

**Pennsylvania Senate Democratic Policy Committee
Public Hearing
Improving Pennsylvania's Nursing Homes
Wednesday, June 2, 2021**

**Testimony of
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Good Morning, Chairperson Muth, Leader Costa, Senators Fontana, Brewster, and Williams, and members of the Senate Democratic Policy Committee. My name is Teresa Osborne. I serve as the Manager of Advocacy and Outreach for AARP Pennsylvania. On behalf of our 1.8 million members and all older Pennsylvanians, thank you for holding today's hearing on *Improving Pennsylvania's Nursing Homes* and for inviting AARP to participate.

Ten thousand Americans turn 65 years old every day. According to government data, someone turning 65 today has almost a 70 percent chance of needed long-term care at some point, often for an average of three years. In order to best support our family members, friends, and neighbors, Pennsylvania needs to get ahead of this wave. Regretfully, for too long, procrastination and inaction and has stood in the way of commonsense, achievable solutions to problems that exist throughout Pennsylvania's long-term care system.

As you may recall, in July 2016, the Pennsylvania Auditor General released a performance audit of the Pennsylvania Department of Health regarding its responsibility to regulate nursing homes. The yearlong audit showed weak enforcement of staffing requirements, minimal use of sanctions, and a 2012 decision to stop accepting anonymous complaints as key problems. It is now five years later and Pennsylvania's promise to revise its regulations and reform how the State oversees its nursing homes remains unfilled. We urge you to follow through with this promise and address the various needs and issues that exist within our nursing home facilities and long-term care system.

At the basic level, there are four pillars of a state's long-term care services and supports (LTSS) system. People need: 1) a place to live; 2) services and supports; 3) a workforce to provide those services and supports; and 4) community integration or connection to others in their community. These four basic requirements must be pieced together for each person in a way that works for them, addressing their individual needs and preferences in a person-centered way. Ultimately, how these four pillars come together is the essence of LTSS choices and leads to opportunities for transformation.

AARP appreciates the opportunity to present our thoughts on how Pennsylvania can improve our nursing home and long-term care system. Specifically, with these four pillars in mind, we urge you to: reexamine the issues highlighted by the COVID-19 pandemic and implement AARP's five-point plan to reform nursing and long-term care, reexamine Pennsylvania's Community HealthChoices program, invest in the long-term care workforce, increase oversight of nursing facilities, implement a State Long-Term Care Task Force, and appropriately allocate American Rescue Plan Act funds.

Reexamine issues highlighted by COVID-19 and implement AARP's five-point plan

The COVID-19 pandemic has placed a spotlight on some of the challenges that have long existed within our state's nursing homes. The pandemic emphasized the ongoing importance of safeguarding the quality of care, quality of life, health, safety, and well-being of nursing home residents and staff. The heroes who come to work every day to care for our loved ones in nursing homes and other long-term care facilities deserve not only our thanks, but they also deserve decent wages and working conditions.

The Coronavirus pandemic has also been devastating and deadly for families and loved ones who reside in nursing homes. With nearly 13,300 deaths of Pennsylvanians residing in long-term care facilities, and with Pennsylvanians 50 and over accounting for 98% of all COVID-19 related deaths, the need for greater investments in home and community-based services is more evident than ever. What we do next is up to us. However, quite simply, the status quo is unacceptable. We must reform how, and equally important - where - care is delivered.

As we have done throughout the pandemic, AARP continues to urge action on a five-point plan that would not only continue to reduce the spread of COVID-19 and save lives, but will also implement much needed reforms, including:

1. Ensuring facilities have adequate personal protective equipment for residents, staff, visitors, and others as needed, and prioritize regular and ongoing testing;
2. Improving transparency on COVID-19 and demographic data, vaccination rates of residents and staff by facility, and accountability for taxpayer dollars going to facilities;
3. Ensuring access to in-person visitation following federal and state guidelines for safety and require continued access to facilitated virtual visitation for all residents;
4. Ensuring quality care for residents through adequate staffing, oversight, and in-person access to the long-term care ombudsman;
5. Rejecting immunity and hold long-term care facilities accountable when they fail to provide proper care to residents.

Implement a State Long-Term Care Task Force on Quality and Safety

We also encourage you to establish a State Task Force on Long Term Care Quality and Safety and charge it with recommending procedures and workplace safety measures to ensure that Pennsylvania is adequately prepared for any future public health emergency. Multiple issues under the Task Force's purview would include:

- Developing factors to optimize the balance of LTSS by expanding home and community-based services and recommending additional strategies to improve the balance between facility-based services and home and community-based services and supports;
- Examining nursing home reforms, including implementing new care models, optimizing nursing home size and configurations to foster resident wellness and infection control, increasing clinical presence in nursing homes, and identifying appropriate nursing home staffing levels and ratios for certain resident acuity and special population needs;
- Identifying capital investments needed to support physical plant, technology and workforce development initiatives;
- Considering broader reforms to the long-term system of care, including developing technology requirements to enable enhanced use of telemedicine and telehealth;
- Instituting workforce engagement and advancement models including career laddering options in nursing homes;
- Establishing acuity adjustments for Medicaid managed care payments to nursing homes.

The Task Force would include designees from the Departments of Aging, Health, and Human Services, and be housed within the Office of Advocacy and Reform. It would also include public members appointed by the Governor and General Assembly and would adhere to a timeline to organize and submit a report to the Governor and General Assembly within one year.

Re-examine Community HealthChoices

Although current federal law mandates that states use their Medicaid dollars solely for nursing home care, Pennsylvania made the decision years ago to divert some of those funds, along with Lottery funds, to provide care outside of a nursing home by filing and receiving a federal waiver. For older Pennsylvanians, the 'Aging Waiver program' became the vehicle to receive nursing facility level of care services at home versus in a nursing facility. Then, in 2018, Pennsylvania began the process of replacing the Aging Waiver program with Community HealthChoices. Launched in 3-phases from 2018 to 2020, Community HealthChoices (commonly called CHC) now serves as Pennsylvania's mandatory managed care program for older adults and adults with physical disabilities who are dually eligible for Medicare and Medicaid and need home and community-based services. Replacing several Medicaid Waiver programs – including the Aging Waiver – CHC promised to provide more community-based living options, better coordination of services, increased accountability, enhanced innovation, and increased efficiency. Considering that CHC's last phase was rolled-out in January

2020, just before the pandemic, examining whether or not Pennsylvania's investment in CHC is yielding any of the results promised seems timely and prudent.

Invest in the Nursing Home and Long-Term Care Workforce

Having a cadre of quality, professional workers to provide in-home care or care in a facility is paramount, yet a shortage of long-term care workers makes life difficult for individuals and families searching for quality care. To overcome this shortage, we must provide adequate pay and benefits, safe working conditions, and career structures that enable advancement. Likewise, family caregivers – whether they are families of kin or families of choice – are woven into the fabric of our health, social, economic, and LTSS systems. As Pennsylvania's aging population continues to grow, the need to support all caregivers will only become more and more important. AARP research shows that there are 1.6 million family caregivers across Pennsylvania who provide 1.54 billion hours of unpaid assistance annually with a staggering value of \$19.2 billion. Right now, caregivers face a stressful juggling act between their work, their caregiving role, and other family responsibilities. Moreover, when work requirements conflict with family obligations, some employed caregivers have to make difficult decisions that can lead to lost wages and missed career opportunities. Pennsylvania would be wise to support all caregivers by establishing a paid family medical leave insurance fund by passing the Family Care Act. Additionally, Pennsylvania should strengthen and expand its network of adult day centers that provide a safe place for older Pennsylvanians while their family caregivers work; and by giving our uncompensated family caregivers a break, both financially and with time, through expanding respite care resources and providing uncompensated caregivers tax credits for costs they incur while providing care.

Increase Oversight of Nursing Facilities

With specific regard to improving Pennsylvania's nursing homes, we urge you to not lose sight of the fact that the nursing home industry, overall, received more than \$20 billion in federal aid in 2020. Considerations to increasing the state's nursing home reimbursement rates must be accompanied by an understanding of how those dollars have been spent, and a commitment that any additional funding be tied to specific outcomes, such as increased staff support or enhanced infection control measures. Moreover, there needs to be action taken against poor performing nursing homes, along with more careful scrutiny when a nursing home change of ownership is being negotiated and approved.

Appropriately Allocate American Rescue Plan Act Funds

Finally, with the recently enacted federal American Rescue Plan Act (ARPA), nearly \$7.3 billion dollars are coming to Pennsylvania. Separate from the dollars that have been targeted to the Departments of Human

Services and Aging to support Medicaid home and community-based and Older Americans Act services and programs, these dollars can be used to fund strike teams in skilled nursing facilities to assist with clinical care, infection control, and staffing during the COVID-19 public health emergency (PHE). These funds can be used for a one-year period immediately following the end of the PHE. The American Rescue Plan also includes \$200 million dollars, which remains available until expended, to address infection control and vaccine uptake support to skilled nursing facilities through Quality Improvement Organizations (QIOs). Since this funding is going directly to the QIOs and not to states, Pennsylvania's nursing homes are encouraged to work with Quality Insights - the Center for Medicare and Medicaid (CMS) designated QSO for Pennsylvania and West Virginia - to participate in their Nursing Home Learning & Action Network's new project on improving infection control practices. The coronavirus outbreak showed infection control failures with residents sharing rooms, toilets and showers, and staff being forced to rush from room to room. A May 2020 report released by the U.S. Government Accountability Office revealed that infection control deficiencies in nursing homes were "widespread" and "persistent" and 82 percent of nursing homes surveyed between 2013 and 2017 were cited for an infection prevention and control deficiency in one or more years. As such, pursuing these strike team and infection control prevention funds seems quite prudent for Pennsylvania.

CONCLUSION

Pennsylvania needs to aim for a holistic system where supports and services are integrated with affordable medical treatment. Services should be delivered in settings that enable adults of all backgrounds to live the best lives possible. Persons able to remain in their own homes should have that option and the support needed to do so. Residents of nursing homes should be assured of safety, personal dignity, and quality care. Hearings such as this are a step in the right direction because services that promote independence, the paid workforce who provides them and the unpaid family caregivers who are the backbone of our care system are a critical part of our society's infrastructure. However, we urge greater engagement by both the private and public health sectors in building an affordable system that meets people's real needs and preferences.

Thank you for dedicating today's conversation on long-term care by focusing on innovations to enhance choice, quality, accessibility and affordability. Quality care should be within reach of any person who needs it, regardless of their age. Families across the Commonwealth are looking to the General Assembly and the Administration for swift action to protect the health and safety of their loved ones in long-term care facilities now and in the future. They can no longer afford to wait. Pennsylvania needs to use the momentum spurred by COVID-19 to create a humane, sustainable system of care that works for everyone.

Thank you for your time and attention on this important matter.