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Submitted for the record at a hearing on:  
**A National Tragedy: COVID-19 in the Nation's Nursing Homes**

Before the  
United States Senate Finance Committee  
March 17, 2021

Chairman Wyden, Ranking Member Crapo, and distinguished Members of the Senate Finance Committee, thank you for making nursing homes and long term care (LTC) providers a priority as you examine how COVID-19 has impacted the nation. The American Health Care Association and the National Center for Assisted Living (AHCA/NCAL) appreciates the opportunity to share our perspective regarding caring for seniors in nursing homes amid the current COVID-19 crisis.

AHCA/NCAL represents more than 14,000 non-profit and proprietary nursing homes, assisted living communities, and homes for individuals with intellectual and developmental disabilities. The 2.5 million Americans served in LTC facilities every day are some of the most threatened by the SARS-coV-2 coronavirus (COVID-19).

LTC facilities (including nursing homes and other congregate facilities for older adults) have been considered the epicenter of the pandemic. As a geriatrician and the chief medical officer for AHCA/NCAL, I can attest that COVID-19 is the greatest tragedy to impact our residents and their families. Over 635,000 nursing home residents have been infected and more than 130,000 have died<sup>1</sup>. This virus has also affected health care workers, with over half-a-million nursing home staff becoming infected and over 1,600 having succumbed to the virus to-date.<sup>2</sup>

In addition, the pandemic has taken an emotional and physical toll on residents, patients and staff. For nearly a year, family members were unable to visit. Residents could not leave their rooms. They could not see the smiles of the nurses and aides caring for them, hidden behind masks. Our dedicated staff members did everything they could to keep residents safe, engaged, and happy. But at the same time, they constantly worried about becoming ill and/or infecting their loved ones at home or their residents. Undoubtedly, this virus will leave psychological scars for many that will last a lifetime.

It is critical that we figure out what happened, why it happened, and what we can do to keep it from ever happening again.

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<sup>1</sup> CDC Nursing Home COVID-19 Data Dashboard. Accessed on March 13, 2021 5:30 pm at <https://www.cdc.gov/nhsn/covid19/ltc-report-overview.html>

<sup>2</sup> CDC Nursing Home COVID-19 Data Dashboard. Accessible at <https://www.cdc.gov/nhsn/covid19/ltc-report-overview.html>

## The Nature of the Virus

Nursing home residents are at the highest risk for complications due to COVID-19. More than half are over the age 85 and suffer from multiple chronic diseases, including dementia. According to the Centers for Disease Control and Prevention (CDC), compared to younger individuals, the risk of COVID-19 infections among the age group of our residents is two times higher, but the risk of hospitalization is 80 times higher, and the risk of death is 7,900 times higher.<sup>3</sup>

Nursing home residents experienced a 20 percent mortality rate with COVID-19 – the highest of any other infection or disease we have ever faced. A similarly high rate of infection and death was seen around the world among older adults living in LTC facilities. Researchers tracking COVID-19 data in the United States<sup>4</sup> and world-wide<sup>5</sup> consistently found that LTC residents made up a small percentage of total cases yet were a disproportionate share of each country's deaths in 2020.

It is important to understand the nursing home setting. Residents depend on our nurses, aides, housekeepers, dietary staff and therapists to help them with daily activities like eating, getting dressed and bathing, and this care assistance often requires very close contact for prolonged periods. Social distancing was not an option in long term care.

As we now know, COVID-19 does not act like most respiratory viruses. It commonly spreads through asymptomatic and pre-symptomatic carriers<sup>6</sup>, making it extremely difficult for providers to prevent its entry and spread in LTC facilities. The incubation period for the virus is longer than most viruses (up to 14 days). The length of a person's infectious period (i.e., the ability to spread to others) is also longer than typical respiratory viruses (up to 10 days). Worst of all, it was found to have an airborne component of spread<sup>7</sup>. All these characteristics were not known early on during the pandemic. As a result, many early recommendations from public health officials were incorrect and therefore, ineffective at preventing spread.

## Changing and Conflicting Government Guidance

The Centers for Medicare and Medicaid Services (CMS) and the CDC tried to keep pace with the evolving information about COVID-19, issuing numerous requirements and guidance to nursing homes at an unprecedented speed. Since the implementation of the public health emergency,

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<sup>3</sup> CDC Risk for COVID-19 Infection, Hospitalization, and Death By Age Group. Updated Feb. 18, 2021. Accessed on March 13, 2021 at 5:10pm <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-age.html>

<sup>4</sup> Kaiser Family Foundation COVID-19: Long term Care Facilities. Accessed on March 13, 2021 at 5:15 pm at CDC Risk for COVID-19 Infection, Hospitalization, and Death By Age Group. Updated Feb. 18, 2021. Accessible at <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-age.html>

<sup>5</sup> Mathews AW, Douglas J, Kamp J and Yoon D. Covid-19 Stalked Nursing Homes Around the World. Wall Street Journal Published on line on Dec. 31, 2020 at 12:36 pm. Accessed at <https://www.wsj.com/articles/covid-19-stalked-nursing-homes-around-the-world-11609436215>

<sup>6</sup> Johansson MA, Quandelacy TM, Kada S, et al. SARS-CoV-2 Transmission From People Without COVID-19 Symptoms. *JAMA Netw Open*. 2021;4(1):e2035057. doi:10.1001/jamanetworkopen.2020.35057

<sup>7</sup> CDC Science Brief: SARS-CoV-2 and potential Airborne Transmission updated Oct. 5, 2020 accessible at <https://www.cdc.gov/coronavirus/2019-ncov/more/scientific-brief-sars-cov-2.html>

CMS and CDC combined have released 55 major new requirements or guidance to nursing homes in the areas of infection control, testing and the use of personal protective equipment (PPE), or on average, at least one per week. (This does not count the frequent minor updates or modifications to guidance, nor all the Medicare and Medicaid payment changes. Additionally, it does not include all the CMS guidance related to 1135 waivers, the Five-Star rating system, and survey frequency. There was also myriad guidance from other agencies, such as the Department of Labor and the Occupational Health and Safety Administration.)

In addition, many states issued orders and recommendations, which often conflicted with other states or federal guidance. This ever evolving and conflicting guidance, scattered across multiple websites and hundreds of pages, made it nearly impossible for providers to follow consistent best practices to mitigate the spread of the virus.

Even though public health officials constantly churned out new guidance, it was often too late and outdated by the time it was issued. The timing of some of the major recommendations made by CMS and CDC are depicted in the attached timeline (see last page) relative to the number of cases and deaths in nursing homes. Early on, the public health recommendations focused on a symptoms-based approach. CMS required that staff be screened for symptoms and asked staff to stay home if they had any one symptom suggestive of COVID-19. However, screening only for symptoms meant missing asymptomatic staff who could unwittingly spread the virus in the facility. Masks were not recommended for use by all staff throughout the facility until almost four months into the pandemic in late June. This allowed the virus to spread amongst staff members outside of designated COVID patient care areas. Early on and without adequate testing available, residents were cohorted based on symptoms, which sometimes resulted in asymptomatic or pre-symptomatic residents spreading the virus in what were believed to be COVID-free units or rooms.

### **Lack of Testing**

Nursing home providers found it challenging to access affordable, reliable and timely tests until many months into the pandemic. Due to the country's limited testing capabilities in beginning, LTC residents were not made a priority for testing. Even when they were made a priority by the CDC at the end of April, it was only for residents and staff with symptoms, and tests were rarely available. When they were available, it often took five days or more to receive the results. Testing kits and supplies were not sent to nursing homes until August. Routine surveillance testing was not required until September, six months after the start of the pandemic.

The lack of adequate and timely testing impaired the ability of providers to keep the virus at bay, as asymptomatic and pre-symptomatic spread could continue undetected. Even when testing kits became available in the fall of 2020, the initial lack of guidance and then changing guidance on how to interpret test results between the polymerase chain reaction (PCR) and antigen tests further compounded the effectiveness of testing to prevent spread.

## Personal Protective Equipment Shortages

Despite caring for the most vulnerable population when it comes to COVID-19, LTC facilities were not made a priority for necessary equipment. Even after numerous calls for help<sup>8</sup>, it took months for LTC residents and staff to be made the highest priority for PPE. Worldwide supply chain issues left providers scrambling to find and purchase quality PPE, such as N-95 masks, gowns, and gloves. Many suppliers delayed or limited the size of providers' orders, and many providers got taken by scammers pretending to have legitimate PPE. In addition, prices soared.

In many circumstances, staff had to use their ingenuity to make their own masks, gowns and face shields. I recall getting calls one night asking which type of material would be best for masks, and on a weekend asking if rain ponchos work better as gowns than trash bags. Academic research found that this lack of PPE was correlated with more cases and deaths in nursing homes reporting PPE shortages.<sup>9</sup>

In May, the Federal Emergency Management Agency (FEMA) organized two shipments of PPE supplies that would each cover the needs of a nursing home for one week.<sup>10</sup> The first shipment arrived in mid-May to early June, and the second shipment in July. These two shipments were an amazing logistical feat but did not start until 10-12 weeks into the pandemic. Also, they did not contain any N-95 masks given the continued worldwide shortages. For many, the PPE was welcomed and lifesaving, but there were several shipments that included PPE that either could not be used,<sup>11,12</sup> was past its expiration date, or did not meet CDC or CMS standards<sup>13</sup>. In one case a provider relayed to me, CMS inspectors would not use the PPE when offered to them during their on-site infection control inspection.

## The Impact of Community Spread

Due to the nature of how COVID-19 spreads, the lack of PPE and testing, and ever shifting guidance, it is not surprising that the principal factor leading to COVID-19 outbreaks in nursing homes has been repeatedly shown to be related to the amount of spread in the surrounding community. Even the best nursing homes with the most rigorous infection control practices could

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<sup>8</sup> COVID-19 Timeline accessible at <https://saveourseniors.org/timeline/> accessed on March 13, 2021 at 6:00 pm

<sup>9</sup> McGarry BE, Grabowski DC, Barnett ML. Severe Staffing And Personal Protective Equipment Shortages Faced By Nursing Homes During The COVID-19 Pandemic. Health Aff (Millwood). 2020 Oct;39(10):1812-1821. doi: 10.1377/hlthaff.2020.01269. Epub 2020 Aug 20. PMID: 32816600

<sup>10</sup> FEMA press release "Coronavirus pandemic response: PPE packages for Nursing Homes" released May 2, 2020. Accessed on March 14, 2021 at 6:50 pm <https://www.fema.gov/fact-sheet/coronavirus-pandemic-response-ppe-packages-nursing-homes>

<sup>11</sup> Joran Rau "Federal Help Falts As Nursing Homes Run Short Of Protective Equipment" Kaiser Health News posted June 11, 2020 accessible at <https://khn.org/news/federal-help-falters-as-nursing-homes-run-short-of-protective-equipment/>

<sup>12</sup> Priscilla Alvarez and Daniella Diaz "Nursing homes receive defective equipment as part of Trump administration supply initiative". CNN Politics Updated 9:59 am Thursday June 11, 2020 accessible at <https://www.cnn.com/2020/06/10/politics/nursing-homes-ppe-defective-equipment-fema/index.html>

<sup>13</sup> Katie Smith Sloan, CEO of Leading Age, Letter to Vice President on June 11, 2020 accessible at [https://www.leadingage.org/sites/default/files/LeadingAge%20Pence%20Letter%2061120\\_final.pdf](https://www.leadingage.org/sites/default/files/LeadingAge%20Pence%20Letter%2061120_final.pdf)

not stop this highly contagious, invisible enemy.<sup>14</sup> Academic experts at Harvard University<sup>15</sup>, Brown University<sup>16</sup> and the University of Chicago<sup>17,18</sup> all found that the primary predictor of a nursing home experiencing an outbreak is the prevalence of COVID-19 in the surrounding community. Other factors that predicted outbreaks related to increased human-to-human interaction, which clearly increases the chance the virus can spread. These factors meant larger facilities, especially those in urban areas where there is higher proportion of minority residents, were more likely to experience outbreaks.

The same academic researchers could not find an association with COVID-19 outbreaks and other characteristics, such as the facility's Five-Star Rating on Nursing Home Compare; whether the facility had a prior violation related to infection control; or whether it was for-profit, part of a chain, or had a high Medicaid census. This relationship of COVID-19 cases in nursing homes mirroring the prevalence in the community continued through the fall based on analyses by the Kaiser Family Foundation<sup>19</sup> and CDC<sup>20</sup>.

With hindsight it is easy to criticize public officials and health care providers for failures during the pandemic. This is unfair, given the lack of knowledge about this virus. However, what was evident was that the LTC community was left behind, forgotten, or even blamed. This further demoralized our health care heroes in LTC who were giving their all and risking their lives as well as their family members' lives but received inadequate support.

It is critical that we figure out what we can do to prevent such tragedy from ever happening again. But in order to move forward, we must also reflect on the long-standing challenges within the LTC profession that COVID-19 exposed and exacerbated. Providers acknowledge that we can and need to do better to meet the needs of our nation's seniors—continuous quality improvement is part of who we are.

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<sup>14</sup> Opinion by David C. Grabowski, R. Tamara Konetzka and Vincent Mor. Opinion: We can't protect nursing homes from covid-19 without protecting everyone. Washington Post published June 25, 2020 at 12:42 p.m. available at <https://www.washingtonpost.com/opinions/2020/06/25/we-cant-protect-nursing-homes-covid-19-without-protecting-everyone/>

<sup>15</sup> Abrams HR, Loomer L, Gandhi A, Grabowski DC. Characteristics of U.S. Nursing Homes with COVID-19 Cases. *J Am Geriatr Soc*. 2020 Aug;68(8):1653-1656. doi: 10.1111/jgs.16661. Epub 2020 Jul 7.

<sup>16</sup> White EM, Kosar CM, Feifer RA, Blackman C et al. Variation in SARS-CoV-2 Prevalence in U.S. Skilled Nursing Facilities. *J Am Geriatr Soc*. 2020 Oct;68(10):2167-2173. doi: 10.1111/jgs.16752. Epub 2020 Aug 21. PMID: 32674223 PMCID: PMC7404330 DOI: 10.1111/jgs.16752

<sup>17</sup> Konetzka RT, Gorges RJ. Nothing Much Has Changed: COVID-19 Nursing Home Cases and Deaths Follow Fall Surges. *J Am Geriatr Soc*. 2021 Jan;69(1):46-47. doi: 10.1111/jgs.16951. Epub 2020 Nov 20.

<sup>18</sup> Gorges RJ, Konetzka RT. Factors Associated With Racial Differences in Deaths Among Nursing Home Residents With COVID-19 Infection in the US. *JAMA Netw Open*. 2021 Feb 1;4(2):e2037431. doi: 10.1001/jamanetworkopen.2020.37431. PMID: 33566110

<sup>19</sup> Priya Chidambaram and Rachel Garfield. Patterns in COVID-19 Cases and Deaths in Long-Term Care Facilities in 2020. Kaiser Family Foundation Coronavirus. Published: Jan. 14, 2021 <https://www.kff.org/coronavirus-covid-19/issue-brief/patterns-in-covid-19-cases-and-deaths-in-long-term-care-facilities-in-2020/>

<sup>20</sup> Bagchi S, Mak J, Li Q, et al. Rates of COVID-19 Among Residents and Staff Members in Nursing Homes — United States, May 25–November 22, 2020. *MMWR Morb Mortal Wkly Rep* 2021;70:52–55. DOI: <http://dx.doi.org/10.15585/mmwr.mm7002e2>

Let me take a moment to highlight several historical challenges facing long term care that the pandemic further exposed. These include staffing, health care disparities, infection control, and reimbursement.

## **Workforce Crisis**

Long term care was already dealing with a workforce shortage prior to COVID, and the pandemic has only magnified the crisis due to staff members getting sick, having to isolate, or a lack of childcare options. At the same time, the pandemic required numerous new tasks (e.g., screening all personnel upon entry, reporting cases daily, serving meals in rooms, donning PPE for every resident) and more one-on-one care to help prevent spread, all requiring more staff. We commonly heard the phrase “all-hands-on deck” to help meet the residents’ needs and new recommendations and guidance.

During the pandemic, AHCA/NCAL urged governors to help address the workforce shortage by outlining strategies in a roadmap for states in May 2020<sup>21</sup>. We also developed free online courses to help train temporary caregivers (nurse aides and feeding assistants) to help fill the gap the pandemic created. Additionally, AHCA/NCAL urged Congress and the Administration to direct financial aid to long term care facilities, so that providers could use those resources to respond to the crisis, including by hiring more staff and offering hero pay. In a survey of nursing home providers conducted in November 2020, 70 percent of nursing homes had hired additional staff and nine out of 10 asked staff to work overtime and provided hero pay.<sup>22</sup>

We need ongoing staff support as this pandemic continues, but we also need a more long-term solution. AHCA/NCAL has been highlighting this workforce crisis for years, including testifying to Congress twice in 2019. It is time that we address this. We need a comprehensive strategy to recruit more health care heroes to serve in long term care.

## **Infection Control**

As described earlier, prior infection citations have not been shown to be associated with COVID-19 outbreaks or cases. However, nursing homes have been cited for infection control practices historically.<sup>23</sup> These trends led CMS to issue an extensive set of new regulations in November 2016 phased in over three years, including the requirement for a designated infection preventionist in every nursing home starting in November 2019.<sup>24</sup> These new requirements and regulations were just taking effect when the pandemic hit.

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<sup>21</sup> AHCA/NCAL Long Term Care Workforce Roadmap for Governors and States. <https://www.ahcancal.org/Survey-Regulatory-Legal/Emergency-Preparedness/Documents/COVID19/AHCANCAL-Workforce-Roadmap.pdf>

<sup>22</sup> AHCA Survey State of the Nursing Home Industry. [https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/State-of-Nursing-Home-Industry\\_Dec2020.pdf](https://www.ahcancal.org/News-and-Communications/Fact-Sheets/FactSheets/State-of-Nursing-Home-Industry_Dec2020.pdf)

<sup>23</sup> GAO. Infection Control Deficiencies Were Widespread and Persistent in Nursing Homes Prior to COVID-19 Pandemic GAO-20-576R Published: May 20, 2020. Publicly Released: May 20, 2020. <https://www.gao.gov/products/gao-20-576r>

<sup>24</sup> Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities A Rule by the Centers for Medicare & Medicaid Services on 10/04/2016 published in Federal Register available at <https://www.federalregister.gov/documents/2016/10/04/2016-23503/medicare-and-medicaid-programs-reform-of-requirements-for-long-term-care-facilities>

Unfortunately, many infection preventionists became ill or had to isolate following exposure or presenting with symptoms. This highlighted the importance of having the infection preventionist position met not by a single person but adjusted based on the size and needs of the facility. A large nursing home with 300 residents has different infection control demands than a small, rural nursing home with 20 residents. AHCA supported the infection preventionist regulations and developed a certification program to train over 3,000 infection preventionists before they went into effect. However, the nursing shortage continues to make it challenging to identify infection preventionists, as many are hired away by hospitals. To meet the need for infection preventionists, we need help with recruiting and retaining registered nurses (RNs) to serve in this role.

## Disparities in Care

The pandemic has disproportionately impacted minority populations more than others. This has been no different in nursing homes.<sup>25,26</sup> The disparities in care outcomes were known prior to COVID.<sup>27</sup> Academic experts who have analyzed the differences in outcomes among African American and Latino residents in long term care find the disparities to be related to both the overall quality of the facility and the Medicaid reimbursement challenges.<sup>28,29</sup> This has led several academic and policy experts to call for more resources and changes to Medicaid to address these disparities.<sup>30,31</sup> As a country, we need to step up and make sure that minority populations have equitable health care coverage and supports, including in long term care. This in part, means properly funding health care programs like Medicaid, so that long term care providers who care for people of color have the staffing and other resources needed to meet their residents' needs.

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<sup>25</sup> Gorges RJ, Konetzka RT. Factors Associated With Racial Differences in Deaths Among Nursing Home Residents With COVID-19 Infection in the US. *JAMA Netw Open*. 2021 Feb 1;4(2):e2037431. doi: 10.1001/jamanetworkopen.2020.37431. PMID: 33566110

<sup>26</sup> Li Y, Cen X, Cai X, Temkin-Greener H. Racial and Ethnic Disparities in COVID-19 Infections and Deaths Across U.S. Nursing Homes. *J Am Geriatr Soc*. 2020 Nov;68(11):2454-2461. doi: 10.1111/jgs.16847. Epub 2020 Sep 28.

<sup>27</sup> Mack DS, Jesdale BM, Ulbricht CM, Forrester SN, Michener PS, Lapan KL. Racial Segregation Across U.S. Nursing Homes: A Systematic Review of Measurement and Outcomes. *Gerontologist*. 2020 Apr 2;60(3):e218-e231. doi: 10.1093/geront/gnz056. PMID: 31141135

<sup>28</sup> Campbell LJ, Cai X, Gao S, Li Y. Racial/Ethnic Disparities in Nursing Home Quality of Life Deficiencies, 2001 to 2011. *Gerontol Geriatr Med*. 2016 Jun 6;2:2333721416653561. doi: 10.1177/2333721416653561. eCollection 2016 Jan-Dec. PMID: 27819015

<sup>29</sup> Barton Smith D, Feng Z, Fennell ML et al Separate and unequal: racial segregation and disparities in quality across U.S. nursing homes *Health Aff (Millwood)*. Sep-Oct 2007;26(5):1448-58. doi: 10.1377/hlthaff.26.5.1448. PMID: 17848457 DOI: 10.1377/hlthaff.26.5.1448

<sup>30</sup> Ibid #27

<sup>31</sup> Grabowski DC. Strengthening Nursing Home Policy for the Postpandemic World: How Can We Improve Residents' Health Outcomes and Experiences. Common Wealth Fund; ISSUE BRIEFS AUGUST 20, 2020 <https://www.commonwealthfund.org/publications/issue-briefs/2020/aug/strengthening-nursing-home-policy-postpandemic-world>.

## Financial Crisis

Prior to the COVID-19 pandemic, Medicaid underfunding plagued nursing homes for years. More than 60 percent of all nursing home residents rely on Medicaid to cover their daily care. However, Medicaid reimbursements only cover 70 to 80 percent of the actual cost of care in a nursing home. The intense needs of our residents require dedicated staff to provide hands-on care and consequently, labor makes up an enormous proportion of everyday expenses (roughly 70 percent). The chronic Medicaid underfunding makes it challenging for providers to offer competitive wages and benefits and make other investments in their workforce.

Over the last year, long term care facilities have faced skyrocketing costs. Providers have dedicated extensive resources to fighting COVID-19. The costs associated with routine testing, PPE, and staffing have pushed many facilities to the brink. The Provider Relief Fund created by Congress has been a lifeline, allowing nursing homes to stay open and providers to purchase resources to protect their residents and staff. However, nursing homes only received approximately \$13 billion from the Provider Relief Fund, or roughly seven percent of the fund's total. This is less than half of what nursing homes spent on PPE and additional staffing alone in 2020 (\$30 billion), and these additional costs are expected to continue in 2021 as the pandemic lingers.

In addition, revenue has significantly declined due to fewer patients coming from the hospital as well as fewer potential residents seeking long term care. Nationally, nursing home occupancy significantly dropped from 80.2 percent in January 2020 to 68.2 percent in March 2021.<sup>32</sup> This has resulted in \$11.3 billion in losses to nursing homes in 2020 and is projected to increase in 2021 to \$22.6 billion. AHCA/NCAL did an extensive analysis estimating nursing home financials and found that in combining anticipated COVID costs and projected losses, the industry expects to lose \$94 billion over a two-year period (2020-2021).<sup>33</sup>

Today, thousands of LTC facilities are on the verge of collapse, with more 1,600 nursing homes in danger of closing their doors this year. This has real consequences for residents and their families. Again, most residents are older adults living with multiple underlying health conditions, and they require a high-level of specialized care. Closures leave residents displaced from their long-standing communities and loved ones. Closures also reduce options for quality care, especially in rural areas.

In order to protect access to long term care for vulnerable seniors and improve staffing issues, Medicaid reimbursement needs to be reformed as numerous academic experts have

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<sup>32</sup> AHCA analysis of CDCNHSN data accessible at <https://www.ahcanal.org/Data-and-Research/Pages/default.aspx> downloaded on March 14, 2021.

<sup>33</sup> AHCA Issue Brief: Protect Access to Long Term Care for Vulnerable Residents [https://d3dkdvqff0zqx.cloudfront.net/groups/ahca/attachments/protect%20access%20to%20long%20term%20care\\_ib.pdf](https://d3dkdvqff0zqx.cloudfront.net/groups/ahca/attachments/protect%20access%20to%20long%20term%20care_ib.pdf)

advised.<sup>34,35,36</sup> Medicaid reimbursement rates must catch up with the cost of care. Nursing homes need adequate funding and resources in order to provide quality care. We urge policymakers and stakeholders to work toward long-term solutions that tackle this systemic issue.

## **How We Move Forward: The Care for Our Seniors Act**

The pandemic has led the nursing home sector to reflect what can be done to prevent such tragedy from ever happening again and how to address long-standing challenges COVID-19 exposed. After reviewing the evidence, expert recommendations, and the Commission for Safety and Quality in Nursing Homes report<sup>37</sup>, AHCA and LeadingAge announced the *Care For Our Seniors Act*.<sup>38</sup> This is a comprehensive plan aimed at offering solutions that will improve the quality of care in our nation's nursing homes as we begin to look towards a post COVID-19 environment. This plan recommends policies and steps to improve clinical care, strengthen and support our workforce, improve oversight, and modernize our physical structures. Specifically, we are supporting:

### *Clinical—Enhance Quality Care:*

- 24-hour RN: We support a new federal requirement that each nursing home have a RN on-staff 24 hours a day and provide recommendations on how to effectively implement this requirement.
- Enhanced infection preventionist: We will help establish an updated guideline for staffing infection preventionists in each nursing home based on proven, successful strategies. This includes proper funding and workforce availability to effectively implement meaningful, sustained changes.
- Minimum 30-day supply of PPE: We support efforts to require a minimum supply of PPE in nursing homes, which will be supported by ongoing federal/state stockpiles with PPE that is acceptable for health care use.

### *Workforce—Strengthen and Support Frontline Caregivers*

- Recruit and retain more long term care workers: We support implementing a multi-phase tiered approach leveraging federal, state, and academic entities. This includes loan forgiveness for new graduates who work in LTC, tax credits for licensed LTC professionals, programs for affordable housing and childcare assistance, and increased

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<sup>34</sup> Grabowski DC, Mor V. Nursing Home Care in Crisis in the Wake of COVID-19 JAMA . 2020 Jul 7;324(1):23-24. doi: 10.1001/jama.2020.8524. PMID: 32442303 DOI: 10.1001/jama.2020.8524

<sup>35</sup> Grabowski DC. Strengthening Nursing Home Policy for the Postpandemic World: How Can We Improve Residents' Health Outcomes and Experiences. Common Wealth Fund; ISSUE BRIEFS AUGUST 20, 2020 <https://www.commonwealthfund.org/publications/issue-briefs/2020/aug/strengthening-nursing-home-policy-postpandemic-world>.

<sup>36</sup> R. Tamara Konezka, Caring for Seniors amid the COVID-19 Crisis Testimony Before the United States Senate Special Committee on Aging May 21, 2020 accessible at [https://www.aging.senate.gov/imo/media/doc/SCA\\_Konezka\\_05\\_21\\_20.pdf](https://www.aging.senate.gov/imo/media/doc/SCA_Konezka_05_21_20.pdf)

<sup>37</sup> Independent Nursing Home COVID-19 Commission Findings Validate Unprecedented Federal Response. Issued on Sep. 16, 2020 available at <https://www.cms.gov/newsroom/press-releases/independent-nursing-home-covid-19-commission-findings-validate-unprecedented-federal-response>

<sup>38</sup> AHCA & LeadingAge's Care For Our Seniors Act available at [www.aheancal.org/solutions](http://www.aheancal.org/solutions)

subsidies to professionals' schools whose graduates work in nursing homes for at least five years.

#### *Oversight—Improve Systems to be More Resident-Driven*

- Survey improvements for better resident care: We support development of an effective oversight system and processes that promote improved care and protect residents, consistent with CMS standards.
- Chronic poor performing nursing facilities: The survey system needs a process to help turn chronic poor performing facilities around or close the facility. We are proposing a five-step process to address such facilities.
- Publicly report customer satisfaction: Nursing homes are the only health care setting in which CMS collects and publicly reports quality data that does not include customer satisfaction. We recommend adding this measure to the government's Five-Star rating system to help monitor the quality of a nursing home for family members and guide consumer choice.

#### *Structural—Modernize for Resident Dignity & Safety*

- Shift to private rooms: The average nursing home is around 40 to 50 years old. The traditional care models are no longer considered appropriate to provide person-centered care. One central aspect of this shift is a greater emphasis on autonomy, dignity and privacy. Private rooms also support infection control best practices. We support the development of a national study producing data on conversion costs and a recommended approach to make this shift.

Long-lasting transformation that will protect our residents requires a considerable investment in the LTC profession. As a health care provider that relies almost entirely on government reimbursement (Medicare and Medicaid), nursing homes cannot make substantial reforms on their own. They need the support of federal and state policymakers and resources.

### **Conclusion**

Long term care providers welcome a national discussion regarding how we can improve in light of the COVID-19 pandemic. We urge the senators of this committee and the entire Congress to recognize the nature of this virus and that we need a collaborative approach to address long-standing challenges in our nation's nursing homes.

Focusing solely on regulations fails to recognize the cause of this crisis, nor does it help solve it. The reality is that many of these outbreaks have occurred because nursing homes were located in communities with high rates of spread and because long term care residents and staff were not prioritized by public health officials, leaving providers scrambling for testing, PPE, and staffing resources. Just like hospitals, we called for help from the very beginning. But unlike hospitals, our calls often went unanswered or came too late. In our case, it has been difficult to get anyone to listen. Prioritizing long term care facilities in emergency situations is key, as we have seen in other emergencies, such as natural disasters.

Despite a year of tragedy, a virus that will linger well into the future, and historic challenges within long term care, I remain optimistic. We have three remarkably safe and effective vaccines. Nursing home residents and staff were made a priority to receive the vaccine by the CDC and the vast majority of governors. As a result, nursing home cases and deaths have declined dramatically since mid-December and faster than the general population. This has allowed CDC and CMS to update guidance to allow more in-person visitations. We are elated to see families and residents reunited. Making our nursing homes a top priority for the vaccine demonstrates the power of putting long term care and our nation's seniors first.

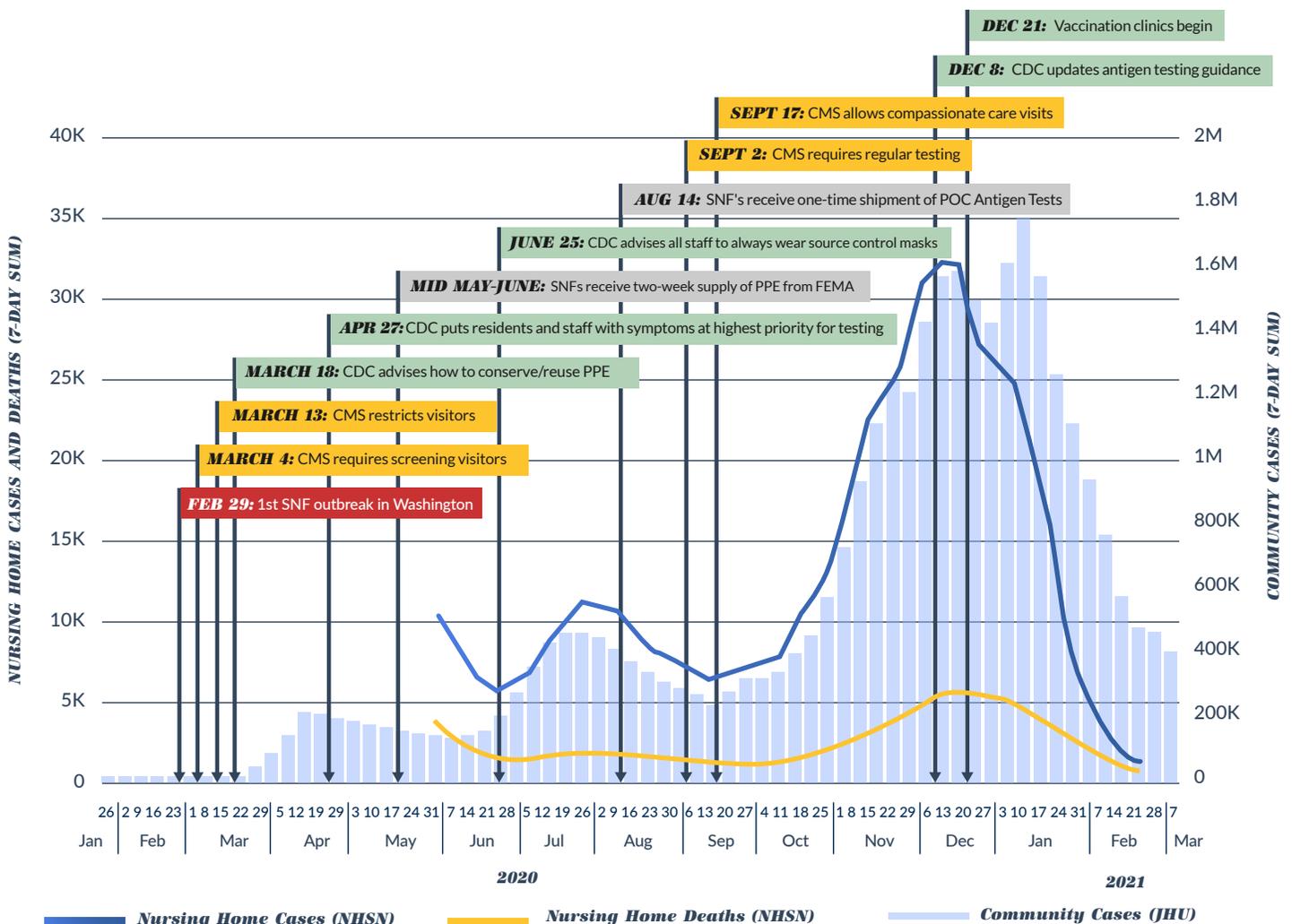
I want to end by saying that our hearts go out to the residents and their family members who have suffered through the past year, separated from each other – in some cases forever. Our thoughts also go to the long term caregivers who have given their all this past year, often without the recognition they deserve.

I have spoken with providers, families and other stakeholders who all agree that the health care system needs to be better aligned to achieve the outcomes we all want. If any good can come out of the pandemic, we are hopeful that it can serve as the catalyst needed to institute meaningful change.

On behalf of the residents, their families and the staff in nursing homes across the country, thank you for your dedication and leadership to tackle the long term care needs of our seniors and individuals with disabilities. Your ongoing help and support mean more now than ever before. Ensuring that essential and necessary resources are provided to long term care providers is critical to protecting our nation's most vulnerable. We look forward to having constructive discussions on solutions with you to combat COVID-19 and usher in a stronger long term care system.

# TIMELINE: COVID-19 AND NURSING HOMES

Despite repeated calls for help, nursing homes did not receive resources or priority for months. Even then, the high amount of spread in surrounding communities made it impossible for nursing homes to prevent the virus from entering their facilities. This timeline identifies major regulatory, policy and resource supports skilled nursing facilities (SNFs) received during the pandemic, as compared to the timing of cases and deaths.



The federal government began collecting and reporting nursing home cases and deaths in May 2020. Since the implementation of the public health emergency, CMS & CDC combined have released 55 (or on average at least one per week) major new requirements or guidance in areas of infection control, testing and PPE use. This does not count minor guidance updates or modifications nor payment changes.