

## **TESTIMONY OF DENISE BRYANT**

### **Senate Special Committee on Aging Hearing "Residents At Risk? Weaknesses Persist in Nursing Home Complaint Investigation and Enforcement" March 22, 1999**

Thank you Senator Grassley and the other members of the committee for allowing me to speak today. I will be discussing the shameful response of the state of Michigan to my complaint about the tragic death of my aunt at a Detroit nursing home.

My mother died when I was three years old. Afterwards my Aunt Catherine helped provide care and was like a mother to me. Later, when I was seven, I moved to Detroit to live with her. I have very strong and fond memories of my childhood days with her. She taught me so many important things. We sang, laughed and talked often. As I grew older, I babysat and helped take care of her children and she for mine. I loved her dearly.

When she became ill, I resigned from a well paying job to care for Aunt Catherine at my home. Eventually, due to her overwhelming care needs, and as a last resort she moved into a local Medicare and Medicaid certified nursing home.

The care at the home was poor. Aunt Catherine had several unexplained injuries, was left wet and soiled on many occasions, and suffered many other indignities. I often complained about the neglectful conditions, but it did little good. I tried to compensate by helping with some of her care needs myself.

On March 2, 1997, tragedy struck. The local hospital notified me that my aunt had just arrived from the nursing home in critical condition. Nobody at the hospital or nursing home seemed to know what happened. I later learned that a nursing home aide discovered her non-responsive hanging with her head and neck caught between the bed side rails and the mattress. The cause of death was asphyxia.

Shortly after my aunt was found hanging off the end of her bed, the Homicide Section of the Detroit Police Department was called in. A young aide at this facility told the homicide investigator that my aunt had been found in this type of position before that day. My aunt was very petite. The beds at this facility are very old.

Shocked by this news, I went looking for answers. Not knowing whom to contact, I contacted the local advocacy group who referred me to Michigan public health officials. After speaking with the licensing officer, I was instructed to call their complaint hot line. After calling the complaint hot line I was asked to reduce my complaint to writing and mail it immediately. I asked them to conduct an immediate investigation. The investigation results were almost as shocking as my aunt's death. The investigator told me she found nothing wrong with my aunt's death and rejected my many other written concerns about neglect, claiming that my concerns were not recorded in the nursing home's records nor the state's records. Case Closed. The disgraceful one page report documents that the investigator did not even interview any of the staff or residents of the home. It does not even mention my detailed complaints of neglect. I call it a "drive-by" investigation.

I contacted the manager of complaint investigations for the State of Michigan and expressed my concerns. He said his office was short-staffed and that investigators had very little time to conduct investigations. He also told me that his office couldn't investigate many complaints and had to rely on nursing home records for its reviews. The reliance on nursing home records led me to develop a special

complaint form that consumers can use to document problems and notify nursing home and public officials of their concerns beyond the walls of the nursing home. The manager couldn't have cared less about my aunt's gruesome death.

I didn't give up. Working with my state representative and a local advocacy group, I pressed for a reinvestigation. Finally, five months later, on August 5, 1997, the Health Care Financing Administration (HCFA) and the state conducted another investigation. This investigation confirmed that the nursing home had not taken appropriate precautionary measures, that a large gap between the bed and side rails contributed to my aunt's death and that other current residents were at current risk due to the same problem.

At first I felt assured that appropriate actions would be taken. Imagine my surprise when the nursing home was given a grace period to correct the problem. Then, after the nursing home failed to file a timely plan of correction, the state recommended that a threatened federal fine be dropped. No federal enforcement action was ever taken. The state ordered the nursing home to pay a fine of \$100 to my aunt. I continue to be outraged by this lenient treatment. This lax treatment makes the state and federal government complicit in my aunt's death.

My aunt's death and the hapless investigations and enforcement are not the end of this story. I was saddened to learn that the same nursing home is still neglecting residents and that this neglect has contributed to the deaths of other residents. On January 29, 1999, Michigan public health officials investigated numerous complaints about the home, some of them made several months before they were investigated. One of the complaints made five months before it was investigated reported that residents were still at risk due to large gaps between the mattresses and bed side rails. The state confirmed numerous instances of neglect. But just like in my case, the state took no immediate action, instead threatening to take action if the home did not fix the problems within about seven weeks. By coincidence, tomorrow, March 23, 1999 is the correction date.

It is too late to do anything for Catherine Hunt. It is not too late for others. The late Senator Hubert Humphrey said that the moral test of government is how government treats those who are the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy and the handicapped. We need to stop drive by investigations. Complaints must be acted upon immediately and not months later. Serious violations must be addressed with serious enforcement and meaningful fines. It is time to stop giving a blank check to the nursing home industry.

I urge and pray that this most powerful body strengthen and enforce the laws protecting nursing home residents and hold skilled care facilities responsible and accountable for providing appropriate and safe care to individuals such as my Aunt Catherine Hunt.

Thank you.