing home voting.⁷⁸ There are four types of pollwatchers:

- political party pollwatchers
- candidate pollwatchers
- civic organization pollwatchers and

69. See 10 Ill. Comp. Stat. Ann. 5/19-12.2 (West 2000).

70. See *id.* <http://www.projectleap.org>; see also <http://www.projectleap.org>. Chicago Board of Election Comm’rs, Election Support Activities Div., Nursing Home Judge of Election Handbook 7 (2000) [hereinafter Nursing Home Judge].

71. See Ill. Comp. Stat. Ann. 5/17-14 (West 2000).

72. See Nursing Home Judge, *supra* note 71, at 7.

73. *Id.*

74. See *id.* <http://www.projectleap.org>.

75. See *id.* at 6, 15. <http://www.projectleap.org>.

76. See *id.* at 13-14.

77. *Id.* at 8.

78. See *id.* at 3.

- ballot proposition pollwatchers.⁷⁹

Each group decides whether to send pollwatchers to each nursing home.⁸⁰ Usually only the candidate pollwatchers are present, most often precinct captains.⁸¹ The pollwatchers accompany the election judges into the voting area, but do not watch the ballot being marked.⁸² If the election judges assist someone in marking the ballot, they may not listen as the voter directs the marking.⁸³ Their role is to ascertain that the resident is directing the election judge in the marking of the ballot.⁸⁴ The pollwatcher remains outside the resident's room when non-ambulatory residents are voting.⁸⁵ The door must remain open to ensure the integrity of the election.⁸⁶

Chicago has made great strides in making polling places accessible: 80% of its polling places are accessible.⁸⁷ All election materials are put on the internet so that those with hearing impairments can read them.⁸⁸ Those with visual impairments are served by providing magnifying equipment in each polling place.⁸⁹ The Chicago Board of Election Commissioners anticipates having materials printed in Braille, and will have a tape player and audio taped instructions for those who do not read Braille.⁹⁰

New Technology for those with Visual Impairments

In the 2000 election year, new technology for those with visual impairments was introduced in a number of states. One system is called eSlate.⁹¹ It is the size of a laptop computer and can be used by those in wheelchairs.⁹² For those who are visually impaired, it is

79. *See id.*

80. *See* Electronic mail from Bob Hodge, President of Legal Elections in All Precincts (LEAP) to the author (Mar. 8, 2001) (on file with the *Journal of Health Care Law and Policy*).

81. *See id.*

82. *See* NURSING HOME JUDGE, *supra* note 71, at 4-5.

83. *See id.*

84. *See id.* at 4.

85. *See id.* at 5.

86. *See id.*; *see also* Chicago Board of Election Commissioners, *Information on Pollwatchers* (visited Mar. 4, 2001) <<http://www.chicagoelections.com>> <<http://www.chicagoelections.com>>. <<http://63.86.111.157/Pollwatchers.htm>>.

87. *See* Mayor's Office for People with Disabilities, *Chicago Voting Accessibility Success Showcased at National Meeting* (visited Mar. 4, 2001) <<http://www.cityofchicago.org/Disabilities/Releases/PollingPlace.2000.6.15.html>>.

88. *See id.*

89. *See id.*

90. *See id.*

91. *See* Mindy Sink, *Electronic Voting Machines Let Disabled Choose in Private*, N.Y. TIMES, Nov. 2, 2000, at G7.

92. *See id.*

hooked up to an add-on speech synthesizer.⁹³ The machines cost about \$2,500 and the speech synthesizer is another \$1,000.⁹⁴

Curtis Chong, of the National Federation of the Blind in Baltimore, says that the eSlate is the machine favored by his organization.⁹⁵ With other systems, it was not clear whether the ballot has been marked in the correct place.⁹⁶ Mr. Chong said that “[w]ith eSlate you can hear it click as it rolls through the settings.”⁹⁷

In Baltimore, where Mr. Chong votes, he must use the services of a human reader or a partial Braille ballot.⁹⁸ He says it is difficult to ignore the voice inflections of a human reader while making ballot decisions.⁹⁹ Geneva Teagarden, of Fort Worth, TX., who is legally blind, used the eSlate to vote this year.¹⁰⁰ She said it made the hairs on the back of her neck stand up, when she voted privately for the first time.¹⁰¹ She said, “I didn’t realize what a privilege it is to have that right to privacy.”¹⁰²

In Riverside County, California, voters use a touch-screen voting machine.¹⁰³ The voting screens, which are computer screens responsive to touch, are plugged into the wall and are not hooked up to a central network.¹⁰⁴ This makes them immune from hackers.¹⁰⁵ The manufacturer, Sequoia Voting Systems, Inc., insists that the machines are thoroughly reliable, accurate and secure.¹⁰⁶ The screens physically prevent the voter from voting for two candidates, while allowing the voter to change his or her mind.¹⁰⁷ They can easily handle excessively long ballots, common in California.¹⁰⁸ They provide easily for different languages; in Riverside, the ballots are printed only in English, but after the census, the county expects to print ballots in Spanish as well, which will not cost extra.¹⁰⁹

93. *See id.*

94. *See id.*

95. *See id.*

96. *See id.*

97. *Id.*

98. *See id.*

99. *See id.*

100. *See id.*

101. *See id.*

102. *Id.*

103. *See* Katharine Q. Seelye, County in California Touches Future of Voting, N.Y. TIMES, Feb. 12, 2001, at A1.

104. *See id.*

105. *See id.*

106. *See id.*

107. *See id.*

108. *See id.*

109. *See id.*

Touch screens can accommodate those who are visually impaired and those who have other disabilities.¹¹⁰ Touch screens can run on a battery pack in a laptop computer.¹¹¹ Last year when a woman who was pregnant could not get out of her car to vote, elections officials took a laptop computer to her car at the curb and she voted in her car.¹¹²

Voting machines which accommodate those with disabilities are essential elements of democracy. Use of modern voting technology will make a level electoral playing field for those with disabilities.

V. CASE LAW

Feeble-mindedness Due to Age

There are two ancient cases which address the question of whether a person who is feeble-minded due to old age can be disqualified to vote. In *Sinks v. Reese*,¹¹³ the court found the lower court was in error for refusing to count the vote of an elderly man.¹¹⁴ The court pointed out that the man was neither a lunatic nor an idiot (as those terms were used at the time) and that feeble-mindedness due to old age was not a legal disqualification from voting; therefore, the man's vote should be counted.¹¹⁵ In the case of *Welsh v. Shumway*,¹¹⁶ a defeated candidate challenged the election results saying, in part, that an elderly man was not entitled to vote because of his mental incapacity.¹¹⁷ The court held that the evidence did not justify the rejection of the man's vote simply because he was enfeebled due to old age.¹¹⁸ The court held that the test to be applied was whether the man knew enough to understand the nature of his act.¹¹⁹ There was uncontroverted evidence that the man appeared to know what he was doing the day he voted, and indicated a sound mind in answering the questions at the polling place.¹²⁰

110. *See id.*

111. *See id.*

112. *See id.*

113. 19 Ohio St. 306 (1869).

114. *See id.* at 320.

115. *See id.*

116. 83 N.E. 549 (Ill. 1907).

117. *See id.* at 558.

118. *See id.*

119. *See id.*

120. *See id.*

Mental Retardation or Mental Deficiency

There are a number of cases which address entities denying those with mental retardation or mental deficiencies from voting. In 1975, a Massachusetts court found for the members of a class who had sued to be allowed to register to vote.¹²¹ The class members were residents at a school for those with mental retardation.¹²² The court found that the plaintiffs, if otherwise qualified under the Constitution and laws of the Commonwealth, may not be precluded from registering to vote solely because they resided at a state operated residence for those with mental retardation.¹²³ None of the members of the class had been found to be incompetent by a court or were under guardianship.¹²⁴

The following year, in a New Jersey case, residents at the New Lisbon State School for the mentally retarded were prevented from registering to vote.¹²⁵ The court clerk stated that she had been instructed by her solicitor not to allow the residents to vote unless instructed to do so by a court order.¹²⁶ None of the members of the class action suit had been found to be incompetent by a court,¹²⁷ and they had successfully completed the application to register to vote.¹²⁸ The defendants argued that the state law prevented anyone from voting who was an "idiot" or "insane,"¹²⁹ and that the clerk of the court had a duty to determine whether an applicant had the requisite mental capacity to vote.¹³⁰ The court rejected those arguments, saying that a lay person such as the clerk of court could not determine whether a person had the requisite mental capacity to vote.¹³¹ The court agreed with the court below that the members of the class were not so mentally deficient as to be disenfranchised.¹³²

A Wisconsin court found that "under guardianship" did not mean that a person had been found to be incompetent by a court, but instead applied a broad legal definition of the term.¹³³ In deciding that patient-residents of an institution for the 'mentally deficient'

121. See *Boyd v. Board of Registrars of Voters*, 334 N.E.2d 629, 630 (Mass. 1975).

122. See *id.*

123. See *id.*

124. See *id.*

125. See *Carroll v. Cobb*, 354 A.2d 355, 356 (N.J. Super. Ct. App. Div. 1976).

126. See *id.* at 357.

127. See *id.*

128. See *id.* at 356.

129. See *id.* at 357.

130. See *id.* at 357-58.

131. See *id.* at 359.

132. See *id.*

133. See *Town of Lafayette v. City of Chippewa Falls*, 235 N.W.2d 435, 440 (Wis. 1975).

were "under guardianship," the court found that the ordinary and accepted dictionary meaning of the term may be applied.¹³⁴ The court noted that a state board was established for the care and custody of the residents of the institution,¹³⁵ and found that all of the residents were under the guardianship of the state through the board.¹³⁶ It found all the residents in the institution disqualified from voting.¹³⁷

Inaccessible Polling Places

In a more recent Texas case, those who were visually impaired and those whose mobility was impaired brought a class action lawsuit against the Secretary of State, alleging he permitted inaccessible polling places.¹³⁸ The district court found that the Federal Voting Accessibility for the Elderly and Handicapped Act,¹³⁹ section 504 of the Rehabilitation Act of 1973,¹⁴⁰ and the Americans with Disabilities Act¹⁴¹ were to be read in conjunction.¹⁴² The court found that after the passage of the ADA, the state had done nothing to improve accessibility for those who were mobility impaired, and nothing to preserve the secrecy of the ballot for those who were visually impaired.¹⁴³ The district court ordered the state to produce a plan or suffer the consequences of a court imposed plan to make voting more accessible.¹⁴⁴

The Fifth Circuit reversed the district court and found in favor of the Secretary of State.¹⁴⁵ The Fifth Circuit found that the Secretary of State of Texas received no federal monies, and therefore did not come under the dictates of section 504 of the Rehabilitation Act of 1973.¹⁴⁶ Finally, the Secretary alleged that he had not violated the ADA because he had no duty to ensure that local election authorities comply with the ADA. The Fifth Circuit examined the law and found that the Secretary of State *may* take appropriate action to protect the voting rights of citizens from abuse, but that he had no duty to do

134. *See id.*

135. *See id.*

136. *See id.* at 441.

137. *See id.*

138. *Lightbourne v. County of El Paso*, 904 F.Supp. 1429 (W.D. Tex.1995), *rev'd* 118 F.3d 421 (5th Cir. 1997).

139. 42 U. S. C. § 1973ee (2000).

140. 29 U. S. C. § 794(a) (1976).

141. 42 U. S. C. §12101-12233 (1994).

142. *See Lightbourne*, 904 F. Supp. at 1432.

143. *See id.*

144. *See id.*

145. *See Lightbourne*, 118 F.3d at 423.

146. *See id.* at 427.

so.¹⁴⁷ The Fifth Circuit found that the 'elections laws outside this code' did not include the ADA, which has a broader purpose, and that the Texas Secretary of State did not violate Texas law by failing to ensure statewide compliance with the ADA.¹⁴⁸

A Pennsylvania case found that the Voting Accessibility for the Elderly and Handicapped (VAEH) law applies only to federal elections,¹⁴⁹ but the Americans with Disabilities Act applies to all elections.¹⁵⁰ The procedures used under the VAEH could be applied to local and state elections to eliminate discrimination against those with disabilities, whether elderly or not.¹⁵¹

In a New York case, in which the state attorney general joined, the plaintiffs sued the defendant county, alleging violations of the Americans with Disabilities Act.¹⁵² The county had violated the ADA by making certain polling places inaccessible to disabled persons.¹⁵³ The court granted the plaintiff's motion for a preliminary injunction and ordered the defendant to come into compliance with the act before the next election.¹⁵⁴

A Rhode Island case found that ballots cast by absentee and shut-in voters should not be counted in a primary election, since the statute authorizing absentee and shut-in ballots to be cast did not specify primary elections.¹⁵⁵

VI. A STUDY COMPARING TWO JURISDICTIONS, ONE USING THE BOARD OF ELECTIONS PROCEDURE AND ONE NOT USING THE BOARD OF ELECTIONS PROCEDURE

This study was designed to compare the results of nursing home residents voting in Baltimore City with the county immediately to the south of Baltimore City, Anne Arundel County. Baltimore City does not use the services of the Board of Elections to instigate the voting process in nursing homes. Anne Arundel County does follow the guidelines of the State Administrative Board of Elections. Baltimore City has thirty-six nursing homes within its boundaries. Anne Arundel

147. *See id.* at 429.

148. *See id.* at 431.

149. *See* NAACP v. Philadelphia Board of Elections, No. 97-7085, 1998 U.S. Dist. LEXIS 8861, at *15 (E.D. Pa. 1998).

150. *See id.* at *15-16.

151. *See id.* at *16.

152. *See* People v. County of Delaware, 82 F. Supp.2d 12, 13 (N.D.N.Y. 2000).

153. *See id.* at 14.

154. *See id.* at 19.

155. *See* McCormick v. State Board of Elections, 378 A.2d 1061, 1062-63 (R.I. 1977).

County has thirteen nursing homes within its borders. The county consists of urban, suburban, and rural areas.

The study design was intended to inquire into the voting habits of those who reside in nursing homes, who make their own health care decisions, and who are not under guardianship. Like many other states, Maryland has a statute which prohibits those who are under guardianship from voting.

This survey answered such questions as

- Are nursing home residents encouraged to cast ballots?
- Are activities centered around keeping residents informed about current events and political races?
- Do nursing homes follow the guidelines of the Maryland State Administrative Boards of Election Laws to ensure that votes are cast appropriately?
- Are there safeguards in place to screen nursing home residents for competency before they vote?

This survey examined the practices and policies in place in nursing homes. We surveyed forty-two nursing home residents in each jurisdiction who are not under guardianship and who make their own health care decisions. We also reviewed the Minimum Data Set in each resident's file to determine the resident's mental cognition as evaluated by the nursing home staff.¹⁵⁶ The Minimum Data Set is completed upon admission and periodically after admission, or when a significant change occurs in the resident. It measures the resident's functioning in a variety of skills. The results of the survey of residents is provided in Appendix A.

It is estimated that 50% of nursing home residents have some cognitive failure. Many are incompetent due to Alzheimers Disease, alcoholism, other dementias, and strokes.¹⁵⁷ Some may become incompetent after they enter the nursing home.¹⁵⁸

Initially, we called the administrator of each nursing home we wanted to survey. We looked for variety in nursing homes we selected, interviewing those in poorer neighborhoods as well as those in up-scale areas. The administrator usually put us in contact with the activi-

156. Our intention was to interview 50 residents in each county. However, upon examining the Minimum Data Set in each resident's medical record, we realized that some of the people we had interviewed were not competent to answer the questions that we asked, and these questionnaires were eliminated.

157. See Alzheimer's Association, *General Statistics/Demographics* (visited Apr. 21, 2000) <<http://www.alz.org/research/current/stats.htm>>.

158. See *id.*

ties director, who supplied us with a list of names of residents who agreed to be interviewed. Each interview lasted about ten minutes, and we let each resident chose a small gift when the interview was finished.

We interviewed nursing home administrators or activity directors to learn how they encourage voting among residents, the safeguards they use to ensure privacy in voting, and any screening tools they use to determine competency. Those questions are attached in Appendix B.

VII. RESULTS

A. *Interviews with Nursing Home Staff*

Initially, when we visited a nursing home, we would interview the administrator or activities director to ask about their procedures for helping people vote. Because activities directors have a high turn-over rate, many did not know the answers to our questions. If the activities director was new, they knew very little about voting procedures.

It was clear in Anne Arundel County that the activities directors relied on the Board of Elections to initiate the voting process. In reply to the questions, "How do you know if your residents vote or not?" and "What is your procedure for ensuring that residents who want to vote are able to do so?" several nursing home staff replied that they wait for the Board of Elections to send a packet or to come to the nursing home. Of the six staff we interviewed in Anne Arundel County, only one did not know how many had voted in the last election.

In contrast, in Baltimore City where the Board of Elections does not go to nursing homes, the answers were much less specific. Activities directors did not know how many residents voted in the last election. One nursing home in Baltimore (#2 on the survey) is a polling place, and the answers from that home were much more definite. It was the only nursing home in Baltimore City (one of four) in which the director of resident services knew how many of their residents voted.

We asked whether anyone screens residents for competency before they vote. In Baltimore City, two staff answered that residents are screened on admission. Two other staff answered that social service workers screen residents.

In Anne Arundel County, the answers were similar: one nursing home staff said that a doctor screened the residents, others said that social workers screened. One staff person said that the social worker

gave the resident the Mini-Mental Status exam.¹⁵⁹ One said that resident council members are screened for competency. One staff person in Anne Arundel County said that no one screened for competency.

All but one of the Baltimore City nursing homes said that they provided current events discussions for residents; the remaining one said that League of Women Voters materials for each election were available for voters. In Anne Arundel, all said that they provided current events sessions for residents.

Politicians rarely visit nursing homes. Some in Anne Arundel County said that local politicians visit, but federal candidates do rarely.

One nursing home in Baltimore City was a polling place, but none in Anne Arundel were. Some said that they had no room for a polling place, and one took residents across the street to the local elementary school, a polling place, which was accessible for wheelchairs.

In comparing the results from the staff at nursing homes it was clear that in Anne Arundel County, the staff relied on the Board of Elections to initiate the process of voting by absentee ballots. In Baltimore City, the process was much less defined, and although many residents said that voting was important to them (thirty six of forty two), one wonders if those who intended to vote were able to do so.

B. Interviews with Nursing Home Residents

We interviewed forty-two residents in each county. In Baltimore City, twenty-nine were female and thirteen were male; in Anne Arundel County, twenty-six were female and sixteen were male. In Baltimore City, twenty-three residents were African American and nineteen were Caucasian; in Anne Arundel County, twenty-seven were Caucasian and sixteen were African American.

The average age of those in Baltimore City nursing homes was seventy-three years; the average age in Anne Arundel County was sixty-three years. Many of those in both locations had no children (fourteen in Baltimore City, twelve in Anne Arundel). In Baltimore City, the average number of children was 1.9; of those, 1.6 lived locally. In

159. The Mini-Mental Status examination is a useful screening tool for cognitive disorders. It measures orientation, memory, attention and calculation, recall, and language. A perfect score is 30, and those scoring below 24 may be subject to delirium, dementia, or severe depression. A low score may only be an indication that the person had little formal education, however. The test was developed by M. F. FOLSTEIN ET AL., *THE MERCK MANUAL OF GERIATRICS* 932-33 (1990).

Anne Arundel County, the average was 1.7 children, with 1.2 living locally.

In Baltimore City, seventeen did not finish high school, thirteen graduated from high school, nine had some college, one was a college graduate, and one each had a graduate degree and post graduate work. In Anne Arundel County, sixteen did not finish high school, ten graduated from high school, eleven had some college, four were college graduates, and one had a graduate degree.

Most were Democrats (fifty-three of eighty-four), ten were Republicans, six were Independents, three belonged to other parties, and twelve had no party affiliation.

Most residents in both locations said that voting was important to them, for a variety of reasons. All but two residents in Baltimore City and six in Anne Arundel had voted in the past. Most of the residents in Anne Arundel County had voted while living in the nursing home (thirty-one of forty-two), but only twenty-two of forty-two living in Baltimore City nursing homes had voted while living in the nursing home. The initiation of the voting process by the Board of Elections seems to have had an effect on those living in Anne Arundel County.

Those living in Anne Arundel County voted mainly by absentee ballot, except for those who were taken in wheelchairs to the elementary school across the street (six of eighteen voted at a polling station). In Baltimore City, one nursing home was a polling station, and those residents voted at the polling station. The rest thought that they would vote by going to the polls (twenty-two of forty-two). Two nursing homes said that they find or help find transportation to the polls; the third nursing home staff member did not know if the nursing home found transportation or not.

Those in Baltimore City and Anne Arundel County did think they would be more likely to vote if the nursing home were a polling place.

We asked each resident their opinion on a variety of political subjects, asking each person to rate the importance of the question by assigning it a number, one being unimportant, two being not so important, three being important, and four being very important.

The three highest ratings went to education, Medicare/medical insurance, and Social Security. Of eighty-four participants, eighty-one rated education a three or a four; eighty rated Medicare and medical insurance a three or a four; and seventy-seven rated Social Security a three or a four. This is in accord with a post election survey conducted

by the Kaiser Family Foundation/ Harvard School of Public Health.¹⁶⁰ In the Kaiser survey, the public's priorities for using the federal budget surplus was to increase spending for public education (35%), to rescue the Medicaid fund (33%), and to make Social Security more financially sound (31%).

In the survey of nursing home residents, the next highest ratings went to health care reform, crime, equality for women, gun control and racial equality. African Americans in Baltimore City rated racial equality important (fourteen of twenty-two African Americans). Caucasian residents rated racial equality the same. In Anne Arundel County, African Americans rated racial equality very important (ten of fourteen African Americans), and Caucasians rated racial equality either important or very important (twenty-three of twenty-eight Caucasians).

Equality for women fared better: in Baltimore City, twenty-four of twenty-seven women rated equality for women important or very important; ten of thirteen males in Baltimore City rated equality for women as important or very important. In Anne Arundel County, twenty-four of twenty-six women rated equality for women as important or very important; fourteen of sixteen males rated it important or very important. [The reader should know that all of the interviewers were women.]

Abortion did not fare well with this group, for many women never had legal access to an abortion. Only fifteen residents rated it important or very important. Thirty-five residents rated abortion unimportant or not very important. Several women would not answer the question, saying only that they did not believe in it.

Physician assisted suicide fared a bit better. Forty-eight residents rated physician assisted suicide important or very important. Forty-two residents said it was unimportant or not very important. One said he did not approve of it.

The final question asked how each resident would rate the quality of their life. Sixty of eighty-four residents answered that their life was very good or good. Only nineteen answered that their life was fair or poor.

VIII. CONCLUSIONS

The survey of nursing homes found that those in Anne Arundel County had voted more often than those in Baltimore City nursing

160. See Post-Election Survey: The Public and the Health Care Agenda for New Administration and Congress, Jan. 25, 2001.

homes. The initiative taken by the local Board of Elections seems to have made a difference in the County. When the administrator receives a packet of information from the Board of Elections, it begins a process in which activities directors ask residents who wants to vote in the next election, the director sends the names of residents to the Board of Elections, and the Board comes to the nursing homes to register residents and have them sign an application for an absentee ballot. Closer to the election, teams of registered Democrats and Republicans return to the nursing home and help those who ask for help to vote. Some residents vote without assistance.

In contrast, the homes in Baltimore City do not have specific processes for helping residents to vote. Administrators must follow extensive regulatory guidelines for running the nursing home, and often do not have the time to ensure that residents have the opportunity to vote. Providing good quality care, keeping front line workers fully staffed, and managing the many tasks involved in running a quality nursing home may put voting low on the list of priorities.

The nursing home in Baltimore City which was a polling place was the exception to the rule in Baltimore. In that nursing home, residents were encouraged to vote and went to the polling place to cast their ballots. That nursing home is one in which prices are higher and it is located in a more affluent neighborhood than the others we surveyed. Perhaps the higher levels of education of the residents encouraged the staff to take voting more seriously there. However, Baltimore City would do well to encourage the establishment of the Board of Elections guidelines for its nursing homes and assisted living facilities. It is the intervention of outside forces, in the form of teams of volunteers which makes the difference in the number of residents voting in an election.

Keeping nursing home residents connected to the outside world encourages them to maintain their level of mental functioning and keeps them involved with the world outside of the nursing home walls. Activities such as current event discussion groups and visits from politicians who raise the important issues of the day helps those who have disabilities to stay involved in the world. As we saw when we asked people their opinions of critical issues on the political scene, everyone had an opinion and did not hesitate to express it. This perhaps was the most valuable lesson in doing the survey.

The other valuable lesson was that so many nursing home residents saw their lives as very good or good, even though they were living in a nursing home and had disabilities.

APPENDIX A

Questions for Nursing Home Residents

BC = Baltimore City AA = Anne Arundel County ? = does not know

1. What has been your voting history?
 - Always: BC- 20, AA- 23
 - President only: BC- 0, AA- 5
 - Usually: BC- 10, AA- 4
 - Infrequently: BC- 10, AA- 4
 - Cannot remember the last time: BC- 0, AA- 0
 - I have never voted: BC- 2, AA- 6
2. Is voting important to you?
 - Yes: BC- 36, AA- 35
 - No: BC- 6, AA- 7
3. Why is voting important to you?
 - Political opinion/voice/choice: BC- 9, AA- 15
 - Choose leaders: BC- 13, AA- 10
 - Cannot complain if do not vote: BC- 2, AA- 5
 - Moral obligation/duty: BC- 3, AA- 4
 - Exercise my civil rights: BC- 6, AA- 4
 - BC: 1 make a difference
4. a. Are you currently registered to vote?
 - Yes: BC- 36, AA- 32
 - No: BC- 5, AA- 9
 - ?: BC- 1, AA- 1
 b. Do you want to be registered?
 - Yes: BC- 4, AA- 3
 - No: BC- 2, AA- 6
5. Are you registered to vote using the address of your last home?
 - Yes: BC-9, AA-10
 - NA: BC- 7, AA- 10
 - Or here at the nursing home?
 - Yes: BC- 24, AA- 16
6. How many years have you lived in a nursing home?
 - Less than 2 years: BC- 22, AA- 26
 - 2-5 years: BC- 7, AA- 8
 - more than 5 years: BC- 12, AA- 8
 - ?: BC- 1
7. Did you vote in the last election for governor? (1998)
 - Yes: BC- 26, AA- 22
 - No: BC- 16, AA- 20
 - ?: BC- 2

8. Did you vote in the last election for President? (1996)
Yes: BC- 31, AA- 27
No: BC- 7, AA- 12
?: BC- 1
What was the last election you voted in?
BC: Roosevelt
AA: Kennedy, Carter, Reagan
9. Why did you not vote in the last election?
Did not receive a ballot: BC- 0, AA- 0
Did not have enough information: BC- 0, AA- 1
Not aware that you could: BC- 0, AA- 1
Not registered: BC- 0, AA- 0
Felt ill: BC- 7, AA- 3
Chose not to/not interested: BC- 2, AA- 6
Other, BC: "Doesn't make a difference,"
"Politicians do not do what they say."
Other, AA: "Out of state,"
"Could not get there."
11. Before you came to the nursing home, did you vote?
At a polling station: BC- 33, AA- 31
NA: BC- 3, AA- 6
By absentee ballot: BC- 6, AA- 5
12. Since living in the nursing home, have you ever voted?
Yes: BC- 22, AA- 31
No: BC- 20, AA- 11
13. While in the nursing home, how did you vote?
At a polling station: BC- 9, AA- 6
N/A: BC- 19, AA- 18
By absentee ballot: BC- 15, AA- 18
14. Do you plan to vote in the next election?
Yes: BC- 27, AA- 31
No: BC- 2, AA- 11
Maybe: BC- 1
15. How are you going to cast your ballot?
At a polling station: BC- 22, AA- 11
By absentee ballot: BC- 17, AA- 20
NA: 10
16. If the nursing home were a polling station, would you be more likely to vote?
Yes: BC- 32, AA- 27
No: BC- 0, AA- 10
?: BC- 9, AA- 4

17. Who is current president of the United States?

Correct answer: BC- 33, AA- 37

?: BC- 8, AA- 3

18. Who is the current Governor of Maryland?

Correct answer: BC- 21, AA- 24

?: BC- 21, AA- 17

Demographics:

Average age: BC- 73 years, AA- 63

Gender: BC- 29 female, 13 male; AA- 26 female, 16 male

Race: BC- 19 caucasian, 23 african-american, 0 hispanic, 0 asian, 0 other

AA- 27 caucasian, 16 african-american, 0 hispanic, 0 asian, 0 other

Political party affiliation (if any): BC- 33 democrats, 3 republicans, 3 independent, 1 other, 2 none

AA- 20 democrats, 7 republicans, 3 independent, 2 other, 10 none

How far did you go in school?

Did not complete high school: BC- 18, AA- 16

High school graduate: BC- 13, AA- 10

Some college: BC- 9, AA- 11

College graduate: BC- 1, AA- 4

Graduate degree: BC- 1, AA- 1

Post graduate studies: BC- 1, AA- 0

How many living children do you have?

BC: average 1.9

AA: average 1.7

How many children live locally?

BC: average 1.6

AA: average 1.2

APPENDIX B

Questions for Nursing Home Administrators or Staff

BC = Baltimore City AA = Anne Arundel County ? = does not know

How many residents currently live in your nursing home?

BC: 1- 150, 2- 222, 3- 128, 4- 137

AA: 1- 99, 2- 168, 3- 56, 4- 72, 5- 78, 6- 150

How many residents voted in the last presidential election?

BC: 1- ?, 2- 40, 3- ?, 4- ?

AA: 1- 5, 2- 5, 3- ?, 4- 18, 5- 10, 6- 15

How do you know if the residents vote or not?

BC:

1. Social worker passed out list of those who voted in the past.
2. There is a printout of eligible voters; volunteer is in charge of asking residents.
3. There is an admissions assessment by the activities director.
4. Unknown.

AA:

1. Board of Elections sends a packet. We ask each resident if they want to vote or not. We take them in a wheelchair to the school across the street to vote.
2. Residents have to register to vote.
3. Absentee ballots; assistants assist residents.
4. Ask residents if they want to vote; when Board of Elections comes, we bring them into the resident's room.
5. Board of Elections comes in.
6. Election Board comes in.

What is your procedure for ensuring that residents who want to vote are able to do so?

BC:

1. ?
2. The nursing home is a polling place.
3. Residents are individually asked by the activities director; no established procedure.
4. Residents vote by absentee ballots; set up meeting space to assist residents.

AA:

1. When packet comes from the Board of Elections, we interview residents and figure out who is competent.
2. Forms are forwarded to the nursing home by the Board of Elections.

3. Absentee ballots are brought to the facility by the Board of Elections.
4. Ask each resident and forward names to the Board of Elections.
5. Board of Elections comes in.
6. Election Board comes in.

What is your procedure for assisting residents to register to vote?

BC:

1. Use absentee ballots or offer assistance.
2. Residents are asked about their desire to vote when they enter the facility; provide registration help as necessary.
3. No set procedure.
4. Social worker is the witness; assist as needed.

AA:

1. ?
2. Forms are forwarded to the facility by the Board of Elections.
3. Assistants help them; confidential relationship. Some residents do it independently.
4. Via Board of Elections.
5. Asked on admission and activities assessments, several times.
6. Board of Elections comes in.

What is your procedure for helping residents change their address with the Board of Elections when they move to your nursing home?

BC:

1. ?
2. Entered on admission form when they enter the facility.
3. None.
4. Institution is sent a list of change of address.

AA:

1. Activities director did this.
2. ?
3. Done through admissions automatically.
4. Send in change of address forms to Board of Elections.
5. Via admissions.
6. On admission.

What is your procedure to help residents cast their votes in an election?

BC:

1. Provide assistance to those who need it; activities staff help those who have difficulty writing or reading.
2. Help at polling place (ask judge if aides can help residents.); help with absentee ballots.

3. No set procedure.
4. Assist as needed.

AA:

1. Ask residents the day before and the day of the election.
2. Residents are taken into a private room.
3. We inform residents of the election; daily current events; TV; debates; assist in gaining knowledge.
4. Board of Elections trains residents.
5. Prepare a list of residents who want to vote for Board of Elections and bring them together.
6. Resident council meeting discusses voting.

Do you provide transportation or help find transportation to polling places for those who wish to go to the polls?

BC:

1. Yes.
2. Nursing home is a polling place.
3. ?
4. Yes.

AA:

1. Yes, walk across the street to the school.
2. ?
3. No.
4. Yes, some family members do this.
5. Help is provided.
6. No.

Do family members ever assist a resident to vote?

BC:

1. No.
2. No.
3. ?
4. Yes.

AA:

1. No.
2. Yes.
3. No.
4. Some do.
5. Small roll; reminding residents to vote.
6. No.

Do you or does anyone on your staff screen residents for competency before they cast a ballot?

BC:

1. This is done on the initial assessment upon entry into the facility; there is a question about voting.
2. On admission a mental status assessment is done.
3. Yes.
4. Yes.

AA:

1. Whatever is in the chart; Minimum Data Set; the same residents vote every year.
2. Yes.
3. Done through social services; mini-mental status exam.
4. No. Most understand general elections.
5. Yes. Psychiatric exam done by social services.
6. Resident council members are screened.

If yes, who does this?

BC:

1. All members of the activities department.
2. Social worker.
3. Social worker or psych consult.
4. Social worker.

AA:

1. Doctor normally does; some residents ask.
2. Social worker.
3. Department of Social Services and if any significant change.
4. No one.
5. Social services.
6. N/A.

Do you sponsor current event discussion sessions for your residents?

BC:

1. Yes, each week in group meeting.
2. No. League of Women Voters material is available before each election.
3. Yes.
4. Yes.

AA:

1. Yes, once a week.
2. Yes.
3. Yes.
4. Yes.
5. Yes.
6. Yes.

Do you bring in political speakers for your residents?

BC:

1. Not recently.
2. No.
3. ?
4. Yes.

AA:

1. No. Several years ago a county councilman visited.
2. No.
3. No.
4. Some county politicians come.
5. No.
6. Yes.

Has a federal candidate campaigning for election ever visited your nursing home?

BC:

1. No.
2. No. Local politicians visit.
3. No.
4. No.

AA:

1. No.
2. Not recently.
3. No.
4. No.

Would you consider having your nursing home named as a polling site?

BC:

1. Yes.
2. It is a polling site.
3. Yes.
4. We have been asked but it has not been designated.

AA:

1. Local school is accessible, and we have no room.
2. No.
3. Yes.
4. Yes.
5. Yes.
6. No.