

May 15, 2024

The Honorable Brett Guthrie, Chairman
The Honorable Anna Eshoo, Ranking Member
Energy and Commerce Subcommittee on Health
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Guthrie and Ranking Member Eshoo:

The underlying organizations representing nursing home residents and family members, as well as nursing home workers, strongly urge you to oppose H.R. 468 and H.R. 3227/H.R. 8244. These bills would weaken training requirements for nursing home workers and would place our nation's 1.2 million nursing home residents and more than half a million nursing home workers at increased risk of harm. While we acknowledge that the nursing home industry is facing staffing challenges, we reject the idea that relaxing training standards is the solution to this problem. Instead, Congress should be focusing on efforts to make jobs in nursing homes better by increasing wages and benefits, improving training, and providing career opportunities.


Building America's Health Workforce (H.R. 468)

The passage of H.R. 468 would be devastating for nursing home residents. H.R. 468 seeks to revive a COVID-19 pandemic era-related waiver that permitted untrained nurse aides to work in nursing homes for longer than four months without meeting a state's training and certification requirements. This waiver was understandable several years ago at the beginning of the pandemic, but circumstances have changed. The primary barriers to certification, such as testing, are no longer present today.

Importantly, the Centers for Medicare & Medicaid Services (CMS) noted, when lifting the waiver, that waiving longstanding nurse aide training requirements had adversely impacted quality of care. According to CMS, onsite surveys during the waiver period revealed significant concerns with:

- Abuse
- Weight loss,
- Depression
- Pressure Ulcers.

CMS went on to note that poor quality of care, such as improper transfers, turning and positions, poor incontinence and skin care could be related to inadequate training, as all of these skills are



required to be learned as part of each state's Nurse Aide Competency Evaluation Program. This waiver harmed residents.

Additionally, H.R. 468 would allow time worked to count toward the requirement that each nurse aide have 75-hours of training. This 75-hour requirement must be composed of training on resident rights, communicating with cognitively impaired residents, personal care skills, and other important issues that are likely not to be addressed while staff are working.

H.R. 468 may have made sense several years ago. However, we now have clear evidence that the waiver harmed residents. The offered amendments to this bill will not address the fact that residents will be at an increased risk of harm should the bill go into effect. We cannot go back to the days of the pandemic when untrained workers were still expected to provide quality care to residents. We have seen the impact on care outcomes.

Ensuring Seniors' Access to Quality Act (H.R. 3227/H.R. 8244)


Current law allows nursing homes to operate their own CNA training programs under certain circumstances, if permitted by the state. However, federal law prohibits nursing homes that have been cited for certain violations from running their own training programs. Current law allows facilities to petition the Secretary of Health and Human Services to waive a violation that would exclude a facility from running its own CNA program if it can show the violation was not related to the quality of care provided to residents. H.R. 8244 would make this waiver automatic and remove the Secretary's discretion to issue a waiver.

We urge you to oppose this bill. The bill contains no clear definition of what quality of care means, which could lead to confusion and result in disparate outcomes across the country. Critically, there are egregious violations that might not be related to "quality of care" that should still disqualify a facility from running its own training program. For instance, when this bill was considered in the Ways & Means Committee, Patrick Dumas, Staff Director for the Ways and Means Committee Subcommittee on Health admitted that the following violations would likely be the type of violations automatically waived under H.R. 8244

- Record falsification.
- Failing to report resident abuse or a reasonable suspicion of a crime against a nursing home resident.
- Retaliating against a nursing home worker who is a whistleblower.

Although these violations may not be called quality of care, we do not believe nursing homes committing these types of violations should be allowed to operate their own training program. These examples are why it is so important that the Secretary have discretion to determine whether a violation is so egregious that although it may not be related to quality of care, it disqualifies the facility from running its own training program.

We are in a critical time, where nursing home residents are forced to live in facilities with inadequate staffing, and workers are confronted daily with myriad challenges, including poor wages and benefits, inadequate training, and few career advancement opportunities. The solution to these



problems is not to make residents and workers less safe by decreasing training requirements. Please stand with nursing home residents and workers and oppose these bills.

Sincerely,

AFL-CIO
AFSCME
Center for Medicare Advocacy
The Elder Justice Coalition
The Hale Group, an Iowa Based Advocacy Firm
Justice in Aging
Kelinson & Lerner, PLC
Michigan Elder Justice Initiative Coalition
National Association of Local Long Term Care Ombudsman
National Consumer Voice for Quality Long-Term Care
PHI
Service Employees International Union (SEIU)