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**United States Senate**  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Denise Milledge  
Director  
Bureau of Health Provider Standards  
Alabama Department of Public Health  
P.O. Box 303017, Suite 700  
Montgomery, AL 36130-3017

Dear Ms. Milledge,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

<sup>7</sup> Aging Committee staff spoke with survey agency officials in 10 states.

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<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

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<sup>14</sup> HHSOIG, *States Continued To Fall Short in Meeting Required Timeframes for Investigating Nursing Home Complaints*, OEI-01-19-00421 (September 2020), at 20-21, <https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf>.

<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Matthew Thomas  
Program Manager  
Health Facilities Licensing & Certification  
Alaska Department of Health  
4601 Business Park Blvd, Bldg. K  
Anchorage, AK 99503-7167

Dear Mr. Thomas,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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September 12, 2022

Don Herrington  
Interim Director  
Arizona Department of Health Services  
150 North 18th Avenue, Suite 500  
Phoenix, AZ 85007

Dear Mr. Herrington,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

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<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

<sup>7</sup> Aging Committee staff spoke with survey agency officials in 10 states.

<sup>8</sup> Bryan Mena, “Why Local Governments Trail Private Employers in Hiring,” *The Wall Street Journal*, August 15, 2022, <https://www.wsj.com/articles/why-local-governments-trail-private-employers-in-hiring-11660555802>.

<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

<sup>10</sup> HHSOIG, *North Carolina Should Improve Its Oversight of Selected Nursing Homes’ Compliance with Federal Requirements for Life Safety and Emergency Preparedness*, A-04-19-08070 (September 18, 2020), at 38, <https://oig.hhs.gov/oas/reports/region4/41908070.asp>. See also HHSOIG, A-07-19-03238 (February 16, 2020), at 40-41; HHSOIG, A-07-18-03230 (March 13, 2020), at 31). Iowa and Missouri reported similar issues in these audits.

<sup>11</sup> *Supra*, note 7.

<sup>12</sup> U.S. Senate Committee on Aging, “Senator Secures Key Resources For PA Children and Families, Seniors and People with Disabilities,” press release, December 31, 2020, <https://www.casey.senate.gov/news/releases/in-2020-casey-produces-results-for-pa-constituents>.

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<sup>14</sup> HHSOIG, *States Continued To Fall Short in Meeting Required Timeframes for Investigating Nursing Home Complaints*, OEI-01-19-00421 (September 2020), at 20-21, <https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf>.

<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

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**United States Senate**  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Paula Day  
Section Chief  
Health Facility Services  
Arkansas Department of Health  
5800 West 10th Street, Suite 400  
Little Rock, AR 72204-1704

Dear Ms. Day,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

Government Accountability Office, *Addressing the Factors Underlying Understatement of Serious Care Problems Requires Sustained CMS and State Commitment*, GAO-10-70 (November 2009), at 22, <https://www.gao.gov/products/gao-10-70>.

<sup>3</sup> *Id.*, *Nursing Home Survey Evaluation*, at 11.

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

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Sincerely,

A handwritten signature in blue ink that reads "Bob Casey".

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



ROBERT P. CASEY, JR., PENNSYLVANIA, CHAIRMAN

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September 12, 2022

Cassie Dunham  
Deputy Director  
Center for Health Care Quality  
Licensing and Certification Program  
California Department of Public Health  
1615 Capitol Avenue, MS 0512  
Sacramento, CA 95899-7377

Dear Ms. Dunham,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

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1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Bob Casey".

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Elaine McManis  
Director  
Health Facilities & Emergency Medical Services Division  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246

Dear Ms. McManis,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

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Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Kim Hriceniak  
Public Health Services Manager  
Facility Licensing and Investigations Section  
Connecticut Department of Public Health  
410 Capitol Avenue  
Hartford, CT 06134-0308

Dear Ms. Hriceniak,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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September 12, 2022

Robert Smith  
Director  
Division of Long Term Care Residents Protection  
Delaware Department of Health and Social Services  
3 Mill Road, Suite 308  
Wilmington, DE 19806

Dear Mr. Smith,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

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Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Arian Gibson  
Interim Senior Deputy Director  
Health Regulation and Licensing Administration  
District of Columbia Department of Health  
899 North Capitol Street NE, 5th Floor  
Washington, DC 20002

Dear Mr. Gibson,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

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Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Kimberly Smoak  
State Survey Director  
Deputy Secretary  
Division of Health Quality Assurance  
Florida Agency for Health Care Administration  
2727 Mahan Drive, MS# 2  
Tallahassee, FL 32308

Dear Ms. Smoak,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

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Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?

7. Please provide the requested data in the attached Excel sheet:
- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
  - b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
  - c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
  - d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
  - e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
  - f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
  - g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
  - h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
  - i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



ROBERT P. CASEY, JR., PENNSYLVANIA, CHAIRMAN

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United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Benjamin Arbise  
Executive Director  
Healthcare Facility Regulation Division  
Georgia Department of Community Health  
2 Peachtree Street, NW, Suite 31-402  
Atlanta, GA 30303

Dear Mr. Arbise,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

Government Accountability Office, *Addressing the Factors Underlying Understatement of Serious Care Problems Requires Sustained CMS and State Commitment*, GAO-10-70 (November 2009), at 22, <https://www.gao.gov/products/gao-10-70>.

<sup>3</sup> *Id.*, *Nursing Home Survey Evaluation*, at 11.

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<sup>5</sup> Ferrell, Betty R., Gregory L. Alexander, and Mary Ersek, et al. *The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff*. Washington, DC: The National Academies Press, 2022, at 438, <https://www.nationalacademies.org/our-work/the-quality-of-care-in-nursing-homes>.

ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

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September 12, 2022

Keith Ridley  
Chief  
Office of Health Care Assurance  
Hawaii State Department of Health  
601 Kamokila Blvd., Room 337  
Kapolei, HI 96707

Dear Mr. Ridley,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

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- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Tamara Prisock  
Administrator  
Licensing & Certification  
Idaho Department of Health and Welfare  
450 West State Street  
Boise, ID 83702

Dear Ms. Prisock,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

Government Accountability Office, *Addressing the Factors Underlying Understatement of Serious Care Problems Requires Sustained CMS and State Commitment*, GAO-10-70 (November 2009), at 22, <https://www.gao.gov/products/gao-10-70>.

<sup>3</sup> *Id.*, *Nursing Home Survey Evaluation*, at 11.

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

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<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

<sup>10</sup> HHSOIG, *North Carolina Should Improve Its Oversight of Selected Nursing Homes’ Compliance with Federal Requirements for Life Safety and Emergency Preparedness*, A-04-19-08070 (September 18, 2020), at 38, <https://oig.hhs.gov/oas/reports/region4/41908070.asp>. See also HHSOIG, A-07-19-03238 (February 16, 2020), at 40-41; HHSOIG, A-07-18-03230 (March 13, 2020), at 31). Iowa and Missouri reported similar issues in these audits.

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<sup>13</sup> U.S. Senate Committee on Finance, “Wyden, Casey Unveil Comprehensive Bill to Improve Nursing Homes for Residents and Workers,” press release, August 10, 2021, <https://www.finance.senate.gov/chairmans-news/wyden-casey-unveil-comprehensive-bill-to-improve-nursing-homes-for-residents-and-workers>.

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<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Becky Dragoo  
Deputy Director  
Office of Health Care Regulation  
Illinois Department of Public Health  
525 West Jefferson  
Springfield, IL 62761

Dear Dr. Dragoo,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

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Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



ROBERT P. CASEY, JR., PENNSYLVANIA, CHAIRMAN

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SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
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MIKE LEE, UTAH

September 12, 2022

Brenda Buroker  
Director  
Division of Long Term Care  
Indiana Department of Public Health  
2 North Meridian Street, Section 4 Selig  
Indianapolis, IN 46204

Dear Ms. Buroker,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

<sup>7</sup> Aging Committee staff spoke with survey agency officials in 10 states.

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<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

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<sup>13</sup> U.S. Senate Committee on Finance, “Wyden, Casey Unveil Comprehensive Bill to Improve Nursing Homes for Residents and Workers,” press release, August 10, 2021, <https://www.finance.senate.gov/chairmans-news/wyden-casey-unveil-comprehensive-bill-to-improve-nursing-homes-for-residents-and-workers>.

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Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Dawn Fisk  
Administrator  
Division of Health Facilities  
Iowa Department of Inspections & Appeals  
Lucas State Office Building  
321 East 12th Street  
Des Moines, IA 50319-0083

Dear Ms. Fisk,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare &

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

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Sincerely,

A handwritten signature in blue ink that reads "Bob Casey".

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



ROBERT P. CASEY, JR., PENNSYLVANIA, CHAIRMAN

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SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

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RICK SCOTT, FLORIDA  
MIKE LEE, UTAH

September 12, 2022

Dawne Altis  
Assistant Commissioner for Surveys, Certification and Credentialing  
Kansas Department for Aging and Disability  
503 South Kansas Avenue  
Topeka, KS 66603

Dear Ms. Altis,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

<sup>7</sup> Aging Committee staff spoke with survey agency officials in 10 states.

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<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

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<sup>11</sup> *Supra*, note 7.

<sup>12</sup> U.S. Senate Committee on Aging, “Senator Secures Key Resources For PA Children and Families, Seniors and People with Disabilities,” press release, December 31, 2020, <https://www.casey.senate.gov/news/releases/in-2020-casey-produces-results-for-pa-constituents>.

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<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

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September 12, 2022

Belinda Beard  
Director  
Division of Health Care  
Office of Inspector General  
Kentucky Department for Public Health  
275 East Main Street, 5E-A  
Frankfort, KY 40621-0001

Dear Ms. Beard,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare &

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

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5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
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Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Tasheka Dukes  
Deputy Assistant Secretary  
Health Standards Section  
Louisiana Department of Health  
P.O. Box 3767  
Baton Rouge, LA 70821-3767

Dear Ms. Dukes,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

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Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
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5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

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- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Bill Montejo  
Director  
Division of Licensing & Certification  
Maine Department of Health and Human Services  
41 Anthony Avenue  
11 State House Station  
Augusta, ME 04330-0011

Dear Mr. Montejo,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare &

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

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<sup>3</sup> *Id.*, *Nursing Home Survey Evaluation*, at 11.

<sup>4</sup> *Id.*, *Nursing Home Survey Evaluation*, at 18. OIG also described shortages of surveyors and other staff as "foundational issues."

<sup>5</sup> Ferrell, Betty R., Gregory L. Alexander, and Mary Ersek, et al. *The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff*. Washington, DC: The National Academies Press, 2022, at 438, <https://www.nationalacademies.org/our-work/the-quality-of-care-in-nursing-homes>.

Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

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<sup>8</sup> Bryan Mena, “Why Local Governments Trail Private Employers in Hiring,” *The Wall Street Journal*, August 15, 2022,

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<sup>10</sup> HHSOIG, *North Carolina Should Improve Its Oversight of Selected Nursing Homes’ Compliance with Federal Requirements for Life Safety and Emergency Preparedness*, A-04-19-08070 (September 18, 2020), at 38, <https://oig.hhs.gov/oas/reports/region4/41908070.asp>. See also HHSOIG, A-07-19-03238 (February 16, 2020), at 40-41; HHSOIG, A-07-18-03230 (March 13, 2020), at 31). Iowa and Missouri reported similar issues in these audits.

<sup>11</sup> *Supra*, note 7.

<sup>12</sup> U.S. Senate Committee on Aging, “Senator Secures Key Resources For PA Children and Families, Seniors and People with Disabilities,” press release, December 31, 2020, <https://www.casey.senate.gov/news/releases/in-2020-casey-produces-results-for-pa-constituents>.

<sup>13</sup> U.S. Senate Committee on Finance, “Wyden, Casey Unveil Comprehensive Bill to Improve Nursing Homes for Residents and Workers,” press release, August 10, 2021, <https://www.finance.senate.gov/chairmans-news/wyden-casey-unveil-comprehensive-bill-to-improve-nursing-homes-for-residents-and-workers>.

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United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Patricia Tomsco Nay  
Executive Director  
Office of Health Care Quality  
7120 Samuel Morse Drive, Second Floor  
Columbia, MD 21046-3422

Dear Dr. Nay,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

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United States Senate  
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September 12, 2022

Stephen Davis  
Director  
Division of Health Care Facility Licensure and Certification  
Massachusetts Department of Public Health  
67 Forest Street  
Marlborough, MA 01752

Dear Mr. Davis,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

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Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Larry Horvath  
Acting Director  
Bureau of Survey and Certification  
Michigan Department of Licensing and Regulatory Affairs  
611 West Ottawa Street, Ottawa Building, 1st Floor  
Lansing, MI 48909

Dear Mr. Horvath,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Maria King  
Director  
Health Regulation Division  
Minnesota Department of Health  
P.O. Box 64900  
St. Paul, MN 55164-0900

Dear Ms. King,

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<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

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1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



ROBERT P. CASEY, JR., PENNSYLVANIA, CHAIRMAN

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RICK SCOTT, FLORIDA  
MIKE LEE, UTAH

September 12, 2022

Frances Fair  
Director  
Health Facilities, Licensure and Certification  
Mississippi State Department of Health  
143B LeFleur's Square  
P.O. Box 1700  
Jackson, MS 39215

Dear Ms. Fair,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare &

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

Government Accountability Office, *Addressing the Factors Underlying Understatement of Serious Care Problems Requires Sustained CMS and State Commitment*, GAO-10-70 (November 2009), at 22, <https://www.gao.gov/products/gao-10-70>.

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<sup>5</sup> Ferrell, Betty R., Gregory L. Alexander, and Mary Ersek, et al. *The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff*. Washington, DC: The National Academies Press, 2022, at 438, <https://www.nationalacademies.org/our-work/the-quality-of-care-in-nursing-homes>.

Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

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Sincerely,

A handwritten signature in blue ink that reads "Bob Casey". The signature is written in a cursive, flowing style.

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

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MARCO RUBIO, FLORIDA  
MIKE BRAUN, INDIANA  
RICK SCOTT, FLORIDA  
MIKE LEE, UTAH

September 12, 2022

Steve Bollin  
Director  
Division for Regulation & Licensure  
Section for Long Term Care  
Missouri Department of Health and Senior Services  
3418 Knipp Drive, Suite F  
Jefferson City, MO 65102

Dear Mr. Bollin,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?

7. Please provide the requested data in the attached Excel sheet:
- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
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  - c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
  - d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
  - e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
  - f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
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  - h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Todd Boucher  
Certification Bureau Chief  
Office of the Inspector General  
Montana Department of Public Health & Human Services  
P.O. Box 202953  
Helena, MT 59620-2953

Dear Mr. Boucher,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

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<sup>3</sup> *Id.*, *Nursing Home Survey Evaluation*, at 11.

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<sup>5</sup> Ferrell, Betty R., Gregory L. Alexander, and Mary Ersek, et al. *The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff*. Washington, DC: The National Academies Press, 2022, at 438, <https://www.nationalacademies.org/our-work/the-quality-of-care-in-nursing-homes>.

ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

<sup>7</sup> Aging Committee staff spoke with survey agency officials in 10 states.

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<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

<sup>10</sup> HHSOIG, *North Carolina Should Improve Its Oversight of Selected Nursing Homes’ Compliance with Federal Requirements for Life Safety and Emergency Preparedness*, A-04-19-08070 (September 18, 2020), at 38, <https://oig.hhs.gov/oas/reports/region4/41908070.asp>. See also HHSOIG, A-07-19-03238 (February 16, 2020), at 40-41; HHSOIG, A-07-18-03230 (March 13, 2020), at 31). Iowa and Missouri reported similar issues in these audits.

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<sup>12</sup> U.S. Senate Committee on Aging, “Senator Secures Key Resources For PA Children and Families, Seniors and People with Disabilities,” press release, December 31, 2020, <https://www.casey.senate.gov/news/releases/in-2020-casey-produces-results-for-pa-constituents>.

<sup>13</sup> U.S. Senate Committee on Finance, “Wyden, Casey Unveil Comprehensive Bill to Improve Nursing Homes for Residents and Workers,” press release, August 10, 2021, <https://www.finance.senate.gov/chairmans-news/wyden-casey-unveil-comprehensive-bill-to-improve-nursing-homes-for-residents-and-workers>.

<sup>14</sup> HHSOIG, *States Continued To Fall Short in Meeting Required Timeframes for Investigating Nursing Home Complaints*, OEI-01-19-00421 (September 2020), at 20-21, <https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf>.

<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Becky Wisell  
Deputy Director  
Health Licensure and Environmental Health  
Division of Public Health  
Nebraska Department of Health and Human Services  
P.O. Box 94986  
Lincoln, NE 68509-4986

Dear Ms. Wisell,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare &

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

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Sincerely,

A handwritten signature in blue ink that reads "Bob Casey".

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Paul Shubert  
Bureau Chief  
Bureau of Health Care Quality and Compliance  
Division of Public and Behavioral Health  
Nevada Department of Health and Human Services  
4220 South Maryland Parkway  
Las Vegas, NV 89119

Dear Mr. Shubert,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

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<sup>3</sup> *Id.*, *Nursing Home Survey Evaluation*, at 11.

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

<sup>7</sup> Aging Committee staff spoke with survey agency officials in 10 states.

<sup>8</sup> Bryan Mena, “Why Local Governments Trail Private Employers in Hiring,” *The Wall Street Journal*, August 15, 2022, <https://www.wsj.com/articles/why-local-governments-trail-private-employers-in-hiring-11660555802>.

<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

<sup>10</sup> HHSOIG, *North Carolina Should Improve Its Oversight of Selected Nursing Homes’ Compliance with Federal Requirements for Life Safety and Emergency Preparedness*, A-04-19-08070 (September 18, 2020), at 38, <https://oig.hhs.gov/oas/reports/region4/41908070.asp>. See also HHSOIG, A-07-19-03238 (February 16, 2020), at 40-41; HHSOIG, A-07-18-03230 (March 13, 2020), at 31). Iowa and Missouri reported similar issues in these audits.

<sup>11</sup> *Supra*, note 7.

<sup>12</sup> U.S. Senate Committee on Aging, “Senator Secures Key Resources For PA Children and Families, Seniors and People with Disabilities,” press release, December 31, 2020, <https://www.casey.senate.gov/news/releases/in-2020-casey-produces-results-for-pa-constituents>.

<sup>13</sup> U.S. Senate Committee on Finance, “Wyden, Casey Unveil Comprehensive Bill to Improve Nursing Homes for Residents and Workers,” press release, August 10, 2021, <https://www.finance.senate.gov/chairmans-news/wyden-casey-unveil-comprehensive-bill-to-improve-nursing-homes-for-residents-and-workers>.

<sup>14</sup> HHSOIG, *States Continued To Fall Short in Meeting Required Timeframes for Investigating Nursing Home Complaints*, OEI-01-19-00421 (September 2020), at 20-21, <https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf>.

<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?

7. Please provide the requested data in the attached Excel sheet:
- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
  - b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
  - c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
  - d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
  - e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
  - f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
  - g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
  - h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
  - i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Bob Casey".

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

ROBERT P. CASEY, JR., PENNSYLVANIA, CHAIRMAN

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MIKE LEE, UTAH

September 12, 2022

Kristie Holtz  
Bureau Chief  
Bureau of Licensing & Certification  
Health Facilities Administration  
New Hampshire Department of Health & Human Services  
129 Pleasant Street  
Concord, NH 03301-3857

Dear Ms. Holtz,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare &

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Sincerely,

A handwritten signature in blue ink that reads "Bob Casey".

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Pamela Lebak  
Assistant Commissioner  
Health Facilities Survey and Field Operations  
New Jersey Department of Health  
P.O. Box 367  
Trenton, NJ 08625-0367

Dear Ms. Lebak,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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<sup>10</sup> HHSOIG, *North Carolina Should Improve Its Oversight of Selected Nursing Homes’ Compliance with Federal Requirements for Life Safety and Emergency Preparedness*, A-04-19-08070 (September 18, 2020), at 38, <https://oig.hhs.gov/oas/reports/region4/41908070.asp>. See also HHSOIG, A-07-19-03238 (February 16, 2020), at 40-41; HHSOIG, A-07-18-03230 (March 13, 2020), at 31). Iowa and Missouri reported similar issues in these audits.

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<sup>14</sup> HHSOIG, *States Continued To Fall Short in Meeting Required Timeframes for Investigating Nursing Home Complaints*, OEI-01-19-00421 (September 2020), at 20-21, <https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf>.

<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

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1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

ROBERT P. CASEY, JR., PENNSYLVANIA, CHAIRMAN

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United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Christopher Burmeister  
Director  
Division of Health Improvement  
New Mexico Department of Health  
1190 South St. Francis Drive  
Santa Fe, NM 87505

Dear Mr. Burmeister,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

Government Accountability Office, *Addressing the Factors Underlying Understatement of Serious Care Problems Requires Sustained CMS and State Commitment*, GAO-10-70 (November 2009), at 22, <https://www.gao.gov/products/gao-10-70>.

<sup>3</sup> *Id.*, *Nursing Home Survey Evaluation*, at 11.

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<sup>5</sup> Ferrell, Betty R., Gregory L. Alexander, and Mary Ersek, et al. *The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff*. Washington, DC: The National Academies Press, 2022, at 438, <https://www.nationalacademies.org/our-work/the-quality-of-care-in-nursing-homes>.

ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

<sup>7</sup> Aging Committee staff spoke with survey agency officials in 10 states.

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Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Valerie Deetz  
Deputy Director  
Center for Health Care Provider Services and Oversight  
Office of Primary Care and Health Systems Management  
New York State Department of Health  
875 Central Avenue  
Albany, NY 12206

Dear Ms. Deetz,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

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- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
  - b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
  - c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
  - d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
  - e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
  - f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
  - g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Emery Milliken  
State Agency Director  
Division of Health Service Regulation  
North Carolina Department of Health and Human Services  
1205 Umstead Drive  
Raleigh, NC 27699-2711

Dear Ms. Milliken,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

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<sup>13</sup> U.S. Senate Committee on Finance, “Wyden, Casey Unveil Comprehensive Bill to Improve Nursing Homes for Residents and Workers,” press release, August 10, 2021, <https://www.finance.senate.gov/chairmans-news/wyden-casey-unveil-comprehensive-bill-to-improve-nursing-homes-for-residents-and-workers>.

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Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Bridget Weidner  
Director  
Division of Health Services  
North Dakota Department of Health  
1720 Burlington Drive  
Suite A  
Bismark, ND 58504

Dear Ms. Weidner,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare &

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

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Sincerely,

A handwritten signature in blue ink that reads "Bob Casey". The signature is written in a cursive, flowing style.

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Rebecca Sandholdt  
Chief  
Bureau of Survey and Certification  
Office of Health Assurance and Licensing  
Ohio Department of Health  
246 North High Street, 3rd Floor  
Columbus, OH 43215

Dear Ms. Sandholdt,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?

7. Please provide the requested data in the attached Excel sheet:
- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
  - b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
  - c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
  - d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
  - e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
  - f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
  - g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
  - h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
  - i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Janene Stewart  
Director of Long Term Care Services  
Oklahoma State Department of Health  
123 Robert South Kerr Ave., Suite 1702  
Oklahoma City, OK 73102

Dear Ms. Stewart,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

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Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

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September 12, 2022

David Allm  
Acting Program Manager  
Nursing Facility Licensing Unit  
Office of Safety, Oversight and Quality  
Oregon Department of Human Services  
550 Capitol St. NE  
Salem, OR 97301

Dear Mr. Allm,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

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1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
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6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?

7. Please provide the requested data in the attached Excel sheet:
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  - d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
  - e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
  - f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
  - g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



ROBERT P. CASEY, JR., PENNSYLVANIA, CHAIRMAN

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September 12, 2022

Susan Coble  
Deputy Secretary for Quality Assurance  
Pennsylvania Department of Health  
8th Floor West, Health & Welfare Building  
625 Forster Street  
Harrisburg, PA 17120-0701

Dear Ms. Coble,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

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Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Carmen Rivera Rosado  
Coordinator, Medicare Division  
Assistant Secretariat for Regulation and Accreditation of Health Facilities  
Puerto Rico Department of Health  
1090 Marginal Ruiz Soler  
Bayamón, PR 00961-7329

Dear Ms. Rivera Rosado,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Jessica Marcaccio  
Principal Nursing Care Evaluator  
Center for Health Facilities Regulation  
Rhode Island Department of Health  
3 Capitol Hill  
Providence, RI 02908-5097

Dear Ms. Marcaccio,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

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Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
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United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Gwendolyn Thompson  
Director of Health Care Quality  
South Carolina Department of Health & Environmental Control  
2600 Bull Street  
Columbia, SC 29201

Dear Ms. Thompson,

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Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Chris Qualm  
Administrator  
Office of Licensure & Certification  
Division of Licensure and Accreditation  
600 East Capitol Avenue  
Pierre, SD 57501

Dear Mr. Qualm,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

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<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

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<sup>14</sup> HHSOIG, *States Continued To Fall Short in Meeting Required Timeframes for Investigating Nursing Home Complaints*, OEI-01-19-00421 (September 2020), at 20-21, <https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf>.

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Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

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MIKE LEE, UTAH

September 12, 2022

Logan Grant  
Executive Director  
State of Tennessee Health Facilities Commission  
665 Mainstream Drive  
Nashville, TN 37243

Dear Mr. Grant,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

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Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Michelle Dionne-Vahalik  
Associate Commissioner for Long Term Care Regulation  
Regulatory Services Division  
Texas Health and Human Services  
701 West 51st Street, Mail Code E-353  
Austin, TX 78751

Dear Dr. Dionne-Vahalik,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
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4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
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September 12, 2022

Kelly Criddle  
State Agency Director  
Medicare Certification Programs  
Utah Department of Health and Human Services  
P.O. Box 144103  
Salt Lake City, UT 84114-4103

Dear Ms. Criddle,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

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<sup>3</sup> *Id.*, *Nursing Home Survey Evaluation*, at 11.

<sup>4</sup> *Id.*, *Nursing Home Survey Evaluation*, at 18. OIG also described shortages of surveyors and other staff as "foundational issues."

<sup>5</sup> Ferrell, Betty R., Gregory L. Alexander, and Mary Ersek, et al. *The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff*. Washington, DC: The National Academies Press, 2022, at 438, <https://www.nationalacademies.org/our-work/the-quality-of-care-in-nursing-homes>.

ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

<sup>7</sup> Aging Committee staff spoke with survey agency officials in 10 states.

<sup>8</sup> Bryan Mena, “Why Local Governments Trail Private Employers in Hiring,” *The Wall Street Journal*, August 15, 2022, <https://www.wsj.com/articles/why-local-governments-trail-private-employers-in-hiring-11660555802>.

<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

<sup>10</sup> HHSOIG, *North Carolina Should Improve Its Oversight of Selected Nursing Homes’ Compliance with Federal Requirements for Life Safety and Emergency Preparedness*, A-04-19-08070 (September 18, 2020), at 38, <https://oig.hhs.gov/oas/reports/region4/41908070.asp>. See also HHSOIG, A-07-19-03238 (February 16, 2020), at 40-41; HHSOIG, A-07-18-03230 (March 13, 2020), at 31). Iowa and Missouri reported similar issues in these audits.

<sup>11</sup> *Supra*, note 7.

<sup>12</sup> U.S. Senate Committee on Aging, “Senator Secures Key Resources For PA Children and Families, Seniors and People with Disabilities,” press release, December 31, 2020, <https://www.casey.senate.gov/news/releases/in-2020-casey-produces-results-for-pa-constituents>.

<sup>13</sup> U.S. Senate Committee on Finance, “Wyden, Casey Unveil Comprehensive Bill to Improve Nursing Homes for Residents and Workers,” press release, August 10, 2021, <https://www.finance.senate.gov/chairmans-news/wyden-casey-unveil-comprehensive-bill-to-improve-nursing-homes-for-residents-and-workers>.

<sup>14</sup> HHSOIG, *States Continued To Fall Short in Meeting Required Timeframes for Investigating Nursing Home Complaints*, OEI-01-19-00421 (September 2020), at 20-21, <https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf>.

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Bob Casey, Jr.  
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RICK SCOTT, FLORIDA  
MIKE LEE, UTAH

September 12, 2022

Suzanne Leavitt  
Director, State Survey Agency  
Division of Licensing and Protection  
Vermont Department of Health  
HC 2 South  
280 State Drive  
Waterbury, VT 05671-2060

Dear Ms. Leavitt,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare &

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

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Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Bob Casey". The signature is fluid and cursive.

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Kimberly Beazley  
Director  
Office of Licensure and Certification  
Virginia Department of Health  
9960 Mayland Drive, Suite 401  
Richmond, VA 23233

Dear Ms. Beazley,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

<sup>2</sup> Office of Inspector General for the Department of Health and Human Services (HHSOIG), *CMS Should Take Further Action to Address States with Poor Performance in Conducting Nursing Home Surveys*, OEI-06-19-00460 (January 2022), at 1, 10, <https://oig.hhs.gov/oei/reports/OEI-06-19-00460.pdf> (hereinafter *Nursing Home Survey Evaluation*); see also

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<sup>3</sup> *Id.*, *Nursing Home Survey Evaluation*, at 11.

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

<sup>7</sup> Aging Committee staff spoke with survey agency officials in 10 states.

<sup>8</sup> Bryan Mena, “Why Local Governments Trail Private Employers in Hiring,” *The Wall Street Journal*, August 15, 2022, <https://www.wsj.com/articles/why-local-governments-trail-private-employers-in-hiring-11660555802>.

<sup>9</sup> “Wages and salaries cost per hour worked for civilian worker in registered nurse occupations,” BLS Data Viewer, Bureau of Labor Statistics, updated August 18, 2022, <https://beta.bls.gov/dataViewer/view/timeseries/CMU102000012N000D>.

<sup>10</sup> HHSOIG, *North Carolina Should Improve Its Oversight of Selected Nursing Homes’ Compliance with Federal Requirements for Life Safety and Emergency Preparedness*, A-04-19-08070 (September 18, 2020), at 38, <https://oig.hhs.gov/oas/reports/region4/41908070.asp>. See also HHSOIG, A-07-19-03238 (February 16, 2020), at 40-41; HHSOIG, A-07-18-03230 (March 13, 2020), at 31). Iowa and Missouri reported similar issues in these audits.

<sup>11</sup> *Supra*, note 7.

<sup>12</sup> U.S. Senate Committee on Aging, “Senator Secures Key Resources For PA Children and Families, Seniors and People with Disabilities,” press release, December 31, 2020, <https://www.casey.senate.gov/news/releases/in-2020-casey-produces-results-for-pa-constituents>.

<sup>13</sup> U.S. Senate Committee on Finance, “Wyden, Casey Unveil Comprehensive Bill to Improve Nursing Homes for Residents and Workers,” press release, August 10, 2021, <https://www.finance.senate.gov/chairmans-news/wyden-casey-unveil-comprehensive-bill-to-improve-nursing-homes-for-residents-and-workers>.

<sup>14</sup> HHSOIG, *States Continued To Fall Short in Meeting Required Timeframes for Investigating Nursing Home Complaints*, OEI-01-19-00421 (September 2020), at 20-21, <https://oig.hhs.gov/oei/reports/OEI-01-19-00421.pdf>.

<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

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Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



ROBERT P. CASEY, JR., PENNSYLVANIA, CHAIRMAN

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RICK SCOTT, FLORIDA  
MIKE LEE, UTAH

September 12, 2022

Mike Anbesse  
Director  
Residential Care Services Division  
Washington State Department of Social and Health Services  
P.O. Box 45600  
Olympia, WA 98504

Dear Mr. Anbesse,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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Sincerely,



Bob Casey, Jr.  
Chairman  
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RICK SCOTT, FLORIDA  
MIKE LEE, UTAH

September 12, 2022

Tina Maher  
Director  
Office of Health Facility Licensure and Certification  
Nursing Home Survey and Certification  
West Virginia Department of Health & Human Resources  
408 Leon Sullivan Way  
Charleston, WV 25301-1713

Dear Ms. Maher,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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Medicaid Services recently informed my office that “many states have reported shortages that impact their ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

At the same time, workloads have increased substantially, with the number of inspections in response to reported complaints increasing from 47,000 in 2011 to 71,000 in 2018, a trend that has continued during the pandemic.<sup>14</sup> The OIG issued a report last year that found 71 percent of nursing homes nationally had gone at least 16 months without a standard survey as of May 31, 2021, with backlogs of nursing homes surveyed ranging from 22 percent to 96 percent by state.<sup>15</sup> As of mid-August, CMS data show that 4,500 nursing homes (29.8 percent of the national total) are overdue for annual standard surveys.

<sup>6</sup> Letter from CMS Administrator Chiquita Brooks-LaSure to Senator Bob Casey, Jr., July 14, 2022.

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<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?

7. Please provide the requested data in the attached Excel sheet:
- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
  - b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
  - c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
  - d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
  - e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
  - f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
  - g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
  - h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
  - i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Bob Casey".

Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging



United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Otis Woods  
State Survey Agency Director  
Division of Quality Assurance  
Wisconsin Department of Health Services  
One West Wilson Street, Room 450  
Madison, WI 53703

Dear Mr. Woods,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

The Government Accountability Office (GAO) and the Office of the Inspector General for the Department of Health and Human Services (OIG) have repeatedly linked survey agency staffing shortages with failures to conduct timely, high quality nursing home surveys.<sup>2</sup> Most recently, a January OIG report identified "staffing shortages as a root cause of State survey performance problems,"<sup>3</sup> adding that "many of the staffing shortages occur in States with widespread nurse shortages and that these States have difficulty attracting and retaining nurses to conduct surveys."<sup>4</sup> Similarly, the National Academies of Sciences, Engineering, and Medicine found in a report this year that "states have difficulty finding qualified surveyors," and survey agencies "may not have adequate capacity or resources to fulfill all their responsibilities."<sup>5</sup> In addition, the Centers for Medicare & Medicaid Services recently informed my office that "many states have reported shortages that impact their

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<sup>1</sup> 42 U.S.C. §1396r(g)(2)(A); CMS, *State Operations Manual Chapter 7 - Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities*, November 16, 2018, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07pdf.pdf>.

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ability to respond timely to complaints and recertification surveys,” an issue exacerbated by the COVID-19 pandemic.<sup>6</sup>

Current and former state survey agency officials across our Nation report challenges with hiring and retaining surveyors, particularly nurses who make up the majority of their workforce, leading to high turnover.<sup>7</sup> These challenges come as recent news reports have highlighted the broader challenges state and local governments have experienced attracting and retaining workers.<sup>8</sup> Survey agency officials repeatedly voiced concerns regarding state and federal budget shortfalls and difficulty offering competitive wages in a highly competitive health care market. Over the last decade nursing salaries have increased 21 percent and survey agencies have been unable to keep up.<sup>9</sup> These concerns are consistent with those states have communicated to the OIG in recent years<sup>10</sup> and, based on briefings with states, appear to have worsened during the COVID-19 pandemic. Drained by physically and emotionally demanding work, agency officials have said that the pandemic led many surveyors to find new health care jobs, leave the field or retire, further worsening vacancy rates.

In the face of staffing shortages now ranging up to 50 percent of budgeted positions, states are employing different measures to meet Federal requirements for survey timeliness.<sup>11</sup> Stopgap measures include hiring contract inspectors, often at high cost; encouraging surveyors to work overtime; hiring retired annuitants to cover staffing gaps and sending surveyors outside their regular regions to cover shortfalls, requiring additional travel. State officials and outside observers have expressed concern that a strained workforce is not well-suited to carry out the critical work survey agencies perform, leaving nursing home residents at greater risk. Recognizing these and other challenges, I secured \$100 million of additional funding for survey and certification activities to combat the COVID-19 pandemic in nursing homes.<sup>12</sup> I also have advocated to increase funding for survey agencies going forward,<sup>13</sup> which President Biden adopted in his FY2023 budget request.

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Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging

United States Senate  
SPECIAL COMMITTEE ON AGING  
WASHINGTON, DC 20510-6400  
(202) 224-5364

September 12, 2022

Laura Hudspeth  
State Survey Agency Director  
Healthcare Licensing and Surveys  
Wyoming Department of Health  
6101 Yellowstone Road, Suite 186C  
Cheyenne, WY 82002

Dear Ms. Hudspeth,

State survey agencies are integral to ensuring the health and safety of Americans reliant on our Nation's health care providers, ranging from hospitals to nursing homes to intermediate care facilities and more. These agencies play a particularly important role in oversight of the country's more than 15,000 nursing homes, enforcing federal standards related to medical care, adequate staffing and safeguarding residents from abuse and neglect, among others. By conducting comprehensive inspections, known as standard surveys, every 15 months and promptly investigating complaints, state surveyors are the eyes and ears ensuring quality care is delivered.<sup>1</sup> Given their critical role, I am requesting information related to your agency's staffing needs as the U.S. Senate Special Committee on Aging (Aging Committee) seeks to better understand the scope and severity of staffing shortages affecting state survey agencies' ability to carry out their work.

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<sup>15</sup> HHSOIG, *States’ Backlogs of Standard Surveys of Nursing Homes Grew Substantially During the COVID-19 Pandemic*, OEI-01-20-00431 (July 2021), <https://oig.hhs.gov/oei/reports/OEI-01-20-00431.asp>.

Given these issues, the Aging Committee seeks information from survey agencies in all 50 states, the District of Columbia and Puerto Rico and I ask that you please answer the questions and other requests that follow. Please note that references to “previous five calendar years” mean full-year 2018, 2019, 2020, 2021 and year-to-date 2022; “previous five fiscal years” means your state’s fiscal years for FY2018, FY2019, FY2020, FY2021 and FY2022.

1. Please describe the scope and activities of your agency’s nursing home survey and certification program and issues, challenges or dynamics unique to your state. Please describe the extent to which the availability and experience of surveyors affects, or has affected, your agency’s ability to carry out its responsibilities such as completing timely complaint and standard surveys, and strategies used to address any staffing shortfalls.
2. Multiple states and watchdog reports have identified staff turnover negatively affecting the timeliness and quality of nursing home surveys. To what extent has your agency experienced turnover among survey agency staff and how has it affected your agency’s ability to conduct its work? In your answer, please address reasons for staff departures (e.g., retirement, burnout, competing jobs), the effects of turnover, how the COVID-19 pandemic affected turnover rates and strategies used to reduce turnover.
3. Several state survey agencies reported that the national shortage of nurses has driven up salaries, challenging their ability to hire and retain nurses as surveyors. How has your agency been affected by rising competition for nurses, and how has it sought to attract and retain nurses for surveyor positions through pay increases, schedule changes or other incentives? In addition to the data requested in Question 7, please describe how your starting salary and salary range compares to salaries for other registered nurse positions in your state, to the extent you have visibility into the market. To what extent have private sector signing bonuses contributed to the difficulty of hiring and retaining nurse surveyors at your agency?
4. Multiple states have reported hiring contractors to fill surveyor vacancies and address survey backlogs. Please describe how your agency has used contractors to conduct surveys or other tasks such as informal dispute resolution (IDR). Please also provide all associated contracts for the previous five calendar years. Please describe why your agency has used contractors or is considering doing so, as well as the benefits and challenges of using contractors. How does your agency oversee contractors to ensure they are conducting timely, high-quality surveys? What should CMS be doing to oversee the use and effectiveness of contracted surveyors?
5. What could CMS do differently, including changes to policies, guidance or technical assistance, that would better help your agency conduct timely surveys in the context of surveyor staffing shortages? Please provide correspondence your agency has transmitted to CMS, the OIG or other Federal agencies within the previous five calendar years regarding concerns about survey agency staffing.
6. The 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act provided states with a one-time funding boost of approximately 7 percent for survey and certification activities that is set to sunset in 2023. How is your agency using the CARES Act funding? What affect, if any, will the sunset of this funding have on your agency?
7. Please provide the requested data in the attached Excel sheet:

- a. The number of Medicare and Medicaid certified nursing homes and total number of certified nursing home beds located in your state.
- b. The amount of (i) state and (ii) federal funding your agency has received for survey and certification activities over the previous five fiscal years.
- c. The number of nursing home surveyor positions (full time equivalents) in your agency's budget for the previous five fiscal years.
- d. The number of nursing home surveyor positions that are currently vacant (not filled by full-time employees compensated directly by the state) for all staff and for nurses, specifically.
- e. For each of the previous five fiscal years, how many new surveyors were hired by your agency and how many surveyors left your agency?
- f. How many years of experience (i.e., years working at your agency), on average, do your current surveyors have? What percentage of your surveyors have two years or less experience; what percentage have five years or more?
- g. What is your agency's salary range for surveyors? Please separately indicate the range for registered nurses and non-nurse surveyors.
- h. The total dollar amount your agency has spent on contractors for survey, IDR or other nursing home-related oversight activities for the previous five fiscal years.
- i. The number of complaints received, by category (immediate jeopardy [IJ] and non-IJ) and the percentage of such surveys initiated within the federally required timeframe over the previous five calendar years.

Please provide the above requested information, documents and data no later than October 28, 2022. If you or your staff have questions regarding this letter, please contact my oversight staff on the Aging Committee at (202) 224-5364. Thank you for your work and your attention to this important matter.

Sincerely,



Bob Casey, Jr.  
Chairman  
U.S. Senate Special Committee on Aging