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# United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

A. JAY KHOSLA, STAFF DIRECTOR  
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October 18, 2017

Mr. Charles Smith  
Executive Commissioner  
Texas Health and Human Services Commission  
4900 N. Lamar Blvd.  
Austin, Texas 78751

Dear Mr. Smith:

We are writing to request information from Texas about its preparations for and responses to Hurricane Harvey as it relates to nursing homes and other similar facilities. The Senate Committee on Finance has jurisdiction over both the federal Medicare and Medicaid programs. As part of our oversight responsibilities, we want to ensure the safety of residents and patients in nursing homes and other similar facilities during natural and manmade disasters.

In 2005, the tragic deaths of nursing home residents during Hurricane Katrina highlighted the necessity for adequate emergency preparedness and response at the Federal, State, and local levels. Following Hurricane Katrina, the Office of Inspector General of the Department of Health and Human Services (OIG) issued a report detailing a number of problems with nursing home emergency preparedness nationwide as well as certain nursing homes' responses to recent hurricanes.<sup>1</sup> The OIG recommended that the Centers for Medicare & Medicaid Services (CMS) strengthen Federal standards for emergency plans and "encourage communication and collaboration between State and local emergency entities and nursing homes."<sup>2</sup> In a 2012 follow-up report, the OIG examined the responses of nursing homes to recent wildfires in the West, floods in the Midwest, and hurricanes on the Gulf Coast and East Coast and found that gaps in nursing home emergency preparedness and response continued to exist.<sup>3</sup> While CMS finalized new national emergency preparedness requirements for Medicare- and Medicaid-participating providers and suppliers a year ago,<sup>4</sup> those regulations have yet to be fully implemented.

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<sup>1</sup> Department of Health and Human Services, Office of Inspector General, *Nursing Home Emergency Preparedness and Response During Recent Hurricanes* (Aug. 2006).

<sup>2</sup> *Id.* at 22.

<sup>3</sup> Department of Health and Human Services, Office of Inspector General, *Gaps Continue to Exist in Nursing Home Emergency Preparedness and Response During Disasters: 2007-2010* (Apr. 2012).

<sup>4</sup> Medicare and Medicaid Programs; Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers, 81 Fed. Reg. 63,860 (Sept. 16, 2016).

In light of reported problems with emergency preparedness and response during Hurricane Harvey, we are seeking information regarding the effectiveness of the requirements for emergency preparedness and response for nursing homes and similar facilities at the State level. Therefore, we ask that you please respond to the following requests:

1. Identify the statewide emergency preparedness and response requirements that applied at the time of Hurricane Harvey to nursing homes and assisted living facilities in Texas.
2. Provide the number of nursing homes and assisted living facilities in Texas that (a) were evacuated during Hurricane Harvey or its aftermath and the reasons for the evacuation (*e.g.*, loss of power, flooding, precautionary evacuation), and (b) elected to shelter in place during the storm.
3. Is Texas taking and/or considering new measures to help nursing homes and assisted living facilities better prepare for and respond to natural and manmade disasters as a result of its experience during and after Hurricane Harvey?
4. We would like to find out more information about a particular facility in Dickinson, Texas—La Vita Bella—which received a great deal of media attention during Hurricane Harvey:<sup>5</sup>
  - a. Please confirm that La Vita Bella is an assisted living facility licensed by the Texas Health and Human Services Commission. For what services has the facility been licensed by your Commission? Are these licenses still active?
  - b. What emergency preparedness and response requirements applied to La Vita Bella at the time of Hurricane Harvey?
  - c. Provide the timeline of any communications (during and/or following the hurricane) between La Vita Bella and any State or local authorities, as well as the timeline for the precautionary or emergency evacuation of La Vita Bella's residents.
  - d. Describe the recent regulatory history of La Vita Bella (*e.g.*, inspections, surveys, corrective actions, re-certifications, and relicensing, including those conducted on behalf of CMS).

We appreciate your cooperation with the Committee as we seek information about Texas's emergency preparedness and response requirements. By providing this information, we can better understand what needs to be done at the Federal level to ensure that nursing homes and other similar facilities are prepared to respond to natural and manmade disasters. Please provide your responses to these questions as soon as possible, but no later than November 15,

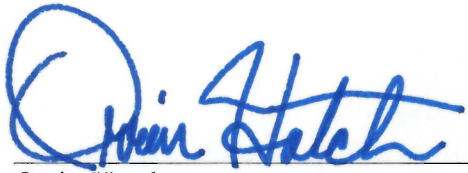
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<sup>5</sup> Jacey Fortin, *Behind the Photo of the Older Women in Waist-High Water in Texas*, N.Y. TIMES, Aug. 28, 2017, available at [https://www.nytimes.com/2017/08/28/us/nursing-home-houston-texas.html?\\_r=0](https://www.nytimes.com/2017/08/28/us/nursing-home-houston-texas.html?_r=0).

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October 17, 2017  
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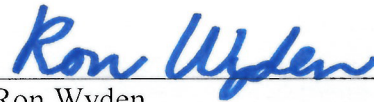
2017. If you have any questions, please contact [REDACTED]  
[REDACTED]

Sincerely,



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Orrin Hatch  
Chairman  
Senate Committee on Finance



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Ron Wyden  
Ranking Member  
Senate Committee on Finance