



**University of  
South Australia**

**EAAA Lunch and Learn - Session 4**

**Securing the welfare of aged care residents through litigation and  
systemic reform: Some international perspectives.**

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**University of  
South Australia**

I live and work upon the lands of the Kurna people; the custodians of the lands, waterways and skies of the greater Adelaide region.

## International Developments: Focus on the United States and Canada

- Why these two jurisdictions?
- The impact of COVID-19 and resultant focus on standards of residential aged care.



# United States

- Overview
- Elder abuse laws generally – criminal and civil liability.
- Nursing Home Reform Act 1987 (Federal Law).
- Compliance necessary (?) to receive Medicare or Medicaid.
- State Nursing Home Regulations (May be stricter than federal laws).
- Nursing Home Residents Bill of Rights

State of the Union 2022:

“As Wall Street firms take over more nursing homes, quality in those homes has gone down and costs have gone up. That ends on my watch,” Biden said during his speech.

# United States

## 4 Key initiatives

- Minimum staffing requirements
- Reduce room overcrowding
- Strengthen the Skilled Nursing Facilities value based purchasing program
- Reinforce safeguards against unnecessary medications and treatments

“Cracking down on bad actors....”

\*\*Increased penalties and consequences for non- compliance (nb getting through Congress and the Senate)

As an aside: Heightened awareness of nursing home abuse and neglect in the community has led to an increase in lawsuits brought by families, including wrongful death.

# Canada (Ontario)

## *Providing More Care, Protecting Seniors and Building More Beds Act 2021*

"We expect most of the operators, in fact, the vast majority of operators to operate within the rules. But it's important that there be consequences when they don't. The highest fines in Canada will ensure that operators understand that there are financial implications if they don't play by the rules," Long Care Minister Rod Phillips.



# Canada (Ontario)

“The long-term care sector needs more than just a change in legislation or stricter enforcement. We need to transform the system....We are at a critical juncture now in long-term care. If we don't have significant changes now, I don't know if we ever will. **This is our moment. This is our opportunity to really change the system.**”

Lisa Levin, CEO of AdvantAge Ontario



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