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Grassley wants public to know more about nursing homes
that fall short of federal health and safety standards

WASHINGTON — Sen. Chuck Grassley wants a watch list created to alert the public about nursing homes nationwide that have repeatedly failed federal health and safety standards.

“The public isn’t able to know as much as it ought to know about nursing home quality. This is because sanctions are not publicly reported and some sanctions are rescinded before their effective dates based on fixes that turn out to be only patches that mask permanent problems,” he said. “A watch list could identify the nursing homes that repeatedly fall out of compliance. That would be good for consumers and their families.”

Grassley based his request on the findings of the Government Accountability Office. Grassley had requested this independent review to assess progress in making improvements to federal enforcement. He said the report that was issued in April revealed shortcomings in the federal effort to coordinate regulatory efforts and an enforcement approach that undermined the sanctions available through the law.”

Grassley has long worked to improve the quality of care provided in nursing homes. As Chairman of the Senate Special Committee on Aging during the late 1990s, he conducted an oversight effort that resulted in the launch of the “Nursing Home Initiative” by the federal agency then known as the Health Care Financing Administration. The goal of the initiative was strong regulations and steadfast enforcement by federal and state officials. Since the launch of the Nursing Home Initiative, Grassley has frequently asked the GAO to provide status reports on the progress made in holding homes accountable for the quality of care provided to vulnerable residents.

Today, Grassley is Ranking Member of the Senate Committee on Finance, which is responsible for Medicare and Medicaid oversight and legislation. Nearly 1.7 million elderly and disabled Americans live in 17,000 nursing home facilities across the country. Combined Medicare and Medicaid payments for nursing home services total an estimated \$70 billion annually.

This week, Grassley made his request in a letter sent to the Center for Medicare and Medicaid Services, the federal agency responsible for overseeing enforcement of laws to protect nursing home residents from abuse and neglect. He said the watch list should include nursing homes that yo-yo in and out of compliance by using grace periods to correct deficiencies temporarily.

The text of Grassley's letter about the need for a new watch list follows here.

July 23, 2007

Herb Kuhn
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Acting Administrator Kuhn:

As Ranking Member of the United States Senate Committee on Finance (Committee), I have a longstanding commitment to ensure that nursing home residents receive the quality care they deserve. In America today, there are nearly 1.7 million elderly and disabled individuals in approximately 17,000 nursing home facilities. As the "Baby Boom" generation increases in age, this number is going to rise dramatically. It is therefore critical that the federal government does everything it can to ensure that America's nursing homes deliver high quality care to nursing home residents on a consistent basis.

As part of this effort, the Centers for Medicare and Medicaid (CMS) has the duty to oversee health and safety standards in nursing homes, and the responsibility to impose sanctions when appropriate if a facility fails to meet these standards. Additionally, these congressionally authorized sanctions are critical tools in ensuring that America's nursing homes provide quality care and their residents are protected from abuse and neglect. Yet too often, these sanctions are rescinded prior to their effective dates as repeat offender homes "yo-yo" in and out of compliance by using grace periods to correct deficiencies temporarily. By doing so, they continue to harm their residents while avoiding the sanctions. I know that you agree with me that this is intolerable.

Concerned about this pattern, I asked the Government Accountability Office (GAO) to assess CMS's progress in improving the enforcement process. Specifically, I asked GAO to: assess CMS's sanctions against 63 nursing homes with a history of harming residents; determine which homes cycled in and out of compliance; examine the sanctions placed upon them; and to report on CMS's general management of sanctions. GAO's report, "Nursing Homes: Efforts to Strengthen Federal Enforcement Have Not Deterred Some Homes from Repeatedly Harming Residents," is troubling, to say the least.

GAO examined 63 nursing homes in California, Michigan, Pennsylvania, and Texas, all

of which had been identified in a prior report as having serious quality problems. Of these, 31-nearly half-continued to cycle in and out of compliance between fiscal years 2000 and 2005. While 27 of the 63 homes were cited 69 times for deficiencies warranting immediate sanctions, in 15 of these cases immediate sanctions were not imposed. Eight of the homes reviewed cycled in and out of compliance seven or more times each during this period. This does not make sense. These 31 homes - 2 of which are in California, 15 in Michigan, 5 in Pennsylvania, and 9 in Texas - appear to be only part of a nation-wide problem. Furthermore, GAO found that the sanctions CMS has imposed have had little effect because they are often imposed at the lower end of the available range.

In its report, GAO made several recommendations which would help solve these problems, including the development of an administrative process to collect monetary penalties before the exhaustion of appeals, a strengthening of certain sanctions, and an expansion of enforcement actions against homes with a history of noncompliance. I applaud these recommendations and look forward to seeing them implemented, though I think CMS should go further.

I am particularly interested in efforts to increase transparency and give the public better access to information about nursing home compliance. Currently, the public has access to nursing home information through "Nursing Home Compare," hosted at www.Medicare.gov. While this site is already an indispensable resource, it could be improved by identifying the worst nursing homes that repeatedly fall out of compliance, such as the 63 homes listed in the GAO report, though a "watch list."

That "watch list" would identify the homes that are repeat offenders and the sanctions that imposed upon them. By listing nursing homes and implemented enforcement actions online, the public would have easy access to this information and nursing homes should be incentives would have an extra incentive to meet quality standards. This list 1) should be easily accessible online, 2) ought to be searchable by location and name, and 3) should clearly identify the nursing home, the date of the sanction placed against it, and a detailed description of why the sanction was put in place.

The process of choosing a nursing home is a very important and personal one for thousands of American families every year. If CMS were to make such a watch list easily available to the public, families could make this important decision armed with complete information about a prospective nursing home's quality of care. As I know you share my commitment to ensuring that nursing home residents receive the quality care they deserve, I look forward to seeing your efforts to create such a watch list.

I would appreciate a briefing to my staff on this issue at your earliest convenience.

Sincerely,
Charles E. Grassley
Ranking Member