

March 8, 2022

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Request for Meetings; Some Observations on President Biden's Nursing Home Reform Plan

Dear Secretary Becerra,

On behalf of the American Health Care Association and the National Center for Assisted Living's (AHCA/NCAL) more than 14,000 long term care member providers—including more than 10,000 nursing homes—I want to thank you for your continued leadership, especially during the COVID-19 pandemic. We appreciate your Administration's focus on improving the quality of care provided in America's nursing homes or skilled nursing facilities (SNF). It has been our primary focus, and the support and collaboration of the Administration can propel our work even further.

To facilitate the need for collaborative progress, AHCA/NCAL would like to officially request meetings with President Biden, CMS Administrator Brooks-LaSure, and you. It is crucial that you hear directly from dedicated nursing home operators and professionals about the quality efforts that are already taking place, the successes that SNFs have achieved, and our bold plans for the future. It is also important that providers share the critical challenges they face in recruiting and retaining health care workers and other critical personnel. We have lost hundreds of thousands of workers since the beginning of the pandemic, and it is not clear that we can get them back, let alone add minimum staffing standards, without significant support from federal policymakers.

As you consider this request for a meeting, there are two points we would like to stress.

The skilled nursing sector has made considerable progress in terms of quality improvement, and we have done so in partnership with CMS. The White House fact sheet and other comments made around the Administration's nursing home reform plan implied that quality in nursing homes has declined. That is simply factually incorrect. Ten years ago, our Association worked with CMS Administrator Berwick and developed the Quality Initiative. We agreed to focus on specific quality measures that would have a meaningful impact on the lives of residents and make a national, collective effort to improve. We set specific goals with concrete timelines to achieve them. It worked. Pre-pandemic, SNFs improved in 16 of the 20 CMS quality measures, including some of the most important ones.

One of the goals of the Quality Initiative was to safely reduce the off-label use of antipsychotic medications. In the past decade, the use of antipsychotics in SNFs has decreased by 40 percent, which has improved the lives of tens of thousands of individuals living with dementia. This didn't happen because of increased fines or more regulations. It happened because the profession sincerely wanted to make progress and CMS was supportive. When federal regulators and nursing home stakeholders work together, great things can occur for the residents.

Once our timelines were reached, we renewed the Quality Initiative, including with the subsequent administration, and continued to have material success that ultimately benefited residents. We would love to partner with the Biden Administration on renewing our quality improvement priorities and strategies coming out of the pandemic.

What is concerning about the rhetoric surrounding last week's announcement is that it demoralized an already beaten down sector. It is rare to find people who want to and are willing to take care of our frail, elderly residents. And yet more than one million nursing home caregivers risked their lives, their families' lives, and worked night and day during the pandemic to serve our nation's most vulnerable. They didn't do it for the pathetic pay that Medicaid allows. They did it because of a love for and commitment to the residents. Blanket statements about declining care are not only factually incorrect, they are insensitive to the heroic sacrifices these men and women have made.

We are particularly shocked by statements regarding the COVID-19 pandemic, placing blame on nursing home caregivers and criticizing the care provided. There were a series of horrible public health policy decisions that left SNF providers without testing, personal protective equipment (PPE), staffing support, and at times, COVID treatments. Ultimately, long term care was not prioritized by public health officials even though COVID uniquely targeted our residents, and the results were tragic. Meanwhile, state by state variation in public health recommendations led to rapid spread in the general community, which quickly worked its way into long term care settings regardless of the rigorous infection prevention measures taken. Numerous research by respected academic institutions has [repeatedly found](#) that outbreaks were not related to quality but to the prevalence of COVID in the surrounding community.

Meanwhile, federal direction was to isolate residents to their rooms and restrict them from seeing visitors and participating in group activities, which inevitably had an impact on their health and wellbeing. It is unfortunately predictable that such a policy would cause many of the elderly to lose weight, decrease their mobility, and make them feel more depressed. Dedicated nursing home caregivers should not be blamed for the adverse effects of the pandemic but celebrated for the additional one-on-one care and comfort they provided to residents during this unprecedented time.

Secondly, we hope to discuss the long term care workforce crisis and the Administration's proposal for adding minimum staffing requirements. There are two important aspects of the staffing situation that we believe the Administration should consider.

1. We want to hire more caregivers, but there are no workers to hire. [Nursing homes have lost 238,000 workers since the beginning of the pandemic.](#) This is a problem that is unique to long term care. Hospitals, physician offices, outpatient care centers, and home

health organizations are above or near pre-pandemic employment levels. Skilled nursing is 15 percent below pre-pandemic levels, and workforce levels within the entire long term care industry are at a 15-year low. Virtually every nursing home in the country is short staffed and increasingly having to rely on expensive temporary staffing agencies (if it can find an agency).

2. Even if the caregivers were there, the resources needed to invest in them are not. More than 60 percent of our residents rely on Medicaid, but the program does not adequately fund the actual cost of care.

Increasing staffing minimums in the midst of this workforce crisis without corresponding resources does little to help residents and would result in nearly every nursing home being out of compliance. Facilities, especially in rural communities, would be forced to further limit access to care for residents in order to meet arbitrary staffing ratios or close altogether.

While we appreciate many of the reform proposals put forth in the Administration's plan, we think a more thoughtful and results oriented approach is the [Care For Our Seniors Act](#)—a bold nursing home reform plan AHCA released last year with LeadingAge. We recognize the need to hire more caregivers and offer more private rooms, among other ongoing improvements, but we must also recognize that the government funding to bring forth these improvements is not currently there.

Policymakers and providers need to work together to prioritize where we can make the biggest difference in the lives of residents in a cost-effective manner. Our proposals include targeted approaches. For example, we suggest more registered nurse and infection preventionist hours, but customized to each unique facility and their residents, and as long as credible funding is provided to help recruit these health care professionals. We must work together to invest in our long term care residents and staff, incentivize ongoing improvements, and prepare for a growing elderly population.

Our frontline caregivers have been heroic. They have made great sacrifices. The rhetoric around last week's announcement has them feeling beaten down at a time when they need to be lifted up—and when we need to inspire more individuals to serve our nation's seniors. We look forward to working with you to improve nursing home care, but we need real support and meaningful solutions. We hope to talk with you about those when we have the opportunity to meet.

Sincerely,

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Mark Parkinson
President & CEO

cc: Sean McCluskie, Chief of Staff