

September 21, 2022

The Honorable James Clyburn
Chair
House Select Subcommittee on the Coronavirus
Crisis
2157 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Steve Scalise
Ranking Member
House Select Subcommittee on the Coronavirus
Crisis
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chair Clyburn and Ranking Member Scalise:

Thank you for holding today's hearing, entitled *Examining Long-Term Care in America: The Impact of the Coronavirus in Nursing Homes*.

The National Hospice and Palliative Care Organization, a membership organization of more than 4,000 hospice locations representing nearly 60,000 hospice professionals and hundreds of thousands of volunteers dedicated to caring for patients and families across the country, sincerely appreciates the Subcommittee's attention to the impact of COVID-19 on nursing homes, where many patients are receiving hospice or palliative care services.

As a person-centered model of care, hospice and palliative care are tailored to a patient's specific needs and wishes. This means that services are provided in a setting best suited for the patient, such as a private residence or a nursing facility. Beginning at the onset of the COVID-19 pandemic, many hospice providers reported difficulty accessing patients who were enrolled in hospice care who resided in nursing homes and other facilities. In a 2020 NHPCO survey, 83.57% of respondents reported being denied access to patients in nursing homes and 64.75% reported being denied access to patients in other facilities (largely assisted living facilities). A follow-up survey showed that 70.13% of respondents had continued to experience denial of access to patients in nursing homes since January 2021. In addition, a query to our members as recently as August of 2021 still reported difficulties with hospice staff access to hospice patients in nursing homes. In many instances the only hospice staff member allowed to enter was a nurse, even after CMS guidance defined hospice workers as "essential."

Throughout the COVID-19 pandemic, NHPCO was in ongoing communication with the Centers for Medicare and Medicaid Services (CMS) to allow hospice employees to access their patients in nursing homes. In March 2020, NHPCO recommended that the agency issue guidance allowing outside providers, such as a hospice provider, to have access to their patients in nursing facilities if they follow the facility's requirements for screening entrants. CMS issued guidance describing hospice workers as "essential" and also addressed compassionate care visits for families. However, challenges remain today. Our members report that they have continued to experience issues with access to hospice patients in nursing homes, even after CMS issued guidance to nursing homes several times.

As CMS established 1135 waivers for Medicare providers to follow during the COVID-19 public health emergency, nursing homes received a 1135 waiver for the three-day qualifying hospital stay and Medicare beneficiaries could use their skilled nursing benefit without the hospital stay requirement. As noted in NHPCO communication to CMS, an unintended consequence of this waiver is that the nursing home resident who had elected the Medicare hospice benefit may now be moved to the skilled benefit and

the patient must revoke their hospice benefits. In many nursing homes, there was no awareness of the hospice election and the need to revoke or be discharged in order to access their skilled benefit.

During these times of uncertainty and distress, hospice providers went above and beyond in their efforts to connect patients with serious and life-limiting illness to care. Our members demonstrated their unwavering commitment to providing the highest quality care, such as organizing opportunities for families to visit through a patient's room window. In one instance, an NHPCO member arranged a cherry picker so family could visit their loved one on the second story of a nursing facility.

However, disruptions to patient access in nursing facilities undoubtedly impacts hospice providers' ability to provide quality care at the end of life. It risks leaving patients with serious and life-limiting illnesses without care provided by members of the hospice interdisciplinary team at times when it was most needed, leading to additional physical and emotional distress for some patients and their families. Going forward, we must ensure that appropriate measures are implemented to preserve access to care in nursing facilities and protect our nation's most vulnerable patients and hospice and palliative care providers.

We are grateful for your leadership and efforts to address solutions to better protect hospice patients and providers from COVID-19. Should you have any questions, please don't hesitate to reach out to Logan Hoover, Vice President of Policy and Government Relations (lhoover@nhpco.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Marcantonio". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ben Marcantonio
COO and Interim CEO