

Statement by Senator Grassley to the Special Committee on Aging

Nursing Home Quality of Care

November 15, 2007

Good morning. I want to begin by thanking Chairman Kohl and the members of the Senate Special Committee on Aging for holding this important hearing. When I had the privilege of serving as chairman of this committee, many of our efforts were focused on abuse and substandard care in America's nursing homes. I'm glad to see that under the leadership of Chairman Kohl, this critical issue remains a top priority and I applaud the committee's efforts.

In America today, there are nearly 1.7 million elderly and disabled individuals in approximately 17,000 nursing home facilities. This includes the men and women of the world war two generation – and our duty to ensure that they receive the quality care they deserve couldn't be higher.

But in addition to the Americans currently living in nursing home facilities, another issue lies on the horizon. As the baby boom generation gets older, the number of Americans in nursing home facilities is going to rise dramatically. Therefore, it's critical that we confront the issue of safe and high quality nursing home care today.

As the Ranking Member of the Senate Finance Committee, I have a special interest in nursing home care. The industry is often the subject of both my investigative and legislative work, and today I'd like to share some of my thoughts. In particular, I want to emphasize four areas that are of concern in the nursing home industry from my perspective: 1) the problem of repeat offender homes, 2) the issue of fire safety, 3) the need for greater transparency in nursing home quality, and 4) recent concern over reports that the rise of private equity firm ownership of nursing homes is resulting in poorer quality of care.

In the nursing home industry, the vast majority of homes provide quality care on a consistent basis. They provide an invaluable service to those who can no longer care for themselves, and we applaud them for this service. But as in many sectors – this industry is given a bad name by a few bad apples that spoil the barrel. A critical tool in confronting these bad actors are the sanctions CMS can place on homes for failure to meet certain standards of care. Yet too often, nursing homes are able to “yo-yo” in and out of compliance, temporarily correcting deficiencies and having the sanctions rescinded, only to fall back into noncompliance. When sanctions *are* put in place, nursing homes currently have the incentive to file appeal after appeal, delaying the imposition of penalties and adding costs to the taxpayer. So for me the key is to ensure that nursing homes provide quality care to residents consistently – day in and day out – and if they don't, the public should be aware of that fact.

A recent GAO report examined 63 nursing homes that had been identified as having serious quality problems. Of these, nearly half continued to cycle in and out of compliance between fiscal years 2000 and 2005. 27 of the 63 homes were cited 69 times for deficiencies warranting immediate sanctions, yet in 15 of these cases sanctions were not imposed. Eight of the homes reviewed cycled in and out of compliance *seven* or more times *each* period. This is unacceptable.

But the real meaning of substandard care isn't about numbers and statistics – it's about real people – our mothers, fathers, grandparents and other loved ones. Every day there are stories reported across this nation about residents suffering or even dying from preventable situations. Imagine, just recently I read about a nursing home resident in Florida who was taken to a hospital with bed sores, a partially inserted catheter, an infected breathing tube, and maggots in one of his eyes. Each and every one of you will agree with me – *this* is unacceptable. It is an outrage.

The current system provides incentives to correct problems only temporarily and allows homes to avoid regulatory sanctions while continuing to deliver substandard care to residents. This system must be fixed. In ongoing correspondence I've had with Kerry Weems, the acting administrator of CMS, that agency has requested the statutory authority to collect civil monetary penalties sooner, to be held in escrow pending the decision on appeal. I think this is a good start. Penalties should also be meaningful – too often, they are assessed at the lowest possible amount, if at all. Penalties should be more than merely the cost of doing business; they should be collected in a reasonable timeframe; and should not be rescinded so easily. These changes will help prod the industry's bad actors to get their act together or get out of the business.

Another pressing issue is that of fire safety, and as we saw in 2003, this is an issue of life-or-death importance. That year, 16 people died in a nursing home fire in Hartford, Connecticut, and 15 died at a home in Nashville, Tennessee. Neither home had installed automatic sprinkler systems. Despite the fact that a multiple-death fire has never occurred in a sprinklered home, there are approximately 2,773 homes still without full sprinkle systems.

Following these terrible events, I requested that GAO look into the matter, and have held an ongoing conversation with CMS on how we can better protect America's nursing home residents from preventable fires. In October of 2006, CMS began to move in this direction, and expects to issue a final rule in the summer of 2008. This is a much needed improvement that will surely save lives.

While a better penalty system and better fire safety will do much to increase nursing home safety, we've also got to give nursing home residents and their families better access to information about these homes. And to do that you need more transparency.

The public currently has access to some information on nursing homes through the website "Nursing Home Compare," located on Medicare's website. Yet for all the valuable information this website provides, it could be improved through the inclusion of

information on sanctions, as well as an identification of the worst offending nursing homes, often called “Special Focus Facilities.” By listing these homes and the implemented enforcement actions online – information the government already has – the public would have better access to nursing home information and nursing homes would have an extra incentive to meet quality standards.

The process of choosing a nursing home is a very important and personal one for thousands of American families every year – we owe it to them to give them complete information when making this decision. Acting Administrator Weems, in a recent letter to me, gave his assurance that CMS would begin posting this information online. I thank him for his commitment and look forward to seeing this carried out. In this area, as in others, a little sunshine will go a long way.

Finally, I want to touch on an issue that has garnered a lot of attention lately – that of the purchase of nursing homes by private equity groups. Recent news reports have highlighted concerns over decreasing quality of care, decreased staffing, and decreased budgets at nursing homes purchased by private equity groups. At one home, it is alleged that 15 residents died in three years due to negligent care at a home purchased by one of these groups.

In response to these concerns, Senator Baucus and I have launched an inquiry into private equity firms and their ownership of nursing homes. Last month, we sent letters to five private equity firms asking for detailed information about their purchases and impending purchases of nursing facilities. If private equity ownership is in fact having the effect of decreased staffing, decreased budgets, and, in turn, decreased care, then something must be done about it. I plan to continue my inquiry and look forward to working with Senator Baucus to take whatever measures are appropriate in addressing this issue.

Those four issues – ineffective enforcement mechanisms, nursing home fire safety, the need for greater transparency, and concerns over private equity ownership – affect millions of vulnerable Americans and the United States Senate has a great responsibility in addressing them. Again, I thank Chairman Kohl and the members of this committee for holding this hearing, and look forward to working with you all on these matters. I also want to acknowledge the efforts of the group “Advancing Excellence in America’s Nursing Homes.” This group is a broad coalition of organizations dedicated to improving the quality of care and quality of life of nursing home residents. Coalitions such as this are vital to our efforts. In closing, all of us – and I mean private organizations, families, residents, caregivers, nursing home advocates, and the government – have a role to play in this important work if we want to be successful in our efforts to continue improving nursing home care. And indeed, much work remains to be done. Thank you.