

STATEMENT FOR THE RECORD

**American Health Care Association/National Center for Assisted Living
for the
Subcommittee on Employment and Workplace Safety
of the
U.S. Senate Committee on Health, Education, Labor and Pensions
“Hearing: Recruiting, Revitalizing & Diversifying: Examining the Health Care Workforce Shortage”
February 9, 2022**

Chairman Hickenlooper, Ranking Member Braun, and distinguished Members of the Senate Subcommittee on Employment and Workplace Safety, thank you for examining the critical needs of our health care system to strengthen its workforce. The American Health Care Association and the National Center for Assisted Living (AHCA/NCAL) appreciates the opportunity to submit for the record our comments regarding the severe shortage of health care workers in long term care (LTC) amid the current COVID-19 pandemic as well as our recommendations on recruiting, revitalizing, and diversifying the workforce.

AHCA/NCAL represents more than 14,000 non-profit and proprietary long term care facilities, including nursing homes, assisted living communities, and facilities for individuals with intellectual and developmental disabilities across the country. Collectively, this health care sector provides care to approximately five million people each year and employs nearly three million caregivers and other staff.

Prior to the pandemic, workforce recruitment and retention were among the most pressing challenges confronting long term care providers. Nurses and nurse aides were among the fastest growing occupations, but supply was not keeping pace. AHCA/NCAL has been calling for help for years, including testifying before Congress twice in 2019. The workforce shortages have been exponentially exacerbated in the past year as the COVID-19 pandemic rages on. Health care workers across the continuum who continue to battle against COVID-19 daily are overworked, overwhelmed, and suffering from burnout due to the relentless nature of this pandemic. Without any sustained relief, a number of caregivers are leaving the profession entirely.

Staff in long term care facilities in a variety of positions (nurses, nursing assistants, housekeepers, social workers, therapy, food service, activity professionals and administrators) have been particularly impacted as the novel coronavirus uniquely targets the residents they love and care for despite giving their all. They are also trying their best to manage what were at times in the first year of

the pandemic, daily changes or additions to their practice from state and federal agencies as we learned more about this virus. Concurrently, long term care staff have families or loved ones of their own. As the early part of pandemic caused schools to close and limit childcare options, we saw many of our LTC caregivers leave in order to prioritize the needs of their loved ones at home.

The overall numbers are crushing. According to [data](#) from the Bureau of Labor Statistics, employment levels in the entire long term care sector including nursing homes and assisted living communities are at a 15-year low, and the industry has lost more than 400,000 employees. Nursing homes, in particular, have lost 238,000 caregivers over the course of the pandemic – more than any other health care sector. This equates to loss of 15 percent of the total workforce, since the start of the pandemic. While workforce shortages exist across the healthcare system, hospitals, physicians’ offices, outpatient care centers and other health care facilities have nearly reached or surpassed pre-pandemic staffing levels. Despite the recovery being seen in these other sectors of health care, long term care facilities are still experiencing substantial job losses while continuing to battle COVID-19 and battle this pandemic.

Some state officials have recently had to call in reinforcements to help alleviate the situation. [Wisconsin](#) recently joined [Maine](#), [Minnesota](#), [New Jersey](#) and [New York](#) in deploying the National Guard to help short-staffed nursing homes. The [Associated Press](#) reports in Wisconsin, “The additional staffing should allow the nursing facilities to open up hundreds more beds that can receive recovering patients. That in turn should free up hospital capacity, according to the Evers administration.” It is important to note these reinforcements are only short term temporary and without comprehensive and sustained interventions do not provide a fix to the complex problems and needs.

Without meaningful support from federal and state governments, this problem is expected to worsen, ultimately limiting access to care for our nation’s seniors and individuals with disabilities. Workforce shortages have already caused many facilities to limit admissions, leaving potential residents and their families stranded for care alternatives. During the recent Omicron surge, it also created further strain as overwhelmed hospitals who rely on nursing homes were unable to free up space for the onslaught of COVID patients. In some cases, the lack of adequate staff has forced some LTC facilities to shut their doors permanently.

With America aging, both short-term and long-term federal solutions and directed supports are key to begin repopulating these critical health care positions so we can ensure access to high quality care for our nation’s seniors. The federal government has estimated nearly 27 million people will need some kind of long term care by 2050, magnifying the dire need of addressing the workforce shortages in a meaningful way that will provide a solid foundation for the future.

In partnership with LeadingAge, AHCA has put forth the [Care For Our Seniors Act](#), a bold reform agenda for the nursing home industry. One of the key pillars of the proposal is a [recruitment and retention workforce strategy](#) that consists of a multi-phase tiered approach to supply, attract, and retain the long term care workforce leveraging federal, state, and academic entities. These strategies

address real challenges experienced by the workforce including financial assistance for potential and current caregivers, training, educational opportunities to develop their skills, and streamlined pathways for professionals to build a career in long term care including career ladder and mentoring programs.

Additionally, the Care For Our Seniors Act includes strategies for policymakers to invest in nursing homes, so they can in turn invest in their workforce, care practices, infrastructure and more. The majority of nursing home residents rely on Medicaid; however, the program is notoriously underfunded, covering only 70 to 80 percent of the actual cost required to care for residents. With 70 percent of nursing home expenses going to labor, providers dedicate extensive resources to their staff. However, these limited government reimbursement rates make it difficult for providers to make additional investments in their workforce and compete against other employers, including those in and out of the health care field. The Care For Our Seniors Act suggests increasing federal Medicaid funds through enhanced Federal Medical Assistance Percentages (FMAP), as well as a federal framework for “allowable” or “reasonable” cost to ensure that states keep their Medicaid rates consistent to ensure nursing homes are able to provide high quality and investment in their workforce. In the interim, we need immediate solutions to address this workforce crisis. Congress should replenish the Provider Relief Fund created by the CARES Act to help all health care providers, but specifically long term care, recruit and retain frontline heroes.

Born out of this COVID-19 pandemic, the [Temporary Nurse Aide role which was allowed by the 1135 waiver under the Public Health Emergency](#), has brought immense support to sustaining care and services for residents in nursing homes, attracting over 270,000 individuals across the nation interested in the call to serve our nation’s elders. The temporary nurse aide role which includes helping residents in nursing homes with activities of daily living and offering companionship is a valuable first step on the direct caregiving path that did not exist before and is a major source of hope for the future if it can be retained. Individuals who have become Temporary Nurse Aides include those who have long wanted to serve in direct care capacities such as a Certified Nursing Assistants (CNAs) but their life commitments did not allow for completing the traditional CNA training program, as well as those who impacted by this pandemic wanted to do more meaningful work and left their jobs to find that meaning as a Temporary Nurse Aide, to those who were displaced from their jobs and working as a temporary nurse aide provided them with employment and stability. From a survey AHCA/NCAL performed with temporary nurse aides, many respondents noted that they took the training as a gateway into broader career opportunities in nursing or other health care professions, to return to prior work in nursing care, and/or to learn a new skill and enhance their further job opportunities.

All of the temporary nurse aide caregivers who have gained thousands of hours of on-the-job supervised training and experience deserve support and the opportunity to retain their jobs while they are working towards becoming fully certified nursing assistants or pursuing other health care career opportunities. Without action by Congress, when the 1135 waiver ends, only 4 months is allowed in statute for temporary nurse aides to become CNAs or they cannot continue working in nursing homes. State capacities are not

sufficient to accommodate the training and testing needs for thousands of temporary nurse aides in this short timeframe, thus another solution is needed to retain these caregivers so they are not facing job loss and residents in nursing homes are not facing the loss of caregivers who know them and love them. We cannot lose these heroes who continue to step up to serve our nation's seniors in a time of crisis. **We ask that Congress provide a reasonable grace period to continue the emergency waivers after the public health emergency ends to enable all Temporary Nurse Aides who wish to, the ability to transition to long-term roles.**

The temporary nurse aide role is a model example that encompasses recruitment, retention, and upskilling. Recruitment, because it is a new entry point that has shown outstanding success in attracting individuals to the role and profession that would not have entered before, creating a new pipeline of caregivers. Retention and upskilling combined, because with the right supports, sets a reachable path for advancement to CNA and fuels a desire and vision for growth in the health care profession which has enormous possibilities, including a career ladder development approach such as entering nursing school to become a Licensed Practical Nurse (LPN) or Registered Nurse (RN). This depicts how an apprenticeship like program such as the temporary nurse aide can truly improve lives for both the temporary nurse aide caregiver and the residents they serve. Continuing and enhancing the temporary nurse aide role is the perfect opportunity to deliver progress on recruiting, revitalizing, and diversifying the workforce.

It is important to note that that a growing barrier nursing homes are facing that is actively deterring recruitment, retention and upskilling is caused by the current statutory requirements for Nurse Aide Training and Competency Evaluation Program (NATCEP) prohibition. The Centers for Medicare and Medicaid Services (CMS) imposes this prohibition on a facility which "locks them out" from providing CNA training when a civil monetary penalty (CMP) is imposed of an amount greater than \$11,160. The prohibition blocks the facility from providing CNA training for two years regardless of when the facility has corrected the deficient practice and even continues the ban after the facility is verified by the survey agency to be in substantial compliance. The negative impact this two year ban has had on facilities and their abilities to respond to workforce development needs has been raised by AHCA and other stakeholders for years seeking relief such as to allow the training program to be reinstated when the facility has completed corrective action for the deficiency that the CMP was assessed. Unfortunately, over the course of this pandemic, CMS has been aggressively issuing CMPs which has resulted in a substantial increase in facilities that are prohibited from providing CNA training. As shown in the table below, the percent of facilities with NATCEP ban has doubled from 11 percent in 2018 to 22 percent in 2021 with the highest increase experienced from 2020 to 2021. **It is more urgent than ever that Congress change this archaic prohibition, at a minimum to reinstate a facility's ability to provide CNA training as soon as corrective action for the deficiency that the CMP was assessed is completed.**

State	Year of Data	Count of Facilities with Survey Cycles in Year	Count of Facilities in the Nation with a NATCEP Ban	Percent of Facilities with NATCEP Ban
Nation	2018	13529	1494	11 percent
Nation	2019	14210	1788	13 percent
Nation	2020	14540	2316	16 percent
Nation	2021	14117	3121	22 percent

Additional ways Congress can help break down barriers to entry for individuals who want to serve and grow in the healthcare field involves connecting to and prioritizing these individuals for funding supports from sources like nursing workforce development program funding and health profession diversity program funding. [According to data from PHI](#), 91 percent of nurse aides in nursing homes are women and 58 percent of nurse aides are people of color. 53 percent of nurse aides in nursing homes are women of color. [According to data from BLS](#), looking across all nursing home staff, 83.6 percent are women and 44 percent are people of color. **We ask for long term care, nursing homes to be included in such workforce development funding programs including for nurse aides, licensed practical nurses, registered nurses, and other healthcare professionals so these individuals can benefit from these key supports that enable career growth and development.**

We are open to all ideas that will support the recruitment, retention, revitalizing and diversifying of our workforce. We have been active in immigration policies and solutions. Last year, AHCA/NCAL led a LTC coalition [letter](#) to the State Department focused on the workforce crisis, and offered solutions to the Department to help address the crisis. We have heard from providers the immigrant visa processing is incredibly backlogged due to COVID-19 and reduced staffing at U.S. embassies and consulates, and many of the health care professionals with offers from U.S. LTC facilities with approved immigrant petitions have been waiting for many months, in some cases more than a year, for a visa interview appointment.

AHCA/NCAL also recently sent a [coalition letter](#) to the Department of Homeland Security and U.S. Citizenship and Immigration Services (USCIS) on workforce supply related issues. In the letter, the Coalition noted that the U.S. currently has a labor shortage in many sectors, not the least of which is the health care industry. One issue is the significant delay in USCIS processing Employment

Authorization Document (EAD) renewals. Some employees have had to stop working due to USCIS not timely processing the EAD renewals, while others are at risk of soon losing work authorization due to the delays.

We were pleased to see that USCIS recently came out with an announcement noting that effective immediately, if you are a healthcare worker who has a pending Employment Authorization Document (EAD) renewal application (Form I-765, Application for Employment Authorization) and your EAD expires in 30 days or less or has already expired, you can request expedited processing of your EAD application.

We endorse bipartisan legislation ([Healthcare Workforce Resilience Act -- S. 1024/H.R. 2255](#)) – supported by Subcommittee members Rand Paul and Patty Murray – which would recapture unused visas from previous fiscal years for doctors, nurses, and their families. This legislation allows the entry of nurses with approved immigrant visas and allows physicians with approved immigrant petitions to adjust their status, so that they can help our nation fight COVID-19 and have a durable immigration status. In addition to setting aside these previously unused visas for physician and nurses, the bill also would require the U.S. Department of Homeland Security and State Department to expedite the processing of recaptured visas for highly trained nurses. Ensuring an adequate supply of nurses and physicians during the ongoing COVID-19 pandemic is critical, and AHCA/NCAL has led and endorsed various efforts to expediate immigrant visa processing to bring healthcare workers to the U.S.

AHCA/NCAL is also partnering with prominent refugee organizations noting that our centers are here with a variety of positions for refugees that would like to work in them. We [participated](#) in a virtual roundtable with CEOs from major American companies to discuss Operation Allies Welcome, an effort by the White House to support Afghan refugees as they resettle in the US. We are working to partner with prominent refugee organizations on LTC careers available.

We also are interested in expanding the critical shortage definition noted in the HRSA loan repayment program to also cover the LTC sector and for HRSA funding in general for LTC workforce support. We think that this would be a huge help to the health care worker pipeline.

The ongoing COVID-19 pandemic has brought unprecedented demands on the nation's health care system. The heroic caregivers of long term care facilities have been working day in and day out during the entirety of the pandemic, and desperately need help from state and federal governments to weather the storm. The recommendations we have outlined are a start to building a strong workforce to ensure that all of our nation's seniors will continue to have access to high-quality care in 10 years, 20 years, 30 years and beyond.

We share deep respect and heartfelt gratitude to the hundreds of thousands of individuals who every day show up ready to provide excellent, high quality care to nursing home and assisted living community residents across this great nation. They are the light amidst the darkness and pain of this pandemic.

We thank the HELP Subcommittee on Employment & Workplace Safety for your attention to these issues, for holding this hearing and for your consideration of our comments and recommendations on behalf of our 14,000 members providing care to approximately five million people each year. Please know that we are here to answer any questions you might have. Our facility members welcome the opportunity to visit with you at any time as well about these workforce shortages and solutions. We are ready and look forward to working with Congress to address these important issues.