



March 11, 2022

Honorable Joseph Biden
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden,

On behalf of LeadingAge's more than 5,000 providers of aging services, including more than 2,000 nonprofit nursing homes, I write to support your recently released plan to improve the quality of care in America's nursing homes—and to make critical requests regarding the path to increase staffing levels and transparency.

LeadingAge knows, as you do, that America's older adults and families rely on quality nursing homes as an essential part of our healthcare system—and they deserve to be treated with dignity and respect. Delivering that quality care is the primary focus of the nonprofit and mission-driven nursing homes across the country that are part of LeadingAge.

I request a meeting with you and the members of your Administration who will help lead this effort, including the Departments of Health and Human Services, the Federal Trade Commission, State, Homeland Security, Education, and Labor, as well as other key contributors. Nonprofit nursing homes must be at the table for these urgent and necessary discussions.

To help guide our collective next steps, we have outlined below three immediate ways the Administration must act to best support millions of residents, family members, and frontline staff in nursing homes across the country: 1) address the dire staffing crisis, 2) take an evidence-based approach to quality improvement, and 3) fund quality care.

We need a broad, multi-departmental strategy to increase staffing levels and transparency. We need to compensate frontline professionals fairly and address price gouging by temporary staffing agencies. We need ways to expand the pipeline of direct care professionals, including changes in immigration policy. We need to separate the high performing, high quality providers from those that should be closed. We need to reward the best providers who continuously improve quality of care, as so many LeadingAge member nursing homes have done despite the many challenges wrought by the COVID pandemic and long-standing system inadequacies.

Your remarks on the State of the Union demonstrated great empathy and encouragement for all Americans. I urge you to back those words with fast, meaningful action when it comes to supporting nursing homes.

I was deeply troubled that the administration painted all nursing homes with the same negative brush in its recent reform fact sheet. While there most certainly are problematic nursing homes,

there are also those that provide outstanding care—and have done so throughout the unimaginable and heartbreaking events of the past two years. Providers and their frontline staff have gone to extraordinary lengths at great personal cost to protect residents and help them stay socially connected and as independent as possible. Providers and their staff feel attacked and abandoned by the implication in the initiative that nursing homes bear responsibility for the devastating impact of the pandemic. Please acknowledge in future communications the deep commitment to care and quality demonstrated everyday by so many nursing homes across the country.

All nursing homes are not the same. The hallmarks of nonprofit nursing homes are higher-than-average staffing levels, transparency of ownership and finances, and an unwavering commitment to providing excellent care for the residents they serve and their family members. By focusing on the poorest performers in the initiative, we miss the opportunity to observe and build on what is working for the best performers.

The COVID-19 pandemic exacerbated long-standing systemic problems that have existed for decades. Many nonprofit nursing homes are in deep debt two years into the pandemic, and more than a few have closed or been sold.

Medicaid, the dominant payer of long-term care services, doesn't fully cover nursing homes' cost of care in most states. For example, a recent study found that rates in Pennsylvania are \$86.23 per day lower than the cost of providing care ([Pennsylvania Medicaid Funding Shortfall for Nursing Facilities, March 2022](#)). New regulations and increased enforcement, even with the best intentions, just can't change the math.

Quality of care and staffing work hand-in-hand—and neither can be achieved without sufficient funding. The federal government and its state partners share the responsibility for inadequate funding, low staff wages, and failure to measure and improve quality using the most robust evidence.

LeadingAge proposes this initial list of specific steps to achieve real reform.

ADDRESS THE URGENT STAFFING CRISIS

The best approach recognizes the heroes that stayed in their frontline positions through the terrible challenges of the past two years—not blames and punishes them, driving them out of jobs in nursing homes. They are exhausted but remain committed to the people they serve. They should be celebrated and paid fairly.

Most providers report severe staffing shortages, and the majority of posted certified nurse aides (CNA) positions remain unfilled. LeadingAge nursing home members cannot and will not accept residents when they have insufficient staff to provide quality care. To help fill the gaps, most providers are relying heavily on temporary staffing agencies to continue serving current residents—a short-term stopgap that does not strengthen quality and costs as much as four times more than permanent employees.

Your Administration must do everything possible, including working with Congress, to expand the pipeline of qualified applicants with support for training programs and immigration reforms. Mandating increased staffing ratios is little more than rhetoric without more qualified people to fill those open jobs and adequate reimbursement to pay them living wages. Punishing providers with more citations of deficiency and fines will not produce results. In fact, it could worsen outcomes for residents.

Better solutions might include:

- Compensate frontline staff fairly. Take immediate steps to increase reimbursement to providers so they, in turn, can afford to increase wages for frontline staff, including CNAs, dietary workers and maintenance staff. This can be accomplished with FMAP increases for nursing home care and requirements that states reimburse for the cost of care. LeadingAge members are ready to pass increases directly through to staff.
- Expand the pipeline of applicants seeking meaningful careers in aging services with training and apprenticeship programs like those that already exist in the Departments of Education and Labor. Offer career ladders and lattices to help people stay in the field and continue doing the work they love.
- Make immediate changes in immigration policy to allow foreign nursing staff hired by long-term care communities to get to the United States as quickly as possible. Waits of six months to two years are unacceptable for professionals who are already trained and hired—especially when shortages are so dire and the White House is committed to increased staffing and quality improvement. For example, your Administration could allow expedited virtual interviews for nurses coming here to work in nursing homes. We stand ready to offer a range of immigration changes that will support nursing home staffing that could be undertaken by the Departments of State and Homeland Security, and by Congress.
- Take steps to address price gouging by temporary staffing agencies. Nursing home providers have gone deep into debt maintaining staffing levels to care for current residents, and many have been forced to stop accepting new residents. Temporary staffing agencies should not be allowed to charge exorbitant rates to nursing homes—whose dollars are principally drawn from Medicaid and Medicare.

APPLY EVIDENCE-BASED QUALITY IMPROVEMENT AND MEASUREMENT

Over the past 45 years, policymakers have dumped dollars into more enforcement and regulations—without achieving the result of increased quality for nursing home residents. Why continue farther down that failed path, when everything we know about improving quality, much of it from research and practice by Quality Improvement Organizations (QIOs), points in the opposite direction?

The science of quality improvement is based on expert observation, data analysis, and strategic and intentional action, and QIO leaders know that punishment should be reserved for poor performers. Motivated, committed, high-performing nursing homes get even better with expert consultation and help. Identifying non-life-threatening problems and then removing money (in the form of fines) from nursing homes is more likely to yield declines in quality, not improvements.

We urge reforms that will separate out the high-performing, high-quality, dedicated providers from those that should be closed. For example, inspecting and surveying consistently excellent nursing homes that have not changed ownership on the same schedule as poorly performing homes is a bad use of limited enforcement resources. Failure to separate the good from the bad results in approaches that drag all nursing homes through these same burdensome compliance steps, at added cost. These

solutions, while well-intended, run counter to the evidence about quality and are destined to be ineffective.

PAY FOR QUALITY CARE

The Administration can do a lot to address the workforce crisis in nursing homes with the steps outlined above—and it's critical for those efforts to be accompanied by investments in better wages, training, and career growth opportunities. Meaningful funding will yield better jobs, and better jobs will yield improvements in care.

Medicaid rates that don't change from year to year create an even bigger gap compared to the cost of care as time goes on. In addition to increases in staffing costs, providers must also absorb increasing prices of food, supplies, and infrastructure maintenance and improvement.

A call for nursing homes' improvement rings hollow when it comes with no funding.

LeadingAge is committed to the goal of promoting continuous quality improvement so that nursing homes are ready to meet the nation's rapidly aging population. I urge you to not restrict this initiative to one operating division within one department of your Administration (CMS within HHS). The path to achieving that aim must include not just regulation, but also an adequate system of funding and investments and policy that addresses the workforce crisis. Nonprofit and mission-driven nursing homes operate with financial transparency and open communication. We're prepared to build on that foundation of trust through a collaborative path forward.

I look forward to meeting with you and to working on this nursing home quality initiative. It's long past time for a clear-eyed, fact-based approach to ensure older Americans and families can access the quality nursing home care they deserve.

Sincerely,

A handwritten signature in black ink that reads "Katie Smith Sloan". The signature is written in a cursive, flowing style.

Katie Smith Sloan
President, LeadingAge

CC:

Secretary Xavier Becerra, Department of Health and Human Services
Secretary Antony Blinken, Department of State
Administrator Chiquita Brooks-LaSure, Centers for Medicare and Medicaid Services (CMS)
Secretary Dr. Miguel Cardona, Department of Education
Secretary Marcia Fudge, Department of Housing and Urban Development
Chairwoman Lina M. Khan, Federal Trade Commission
Secretary Alejandro Mayorkas, Department of Homeland Security
Secretary Marty Walsh, Department of Labor