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Catholic Health Association of the United States

Statement for the Subcommittee on Health Committee on Energy and Commerce U.S. House of Representatives

Hearing: "Supporting Access to Long-Term Services and Supports: An Examination of the Impacts of Proposed Regulations on Workforce and Access to Care"

The Catholic Health Association of the United States (CHA), the national leadership organization of more than 2,200 Catholic health care systems, hospitals, long-term care facilities, sponsors, and related organizations, is pleased to submit a statement for the record on this important hearing. We appreciate the Subcommittee's interest in long-term services and the effect that the notice of proposed rulemaking (NPRM) on *Medicare and Medicaid Programs; Minimum Staffing Standards for Long-term Care Facilities, and Medicaid Institutional Payment Transparency Reporting* will have on our members, their ability to recruit and retain a workforce and the well-being of nursing home residents we serve. CHA members address the needs of older adults throughout the life cycle, with many of our members being leaders in Age-Friendly health systems - hospitals, nursing homes, and primary care—ensuring the continuum of care.

Even before this NPRM, our members continued their courageous work to care for our nation's older adults despite the numerous challenges that the pandemic has brought while undergoing ongoing staffing shortages, especially in long-term care settings. The U.S. is facing a nursing home crisis with the not-for-profit nursing home sector disappearing. Since 2009, 130 Catholic-sponsored nursing homes have been sold, with 54% to for-profit entities, including private equity firms.

Our members are guided by their mission founded in Catholic social teaching of meeting individual needs through all the seasons of life, including old age, and they include some of the longest-serving nursing homes and hospices in the country. Our eldercare ministries are the legacy of religious communities of women whose selfless, loving motivation in establishing them is still manifest in their service and care. Since President Biden outlined his commitment to "improve the quality of nursing homes so that seniors, people with disabilities, and others living in nursing homes get the reliable, high-quality care they deserve,"ⁱ we have been working to educate policymakers about our shared mission to provide compassionate quality care for individuals in need in our communities and the challenges our members face. Catholic nursing homes strongly share this commitment is also evidenced by the high marks our facilities receiveⁱⁱ. We stand ready to work with the Administration and Congress to address longstanding and systemic issues that have resulted from a lack of adequate Medicaid funding for nursing home care and a punitive regulatory environment. We offer our thoughts on the following three issues:

Workforce concerns: When we surveyed our members this year, we found that staffing was their most outstanding problem, with the use of nurse staffing agencies adding to the unsustainable costs

of providing care. The national health care workforce shortage has affected nursing homes, with many registered nurses, licensed nurses, and certified nurse aide positions remaining unfilled. ECRI, a nationally renowned nonprofit and independent patient safety organization, lists staffing shortages as the number one concern that health care leaders must addressⁱⁱⁱ. Exacerbating this challenge is the necessary use of expensive and temporary staffing solutions that drive up the costs of care. The impact of the NPRM's 24-hour registered nurse (RN) staffing requirement would mean:

- Significant numbers of SNFs would not and could not meet the requirement, especially those in rural and underserved areas, which already have longstanding challenges with recruiting and retaining health care workers.
- Increased expenses for nursing homes to comply many of which are struggling financially and others who would have to reduce other service and program areas.

Additionally, we know that the health care workforce in nursing homes is made up of a whole team of professionals beyond RNs and also includes licensed practical nurses (LPNs), nurses aides, and other allied health caregivers. These positions represent a large segment of the direct care workers at nursing homes. We urge Congress to include initiatives that support and highlight the value and importance of the role of these healthcare professionals and pass bipartisan bills that reauthorize nurse workforce development programs, the Health Profession Opportunity Grant (HPOG) program, and other initiatives that provide needed workforce solutions for not-for-profit long-term-care facilities. We also ask that Congress work on a government-wide solution that not only includes the U.S. Department of Health and Human Services (HHS) and CMS but also the Federal Trade Commission and the Departments of State, Homeland Security, Education, and Labor to grow and develop the nursing home workforce. Lastly, technology has continued to grow in adoption in many health care settings and improve the health delivery of care. We hope that Congress shares with the Administration alternative ways of meeting the staffing standards, such as through telehealth, employing health care professionals who can monitor and assess residents remotely, and providing support to on-site staff. We urge you also to involve providers, consumers, and academic experts to work on this urgent problem.

Sustainable financing: Through the Centers for Medicare and Medicaid Services (CMS), the federal government must work with states to increase the current reimbursement rates to nursing home providers, especially as Medicaid continues to be the largest payer of long-term care services. We wholeheartedly support the importance of this program in the lives of low-income seniors and have a national education campaign, [*Medicaid Makes it Possible*](#), telling the stories of the beneficiaries our members serve. Most importantly, we ask that you increase the federal Medicaid FMAP rate for nursing home care to incentivize states to meet their responsibility to provide full and fair reimbursement for the cost of care. The Medicaid and CHIP Payment Advisory Commission (MACPAC) found that “low Medicaid payment rates may affect a facility’s ability to pay for needed staff and may affect their willingness to accept new Medicaid patients^{iv}.” We join with our colleagues at the American Health Care Association and LeadingAge, which represents the nation’s nonprofit aging services providers, in asking Congress for increased federal support to address this growing crisis.

Enhancing nursing home oversight through innovative partnerships: Our members continue to focus on quality care for their residents and are committed to patient safety. We understand the role that government surveyors play in helping to protect our vulnerable senior population. However, we need also to ensure that we are not simply creating a more punitive and regulated environment and are helping to improve care through training and education. Additionally, Senator Casey, the

Chairman of the Aging Committee, has found that “significant staffing shortages [at state survey agencies] and inadequate oversight put nursing home residents at risk^v.” We hope that the lessons learned these last three years of the pandemic are an opportunity for Congress to incorporate innovation into CMS’ ability as a safety regulator by enhancing the public-private partnership that has been successful in the Medicare program in other health care settings such as hospitals, ambulatory care, and home health. Given the limited resources at federal and state governments devoted to enforcement, we ask that Congress work with CMS to explore how partnering with not-for-profit independent health care accrediting organizations through a deeming relationship, perhaps even limited, can help improve quality. The crisis in nursing homes must be met with an *all-hands* solution that brings the expertise of the health care sector, including those with a demonstrated track record in safety and quality improvement methods. This would allow CMS and state governments to devote their limited funds to poor-performing nursing homes. We hope that Congress can work with CMS on legislation or utilizing available regulatory opportunities, including the possibility of a deeming demonstration project from the Centers for Medicare and Medicaid Innovation (CMMI) to apply evidence-based quality improvement and measurement that results in savings while guaranteeing the safety of our seniors in nursing homes.

In closing, we thank you for holding this important hearing on this timely topic. We urge Congress to work with CHA, its members, other nursing home providers, consumer advocates, and other experts as you embark on the important goal of ensuring quality care for seniors in our nation’s nursing homes. We will continue to provide input and welcome the opportunity to discuss the courageous and compassionate work of our members, who are caring for a rapidly aging population. We thank you for your commitment to our nation’s seniors and look forward to working together on this important issue.

ⁱ Fact Sheet: Protecting Seniors by Improving Safety and Quality of Care in the Nation’s Nursing Homes (February 28, 2022): Available at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/02/28/fact-sheet-protecting-seniors-and-people-with-disabilities-by-improving-safety-and-quality-of-care-in-the-nations-nursing-homes/>

ⁱⁱ 2020 Catholic Nursing Homes Report (November 17, 2020): Available at: <https://elderguide.com/resources/catholic-nursing-homes-report/#:~:text=In%20terms%20of%20our%20raw,most%20non%20Christian%20affiliated%20facilities.>

ⁱⁱⁱ ECRI, Top 10 Patient Safety Concerns 2022 (March 2022): Available at: <https://www.ecri.org/top-10-patient-safety-concerns-2022>

^{iv} Medicaid and CHIP Payment Advisory Commission (March 2022): Available at: <https://www.macpac.gov/wp-content/uploads/2022/03/State-Policy-Levers-to-Address-Nursing-Facility-Staffing-Issues.pdf>

^v Casey Unveils New Report Detailing Nursing Home Oversight Crisis. (May 19, 2023). Available at: <https://www.aging.senate.gov/press-releases/casey-unveils-new-report-detailing-nursing-home-oversight-crisis>