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Insufficient Assurances That Board and Care Residents' Needs Are Being Identified and Met

Statement of
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Before the
Special Committee on Aging
United States Senate

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We have recently completed our report on the board and care industry which we prepared in response to a request from the Senate Special Committee on Aging and House Select Committee on Aging.[1] This request was prompted by your concerns about the quality of care provided to residents in some board and care homes. Our review focused on six states--California, Florida, New Jersey, Ohio, Texas, and Virginia--and the Department of Health and Human Services (HHS). We are pleased to be here today to discuss our findings.

DEFINITION OF THE INDUSTRY

To start, there is some confusion about what constitutes the "board and care" industry. This is because board and care homes go by a variety of names, which vary across states and within communities. The public may instead know these homes as adult homes, group homes, personal care homes, or rest homes. What distinguishes board and care from other facilities is that they provide, in addition to a room and meals, some degree of protective oversight.

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[1]U.S. General Accounting Office, Board and Care: Insufficient Assurances That Residents' Needs Are Identified and Met (GAO/HRD-89-50, Feb. 10, 1989).

RESIDENTS HAVE SPECIAL NEEDS

Residents in board and care homes include some of the most vulnerable members of our society. Many have physical limitations, and a large number have previously lived in an institution for the mentally ill or the mentally retarded. Many need help in taking medications and managing their money. And few have relatives or friends to visit them to make sure they are getting the care they need. One very serious problem for board and care residents is that so many have incomes at or below the poverty level; in fact, a large number depend on Supplemental Security Income (SSI) for their support.

RESIDENTS' PROTECTION NOT ADEQUATE

Assurance that board and care residents are not mistreated or placed in a life-threatening situation is primarily a state responsibility. States establish their own requirements regarding the type and size of board and care homes that must be licensed and what services must be provided. This is highly variable--a home that may have to be licensed in one state could legally operate without a license in another.

State inspections of the industry tend to focus on the adequacy of the physical plant; also, states vary in how

aggressively they enforce their licensing requirements. For example, two of the states we visited, Ohio and Texas, made almost no attempt to locate and license homes. Hence, a large number of homes in those states (an estimated 3,500) are unlicensed and unregulated. In addition, regardless of the regulatory effort made by the states, most officials we interviewed expressed concerns about the adequacy of their oversight of board and care homes because of insufficient resources and staff.

States also operate ombudsman programs that have varying degrees of oversight over board and care homes. The ombudsman program was initially created to look into nursing homes, but in 1981 the Congress expanded it to include complaints of board and care residents. However, no additional funds were provided for these added responsibilities. In 1987 a survey of all state ombudsmen found that about half believed that they had not been successful in assuring coverage of residents in board and care homes.

State inspections of licensed board and care homes over the past several years have identified that a wide variety of problems continue to exist. These range from very serious situations, in which residents have been subjected to physical and sexual abuse, to problems involving persistent unsanitary conditions, such as improperly stored food and trash. In some

cases board and care residents had been denied heat, were suffering from dehydration, were denied adequate medical care, or had food withheld if they did not work. Situations have also occurred that contributed to the death of board and care residents.

Serious problems also exist in unlicensed homes. For example, in Ohio a state health department nurse found residents in unlicensed homes who were not receiving enough food or who had large lesions, bedsores, and unattended chronic infections. While none of the six states we visited had aggregated inspection data, officials believe that problems are predominantly concentrated in homes with low-income residents, specifically those on SSI.

When states find that the residents' safety or well-being is threatened, they have the legal authority to immediately close a home or suspend its license. In situations that involve poor quality care, however, three of the six states in our review had only one sanction available--to deny or revoke a home's license. For these states, this is a time-consuming process that can take up to a year. The other three states had intermediate sanctions, such as fines or receivership.

A major constraint facing states is the lack of alternative housing, especially for those residents who rely on SSI and other

forms of public assistance. Because SSI support is often below the operators' costs to provide care, some homes refuse to admit SSI residents; other homes that used to admit low-income residents have closed. This has resulted in a shortage of beds in some areas.

HHS HAS PROVIDED NO LEADERSHIP

In spite of the difficulties states are experiencing in assuring that residents in board and care homes receive appropriate care, HHS has committed few resources to oversight of this industry. In 1976, the Congress enacted the Keys Amendment to the Social Security Act to protect SSI recipients from living in substandard homes. States are required to certify to HHS that all facilities in which a significant number of SSI recipients resided or were likely to reside met state standards that would assure appropriate care. These standards were to cover such matters as admission policies, sanitation, safety, and protection of civil rights.

States must annually certify to HHS that they are in compliance with the Keys Amendment. However, in fiscal year 1988, HHS received certifications from only 25 states. In addition, two of the states that sent in their certifications to HHS that they are in compliance with Keys were Texas and

Ohio. Yet officials in both states acknowledged to us that they may have thousands of unlicensed and unregulated homes and that many of these homes are likely to have SSI recipients. HHS officials noted that there are no penalties if a state fails to certify compliance with Keys. We also found that HHS is committing only a portion of one person's time to reviewing state certifications and summaries of standards.

The implementing regulations of the Keys Amendment also require states to periodically inspect and report deficient board and care homes to the Social Security Administration so that the agency can reduce SSI benefits of any recipient living in such homes. According to our survey of 10 SSA regional offices, only eight states have ever reported substandard homes. Because this provision penalizes the recipient for the facility's failings, states have little incentive to report board and care violations to SSA. Two SSA regional offices found that most states they contacted claimed to have no noncomplying facilities.

At a 1981 congressional oversight hearing on board and care, HHS noted its concerns about the limitations of federal authority and the weakness of the Keys Amendment. At the same hearing the undersecretary also assured the Committee that HHS did not support the repeal of Keys. Instead, officials agreed to find a way to make the amendment more effective, including

developing legislative recommendations. However, HHS never developed proposals to revise Keys.

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In conclusion, board and care homes serve a very vulnerable population, which has been for too long subject to neglect and abuse. It is clear that current policies are not offering sufficient protection to these residents and that a national strategy is needed to assure that residents are adequately protected. To develop this strategy, HHS will need to exercise strong leadership both to assess the problem with current regulatory efforts and to identify what options exist to improve these efforts. Consequently, we are recommending that the Congress direct HHS to

-- conduct a comprehensive assessment of each state's oversight activities for its board and care population. This assessment should determine the adequacy of (1) licensing and regulatory requirements, (2) resources committed to their enforcement, and (3) efforts to identify whether residents' needs are being met.

-- report the results of this assessment to the Congress together with recommendations as to what steps are needed to assure the protection of board and care residents and what

changes are required to the Keys Amendment to make it more effective.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you or members of the Committee may have.