



**TESTIMONY OF  
DENISE BOTTCHE  
ON BEHALF OF  
AARP**

**BEFORE THE  
U.S. SENATE COMMITTEE ON FINANCE  
ON**

**“A NATIONAL TRAGEDY: COVID-19 IN THE  
NATION’S NURSING HOMES”**

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Chairman Wyden, Ranking Member Crapo, and members of the committee, thank you for inviting AARP to testify today. My name is Denise Bottcher and I am the state director for AARP Louisiana. On behalf of our 38 million members, including over 425,000 in Louisiana, and all older Americans nationwide, AARP appreciates the opportunity to provide testimony at today's hearing. The situation in our nation's nursing homes and other long-term care facilities has been alarming since the beginning of the pandemic. Since then, AARP has consistently advocated for the health, safety and well-being of residents and staff.

These facilities have been ground zero in the fight against the coronavirus, representing a shockingly high share of COVID-19 deaths. Over 175,000 long-term care facility residents and staff have died – including almost 3,000 in Louisiana – due to COVID-19, representing about 35 percent of the deaths nationwide and over 30 percent of deaths in Louisiana, even though nursing home residents comprise less than one percent of the U.S. population.

These horrifying numbers are a tragedy and national disgrace. AARP has heard from thousands of people across the country whose loved ones – their mothers, fathers, grandparents, aunts, uncles, and dear friends – lost their lives, alone, in nursing homes. We recognize that even before the pandemic, many long-term care facilities struggled with basic infection control and adequate staffing. And we knew when the first COVID outbreak occurred at the Kirkwood facility, that the situation in these facilities was dire.

There were important steps taken, but too often the response was too slow and inadequate. Much more was and is needed now, and in the future, to protect residents, staff, their loved ones, and the surrounding communities from this disease. For the four-week period ending February 14, the rates of COVID-19 cases and deaths in nursing homes were still higher than in late summer, according to [AARP's Nursing Home Dashboard](#). That is unacceptable. While there may be a sense of relief with vaccines rolling out and cases and deaths in long-term care facilities finally declining, there are still too many deaths, and policymakers and facilities are not relieved of their responsibility to protect nursing home residents. The consequences of not addressing the issues such as infection control, staffing, sufficient personal protective equipment and testing, oversight, accountability, and not following guidance is that someone's dad or mom dies. It is not a could act or should act situation, it is a must act situation. During the pandemic, AARP has urged action on a five-point plan to slow the spread and save lives:

1. Ensure facilities have adequate personal protective equipment for residents, staff, visitors, and others as needed, and prioritize regular and ongoing testing.
2. Improve transparency on COVID-19 and demographic data, vaccination rates of residents and staff by facility, and accountability for taxpayer dollars going to facilities.
3. Ensure access to in-person visitation following federal and state guidelines for safety and require continued access to facilitated virtual visitation for all residents.
4. Ensure quality care for residents through adequate staffing, oversight, and in-person access to long-term care ombudsman.

5. Reject immunity and hold long-term care facilities accountable when they fail to provide proper care to residents.

### **Ensure Access to Personal Protective Equipment (PPE) and Testing**

It is critical to provide PPE and ensure its consistent proper use by all staff caring for individuals in nursing homes, assisted living facilities, other residential care communities, home and community-based and other settings. PPE must be available for residents, staff, visitors, and surveyors.

Centers for Medicare & Medicaid Services (CMS) testing requirements for nursing home residents and staff have been an important step. We have strongly supported regular, prioritized testing of residents and staff as an important mechanism to prevent COVID-19 from entering nursing homes and other long-term care facilities, detect cases quickly, and stop transmission to additional residents and staff. Even with vaccines, we know that PPE and regular testing are still needed to stop the spread of coronavirus and other pathogens. AARP supports the funding in the American Rescue Plan Act for infection control and vaccine uptake support provided by quality improvement organizations to skilled nursing facilities. We also note that one of the best ways to keep people safe in nursing homes is to send fewer people to nursing homes who do not need that level of care.

### **Ensure Transparency on COVID-19, Demographic, and Vaccination Data, and Use of Funds by Providers**

AARP has called for increased transparency of COVID-19 cases and deaths in long-term care facilities, including demographic data, such as race and ethnicity. We appreciated the CMS guidance and interim final rule with comment that took steps towards achieving greater transparency on COVID-19 cases and deaths and notification to residents, their representatives, and families about cases in the facility, as well as ensuring nursing homes are better prepared to respond to the public health emergency. While these reporting requirements are a necessary step, we believe care facilities should also report publicly daily whether they have confirmed COVID-19 cases and deaths, and that reporting should include demographic data.

The COVID-19 pandemic has shed light on the stark racial disparities affecting health outcomes for communities of color across the country. A recent [national study](#) found that nursing homes with a higher percentage of African American/Black or Hispanic residents had more than three times as many COVID-19 deaths as those that had a higher percentage of White residents. While there is a growing body of data that shows African Americans/Blacks, Hispanics, and American Indians and Alaska Natives are disproportionately impacted by the pandemic with higher rates of infection and death, more complete racial and ethnic data is still needed. Furthermore, there is insufficient data to fully demonstrate the impact of COVID-19 on Asian American and Pacific Islander (AAPI) communities, but some disaggregated data [show](#) mortality rates that are disproportionately high in some places.

To disrupt health disparities across the country, including those occurring within nursing homes and other long-term care facilities, we need better data. It is important that the federal

government gather data and publicly report on COVID-19 cases, deaths, co-morbidities, and testing rates broken down into multiple demographic categories – while protecting patient privacy – including race, ethnicity, age, socioeconomic status, sexual orientation, gender identity, spoken/written language and disability. Data should also include venues such as hospitals, nursing homes, assisted living facilities, residential homes, and other locations. The information, disaggregated for all groups, should also be contrasted with 2019 numbers to truly understand the impact of COVID-19 on all communities. Collection, analysis, and regular public reporting of the detailed disaggregated information will help us effectively understand and respond to the crisis in a timely and focused way so that we can minimize the spread of the virus and improve health outcomes now and into the future. Indeed, given what we have learned in this crisis, improved data collection and reporting needs to be an ongoing practice for all long-term care facilities.

In addition, we believe vaccination data also needs to be broken down by age, race, and ethnicity for states, the federal government, and consumers to fully understand where the gaps are in vaccination administration. It is of utmost importance that this information be updated as quickly as possible, even daily. Furthermore, separate information about the number and percentage of residents and staff who have been vaccinated should be available by facility and state. While vaccines have given us all great hope of returning to normalcy, vaccines only work when they have been administered. We are deeply concerned about reports that there is a lack of vaccine confidence among long-term care staff. Policymakers at the federal and state level need to urgently focus their attention on this critical population to communicate clearly and credibly with these staff about the vaccines. Moreover, while the Long-Term Care Partnership with CVS and Walgreens was able to provide vaccines to residents and staff who wanted them, it is critical that vaccines remain available to new residents and staff, or those who initially opted out. We urge the federal government to work with states and long-term care facilities to ensure they can access and administer vaccines as needed.

We also need greater transparency on how the billions of dollars in taxpayer money from the Provider Relief Fund that have gone to facilities have been spent. Furthermore, if nursing homes or other long-term care facilities receive any additional dollars from the Provider Relief Fund or similar funds, AARP strongly urges that the Administration and Congress ensure that such funding is used exclusively for the health, safety, and well-being of residents and staff, such as for PPE, testing, staffing, virtual visitation, infection control and other items that directly relate to resident care and well-being, prevention, and treatment. Facilities should be accountable for their use of taxpayer dollars, and funds should directly benefit residents.

### **Ensure Safe In-Person Visitation and Require Facilities to Provide and Facilitate Virtual Visitation**

For many Americans living in nursing homes and other facilities, their friends and family provide not only a source of comfort, but also an important safety check. In-person visits, with some exceptions, have largely been halted over most of the past year.

We were pleased that CMS provided updated nursing home visitation [guidance](#) on March 10 that allows easier in-person visitation at nursing homes, while continuing to emphasize infection

prevention and control practices for facilities, visitors, and others. This is very welcome news for nursing home residents and families.

In the year since the pandemic began, we have heard heartbreaking stories about the challenges families have had trying to see their relatives and the many important moments they missed. As we enter a new phase of this pandemic with the ongoing rollout of vaccines and growing knowledge about public health needs – including the safety, mental health, and social well-being of nursing home residents – it is vital that these vulnerable seniors can safely visit with their loved ones. Residents must be able to exercise their rights to visitation, and facilities should be held accountable for facilitating in-person visitation. AARP [wrote](#) to CMS on February 23 urging the agency to update its guidance, criteria, and support for safe in-person visitation.

While not a replacement for in-person visits, virtual visits can be an important lifeline for families, friends, and residents. We have urged Congress to require residential care facilities to make available and facilitate virtual visitation via videoconference or other technologies for residents and their loved ones. We also urge Congress to provide funding to support virtual visitation. AARP supports the bipartisan Advancing Connectivity during the Coronavirus to Ensure Support for Seniors Act (S. 57/H.R. 596), that would provide such funding, specifically grants to nursing homes to support virtual visits.

### **Ensure Adequate Staff, Oversight, and Access for Long-Term Care Ombudsmen**

We are deeply concerned about staffing shortages at residential care facilities. [AARP's Nursing Home Dashboard](#) has consistently found over 25 percent of nursing homes nationally reporting a shortage of direct care workers since June 2020. It is essential that, at a minimum, staff/resident levels be maintained despite a potential reduction in workforce due to COVID-19 related circumstances. Many facilities had inadequate staff prior to the pandemic, and it is essential that staff be adequate to meet residents' many COVID- and non-COVID-related care needs, including infection control. Across the country, we have seen that higher staffing levels are associated with fewer deaths and COVID-19 cases in nursing homes. In addition, research shows that nursing homes with a registered nurse on staff help improve the quality of care. AARP supports funding in the American Rescue Plan Act for state strike teams in nursing homes with COVID-19 cases. AARP further urges Congress to take action to ensure that staffing levels in long-term care facilities are adequate, such as through pay and other compensation, paid leave, recruitment, training, and retention.

It also remains important for residents to have in-person access to long-term care ombudsmen, who play an important role in advocating for residents and their families.

More broadly, oversight from CMS and state survey agencies, including regular surveys, is vital now more than ever to ensure facilities are providing quality care and that resident health, safety, well-being, quality of life, and rights are protected. Strong enforcement action should be taken, when needed, to protect residents and ensure their rights. AARP also supports funding included in the American Rescue Plan Act for Elder Justice Act programs.

## **Reject Immunity for Nursing Homes and Other Long-Term Care Facilities and Hold Them Accountable**

The pandemic has put residents' health, safety, and quality of care at unprecedented risk, as reflected by the horrific death tolls. We know that staff in many long-term care facilities are doing heroic work, putting their own health on the line to care for people in nursing homes. But sadly, AARP has heard from thousands of families across the country whose loved ones were not treated with the compassion or dignity that every American deserves. AARP strongly urges Congress to protect the safety of residents, including by maintaining the rights of residents and their families to seek legal redress to hold facilities accountable when residents are harmed, neglected, or abused.

## **Support Individuals to Remain in Their Homes and Communities**

While we work to reform our nation's long-term care facilities, we need to support the ability of people to remain in their homes and communities. Not only will this help people to live where they want to be, but also help to alleviate some of the challenges we are facing in our nation's nursing homes. Furthermore, on average, for every one person residing in a nursing home, Medicaid can fund three individuals receiving community-based long-term care.

Congress must also look longer-term to give older adults and people with disabilities more options to live in their homes and communities, including more options to receive care at home, and more support for family caregivers who help make it possible. A family caregiver tax credit, as in the bipartisan, bicameral Credit for Caring Act, would help provide some financial relief to eligible family caregivers.

The pandemic has also highlighted the need to transform nursing homes, including by supporting or incentivizing small house nursing homes, such as Green Houses with private rooms and an empowered staff, making available private rooms, and creating a direct care ratio or medical loss ratio for nursing homes to ensure that public funds going to these facilities are used for resident care.

Families across the country are looking to Congress and the Administration for swift action to protect the health and safety of their loved ones living in long-term care facilities now and in the future. We cannot wait any longer. Thank you again for your attention to this urgent challenge.