

## **Committee on Energy and Commerce**

### **Opening Statement**

of

### **Subcommittee on Oversight and Investigations Ranking Member Diana DeGette**

#### ***Examining Federal Efforts to Ensure Quality of Care and Resident Safety in Nursing Homes***

**September 6, 2018**

Thank you, Mr. Chairman. Each one of us likely knows someone in a nursing home. It might be an elderly loved one who must now rely on others for daily care. So it is especially meaningful and important that we make sure that nursing homes are meeting federal health and safety standards. Each of the agencies before us has endlessly examined issues relating to how nursing home residents are treated.

The core issue here is that frail and vulnerable people are harmed when nursing homes fail to meet our standards. We saw a tragic example of this in the aftermath Hurricane Irma, when 14 people died at a grossly sub-standard nursing home in Florida.

The government plays a critical role in preventing these kinds of tragedies, as millions of seniors reside in nursing homes that participate in the Medicare and Medicaid programs. Medicaid alone covers 6 in 10 nursing home residents across the country, and my state mirrors these nationwide numbers. In Colorado, 61% of nursing home residents rely on Medicaid.

To participate in Medicare or Medicaid, a nursing home must follow federal rules – including rules to ensure quality of care, and rules to prevent abuse, neglect, and exploitation of residents.

It is a crucial responsibility of the Centers for Medicare & Medicaid Services (CMS) to work with the states and make sure that nursing homes are complying with these federal standards. CMS has several enforcement tools it can use. In the worst cases, CMS can terminate a nursing home from participating in Medicare or Medicaid for failing to follow the rules.

But we have been here before. Anybody who has been on this Committee for any length of time knows that for years we have struggled to address the issue of quality of care at nursing homes. Both the Inspector General at the Department of Health and Human Services and the Government Accountability Office (GAO) have raised issues regarding how states and CMS oversee the nursing home industry.

And yet, it seems that we have not yet turned the corner to get where we need to be in providing effective oversight of this sector of care. Just today, for example, the Inspector General in written testimony mentions a statistic that I find very troubling: Fully one-third of Medicare residents in skilled nursing homes experienced harm from the care they received, and half of those cases were actually preventable.

The Inspector General has made recommendations for how to improve these issues, and CMS needs to articulate today what concrete steps the agency is taking to make progress here. Also along these lines, I also want to know what progress CMS is making on implementing the updated health and safety regulations that were finalized in 2016 after a lengthy rulemaking process. It took years, and lots of public feedback, but in 2016, CMS updated the federal nursing home regulations to improve planning for resident care, training for staff, and protections against abuse, among other issues.

But, even as CMS is now implementing these new rules, the agency has taken a series of actions that have led consumer groups, state attorneys general, and others to question whether CMS is doing enough to strengthen and enforce federal standards.

Last year, for example, CMS announced that it had imposed a moratorium on enforcement of many of these regulations. In other words, the agency is restraining itself from using some of its most effective enforcement tools against those who violate these new rules designed to protect vulnerable nursing home residents.

CMS must commit itself to implementing and enforcing its regulations. Because, as I said earlier, the core issue here is that frail and vulnerable people are harmed when nursing homes fail to meet our standards.

I thank the witnesses for being here today. I especially want to thank the Inspector General and GAO for your body of oversight work on nursing homes. It is important work that should inform how we can do better to ensure high-quality care in nursing homes.

I yield back.

September 6, 2018

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