



Jonathan Evans, President
Lori Smetanka, Executive Director

Ph: 202.332.2275
Fax: 866.230.9789
www.theconsumervoice.org

March 9, 2022

President Joseph Biden
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

The Honorable Xavier Becerra
Secretary, U.S. Department of Health & Human Services
200 Independence Ave, SW
Washington, DC 20201

The Honorable Chiquita Brooks-LaSure
Administrator, Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Ave, SW
Washington, DC 20201

Via electronic communication

Dear President Biden, Secretary Becerra, and Administrator Brooks-LaSure,

The National Consumer Voice for Quality Long-Term Care (Consumer Voice) applauds the release of reforms to improve the quality of nursing home care, hold nursing homes accountable for the care they provide, and improve the transparency of facility ownership. These reforms will lead to improved conditions in long-term care facilities and increase the likelihood that residents will receive the care and services necessary for each person to achieve their highest practicable level of well-being.

The Consumer Voice is a national non-profit advocacy organization that works with and on behalf of individuals receiving long-term care and services to promote quality care, quality of life, and the protection of rights.

The COVID-19 pandemic has made apparent just how critically reforms are needed in the nursing home industry. With the loss of more than 200,000 residents and staff due to COVID, tens of thousands more residents due to the effects of isolation and neglect,

The National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a 501(c)(3) nonprofit membership organization founded in 1975 by Elma L. Holder that advocates for quality care and quality of life for consumers in all long-term-care settings.

and the mass exodus of staff from the industry due to low pay, lack of support, and untenable working conditions, it is clear that this industry has significant problems.

We applaud the Administration's initiative to establish a minimum staffing requirement. The lack of a federal staffing standard has resulted in widespread understaffing for decades, a problem which has reached crisis levels during the pandemic. Despite a CMS-commissioned study recommending a minimum level of 4.1 hours per resident per day of nursing and direct care staff to avoid negative outcomes for residents, very few facilities voluntarily meet that standard. The federal requirements for "sufficient" staff are not adequately defined, and state requirements fall well short of the recommended standard.

The result is that each resident does not receive the care and services to "attain or maintain their highest practicable level of physical, mental, and psychosocial well-being," as promised under the federal Nursing Home Reform Act of 1987. In fact, for some residents, it means they often do not receive even the most basic care. A minimum staffing standard will make an enormous difference in the lives of all residents.

A staffing standard will also improve conditions for staff, who are far too often assigned to care for unreasonable and unrealistic numbers of residents. Untenable workloads, along with low pay and benefits are causing staff to leave nursing homes for other jobs. That is why your initiative to invest in career pathways with good pay, and affordable training is so important to attract and retain high quality workers. Investing in the workforce is also an investment in equity since staff in nursing homes are predominantly women of color.

We are also pleased that reforms to enhance oversight and accountability are included in your plan. Weak and ineffective enforcement has led to years of "yo-yo compliance," where facilities do not make lasting or meaningful changes in operations. It has also resulted in nursing homes facing few to no repercussions when they fail to meet the needs of residents or even harm them. Your proposals to increase funding for enforcement activities, increase financial penalties, and overhaul the Special Focus Facility program will better protect residents and remove poor performing nursing homes from the system.

In addition, your plan increases accountability not just for individual facilities, but for corporate nursing home owners and operators as well. Tying corporate ownership to the compliance history of both currently and previously owned facilities, combined with the authority to impose enforcement actions at the ownership level for persistent poor care and noncompliance, will give CMS the tools it needs to address poor care where it starts – in the board room.

Your announcement that CMS will create a database of nursing home owners is an important first step towards transparency. Transparency and accountability related to ownership is greatly needed, as residents and families often are unable to tell who is ultimately responsible for decisions and policies implemented within a facility – all of which directly affect their health and well-being. It is critical that the public have knowledge of and ready access to easy-to-understand information, including violations, finances, care outcomes, and other data. We also applaud the mandate for CMS to implement sections of the Affordable Care Act that focused on ownership and financial practices of corporate nursing homes. Too long those important sections have gone unimplemented.

We are grateful that this focus on transparency includes examining the role of private equity since, as stated in your announcement, residents in private equity owned homes receive worse care. We hope that we can work with you to expand that examination to include other for-profit ownership, which is resulting in poor quality care.

We thank you for your commitment to pursuing these measures, and others such as reducing the inappropriate use of antipsychotics medications and ensuring pandemic and emergency preparedness. For decades, resident advocates have sought protections such as these which will improve the safety and quality of nursing home care. We commend your administration for taking these bold steps and look forward to working with you and your team to achieve their implementation.

The Consumer Voice looks forward to working with you to implement these critical reforms. The health and well-being of current and future residents depend on them.

Sincerely,

A handwritten signature in cursive script that reads "Lori Smetanka". The signature is written in black ink and is positioned below the word "Sincerely,".

Lori Smetanka
Executive Director