



The National

CONSUMER VOICE

for Quality Long-Term Care

formerly NCCNHR

A Look at Public Policy in 2020

February 12, 2020

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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



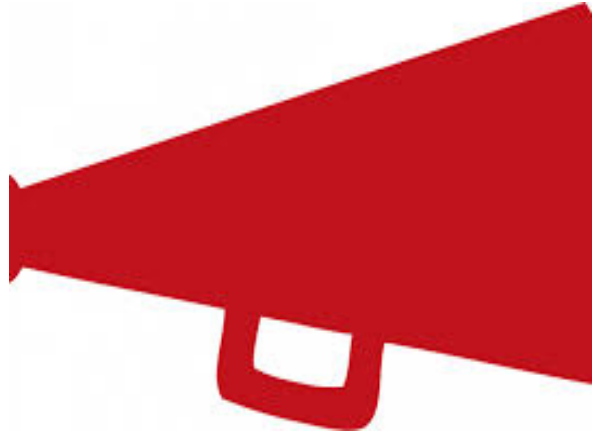
Staffing: Need to Know

- 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



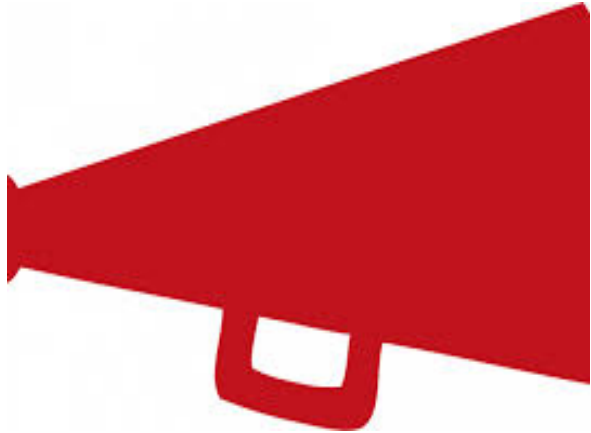
Ban Pre-Dispute Arbitration Agreements

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

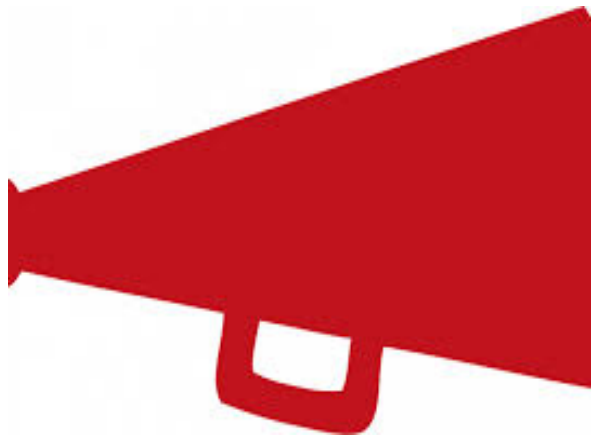
- Ask your Members of Congress to:
 - Support all 3 arbitration bills

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



Advocacy Action

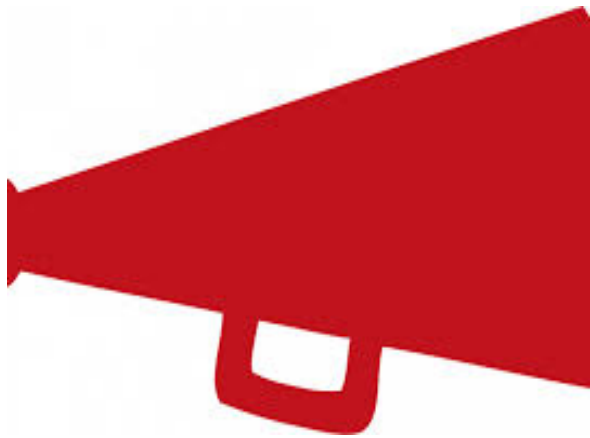
- Ask your Members of Congress to:
 - Make funding available to states that have not yet implemented the program. Provide a phase-in period for implementation.
 - Require all Medicare and/or Medicaid certified nursing facilities to conduct comprehensive, national background checks on all individuals 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

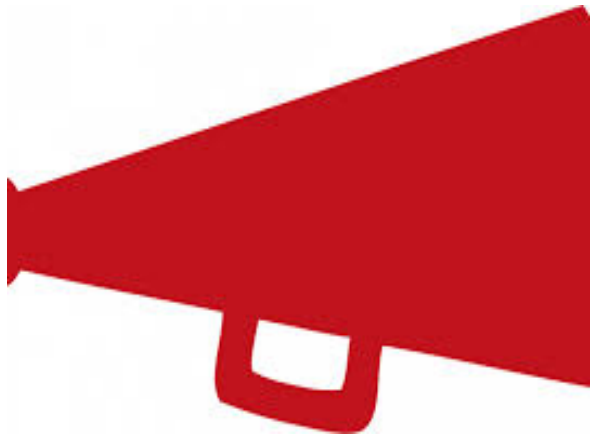
- Ask your Members of Congress to:
 - Support the Quality Care for Nursing Home Residents Act (H.R. 5216; S. 2943)
 - Standardized protocol
 - Support legislation requiring written informed consent for use of an antipsychotic medication in nursing facilities/skilled nursing facilities.

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



Advocacy Action

- 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





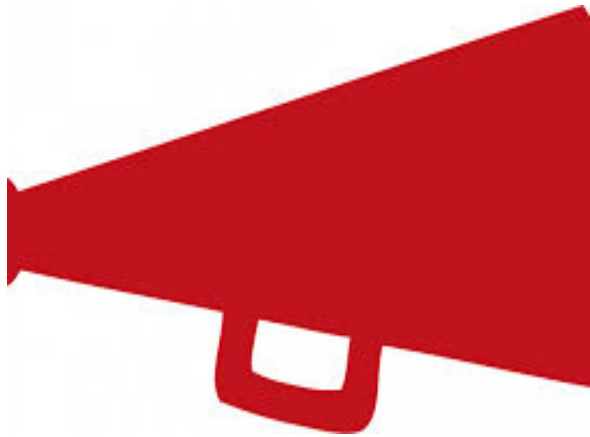
**Oppose
weakening
nurse aide
training
programs**

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

CAID SERVICES

02) MULTIPLE CONSTRUCTION
A. BUILDING _____
B. WING _____

105021

1200 N 35TH AVE
HOLLYWOOD, FL 33021

PROVIDER'S PLAN OF CORRECTION
WHICH CORRECTIVE ACTION SHOULD BE
IMPLEMENTED TO PREVENT A RECURRENT
DEFICIENCY

705
COMPLETION
DATE

02/18/2016

HUMAN SERVICES
MEDICAID SERVICES

PRINTED: 9/21/2017
FORM APPROVED
OMB NO. 0938-0391

EX) DATE SURVEY
COMPLETED
02/18/2016

STREET ADDRESS, CITY, STATE, ZIP
1200 N 35TH AVE
HOLLYWOOD, FL 33021

PLEASE CONTACT THE MOVING HOME OR THE STATE SURVEY AGENCY

DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY
TEXT)

... She stated the target people that really need it because they can't participate in entertainment, take them outside and do word games with them. She stated residents with peg tubes were observed to be outside and do word games with them. She stated residents with peg tubes were observed to be outside and do word games with them. She stated residents with peg tubes were observed to be outside and do word games with them.

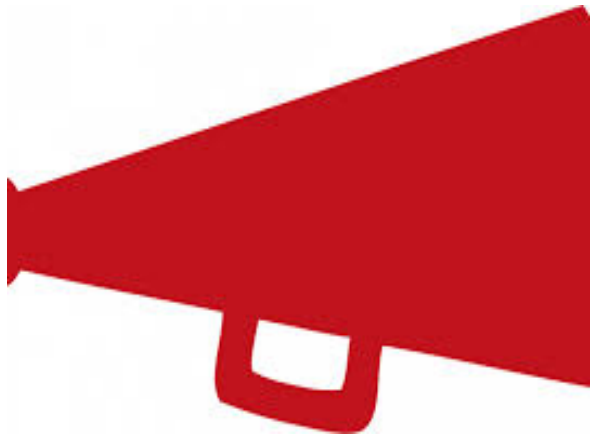
... On 02/16/15 at 1:01 a.m. the resident's fingernails on both hands remained long and jagged with the black substance remaining under the right hand fingernails and the thick yellowish spongy substance under the left hand fingernails. He remained amblyop.

... On 07/16/16 at 1:15 p.m. the resident was observed in his room in bed. He stated the last time he had a shave was last Thursday while in the hospital and he is waiting for a particular aide (name of aide to come tomorrow and he knows that she will shave him and cut his fingernails. His nails were observed to still be long, jagged with the blackish substance under the right hand fingernails and his left hand fingernails with the thick spongy substance under his nails. The resident stated (name of aide) will help him tomorrow.

... Review of the Certified Nursing Assistant Tracking Form for January 2016 and February 2016 revealed under "Personal Hygiene" documentation the resident was receiving assistance with ADLs (activities of daily living) to include shaving every shift. Additionally under Nail Care there was no documentation on the resident's long finger nails were being addressed.

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

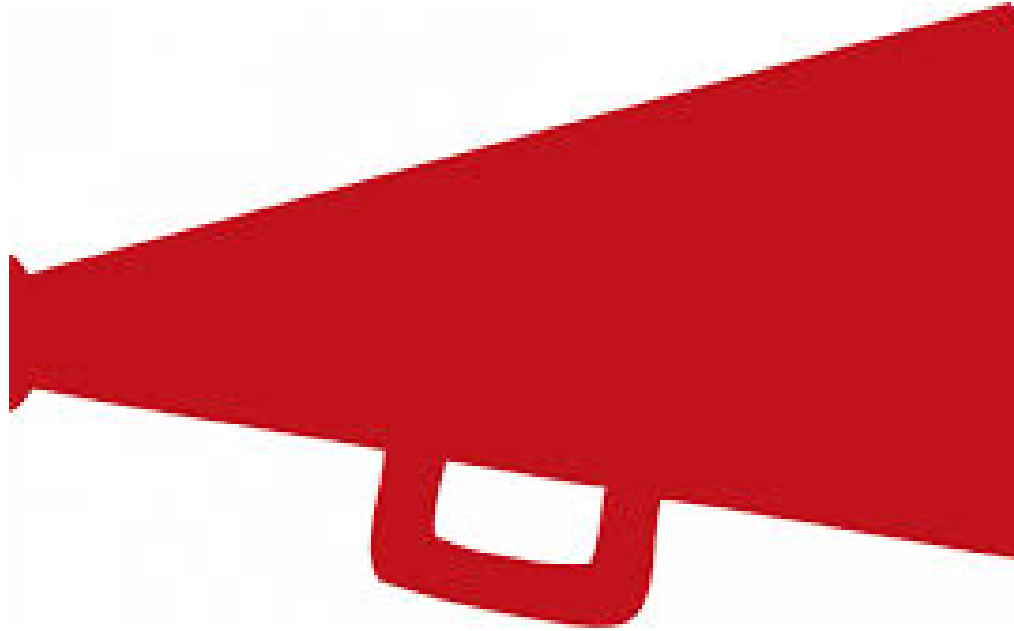


Advocacy Action

- 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!



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