



THE VOICE

The e-newsletter of National Consumer Voice for Quality Long-Term Care

July 23, 2019

Consumer Voice Executive Director Offers Recommendations During Today's Senate Finance Committee Hearing

Consumer Voice Executive Director Lori Smetanka was a witness during today's Senate Finance Committee Hearing - "Promoting Elder Justice: A Call for Reform." Lori testified that although federal law requires nursing homes to provide residents with services that help attain and maintain their highest practicable physical, mental and psychosocial well-being, reports continue to indicate that too many nursing homes fail to meet minimum standards of care that they voluntarily agreed to follow as a requirement of participating in the Medicare and Medicaid programs.

Lori's testimony highlighted recommendations including:

- Requiring standards for a sufficient, well-trained, well-supervised workforce
- Establishing standards and oversight for facility ownership and operations, and expanding accountability to the corporate level
- Implementing, enforcing and preventing the rollback of standards
- Increasing transparency of information
- Strengthening and funding elder justice provisions

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Calendar of Events

Tuesday, August 6: [Financial Capacity for People Living with Dementia and their Caregivers](#), 2:00pm ET, Webinar from National Alzheimer's and Dementia Resource Center

October: [Residents' Rights Month](#)

Chairman Chuck Grassley (R-IA) and Ranking Member Ron Wyden (D-OR) provided statements. Other witnesses included - Megan H. Tinker, Senior Advisor for Legal Review, Office of Counsel to the Inspector General, United States Department of Health and Human Services; John E. Dicken, Director of Health Care, United States Government Accountability Office (GAO); Robert B. Blancato, National Coordinator, Elder Justice Coalition; and Mark Parkinson, President & Chief Executive Officer, American Health Care Association.

Notably, Mr. Dicken discussed recommendations provided in the GAO report released today - [Improved Oversight Needed to Better Protect Residents from Abuse](#). Recommendations included requiring state agencies to report and assess trends and identify gaps, the need for CMS to develop and disseminate guidelines and create standardized forms, and the need for CMS to confirm that all state agencies report abuse.

[Find more information on the hearing and witness statements here.](#)

Add Your Voice By Submitting a Statement for Record

Any individual or organization wanting to present their views for inclusion in the hearing record should submit a typewritten, single-spaced statement, not exceeding 10 pages in length. Title and date of the hearing, and the full name and address of the individual or organization must appear on the first page of the statement. Statements must be received no later than two weeks following the conclusion of the hearing.

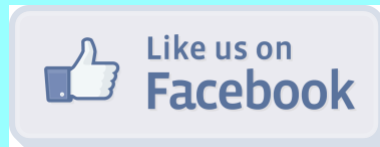
Statements must be mailed (not faxed) to:
Senate Committee on Finance
Attn. Editorial and Document Section
Rm. SD-219
Dirksen Senate Office Bldg.
Washington, DC 20510-6200

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CMS Releases Arbitration Rules and Proposes

November 3-6, 2019: [Consumer Voice Annual Conference](#), Crystal Gateway Marriott, Arlington, Virginia

Join the conversation and follow us on social media!



Last Week's Most Popular Post:

Thursday, July 18:

[Consumer Voice Board Members Lori Walsh and Tim Johnston advocate for quality care on Capitol Hill as part of Consumer Voice's Hill Day today](#)



Last Week's Most Popular Tweet:

Wednesday, July 17:

[Yesterday, the Centers for Medicare and Medicaid Services released the public inspection documents for two rules: the proposed rules revising the federal nursing home regulations and the final rule on pre-dispute arbitration.](#)

Long-Term Care Resources & News

Revisions to Nursing Home Rules

Last week, the Centers for Medicare and Medicaid Services released the [public inspection documents](#) for two rules:

1. Proposed rules revising the [federal nursing home regulations](#); and
2. [Final rule](#) on pre-dispute arbitration.

Consumer Voice is reviewing and analyzing both sets of requirements and will be providing you with a summary and analysis as soon as possible.

Early analysis points:

Pre-Dispute Arbitration Final Rule:

- The arbitration rule allows the use of pre-dispute arbitration agreements, but facilities are prohibited from requiring residents or their representative from signing such agreements as a condition of admission or to continue receiving care.
- The facility must give the resident the right to rescind the agreement within 30 days.
- There are additional requirements the facility must meet, such as explaining the agreement in a language and manner the resident/representative understands.

Nursing Home Requirements of Participation Proposed Rules:

- Eliminates the "grievance official" and removes the duties of such a person
- Changes the requirement that a facility conduct a facility assessment from annually to every 2 years
- Eliminates some of the protections around PRN use of antipsychotic drugs
- Greater flexibility around QAPI
- Changes in the requirements around an infection preventionist - eliminates the requirement that the person works at the facility part-time
- Delays implementation of the Phase 3 requirements for 1 year

There will be a 60-day comment period for these proposed rules.

- [Identifying Abuse in the LTC Setting](#), Interview with Dr. Laura Mosqueda, Annals of Long Term Care, July 22, 2019

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Actual publication of these rules in the Federal Register will occur on July 18.

Stay tuned for more information from Consumer Voice on these new Regulations.

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Appeals Court Declares Nursing Home Residents' Right to Sue State for "Meaningless" Eviction Appeals

On July 18, 2019, The Ninth Circuit Court of Appeals sided with the California Advocates for Nursing Home Reform (CANHR) and three nursing home residents who sued California for ignoring their own administrative orders. The residents' nursing homes dumped them in hospitals and then illegally refused readmission. Each of the residents successfully appealed the eviction and received a State order for readmission, but the residents were not readmitted. The nursing homes ignored the order, and the State did not enforce it. The Ninth Circuit found that California cannot provide "meaningless show trials that allow nursing homes to persist in improper" evictions. The Federal Nursing Home Reform Act requires states to provide a fair system for eviction appeals that necessarily includes resolution for residents.

For California's nursing home residents, the decision means California will be held accountable for abandoning residents who won their eviction appeal but are not readmitted. For residents nationwide, the decision gives a clear right to sue their state regarding the fairness of its eviction appeal system.

Information provided by [CANHR](#).

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NBC News Investigates Nursing Home Chain

Consumer Voice friend Toby Edelman from the Center for Medicare Advocacy was interviewed by NBC News. The NBC News Investigation looked into a nursing home chain collapse amid allegations of unpaid bills and poor care. "We need to have very strict rules about who is eligible to operate a facility, what the standards are for them, (and) what their financial backgrounds are," Toby said in the interview. [Watch the NBC News segment here.](#)

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Spotlight on Resources



Consumer Voice and the National Ombudsman Resource Center have a multitude of resources available online covering a wide range of long-term care topics. Visit the [Consumer Voice](#) and [NORC websites](#) to explore all the available resources. Check out this week's

highlighted resource:

[Nursing Home Discharges Fact Sheet: You've Been Told to Leave...Now What?](#)

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About The Voice

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Consumer Voice is the leading national voice representing consumers in issues related to long-term care, helping to ensure that consumers are empowered to advocate for themselves. We are a primary source of information and tools for consumers, families, caregivers, advocates and ombudsmen to help ensure quality care for the individual. Consumer Voice's mission is to represent consumers at the national level for quality long-term care, services and supports.

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