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April 28, 2020

The Honorable Alex Azar
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Azar:

AARP is deeply alarmed by the appalling numbers of deaths in nursing homes as a result of the COVID-19 pandemic. With at least 11,000 deaths in nursing homes and other long-term care facilities already reported, the gravity of this situation cannot be overstated. On behalf of our 38 million members, and especially on behalf of the 1.3 million Americans living in nursing homes, we are calling on the Administration and Congress to take **immediate** action to stem the loss of life and improve conditions in America's long-term care facilities.

Long-term care facilities are ground zero in the fight against the coronavirus, representing a shockingly high share of deaths – the number could be as many as 1 in 4 COVID-19 deaths in this country. Much more is needed to protect residents, staff, their loved ones, and the surrounding communities from this disease. AARP urges action on a three-point plan to slow the spread and save lives:

1. Care facilities must have the personal protective equipment (PPE) and testing they need to identify cases and prevent the spread of the virus, as well as adequate staffing to provide care.
2. Care facilities must be transparent and report publicly on a daily basis whether they have confirmed COVID-19 cases, and residents and families need information when loved ones are discharged or transferred out of their room or facility.
3. Virtual visitation must be made available and facilitated as a safety measure between residents and their families.

Ensure Access to Personal Protective Equipment, Testing, and Proper Staffing

We urge the Administration to take *immediate* steps to provide proper PPE and to ensure the proper use of PPE for all staff caring for individuals in nursing homes, assisted living communities, other

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residential care communities, home and community-based and other settings. In addition, where appropriate, care recipients themselves should also have PPE and help to properly use PPE to keep themselves and others safe as well. It has been two months since the first cases of COVID-19 emerged in nursing homes. It is now long overdue to get protective gear into every facility.

The only way to truly protect the health and safety of residents and staff is for facilities to have ready access to testing. Testing will help control the spread of the virus among the residents, staff, and the community at large as staff, emergency health care providers, on-site maintenance contractors, and others come and go from the facilities. AARP urges HHS and CMS to take immediate steps to ensure full access to testing for staff and residents of long-term services and supports (LTSS) facilities.

We are also deeply concerned about staffing shortages at residential care facilities. AARP urges HHS and CMS to take immediate action to ensure that staffing levels in these facilities are adequate and to work with and support states with critical staffing needs in facilities. HHS on its own, and working with Congress, should consider the best measures to appropriately recruit, train, retain, and compensate the health care and LTSS workforce, including home care workers, during this crisis. In addition, we urge you to provide guidance on how facilities should inform residents and family members when staffing shortfalls do occur as well as the steps they are taking to correct the problem.

Ensure Transparency of Information on COVID-19 Cases and Transfer and Discharge Rights

Recent guidance from CMS about requiring nursing homes to report confirmed cases of COVID-19 among residents and staff is a step toward much-needed transparency, but we strongly urge HHS to require the public release, on a daily basis, of the names of residential care facilities with confirmed COVID-19 cases among residents and staff. There must be appropriate enforcement to ensure facilities report this information in a timely way and that testing be consistent across facilities. To further help prioritize the public health response, and to ensure cases are not missed because of a lack of testing, we urge that all deaths also be reported (including by age, gender, and race) whether or not the deceased person had a confirmed case of COVID-19.

We are also concerned about reports of individuals being discharged or transferred from hospitals and unable to get back into their nursing home or other residential care. We recognize that transfer within a facility or discharge from a facility may be necessary in certain circumstances. However, facilities should be prohibited from discharging patients due to inability to pay for services during this pandemic. Furthermore, facilities should be required to provide timely notice and comprehensive information to residents and loved ones in the case of a transfer or discharge, including a summary of the resident's rights, information on visitation rights, the right to appeal a discharge or transfer, and written notice of the long-term care ombudsman's name and contact information prior to discharge.

Furthermore, we urge you to consider the need for long-term care ombudsmen to have in-person access to facility residents to help ensure their health, safety, welfare, and rights and for surveyors to have physical access to facilities for vital surveys, oversight, and enforcement of quality of care and quality of life for residents.

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. They are another set of eyes and ears who can help identify when there is a problem, or if their loved one is in danger. As in-person visits are largely halted and facilities face staffing challenges, maintaining communication between residents and loved ones virtually is critical for their health and safety.

The stories of people unable to say goodbye to their parents, grandparents, aunts and uncles is not only heartbreaking, it is outrageous. In America, when the technology to facilitate virtual visits is not only abundant, but increasingly affordable, it is nothing short of a scandal that these visits are still not available to many Americans in nursing homes and other residential care facilities.

CMS must require residential care facilities where visitors are restricted to make available and facilitate virtual visitation via phone calls and video-conference or other technologies for residents and their loved ones. This is not without precedent. The CARES Act (P.L. 116-136) included virtual visitation for federal prisoners. Certainly America's seniors deserve the same rights.

AARP urges CMS to pursue and also work with Congress on funding options for needed technology and equipment including videoconference, two-way audio/video options, acquisition or expansion of broadband internet access services, and services and items necessary to carry out virtual visits and telehealth appointments (including training for staff or others in how to use the technology, and assistance to residents to facilitate virtual visits), as well as consider how such communications could be part of telehealth. AARP supports the Advancing Connectivity during the Coronavirus to Ensure Support for Seniors Act (S. 3517/H.R. 6487) that would provide such funding, specifically grants to nursing homes to support virtual visits. Finally, we urge CMS to modify its March 13 guidance, as outlined in our March 17 letter to CMS, to strengthen nursing home communications with the primary caregiver(s) of nursing home residents.

Thank you for your prompt attention to this urgent challenge. Families all across the country are looking to HHS for swift action to protect the health and safety of their loved ones living in residential care facilities. If you have questions, please feel free to contact me or have your staff contact Rhonda Richards on our Government Affairs team at r-richards@aarp.org.

Sincerely,


Jo Ann C. Jenkins
Chief Executive Officer

cc: The Honorable Seema Verma