



601 E Street, NW | Washington, DC 20049
202-434-2277 | 1-888-OUR-AARP | 1-888-687-2277 | TTY: 1-877-434-7598
www.aarp.org | twitter: @aarp | facebook.com/aarp | youtube.com/aarp

May 11, 2020

The Honorable Lindsey Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Chairman Graham and Ranking Member Feinstein:

AARP, on behalf of our 38 million members and all older Americans nationwide, urges you to reject proposals to grant immunity related to COVID-19 for nursing homes, assisted living facilities, and other long-term care facilities as you hold your hearing, *Examining Liability During the COVID-19 Pandemic*. The pandemic has put residents' health, safety, and quality of care at unprecedented risk, as reflected by the horrific death tolls. AARP strongly urges you 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.

Nursing homes and other long-term care facilities play an important role in America's long-term services and supports system. There are 1.3 million nursing home residents in this country. During this pandemic, nursing homes and other residential care facilities face unprecedented challenges, and tragically more than 25,000 residents and staff have already lost their lives. Given that many states have not fully reported their cases and deaths, this outrageous number may be an undercount. Without immediate action – including increased protective equipment, testing, and treatment protocols – thousands more will likely die. While some circumstances may be beyond the facilities' control, it is essential that long-term care providers, as well as health care providers more broadly, remain responsible for any negligent actions that fail to protect the health and lives of residents.

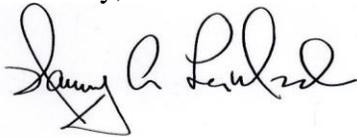
During this crisis, most inspections of nursing homes have been suspended, in-person family visits have been effectively prohibited, and in-person long-term care ombudsman visits have been restricted. Residents of nursing homes and other facilities, who are often unable to advocate for themselves, now have limited access to people who can advocate on their behalf. As a result, there is less oversight and attention to what is happening in facilities. This lack of oversight is

alarming and requires more than ever that residents and their families still have access to the courts to seek redress.

Litigation is an option of last resort, and no family member who has lost a loved one due to neglect or abuse pursues this course of action lightly. Pursuing a nursing home neglect or abuse case in court is not easy. Many state laws already impose very stringent caps on damages that can be recovered for the neglect or even death of a nursing home resident. At this time of limited oversight and accountability, and horrific death tolls, Congress should not strip away the rights and protections of residents. Nursing homes and other facilities should know they will continue to be held responsible for providing the required level of quality care. Legal accountability helps ensure facilities self-correct their behavior and address problems to improve care.

AARP appreciates your consideration of our views as you contemplate nursing home liability and the COVID-19 pandemic. Families all across the country are looking to Congress for swift action to protect the health and safety of their loved ones living in nursing homes, not action that will further limit accountability 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 richards@aarp.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy A. LeMond". The signature is fluid and cursive, with a large initial "N" and "L".

Nancy A. LeMond
Executive Vice President and
Chief Advocacy and Engagement Officer