



LeadingAge Testimony for the Record
U.S. Senate Special Committee on Aging Hearing:
“Residents at Risk: The Strained Nursing Home Inspection System and the Need to Improve Oversight, Transparency, and Accountability”
May 18, 2023

Chairman Casey, Ranking Member Braun, and distinguished members of the Senate Special Committee on Aging (the Committee), we appreciate the opportunity to submit written testimony from LeadingAge on your hearing titled, “Residents at Risk: The Strained Nursing Home Inspection System and the Need to Improve Oversight, Transparency, and Accountability.”

LeadingAge represents more than 5,000 non-profit aging services providers, and other mission-minded aging services organizations. Alongside our members and 38 state partners, we use applied research, advocacy, education, and community-building to make America a better place to grow old. Our membership encompasses the continuum of services for people as they age, including care provided in more than 2,000 of our member nursing homes.

Our country’s health care sector is facing serious workforce shortages. Indeed, longstanding workforce shortages for aging services providers, exacerbated by the COVID-19 pandemic, have resulted in families’ requests for care going unfilled and countless nursing homes in communities across the country being forced to close their doors permanently. Aging services providers rely on funding and programs supported via federal and state policies. Without more attention and resources, the crisis will only deepen as America ages. We agree with the observation of many members of the Committee and witnesses that the workforce crisis is very real, not only for nursing homes, but for the very state survey agencies and federal entities charged with nursing home oversight. We hope the Committee will devote time and attention to the workforce crisis in nursing homes too.

As noted in the Committee’s investigative report, “Uninspected and Neglected: Nursing Home Inspection Agencies are Severely Understaffed, Putting Residents at Risk,” 32 survey agencies have vacancy rates of 20 percent or higher among nursing home inspectors and nine of those agencies have vacancy rates of 50 percent or higher. States directly linked staffing shortages to nursing home inspection delays and pointed to flat federal funding over the last decade as an important factor.¹ LeadingAge member nursing home leaders are similarly concerned about these delays and about the training, experience, and consistency of survey team members.

The Administration’s budget to support state agency survey and certification operations has been flat funded at \$400 million annually since fiscal year 2015.² In 2020, Chairman Casey helped secure approximately \$100 million in additional funding to cover COVID-19-related survey and certification costs in the Coronavirus Aid, Relief, and Economic Security (CARES) Act.³ However, additional investment is necessary to ensure that survey agencies have the funding to invest in well-trained staff who are paid competitive wages. Notably, the President’s fiscal year 2024 budget proposal for survey and certification included \$566 million, an increase of almost \$160 million over previous levels.⁴ We would like to see Congress devote equal attention to ensuring that nursing homes are able to invest in well trained staff who are paid competitive wages.

The Committee’s investigative report also found that staffing vacancies are not simply a problem of insufficient numbers of surveyors. High turnover rates are contributing to survey staff with limited experience on the job.⁵ A timely and accurate survey and certification process with well-trained and experienced staff is critical to the effective oversight of nursing homes and the care they provide to residents.

LeadingAge has communicated to the Centers for Medicare and Medicaid Services (CMS) our members’ concerns about late surveys, including a lack of timely follow-up visits needed to confirm whether operators have corrected past problems by a designated deadline. When the survey and certification process encounters delays, it makes resolving issues that much more challenging. It is incredibly frustrating for a nursing home that immediately (sometimes within hours) corrected cited deficiencies to have to wait for months or even years for a follow up visit.

Data derived from a survey reflects a snapshot in time — what’s happening in a nursing home over four or five days. For residents, families, and providers, that information is most meaningful while still fresh. If a survey is delayed, information about a provider is incomplete or inaccurate. It is then often misreported on the CMS Care Compare website, which provides consumers with the results of recent inspections, staffing levels, and other quality-of-care measures for each nursing home.

Extensive Care Compare inaccuracies are reflected in an April 2023 Department of Health and Human Services’ Office of Inspector General (OIG) report. The report found an estimated two-thirds of nursing homes had one or more deficiencies related to health, fire safety, and emergency preparedness identified during state agency surveys that were inaccurately reported on Care Compare.⁶

Residents and their families deserve accurate and timely information when utilizing Care Compare to make informed decisions about their care. Among the recommendations made to CMS in the OIG report were to strengthen its processes for reviewing inspection results reported on Care Compare by requiring state survey agencies to verify the deficiencies reported, providing technical assistance and additional training to state survey agencies, and verifying that nursing home inspection results are accurately reported.⁷

The Committee’s investigative report also contained recommendations that are important to explore. Specifically, LeadingAge supports the following recommendations by the Committee:

- **Congress, States, and institutions of higher education should collaborate to expand opportunities to enter into and remain in the health care workforce.** Survey agencies have struggled to recruit and retain workforce, particularly nurses, due to stiff competition within the health care marketplace. Such staffing concerns are common across the Nation’s health care system today. Congress and States, in partnership with institutions of higher education, should increase funding for nursing educational programs and improve scholarship and loan repayment programs to expand access to nursing education, including for those working in the long-term care field. Given the interconnectedness of the health care workforce, Congress, states, and institutions of higher education should explore increasing similar educational opportunities for allied health professionals, as well.⁸
- **Congress, States, and health care facilities should improve mental health resources for the health care workforce.** Numerous states expressed concern about the stress of surveying and associated burnout, largely driven by the long hours and difficulty of the work, large number of backlogged surveys, long distance travel and days away from home, frequent turnover of staff, and

COVID-19 related stresses. In recent years, Congress and States have dedicated some resources and funding to address mental health challenges for the health care workforce. More must be done to prevent burnout and provide support for surveyors to remain on the job.⁹

- **CMS should strengthen the accuracy of Care Compare.** The OIG’s April 2023 audit of Care Compare found that health, life safety, and emergency preparedness deficiencies were underreported at an estimated two-thirds of nursing homes. Consumers rely on Care Compare as a tool when selecting nursing homes for themselves or their loved ones. CMS should strengthen the process for reviewing inspection results reported on Care Compare by requiring survey agencies to verify deficiencies reported. CMS should also provide training and technical assistance to survey agencies.¹⁰

The National Academies of Science, Engineering, and Medicine (NASEM) also reviewed the performance of survey agencies in its April 2022 report, “The National Imperative to Improve Nursing Home Quality: Honoring our Commitment to Residents, Families, and Staff.” The report contains several goals and recommendations, including Recommendation 5B¹¹, which calls for the following:

- **Developing and evaluating strategies to improve quality assurance efforts, including:**
 - **Enhanced data monitoring to track performance and triage inspections;**
 - **Oversight across a broader segment of poorly performing facilities;**
 - **Modified formal oversight activities for high-performing facilities, provided adequate safeguards are in place; and**
 - **Greater use of enforcement options beyond civil monetary penalties.**

In order to advance nursing home improvements and reforms, LeadingAge has convened a multi-sector stakeholder coalition, called the Moving Forward Nursing Home Quality Coalition¹², through a grant from The John A. Hartford Foundation. The Coalition’s purpose is to develop, test, and promote a set of step-by-step action plans that can be implemented based on recommendations in the NASEM report. The Coalition began in July 2022 and has established seven committees, each focused on various priorities.

The Quality Assurance Committee’s draft action plan states that, “Many possible strategies could be developed, implemented, and tested to make nursing home quality assurance efforts more effective, efficient, and responsive. Though the [NASEM] report noted that there is limited evidence linking enforcement and quality, it proposed using enhanced data monitoring to target oversight resources more effectively to higher and lower performing nursing homes... Underlying the Committee’s decision to focus on NASEM recommendation 5B was a strong sense that innovation and change are needed to bolster the ability of quality oversight efforts to address quality challenges in the nursing home sector more effectively. For too long, despite the existence of detailed care standards, some gaps and limitations in nursing home oversight have persisted.”¹³

LeadingAge believes it is time to forge a new path of collaboration between aging services providers, policymakers, regulators, and consumers that will create a more effective and efficient oversight process for our country’s nursing homes. We appreciate the opportunity to provide our written comments to the Committee and look forward to working with you on this and other aging services policies.

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- ¹ “Uninspected and Neglected: Nursing Home Inspection Agencies are Severely Understaffed, Putting Residents at Risk”, A report by the Majority Staff of the U.S. Senate Special Committee on Aging, May 2023, as accessed at <https://www.aging.senate.gov/imo/media/doc/UNINSPECTED%20&%20NEGLECTED%20-%20FINAL%20REPORT.pdf> on May 23, 2023.
- ² Fiscal Year 2024 White House Budget Appendix, Page 439, as accessed at https://www.whitehouse.gov/wp-content/uploads/2023/03/hhs_fy2024.pdf on May 23, 2023.
- ³ CARES Act, Public Law 116-136, as accessed at <https://www.congress.gov/116/plaws/publ136/PLAW-116publ136.pdf> (134 STAT. 557) on May 23, 2023.
- ⁴ Fiscal Year 2024 White House Budget Appendix, Page 439, as accessed at https://www.whitehouse.gov/wp-content/uploads/2023/03/hhs_fy2024.pdf on May 23, 2023.
- ⁵ “Uninspected and Neglected: Nursing Home Inspection Agencies are Severely Understaffed, Putting Residents at Risk”, A report by the Majority Staff of the U.S. Senate Special Committee on Aging, May 2023, as accessed at <https://www.aging.senate.gov/imo/media/doc/UNINSPECTED%20&%20NEGLECTED%20-%20FINAL%20REPORT.pdf> on May 23, 2023.
- ⁶ Department of Health and Human Services, Office of the Inspector General, “CMS Did Not Accurately Report on Care Compare One or More Deficiencies Related to Health, Firesafety, and Emergency Preparedness for an Estimated Two-Thirds of Nursing Homes”, Page 7, as accessed at <https://oig.hhs.gov/oas/reports/region9/92002007.pdf> on May 23, 2023.
- ⁷ *Id.* Pages 21-24.
- ⁸ U.S. Senate Special Committee on Aging, “Uninspected and Neglected: Nursing Home Inspection Agencies are Severely Understaffed, Putting Residents at Risk”, May 2023, Page 70, as accessed at <https://www.aging.senate.gov/imo/media/doc/UNINSPECTED%20&%20NEGLECTED%20-%20FINAL%20REPORT.pdf> on May 23, 2023.
- ⁹ *Id.*
- ¹⁰ *Id.*
- ¹¹ National Academies of Sciences, Engineering, and Medicine. 2022. “The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff.” Washington, DC: The National Academies Press, Page 17, as accessed at <https://doi.org/10.17226/26526> on May 23, 2023.
- ¹² Moving Forward Nursing Home Quality Coalition website, as accessed at <https://movingforwardcoalition.org/taking-action/> on May 23, 2023.
- ¹³ Moving Forward Nursing Home Quality Coalition, Updated Priorities, February 1, 2023, “Committee #5: Quality Assurance” Page 2, as accessed at <https://movingforwardcoalition.org/wp-content/uploads/2023/02/Committee-5-Action-Plan.pdf> on May 23, 2023.