



Senate Committee on Finance

A National Tragedy: COVID-19 in the Nation's Nursing Homes

March 17, 2021

10:00 A.M., Virtual Hearing via Cisco WebEx

Purpose

The purpose of this hearing is for the Senate Committee on Finance to consider solutions to deliver adequate staffing, resources, and support for nursing homes during the COVID-19 pandemic, based on testimonials from 6 witnesses.

Key Takeaways

- Transparent, accurate, and robust data regarding nursing home COVID-19 rates and deaths as well as vaccination rates by demographic are necessary.
- Members and witnesses acknowledged the need for stronger efforts to coordinate between the federal and state levels for coherent strategy.
- Understaffing prevalent among nursing home facilities prior to the pandemic was further exacerbated by COVID-19, revealing the need for greater financial support for nursing homes as well as strike teams.
- Prospective challenges can include lack of necessary PPE, staff reluctance for vaccination, and emergence of variant strains.

Members Present

Chairman Wyden, Ranking Member Crapo, Senators Stabenow, Grassley, Cantwell, Menendez, Thune, Cardin, Portman, Brown, Casey, Cassidy, Warner, Lankford, Daines, Hasan, Cortez Masto, and Warren

Witnesses

Adelina Ramos, Certified Nursing Assistant, SEIU District 1199 New England, Greenville, RI

Denise Bottcher, State Director, AARP Louisiana, Baton Rouge, LA

Quiteka Moten, State Long-Term Care Ombudsman, State of Tennessee, Nashville, TN

R. Tamara Konetzka, Louis Block Professor of Public Health Sciences, Department of Public Health Sciences, The University of Chicago, Chicago, IL

John Dicken, Director, Health Care, United States Government Accountability Office, Washington D.C.

David Gifford, Chief Medical Officer, American Health Care Association, Washington D.C.

Opening Statements

Chairman Wyden (D-OR) said vaccinations are up and Americans are beginning to feel encouraged. However, families are still mourning the loss of loved ones. In the past year, many Americans have died from the COVID-19 virus. The seniors particularly were at the center of nursing home mismanagement through chronic understaffing and mistreatment of residents. The

Trump Administration withheld data, which put seniors at risk of harm and resulted in a nationwide systemic failure to protect its citizens. Communities of color are largely suffering from negative effects of COVID-19. Black and other minority nursing home workers see disproportionately high rates of COVID-19. These disparities are the result of generations of inequities and industry-wide failures. The Trump Administration did not meet the necessary standards for the protection and maintenance of nursing homes. There is a lack of reliable data on nursing homes due to the Trump Administration's stone walls. The terrible impacts of COVID on nursing homes is not a red or blue state issue but rather a nationwide tragedy. The Biden administration is working to turn things around by ramping up vaccinations and identifying nursing home risks.

Ranking Member Crapo (R-ID) said that the virus has tested our state of normalcy, threatening the economic and physical health of the nation. It is the people who are working and living in nursing homes who are experiencing the most burden. Both long and short-term facilities rely on licensed workers to provide the most intensive care. Current data shows that long-term health facility workers are mostly women and people of color. Many of these workers live paycheck to paycheck and have put their lives on the line. A key part of oversight is securing transparent and accurate data that drive decision making. It is vital that all states report accurate COVID-19 data. This is not a job for the federal government alone.

Testimony

Adelina Ramos introduced her role as a certified nursing assistant (CNA) and her work with Alzheimer's patients. She said it is a great honor to care for patients and their loved ones. When COVID first hit, her facility lost over 20 residents in a month as well as a fellow CNA. At one point, she was caring for 26 residents with assistance from only one other CNA. Some residents required oxygen checks every 15 minutes. The facility was understaffed, and the workers were getting sick as well. Ms. Ramos said she was diagnosed with COVID not knowing at the time that she would put others at risk. Now, Ms. Ramos is working to educate others on the importance of vaccines. In the final days of a resident's life, the goal has always been to make patients feel safe with their loved ones. However, during the pandemic family members couldn't enter the facility, because they had no personal protective equipment (PPE). The residents deserve better. The starting wage is low for CNAs, and short staffing results in less time for patient care. She felt a calling to do this job, but passion can't pay bills. Thanks to her union, she was able to advocate for herself and for her patients, but she acknowledges that not every nursing home has a union. This pandemic has shown what happens when they are not prepared to meet the demands for care.

Denise Bottcher said the situation in nursing homes and other long-term facilities has been devastating. The American Association of Retired Persons (AARP) has advocated for the safety and well-being of staff and patients from the beginning. While there may be a sense of relief as vaccines roll out, much more is yet to be done. AARP has urged actions to protect the safety of residents and ensure adequate protection. It is unacceptable for facilities to have shortages of PPE a year into the pandemic. Data should be reported accurately and transparently with demographic data. AARP urges the federal government to work with states. AARP urges that the Administration and Congress ensure funds are being directly used for the care and staff. The

Administration must ensure safe in-person visits and ensure virtual visits for all residents. There are also concerns on shortages of staff, which was an issue even before the pandemic. Finally, oversight from the Centers for Medicare and Medicaid Services (CMS) is vital. Nursing homes must be held accountable. Helping people to remain in their homes and their communities will alleviate problems in nursing homes.

Quiteka Moten said she has spent the majority of her life in public service. Her current organization operates as a community-based facility and advocates for patients. COVID has disrupted the facility's allowance of in-person visits bringing along significant difficulty. It is also hard to advocate for their residents, especially for those who have severe physical conditions. Staffing issues, however, were nothing new. Nursing homes were already dealing with understaffing issues, resulting in decreased quality of care. There were delayed discharges to the emergency department and other appointments. Emotional and mental decline was very apparent. The organization also had to help family members adapt to a family caregiver role. She said she hopes there will be action taken, so residents can return to some sort of normalcy.

Tamara Konetzka said a large body of evidence shows predictors for higher COVID rates and deaths are larger nursing home size and COVID-19 presence in the surrounding community. There are no associations between quality metrics and COVID-19 outcomes. This suggests that good infection control is not enough in the pandemic. The single most important thing that can reduce tragedy is using public health measures to control the spread. Research shows that there are striking disparities among demographics. Most of the disparities can be explained by the fact that residents of color are more likely to live in communities with higher COVID-19 rates. On average, nursing homes lack the amount of staff needed to care for residents. Increasing staffing is a clear intervention that can improve lives. Policies that allocate funds to fill staffing gaps are needed. Greater assistance going to larger facilities in communities of color is required. CMS should immediately release data for nursing home care. Finally, direct care staff needs to be increased, which requires resources. The nursing home and long-term care system is largely underfunded, so greater transparency of funds is needed.

John Dicken said the last year has been a national tragedy. Nearly all nursing homes have experienced severe isolation and understaffing. In response to the emergency, the Department of Health and Human Services (HHS) has taken a series of actions to guide states, delivering instructions for infection control and distributing testing devices to homes. The Government Accountability Office (GAO) continues to evaluate the response. Nursing homes may begin to see a reprieve as COVID-19 deaths are declining. CMS updated their guidance to expand resident visitation. Other challenges nursing homes face include testing and PPE supply. Some new challenges have emerged, such as staff reluctance to receive the vaccine and the emergence of COVID variants. One recommendation is having HHS share more complete data on nursing homes. Another recommendation is to have a plan of response. Improvements on nursing home oversight is needed. Going forward, they must address long-term challenges.

David Gilford said he can attest that COVID is the greatest tragedy for residents and their families. It has also greatly affected healthcare workers. COVID has impacted every aspect of long-term care. The dedicated staff did everything they could to help residents while also trying to keep themselves safe. The public health advice did not keep up with the progression of the

virus and any advice was often listened to when it was already too late. Nursing homes were not made a priority, and it took months for staff to receive PPE. Testing kits were not provided to nursing homes even six months into the pandemic. The long-term health community was left behind and even blamed. The country must reflect on the impacts of the pandemic. Chronic Medicaid underfunding makes it hard for competition. Cases and deaths have declined, and prioritizing nursing homes for vaccinations is the next step.

Questions and Answers

Chairman Wyden said there was a collision of mismanagement in nursing homes. He asked Ms. Ramos for further information on vaccinations. **Ms. Ramos** said she had to do her own research on vaccination, and there was no further information provided. If there is more information in the community from trusted leaders, it would be easier for community members to get vaccinated. **Chairman Wyden** said he is appreciative of strike teams and wanted her to amplify her concerns on private equity getting involved in this field. **Ms. Konetzka** commented that there is research showing that nursing homes bought by private equity see higher revenues, but worse patient outcomes and poorer staffing. **Chairman Wyden** said the rating system is not doing a good job of rating and asked Ms. Moten what can be done to improve the system. **Ms. Moten** said she is not sure what she would do to improve the rating system, but finding methods to improve the system is necessary.

Ranking Member Crapo asked for clarification on the percent decrease in deaths in nursing homes and what attributed to decreases. **Mr. Dicken** said that cases and rates have declined by 80% and are continuing to drop. They are continuing to evaluate what has contributed to declines of rates, but the prioritization of vaccines for residents and staffs is a factor. **Ranking Member Crapo** said that something is working, and they must identify what that is. He said there have been a few recommendations from CMS and GAO and inquired what the recommendations were specifically. **Mr. Dicken** said that CMS taking a more systematic approach for improving the response to the pandemic. He also said that data is important for oversight and transparency, and recommends CMS to have more complete data from the early months of the pandemic. **Mr. Gifford** said nursing homes take on the role of taking on hospital patients to free up beds, which can contribute to the spread. To do this, there must be adequate supply of PPE.

Senator Stabenow (D-MI) said high quality staff make a high quality nursing home. Recent reports said that nursing homes have a severely high turnover rate, and she asked Ms. Ramos about turnover rate impacts on her work. **Ms. Ramos** said that quality of care was drastically impacted, and they couldn't keep residents hydrated, cared for, or comforted. She and her coworkers had to pick and choose who the most critically ill residents were for assistance. Residents deserve higher quality of care. **Senator Stabenow** asked what the main reason was for why CNAs leave their jobs. **Ms. Ramos** said a lot of CNAs leave nursing homes, because the workload is too overwhelming as a result of understaffing. They also earn low wages. Ms. Ramos said they need to do what they have to do for their families. **Senator Stabenow** said that nursing home information is not always made public and asked if it should be made public. **Ms. Konetzka** said that higher turnover is related to poorer patient outcome. Knowing turnover may be helpful for consumers. **Senator Stabenow** asked about the disparities COVID has amplified. **Ms. Konetzka** said that short-term recommendations are to deliver assistance to communities of

color, such as strike teams. She also said data needs to be released and vaccination distribution must be equitable.

Senator Cortez Masto (D-NV) said that the American Rescue Plan (ARP) funding is allocated for nursing homes, strike teams, and infection control. She said this is critical and asked Ms. **Konetzka** about how this funding can be used to protect nursing homes. **Ms. Konetzka** said that the problem is that nursing homes were always understaffed and the pandemic exacerbated this issue. They can't implement the best practices without adequate staffing. The strike teams are essential to fill in the gaps. **Senator Cortez Masto** said that more leadership is also important. **Ms. Konetzka** said that policy leadership is necessary and the strike teams need to be coordinated to fill in the necessary gaps. **Senator Cortez Masto** asked if there are necessary protocols in place now. **Ms. Konetzka** said current protocols are unclear.

Senator Cassidy (R-LA) asked Mr. Gifford about problems surrounding staffing. He said that the initial stimulus checks begged the question about the decrease in staffing being associated with governmental assistance from the stimulus checks. **Mr. Gifford** said that many healthcare workers were not able to come in, because they were sick. Trainings were put together to run temporary aid for nursing homes. **Senator Cassidy** said that there was an incentive for folks to retire from the workforce. **Ms. Konetzka** said that it was not a major reason why nursing homes were understaffed. People generally have different motivations for doing nursing home work and are not in the job for the wages. Nursing home workers endure physically and mentally tasking work. **Senator Cassidy** commented that folks from the industry say that racial disparities suggest that those most impacted were facilities with Medicaid as the primary insurer. He asked what degree of low Medicaid reimbursement rates impact the quality of the nursing home facility. **Ms. Konetzka** said that the long-term care system is largely underfunded. When looking at the Medicaid facilities, they have little slack and are largely understaffed.

Senator Portman (R-OH) said Ohio has had a large proportion of deaths from nursing homes. Long-term care is important to ensure those with disabilities and seniors can live meaningful lives. There has been a push towards home and community based services (HCBS) to offer care at beneficiaries' homes. HCBS costs less than nursing home care and people are happier in HCBS. 0.3% of beneficiaries receiving HCBS died of COVID this year. Ohio passed two major efforts to support HCBS and people with disabilities. They also passed a bill to transition people from nursing homes to HCBS. Senator Portman inquired about when the pandemic was happening, what could've been done to improve HCBS and how Congress can support HCBS going forward. **Ms. Konetzka** said that improving the expansion of HCBS in and beyond a pandemic is critical. **Mr. Dicken** said that there are similar vulnerabilities that exist in HCBS as nursing homes. More data is needed for a better understanding on outcomes.

Senator Brown (D-OH) said that patients in private-equity owned facilities are more likely to die, given narcotics, and receive overall lower quality of care. Senator Brown asked what adequate staffing and understaffing means to patients and coworkers. **Ms. Ramos** said more staffing can provide better care. More staff can help more patients in a timely manner. **Senator Brown** asked how being part of a union has allowed workers to advocate for patients. **Ms. Ramos** said that the union has given a voice for patients who may not be able to speak up. She said with the union power, they were able to get hazard pay and are able to inspire change.

Senator Cardin (D-MD) said protecting workers and residents in nursing homes is a challenge, which was an issue before COVID-19. He asked if nursing homes will have adequate federal government protections for infectious diseases past the current COVID-19 pandemic. **Mr. Dicken** said that it is essential to focus on infection control in nursing homes, even outside of the pandemic. **Senator Cardin** asked about how to share best practices to protect the residents and workers, particularly about the best mode of communication to share this information so legislators can create the best policies. **Ms. Ramos** said this problem is a country-wide issue. Congress has the power to change the law across the country.

Senator Lankford (R-OK) said he has been an outspoken advocate for long-term care facilities. There is a balance between the safety of workers but also allowing some sort of normal visitation. He asked about the recommendation for guidance for individuals who are dealing with depression. **Mr. Gifford** said this raises a broader question to providing infection control care but also restricting patients. **Ms. Moten** said from a logistical standpoint, allowing families to take trainings for care giving can be a solution. **Ms. Konetzka** said the essential care giver programs that were implemented serve as a good model for how the country should be moving forward. She said that a balance between quality of life and reducing physical risk is important, rather than working towards zero risk at the expense of quality of life. **Senator Lankford** said zero risk is emotionally taxing and people are trying to find hope.

Senator Casey (D-PA) said that he commends the work essential workers have taken on during this time. He said there has been legislation to reform nursing homes by expanding oversight on candidate facilities, increase the educational resources for underperforming facilities, and establish an independent advisory council. Senator Casey asked about expanding the size of the staff and expanding oversight on underperforming nursing homes. **Ms. Konetzka** said that there is a bottom tier of nursing homes that is chronically problematic and more must be done to bring them up from the bottom tier. **Senator Casey** asked about what can be done to provide families with information to make informed decisions. **Ms. Bottcher** said more information will provide families what they need to make decisions.

Senator Grassley (R-IA) said nursing homes house the most vulnerable seniors. He asked how important it is for the Department of Justice (DOJ) to continue to investigate civil rights violations in nursing homes. **Mr. Dicken** said they are aware of the federal and state level investigations. More complete information is needed to mitigate these challenges. **Ms. Morten** said more could've been done in nursing homes, but hospitals were better equipped to handle infection control. Understanding what specific states did is important for future work. **Senator Grassley** asked if the DOJ should have an unbiased investigation to state-specific investigations. **Mr. Dicken** said that he cannot speak to the specific situation in New York.

Senator Menendez (D-NJ) called for a national comprehensive testing plan and addressing the staffing shortages, which either came slowly or not at all. He asked about the harms that came about from the lack of a national response. **Mr. Dicken** said the national testing strategy could've ensured more consistency and transparency at the start of the pandemic. **Senator Menendez** said that infection control should be improved to combat the future spread of viruses in nursing homes. He asked how this would provide a healthier strategy for residents. **Mr. Gifford** said that tailoring the infection prevention to the facility is necessary. Evidence-based

practices are important to carry out infection prevention. **Senator Menendez** asked about more ways to get more staff vaccinated. **Mr. Gifford** said the challenge is getting vaccines out and being vaccines being allocated properly.

Ranking Member Crapo asked about ensuring access to safe in-person and virtual meetings. **Ms. Bottcher** said that they must focus on both types of meetings. In-person visitation is important, but they must also talk about infection control and adequate staffing for support. It would help with the mental health for the resident. Congress can do more to help nursing home support and virtual visitations.

Senator Daines (R-MT) said seniors have been severely impacted by the pandemic. One-third of deaths are linked to long-term care facilities. There are great strides taking place, but there are still low rates of vaccine uptake in nursing home staff. He asked how well vaccine distribution is going in nursing homes. **Mr. Dicken** said that many vaccines have been distributed, but there have been greater numbers of residents taking the vaccine, compared to staff. There was hope that there would be an increase in staff getting the vaccine. **Senator Daines** asked about barriers to accessing tele-visit technology. **Ms. Bottcher** said AARP has been largely supportive of virtual visits. It was incumbent upon nursing homes ability to facilitate virtual visits. The shortcomings were due to the rising infection rates and the lack of staff supporting the virtual visits. Some nursing homes don't have strong broadband access, so it is important to support tele-visits.

Senator Warner (D-VA) inquired about how nursing home workers can be recruited and retained. **Ms. Ramos** said that quality of care and short-staffing has been an issue before the pandemic. The union has been helpful for support. **Mr. Gifford** said that the workforce needs to be improved, and underlying funding is an ongoing issue. Loan forgiveness is something that should be supported, and subsidies to schools can also be helpful. Prioritizing nursing homes is vital moving forward. **Senator Warner** asked Ms. Konetzka about which model can make the system work. **Ms. Konetzka** said this is a challenge to answer, and it requires great resources. Medicaid rates in many states are very low, maybe too low to take care of the nursing home population. Thinking about fundamental change to the system is important and looking at the underlying funding mechanism is vital.

Senator Warren (D-MA) asked if there are enough resources needed to properly care for COVID-19 patients. **Ms. Ramos** said no, they did not have enough resources or staff. They must choose who deserves the care. **Senator Warren** asked if a top corporate executive should receive a bonus while front line workers were struggling. **Ms. Ramos** said that they should not have made money in bonuses. That money should've been going to patient care or recruiting more staff and PPE. **Senator Warren** asked if it is right that nursing home leaders should get bonuses, while front line workers were fighting for more resources. **Mr. Gifford** said that the front line workers are the life line of nursing home facilities. Provider relief funds were lifesaving. He said they must think through all levels of retaining, and he would need to look at transparency funds. **Senator Warren** said that they must be fighting for transparency, especially for nursing homes run by private equity firms.

Senator Thune (R-SD) asked about CMS's standards and how they are keeping up vaccination efforts. He asked about recommendations for vaccination in nursing homes. **Mr. Gifford** said

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there is tracking of vaccinations that are utilized internally. They have been urging for information transparency and have set a goal to get 75% of residents vaccinated. **Senator Thune** asked about GAO vaccine reporting. **Mr. Dicken** said they are continuing to track vaccines. **Senator Thune** said that access is important and asked what particular causes lead to nursing home closures, especially for rural areas. **Mr. Gifford** said there is a large drop in closures, especially for at-risk facilities. They must take a serious look at nursing home priorities. **Senator Thune** asked about immediate efforts to improve staffing. **Ms. Moten** said programs that guide and support workers into the nursing home field is important, especially for sustaining facilities in rural communities.

Senator Hassan (D-NH) asked about the high rate of deaths in long-term care facilities. She said that nursing homes must look at themselves and take responsibility for their failures. She asked if nursing homes should take responsibility and how they can change to improve. **Mr. Gifford** said COVID-19 has exposed that nursing homes were not a priority. There was a failure on learning to improve the distribution system. He said there are still many unknowns. Having adequate staff, stockpiling PPE, and having infection prevention are all important factors. **Senator Hassan** said there is a widespread practice of inflating the number of staff available for patients, which has been an ongoing issue. Given the disturbing records of data manipulation, she asked if the federal government needs to end self-reporting and expand monitoring. **Mr. Gifford** said they encourage the following of rules for reporting. **Senator Hassan** asked how information can be delivered so people will get the vaccine. **Ms. Ramos** said many front line workers are hesitant of the consequences, especially ones which may impact their work hours and wages.

Chairman Wyden said it is important for data to be shared. **Ms. Bottcher** said that facility information is important to know. **Ms. Konetzka** said that this information must be public for consumers and is essential for researchers and public health professionals, especially for addressing equity. **Chairman Wyden** asked about additional recommendations on what can be done to address racial disparities. **Ms. Konetzka** said that disparities have always been prevalent in nursing homes. In the short-term, there is a need for data on vaccination to ensure those communities are being reached. They must also make sure strike teams are reaching hard-to-reach communities.

Senator Cantwell (D-WA) asked about guardrails to ensure staff and patients are supported. **Ms. Konetzka** said that transparency is key.