



# Committee On Finance

Max Baucus, Ranking Member

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## STATEMENT OF SENATOR MAX BAUCUS FINANCE COMMITTEE HEARING ON NURSING HOME QUALITY

Thank you, Chairman Grassley. I want to recognize your persistent efforts to improve the health and quality of life of elderly and disabled citizens who reside in our nation's nursing homes. You have been an outspoken advocate for their interests, and I applaud you for your leadership in this area. I also want to recognize my colleague, Senator Bond, and thank him for testifying today.

This hearing is an important follow up to a hearing we held in the Finance Committee last year on "Elder Justice." That hearing focused on the prevalence of elder abuse and neglect across our society, and on the lack of coordinated programs to respond to the abuse crisis.

Shortly after the hearing, Senator Breaux, Senator Hatch and I announced the introduction of S. 333, the Elder Justice Act. The bill addresses elder abuse and neglect in all of its forms, including when it takes place in nursing homes. It improves identification of abuse and enforcement when abuse occurs. And it attempts to address root causes. One feature of the bill I particularly appreciate is its use of grants and other incentives to increase staffing in nursing homes. Many experts agree that nursing home quality and staffing rates are closely linked. I am pleased that this Committee is continuing to scrutinize the programs and institutions that serve our elderly and disabled citizens, and I hope that we will someday mark up and pass the Elder Justice Act.

Today, we will focus on a specific element of "Elder Justice" – the quality of care received in our nation's nursing homes. To be sure, we will hear some horror stories. Our hearts go out to these victims and their families. We will hear about unscrupulous or careless people who did not take care of our most vulnerable citizens. But we will also hear about bright spots where innovation and hard work have resulted in quality improvements.

I hope that all of our witnesses today agree on one thing: the systems that we use today to measure quality in nursing homes are not working the way they should. State surveyors vary so much across states that the statistics they report can hardly be trusted. The GAO will tell us that the numbers may underreport serious harms faced by nursing home residents. Nursing home administrators often tell me that the numbers overstate tiny problems, like a broom out of place in a nursing home.

If we want to make improvements, we must understand the problems. And our assessment system does not work. CMS has not provided adequate guidance or oversight to ensure consistency in nursing home surveys. In fact, the need for guidance in this area is so great that the Montana legislature recently passed a law asking Montana's Department of Public Health and Human Services to define the very terms that surveyors rely on when they do nursing home inspections. The legislature, lacking any federal guidance, asked the agency to explain what "actual harm" means. And what "unavoidable" means.

Of course, a different state agency might reach a very different conclusion from Montana. How are we, or CMS, or consumers supposed to interpret quality information when we can't even agree on the meaning of common terms? With so much uncertainty about what survey results mean, it is almost impossible for consumers to use information on websites like CMS's "Nursing Home Compare." We find ourselves awash in numbers and terms like "deficiencies" and "immediate jeopardy," but the bottom line is that we can't really tell what's going on in our nursing homes. And that means that we can't tell where to focus our efforts and enforcement.

Federal oversight of the survey process is weak. Recently, CMS has put a great deal of effort and money into a new initiative that relies on competition between nursing homes to improve overall quality. I support the idea of competition and transparency. But this effort cannot come at the expense of improving the survey process. Competition works only when consumers have real choices. In rural areas, where there are very few nursing homes covering a very large area, consumers don't have many choices if they want to live near their loved ones. So we must still rely on nursing home surveys to ensure minimum levels of quality.

I am sure that everyone in this room could agree that nursing home quality could be improved with a more effective oversight system. But we should also admit that things could be worse. The Administration's recent proposal to block grant the Medicaid program would give states the option to take a capped grant for Medicaid in exchange for eliminating virtually all federal oversight in the Medicaid program. States would have complete flexibility to monitor nursing home quality -- or not, if state budget pressures were too tough. I am concerned that such a proposal would leave our most vulnerable nursing home residents at great risk.

So thank you, Mr. Chairman, for holding this hearing. Nothing is more important than the security of our people, particularly those who are vulnerable. I look forward to hearing from all of our witnesses.

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