A Look at Public Policy in 2020

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Robyn Grant
Director of Public Policy & Advocacy
Agenda

1. Proactive advocacy
   • Staffing
   • Arbitration
   • Background checks
   • Written informed consent
   • Long-term care ombudsman program funding

2. Defensive advocacy
   • Nurse aide training programs
   • Frequency of surveys

3. Q&A
Establish Minimum Nurse Staffing Standards
Staffing: Need to Know

- Strong relationship between staffing levels and quality
- No current federal minimum requirement
- Federal government study recommended 4.1 hours of direct care nursing time per resident per day
- Nationally: 3.4 hours of total direct care staff time per resident per day (LTCCC)
Staffing

Quality Care for Nursing Home Residents Act

• H.R. 5216, Representative Jan Schakowsky; S. 2943, Senator Richard Blumenthal

• 4.1 hours:
  – Divided up by:
    • Type of nursing staff: 0.75 hours- RN; 0.54 hours-LPN/LVN; 2.81 hours- CNAs
    • Shift: day, evening, night
  – Does not include administrative services
  – Expressed in hours and ratio

• Adds Nursing Management Personnel
  – Full-time Assistant Director of Nursing (RN)
  – Full-time Director of In-service Education (RN)
Advocacy Action

• Educate your Members of Congress about staffing issues

• Ask your Members of Congress to:
  – Support the Quality Care for Nursing Home Residents Act:
    • H.R. 5216; S. 2943
Ban Pre-Dispute Arbitration Agreements
Pre-Dispute Arbitration: Need to Know

- Consumers lose the right to hold the facility accountable in a court of law forever, even for the most egregious harm
- These agreements are harmful and disadvantageous to consumers in numerous ways
- Regulatory efforts to ban pre-dispute arbitration agreements in nursing homes failed
Bills would prohibit pre-dispute arbitration agreements in nursing homes, other settings

- Forced Arbitration Injustice Repeal Act (H.R. 1423, S. 610)
  - Bans forced arbitration in consumer contracts, which would include nursing homes, assisted living communities, other settings

- Fairness in Nursing Home Arbitration Act (H.R. 5326)
  - Bans arbitration in federally-certified nursing homes, Medicaid-funded home- and community-based services

- Quality Care for Nursing Home Residents Act (H.R. 5216, S. 2943)
  - Bans arbitration in federally-certified nursing homes
Advocacy Action

• Ask your Members of Congress to:
  – Support all 3 arbitration bills
Require Comprehensive, National Nursing Home Background Checks
Background checks: Need to Know

- Employees with criminal records are more likely to abuse again
- Current screening is not effective
- National Background Check Program is a comprehensive national background check
  - 29 states
  - Very successful
  - Very different from the National Practitioners Data Bank
- No current federal requirement for state or national criminal check
Ask your Members of Congress to:
- Make funding available to states that have not yet implemented the program. Provide a phase-in period for implementation.
- Require all Medicare and/or Medicaid certified nursing facilities to conduct comprehensive, national background checks on all individuals with direct access to residents by 2024
Mandate written informed consent for antipsychotic medications
Informed Consent: Need to Know

- Inappropriate use of antipsychotic medications has been and continues to be a nationwide problem.
- Antipsychotics can be very dangerous for older adults, particularly those with dementia.
- Antipsychotic medications are often administered without the resident’s or their representative’s knowledge of risks or consent.
- Written informed consent is not currently required in nursing homes.
Advocacy Action

• Ask your Members of Congress to:
  – Support the Quality Care for Nursing Home Residents Act (H.R. 5216; S. 2943)
    • Standardized protocol
  – Support legislation requiring written informed consent for use of an antipsychotic medication in nursing facilities/skilled nursing facilities.
Increase Funding for the Long-Term Care Ombudsman Program
Ombudsman Program: Need to Know

• Long-Term Care Ombudsmen advocate for residents in many ways
  – 2018:
    • investigated 194,516 total complaints made by 123,066 individuals
    • 74% of complaints resolved or partially resolved to the satisfaction of the resident

• The LTCOP is critically important to long-term care facility residents
  – The only program federally mandated to advocate on behalf of residents of long-term care facilities

• Many residents do not have regular access to ombudsman services
  – 2018:
    • Ombudsmen were unable to visit almost 30% of nursing homes quarterly
    • Approximately 70% of board and care, assisted living, and similar homes did not receive a quarterly visit

• The LTCOP needs more resources
  – Since 2013, federal funding for the LTCOP has not even increased by $1 million
Ask your Members of Congress to:

- Increase the current Title VII State Long-Term Care Ombudsman Program authorized funding level to $35 million
- Authorize $20 million for funding for ombudsman services to assisted living residents
- Include $5 million of the Elder Justice Act authorized funding for State Long-Term Care Ombudsman Program services and training in the FY 2021 Labor-HHS appropriations bill

Also: Increase support for the National Long-Term Care Ombudsman Resource Center (NORC)
Defensive Advocacy
Oppose weakening nurse aide training programs
Nurse Aide Training Programs: Need to Know

• The current standards contain important protections for residents
• Proposed changes would dangerously weaken standards
• Proposed changes are unnecessary
Bills that would weaken standards

– Nursing Home Workforce Quality Act, H.R. 4468, (Evans, PA); H.R 1265 (Duffy, WI)
– Ensuring Seniors' Access to Quality Care Act, S. 2993 (Warner, VA) (Scott, SC)
Advocacy Action

• Ask your Members of Congress to:
  – Oppose:
    • All 3 nurse aide training program bills
    • Any legislation weakening existing law governing facility-conducted nurse aide training programs
Oppose reducing frequency of surveys
Survey Frequency: Need to Know

• Nursing home quality can decline rapidly
• Abuse also occurs in “good” facilities
• Annual surveys are essential for detecting abuse
• Change in law is unnecessary
• Ask your Members of Congress to:
  – Reject any proposal to reduce the frequency of nursing home surveys
  – Support increased funding for CMS oversight and enforcement of nursing homes
Question and Answer
ADVOCACY ACTION WILL BE NEEDED!
YOU can make a difference!
Thank You!
The National Consumer Voice for Quality Long-Term Care
www.theconsumervoice.org

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