



U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

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For Immediate Release

Wednesday, April 12, 2006

Grassley works to improve care in nursing homes

WASHINGTON --- Sen. Chuck Grassley, Chairman of the Senate Committee on Finance, today asked the federal government's top official for health and safety standards in nursing homes to report on how the federal agency in charge will respond to recommendations made late last year for improving the process in place to survey and certify the nation's nursing homes.

As chairman of the Senate Aging Committee in the late 1990s, Grassley exposed neglect in some of the nation's 17,000 nursing homes. He continues work to improve standards of care, staffing issues and consumer information.

The text of Grassley's letter to Administrator Mark McClellan follows here. A story from *The News Journal* in Wilmington, Delaware, is attached.

April 12, 2006

The Honorable Mark McClellan, M.D., Ph.D.
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Dr. McClellan:

As Chairman of the Senate Committee on Finance ("Committee") and former Chairman of the Senate Committee on Aging, I have spent considerable effort conducting oversight of nursing home quality and specifically the survey and certification process. Residents in nursing home facilities account for some of the most vulnerable citizens of our country. With nearly 1.7 million elderly and disabled residents in approximately 17,000 facilities, there is a substantial risk that residents can fall victim to abuse and/or neglect. I have made a longstanding commitment to ensure that these residents receive the quality care they deserve.

The Centers for Medicare and Medicaid ("CMS") has responsibility for oversight of health and safety standards for long-term care and skilled nursing facilities. As you are aware, the bulk of this oversight is conducted through the survey and certification process by state

survey agencies. These state agencies are often "on the front lines" in improving the quality of care for our nation's elderly and disabled populations. With combined payments from both Medicare and Medicaid for these facilities totaling nearly \$63 million, oversight is not a part-time job.

There is an unfortunate history of malfeasance in the survey and certification process. All too often I hear stories of state survey agencies "toning-down" reports of nursing home abuse and neglect. In the past, my Committee staff has interviewed numerous surveyors from around the country to obtain their views, guidance and opinions regarding the survey and certification process. Interviews with these surveyors reveal that they often times face top-down pressure from superiors in order to "cleanse" negative reports. In fact, a series of articles in the Delaware News Journal ("Journal") makes clear that this serious problem still exists (see attached). One article reveals numerous disturbing facts relating to nursing home care and the challenges surveyors face on a daily basis. For example, a state surveyor with more than 24 years experience criticized the recent findings of a Delaware state surveyor report. This surveyor complained that many of the negative findings were "toned-down" and even removed by the state director of long-term care. In one instance, it was reported that violations such as reporting a malfunctioning alarm bell for a patient who was susceptible to falls was removed from a surveyors' final report entirely. In another instance, reports of improper care for a diabetic patient were also completely removed from a report. Unfortunately, these types of improper care probably happen all too often and are never reported because of such tampering with surveyor reports.

A December 2005 Government Accountability Office ("GAO") Report on the quality of nursing home oversight acknowledged the improvements that both CMS and the nursing home surveyor community have made in the past few years. The GAO revealed improvements including: implementation of additional guidance to strengthen investigations, improvements in survey methodology, the implementation of sanctions for serious repeat offenders and conducting state survey activities. In addition, improvements have been made in both the scope and intensity of CMS oversight. I applaud these efforts as steps in the right direction.

While improvements have been made in the survey and certification process, there are indications that serious oversight challenges still persist. In particular, the GAO discovered two consistent and longstanding problems: serious inconsistencies in the results of state surveys and the continual understating of negative findings. In addition, it has been reported that there is an imbalance in the effectiveness of CMS oversight initiatives. Some oversight activities are being fully implemented while several are stalling.

Ineffective oversight is not only disappointing, indicating that the responsible public agencies are not properly carrying out their duties, but results in potentially continuous poor quality care for beneficiaries. I look forward to working with CMS on improving the oversight of all of our nations nursing facilities and learning how CMS is working to improve all aspects of nursing home oversight. In particular, I would like to hear how CMS intends to respond to the findings of the GAO report in question. In this regard, please address the following:

· It is evident that there is questionable data resulting from state surveys in terms of both its accuracy and consistency. Often, the information is understated, misconstrued, or just plain inaccurate. What is CMS doing specifically to address the inconsistencies in survey

results?

· The accuracy of information on the CMS Nursing Home Compare website has been called into question on several occasions. As you know, this is often the first and most accessible resource for those seeking information on the quality of a nursing home. Please provide to the Committee a detailed description of how CMS handles data or information discovered to be false or misleading.

· A chronic and serious problem in the process has been the understating of negative findings by state surveyor agencies. GAO revealed this to be a continual challenge to CMS as well. Please provide a detailed description of efforts CMS is taking to rectify this problem.

· "Random" nursing home surveys are many times not random at all. The level of predictability of these visits are sometimes all too predictable and this permits nursing home staff to conceal instances of poor quality care. Please provide a detailed description of current CMS initiatives aimed at resolving this problem and the improvements that you have documented resulting from any such initiatives.

I understand that CMS, like most federal agencies, is working during a time of limited resources and we all can expect these resources to be continually strained for some time. As you noted in your comments to GAO, the combination of more providers and fewer resources poses a significant challenge to CMS. However, it is important to emphasize that we cannot let the gains we've made be eroded by the trends I have outlined in this letter. In my capacity as Chairman of the Committee on Finance, I am ready and willing to accommodate you in any way possible to help CMS achieve the highest level of quality for Medicare and Medicaid beneficiaries, especially those in our nation's long-term care facilities.

In responding to these requests, please repeat each enumerated question and provide your response no later than May 1, 2006. I share your commitment to ensuring that our nation's seniors and beneficiaries are served with the highest level of quality.

Sincerely,
Charles E. Grassley
Chairman