

[Listen to Statesman News Network](#)

Austin American-Statesman

Julie Chang

Published 12:18 p.m. CT Sep. 4, 2020

Angela Rosales, 78, still had a lot of life left to live.

Her favorite grandson was about to have a baby.

Her children had promised her a belated birthday party once the pandemic was over.

She was still doling out sage advice to her loved ones even while quarantined during the pandemic.

Rosales' family believes her life was cut short by COVID-19 because of the treatment she received at Southeast Austin's Riverside Nursing and Rehabilitation Center where she lived. They said staff members failed to notice Rosales' ill roommate, delaying testing for their mother. They said staff members wouldn't answer questions in the days leading up to her death. Worst of all, they said, Rosales wasn't taken to the hospital, a move family members believe could have saved her life.

"I have no idea why she was never hospitalized. They just said they were putting all the COVID people in another wing," Missy Rosales said. "The whole system was so screwed up."

Angela Rosales is one of dozens of elderly individuals who have died from COVID-19 inside Central Texas nursing homes — not hospitals — prompting questions from advocates and family members about whether everything was done to save the lives of some residents.

In Travis and Williamson counties, at least 46 residents have died in nursing homes and assisted living facilities since March, when the pandemic started, a 24% increase compared with the same period last year, according to Austin-Travis County and Williamson County Emergency Medical Services data. EMS data only captures a fraction of COVID-19 deaths of residents who weren't hospitalized, because those bodies are typically picked up by funeral homes, data not easily accessible by the public.

In total, 362 nursing home and assisted living facility residents have died because of the coronavirus in Travis and Williamson counties, as of Aug. 21, the latest data available from the state.

🔊 Listen to Statesman News Network

Austin American-Statesman

Physicians working for nursing homes told the American-Statesman that many of the residents were not hospitalized because nursing homes didn't want to overload local hospital beds.

Families of deceased nursing home residents also said they felt pressured by staff to agree to forgo putting loved ones in the hospital.

Meanwhile, the government is paying nursing home operators higher daily reimbursement rates for each COVID-19-positive resident, creating an incentive for facilities to not send those patients to hospitals, said nursing home resident advocates.

“If they're leaving them in the facility — and they're not getting medical attention with the expectation that they're just going to die or they don't want to be a burden to the hospital system — that is the wrong call,” said Brian Lee, head of nursing home watchdog group Families for Better Care. “That is somebody who's playing God.”

Nursing home operators contacted by the Statesman would not disclose how many residents died of COVID-19 inside their facilities versus at a hospital. Until the Texas attorney general's office required them to do so in July, many nursing homes did not make public how many of their residents contracted the coronavirus nor how many died.

Advocates say transparency is vital for the public to be able to make a comprehensive, insightful assessment of how nursing homes are handling the pandemic.

A few weeks after revealing the nursing home data, which unveiled the deadly impact of COVID-19 inside facilities, state officials started allowing some facilities to reopen to visitors.

“Regency's top priority is the health and safety of our patients inside all of our facilities,” according to a statement from Regency HealthCare, which operates the Riverside Nursing and Rehabilitation Center where Angela Rosales died.

“Decisions to move a patient from one of our facilities to a hospital are determined based on each individual case,” Regency said. “We follow all federal, state and local protocols for the care of COVID positive residents and staff. We will not provide any information on specific patient cases.”

🔊 Listen to Statesman News Network

Austin American-Statesman

Fourteen of Riverside's residents have died from COVID-19, the fourth-highest number of such deaths in Central Texas, as of Aug. 21.

Two weeks before she was diagnosed with COVID-19, Rosales was placed into hospice inside the facility. Her daughter who had medical power attorney said she was reassured by the staff that Rosales wasn't expected to die any time soon. Instead, such care would ensure that her mother had more help with eating, which had been affected by her stroke.

Rosales was diagnosed with COVID-19 in April, and her health rapidly declined. Family members last visited with her through a window. She was hooked up to an oxygen machine with a medical gown draped over her slumped body, her family just out of reach.

Rosales died the day after Mother's Day, with no family members by her side.

"My mom passed away at 7:29 in the morning," Melissa Rosales said. "My mother was gone. We just wanted to touch her."

Nursing home officials say they do not make decisions on whether to hospitalize a resident on their own. Physicians, family members and residents work together to arrive at a decision ahead of time.

Do-not-hospitalize orders offer residents an opportunity to avoid the pain and perhaps fruitless medical procedures that might accompany repeated hospitalizations, according to Terry Garrett, an Austin-based elder law attorney. A do-not-hospitalize order can include exceptions so that a resident can be hospitalized under certain circumstances, such as to set a broken bone.

Missy Rosales said she does not recall signing a do-not-hospitalize form for her mother.

Nor does Caren Harvey, who had medical power of attorney over her father, Hank Cates. He died inside Trinity Nursing and Rehabilitation Center on May 5 at the age of 90.

Cates had entered into Trinity in January for rehabilitation after he fell and injured his hip and tailbone. Although he was in a wheelchair and had dementia, he was spirited. He loved talking to everyone who passed him in the hallway. He wrote letters to friends in California.

🔊 Listen to Statesman News Network

Austin American-Statesman

should be hospitalized. Harvey said staff members told her that sending him to the hospital would be an unnecessary expense when the facility is equipped to provide him oxygen. She said she felt forced into agreeing to not hospitalize him during the call.

Harvey and her daughter, Faith Adams, who had taken care of Cates for eight years before he entered Trinity, said Cates deserved to have every medical option exhausted before he died.

“Do they just not care because they're elderly and they've already lived a long life so that, you know, if they passed away, it shouldn't be that big of a deal?” Adams said. “My grandfather had dementia, but he could have lived 5, 10 more years. Who are they to say how long he should have lived? I did not think for one second that being a nursing home he'd be dead three months later.”

Trinity has had 15 residents die from COVID-19, as of Aug. 21.

“The decision to send a resident to the hospital is made by that resident’s physician, in consultation with the resident and/or family. ... There are times when directions get changed by the physician or family. In every instance, we honor those wishes,” according to a statement from Caraday Healthcare which operates Trinity.

End-of-life decisions

Hospitals have more powerful oxygen equipment and can provide more direct care than nursing homes can, according to two local nursing home physicians who asked to remain anonymous because they were not authorized to speak and feared repercussions from their employers. But there is no cure for COVID-19, and the supportive care residents receive inside a nursing home can be sufficient in the majority of cases, the physicians said.

Nursing home medical teams were trying to keep hospitalizations down to prevent overloading critical hospital beds, the doctors said.

However, state and local government officials said they have not given nursing homes any directions or suggestions to not hospitalize residents. Representatives from all three Central Texas hospital systems – Ascension Seton, Baylor Scott & White Health and St. David’s HealthCare – said they haven’t either, adding that they always had enough hospital capacity to care for coronavirus and noncoronavirus patients.

🔊 Listen to Statesman News Network

Austin American-Statesman

The nature of the pandemic was forcing residents and families to come to terms with end-of-life decisions, she said.

“We had a frank discussion of if your grandma was already DNR (do not resuscitate) and weak and frail, her chance of doing well is very low, and there’s no benefit to dying in the acute care setting with more procedures and invasive things done than just passing peacefully at their home,” the physician said.

Delia Satterwhite lost her brother, 71-year-old Stephen Morales, to COVID-19 inside the Riverside nursing home April 16. She said staff members told her that her brother, who had dementia, refused hospitalization. Believing her medical power of attorney could override her brother’s wishes, Satterwhite said she pleaded with the staff to hospitalize him anyway, but they refused.

According to Riverside records, Satterwhite had agreed to refuse hospitalization, which she adamantly denies.

“The day that they called me and told me that he had tested positive and he had pneumonia, I told them that I needed them to send him to the hospital, and they did not do it,” Satterwhite said. “They said that there’s no record of me of me telling them I said that.”

Riverside officials refused to answer the Statesman’s questions about Satterwhite’s case, citing privacy laws.

The federal government cited the 122-bed Riverside 10 times in 2019 for health violations; the average in Texas was seven. The facility has received the lowest possible rating from the Centers for Medicare & Medicaid Services -- one out of five stars.

Garrett, the elder law attorney, said that a family member with a medical power of attorney may not always get the last say in end-of-life decisions. Their role is to convey the wishes of a loved one who is not able to speak for him or herself. As long as the person can share his or her wishes with two other people or has documented them in an advance directive, those expressed desires trump those of a medical power of attorney.

🔊 Listen to Statesman News Network

Austin American-Statesman

Garrett said.

“I’m sure that, consciously or unconsciously, pressure is brought to bear in many cases,” Garrett said. “The people who bring the pressure may not realize what they’re doing, may not know how their words are received.”

Financial incentives

A majority of nursing home funding comes from Medicaid, which often does not cover the cost of the actual service delivered. The lack of funding has led to a dearth of high-quality staff and a reliance on incentives that can help pad nursing home budgets.

During the pandemic, the state has increased daily payments for certain services that nursing homes deliver by as much as 24%, according to Texas Health and Human Services, which oversees long-term care facilities statewide. Overall, the 1,200 nursing homes in Texas are receiving about \$27.6 million extra a month.

Nursing homes lose the extra money once the resident is hospitalized.

“If you look at 20% or 25% increase per day per resident, that’s a nice chunk of change,” said Lee with the nursing home watchdog group. “If you could prolong that illness or keep those COVID beds throughout this pandemic, you could be talking an extra \$200,000 a year, depending on the size of the facility, just because you have a patient.”

Additionally, government officials can give nursing homes a poorer evaluation if their residents are re-hospitalized, another possible incentive, physicians said.

Nursing home industry lobbyists across the country are pushing for laws that prevent them from being sued by residents and their families during the pandemic.

States that already have passed such laws include Mississippi, Georgia, Virginia and New York, according to the University of Arizona. The Texas Legislature convenes in January.

Because of the legal protections that nursing homes have, families will face difficulties suing over the death of their loved ones from COVID-19, Garrett said.

🔊 Listen to Statesman News Network

Austin American-Statesman

It's recognizing that just like me, death is not perfect," she said.

Staff writer Claire Osborn contributed to this story.

Watchdog investigations

This story by Julie Chang of the Statesman's investigative team reflects the paper's consistent focus on public health and safety issues.