



Senate Finance Committee
Promoting Elder Justice: A Call for Reform
July 23, 2019
Statement for the Record

Mr. Chairman and Mr. Ranking Member, LeadingAge appreciates the opportunity to submit this statement for the record of the Senate Finance Committee hearing, *Promoting Elder Justice: A Call for Reform*.

The mission of [LeadingAge](#) is to be the trusted voice for aging. Our 6,000+ members and partners include nonprofit organizations representing the entire field of aging services (including 2,000 nursing homes), 38 state associations, hundreds of businesses, consumer groups, foundations and research centers. LeadingAge is also a part of the Global Ageing Network, whose membership spans 50 countries. LeadingAge is a 501(c)(3) tax-exempt charitable organization focused on education, advocacy and applied research.

Mistreatment of vulnerable elders can never be tolerated in any setting. Preventing elder abuse is something that LeadingAge and its members have fought for over many years. In the 1980s, we supported and promoted “Untie the Elderly,” a first of its kind campaign aimed at providing alternatives to tying nursing home residents down, a practice that now has all but ended. We also have partnered with the Center for Advocacy for the Rights and Interests of the Elderly to distribute a staff training program for abuse prevention in nursing homes. Our members work every day to identify, address, and prevent elder abuse, whether in our congregate settings or the wider community.

Current federal law severely and appropriately punishes incidents of abuse committed in nursing homes. The Elder Justice Act provisions of the Affordable Care Act, which LeadingAge strongly supported, specify that nursing homes and their employees must report any reasonable suspicion of a crime committed against a resident to both local law enforcement and the state survey agency within specific timeframes. The law provides severe penalties for failure to comply with these reporting requirements. LeadingAge and its state partner organizations have provided extensive resources and education to our member nursing homes on preventing abuse and complying with reporting requirements.

The Nursing Home Reform Act incorporated into the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) provides for penalties against both individual perpetrators of abuse against nursing home residents and against nursing homes where abuse occurs. In addition to the reporting requirements of the Elder Justice Act, OBRA regulations provide for both annual and complaint-based surveys of nursing homes that may be triggered by incidents of abuse or uncover ongoing abusive practices. The Centers for Medicare and Medicaid Services (CMS) and state agencies have responsibility for enforcing these provisions of OBRA '87. Recent Government Accountability Organization reports have investigated the effectiveness of federal and state enforcement and have made recommendations to CMS for improvements.

LeadingAge member nursing homes go beyond regulatory requirements to provide the highest quality care for residents. For example, Safe Care for Seniors, a program spearheaded by LeadingAge Minnesota, is designed to eliminate preventable harm in the course of caregiving. Through both words and actions – and with the senior at the center of all they do – providers renew their commitment to give safe, quality care to ensure a high quality of life for those they serve. Providers, team members, residents and families partner together to promote a culture of safety that allows residents to thrive in a community built on safety, trust, dignity, and respect. Providers and individuals take a two-fold pledge to increase the safety of the people they serve. They promise to always treat the people for whom they care with respect and dignity, to take steps to get to know them as individuals, and to speak up if they see something that may be unsafe or makes them feel uncomfortable.

Gayle Kvenvold, President and CEO of LeadingAge Minnesota put it this way: “...we began by asking this question: *what is in our power to do to bring about the best lives for our elders?* And that led us to renew our commitment to the heart and soul of our work – respect, safety and dignity for those we serve – and to commit as a statewide caregiving community and as LeadingAge Minnesota to some of the most meaningful work we will ever do. This is our calling, our commitment and our culture. Together we will prevent harm before it occurs and create a culture of safety. Together we will help those whose lives we touch, live their best lives.” As the national partner of LeadingAge Minnesota, LeadingAge is building on and promoting the positive results of this initiative to our members in other states.

Any abuse of nursing home residents is intolerable and inexcusable. Existing laws and regulations provide mechanisms to detect, punish, and, to the extent possible, prevent these kinds of incidents in residential settings.

The same cannot be said for protection of elders living in community-based settings. Elder abuse is one of the least reported, investigated, and addressed forms of violence against elders. The Department of Justice estimates that one in ten older Americans are victims of physical, emotional and/or financial abuse. According to statistics collected by the National Council on Aging, in approximately 60% of reported instances, abuse of an elder has been perpetrated by a family member, most often a spouse or adult child. Elders living in the community may be vulnerable to abuse due to dementia and other physical or mental disabilities. They often are isolated from social networks or other resources to turn to for help. And they frequently are dependent on the perpetrators of abuse for shelter and day-to-day support.

LeadingAge members see the impact of abuse every day. Financial and material exploitation and physical and emotional abuse deprive elders of their dignity and security and can lead to poverty, hunger, homelessness, poor health and wellness and even premature death. LeadingAge members have been in the forefront of aging services providers in attacking this scourge. Our members work with federal, state and local authorities to identify and serve older persons who are victims of abuse. LeadingAge members created the first shelters for older victims of abuse,

providing comprehensive shelter for victims of elder abuse, and legal, social, and care management services

In recent years, we have been at the forefront of developing and supporting measures to prevent abuse and protect older people who have been abused. Examples include:

- Participating in global discussions about elder abuse and human rights through our collaboration with the Global Ageing Network (formerly the International Association for Homes and Services for the Ageing (IAHSA));
- Working with the Consumer Financial Protection Bureau to develop and distribute educational materials and tools for providers to recognize, prevent, and respond to financial abuse of older people in affordable housing;
- Partnering with district attorneys, law enforcement agencies, financial institutions, social service agencies, and businesses that come in contact daily with seniors to help them recognize signs of physical and financial abuse; and
- Supporting members who are opening abuse shelters using nursing homes as temporary refuges for physically, emotionally, and financially abused older people in the community.

An example of long-term care providers as a resource for elders in abusive situations is the Hebrew Home at Riverdale, a LeadingAge member nursing home in the New York City metropolitan area. The Hebrew Home has served low-income elders of all faiths for over a century; currently 18,000 older New Yorkers receive services at or through the Hebrew Home.

Since 2005, the Hebrew Home has operated the Harry and Jeanette Weinberg Center for Elder Justice. The Center pioneered the provision of safe shelter for older people living in the community who are experiencing abuse. The Center initiated the SPRiNG (Shelter Partners: Regional. National. Global.) Alliance to replicate its flexible shelter model in communities throughout the United States and around the world.

Daniel Reingold, President and CEO of the Hebrew Home, has worked with the Elder Justice Coordinating Council, established under the Elder Justice Act to better integrate federal, state, and local responses to elder abuse situations. He notes that the Hebrew Home now screens new residents for signs of past abuse, with services available from the Weinberg Center to care for elders who have experienced it. Of the 536 rehabilitation patients the Hebrew Home screened from May 2017 through May 2018, 63 individuals or 12% of the total showed signs of having experienced abuse before coming to the nursing home. For over a decade, the Hebrew Home has provided the trauma-informed care older people need to heal from past abuse.

In addition to providing temporary shelter to victims of elder abuse, who generally cannot be accommodated in traditional domestic violence shelters, the Weinberg Center collaborates with the District Attorneys of the Bronx, New York City, and Westchester County to train law enforcement, social services, and judicial officials in recognizing and dealing with elder abuse. The Center's outreach program provides resource information in shopping centers, retirement communities, senior centers, and other areas where at-risk seniors may find it. The Center has replicated its program at 15 other organizations throughout the United States and continues working to expand this shelter movement for older adults.

Abusive situations involving elders and their family caregivers can develop for a number of reasons. Caring for a dependent elder can be emotionally rewarding; it can also be physically, financially, and emotionally draining. A *Health Affairs* [blog](#), *A Study Of Family Caregiver Burden And The Imperative Of Practice Change To Address Family Caregivers' Unmet Needs*, points to the “well-documented” physical and emotional toll caregiving imposes on family members caring for someone with dementia and the lack of support family caregivers receive. The article argues that addressing the needs of caregivers improves not only their situation and that of the family member for whom they are caring, but also can help to lower health care costs.

The article notes the kinds of behaviors family caregivers find most challenging – aggression and agitation, repetitive actions, incontinence, wandering, and refusal to eat, take medicine, or bathe. In nursing homes, care staff are trained in best practices to deal with these situations, and staff get respite from them when their shifts end. Family caregivers, according to the findings in the article, do not have the same level of knowledge of their loved one’s disease progression or how challenging behaviors can be dealt with successfully. And family members do not get respite from the ongoing, day-to-day caregiving burden.

The article recommends interventions to better support family caregivers. Several federal programs under the Older Americans Act (OAA) provide the kinds of services family members need to avoid the kind of burnout that can lead to abuse of a dependent elder. Adult day services, Lifespan Respite Care, and Family Caregiver Support are the kinds of services essential to enable families to continue caring for loved ones with chronic physical and/or mental disabilities.

The Older Americans Act is due for reauthorization and it is chronically underfunded. LeadingAge urges Congress to reauthorize these programs and provide the resources needed to ensure that services will be available to family caregivers when they are needed.

The Geriatric Workforce Enhancement Program under Title VII of the Public Health Act includes education for family caregivers on managing the challenges posed by Alzheimer’s Disease and other dementias. This program also is due for reauthorization and also needs increased funding.

Conclusion

Abuse of nursing home residents must be effectively detected, punished, and prevented. LeadingAge will continue working with policymakers, consumers, researchers, and families to ensure that all nursing homes are safe places for people who need long-term care. We will build on our members’ initiatives that have made nursing homes a resource and safe haven for older people who have experienced abuse in the community.

It is difficult to accept that most abuse of elders happens not at the hand of strangers or nursing home staff, but from the family members on whom an elder frequently must depend. But unless this reality is recognized and dealt with, elder abuse will continue unchecked.

The Elder Justice Act established a framework for integrating initiatives at all levels of government to detect and deter elder abuse. Existing federal programs can help to prevent elder abuse by giving family caregivers the skills and resources they need to avoid burnout that can lead to abuse. LeadingAge urges this committee and Congress to support and enhance these measures to bring about real solutions that will ensure the safety and security of all older Americans.