United States Government Accountability Office

Testimony

Before the Committee on Finance, U.S. Senate

For Release on Delivery
Expected at 10:00 a.m. ET
Wednesday, March 17, 2021

COVID-19 IN NURSING HOMES

HHS Has Taken Steps in Response to Pandemic, but Several GAO Recommendations Have Not Been Implemented

Statement of John E. Dicken, Director, Health Care

Accessible Version

GAO@100

A Century of Non-Partisan Fact-Based Work

GAO-21-402T

GAO Highlights

Highlights of GAO-21-110, a report to the Chairman, Committee on Indian Affairs, United States Senate

March 2021

NATIVE AMERICAN CULTURAL RESOURCES

Improved Information Could Enhance Agencies' Efforts to Analyze and Respond to Risks of Theft and Damage

Why GAO Did This Study

Federal laws prohibit the theft and damage of Native American cultural resources, such as pottery, tools, and sacred objects, on federal and Indian lands. Federal agencies help protect these resources by attempting to prevent theft and damage and by investigating and prosecuting such crimes. These agencies include the Department of Agriculture's U.S. Forest Service; the Department of the Interior's Bureau of Indian Affairs, Bureau of Land Management, U.S. Fish and Wildlife Service, and National Park Service; the U.S. Army Corps of Engineers; and the Tennessee Valley Authority.

GAO was asked to review these agencies' efforts. This report examines (1) approaches selected federal agencies have taken to prevent and detect theft and damage; and (2) factors that have hindered agencies' efforts to prevent, investigate, and prosecute incidents of theft and damage. GAO analyzed data from seven federal agencies, reviewed agency documents, and interviewed agency officials and representatives of Native American tribes.

What GAO Recommends

GAO is making seven recommendations that each agency take steps to identify and obtain information to enhance their ability to analyze and respond to risks to Native American cultural resources. The agencies generally concurred with the recommendations.

View GAO-21-110. For more information, contact Anna Maria Ortiz at (202) 512-3841 or ortiza@gao.gov.

What GAO Found

Seven federal agencies that GAO reviewed have taken a variety of approaches to help prevent and detect the theft and damage of Native American cultural resources on federal and Indian lands that may contain such resources. These agencies' approaches included conducting public awareness programs, installing physical protection measures (see photo), and monitoring sites with electronic surveillance equipment. For example, the Bureau of Land Management has partnered with a tribe to host an event in Colorado to remove graffiti and address vandalism on canyon walls and rock art and increase public awareness about the importance of protecting these and other Native American cultural resources.

A National Park Service Sign in Arizona Aims to Prevent Theft and Damage

Source: GAO. | GAO-21-110

Agency officials cited various factors hindering their efforts to prevent, investigate, and prosecute incidents of theft and damage to Native American cultural resources. These factors included resource constraints and limitations with data to support decision-making. For example, officials from all seven agencies said that funding and staff constraints limit their capacity to implement costly prevention measures, such as shore stabilization or physical surveillance. In addition, officials from four of the seven agencies said that not being able to readily access incident data hindered their ability to decide where to focus prevention measures. Officials from three agencies said that limited data on the location and condition of archeological sites hindered their ability to investigate incidents of theft and damage. To address risks in protecting Native American cultural resources, given constrained resources, agencies need sufficient information to support decisions and target efforts. Taking steps to obtain such information would provide agencies with a more informed basis for allocating resources to mitigate the greatest risks to Native American cultural resources. For example, agencies could identify ways to facilitate easier retrieval and analysis of the location and condition of Native American cultural resources to better align available resources with high-priority sites when considering where to implement protective measures.

Chairman Wyden, Ranking Member Crapo, and Members of the Committee:

I am pleased to be here today to discuss our work on Coronavirus Disease 2019 (COVID-19) in nursing homes. Just over a year ago, a Washington State nursing home was battling one of the first major COVID-19 outbreaks in the United States. Today, the COVID-19 pandemic has reached nearly all of the more than 15,000 Medicare- and Medicaid-certified nursing homes in the country, resulting in a disproportionately high number of COVID-19 deaths among residents. While the nation's 1.4 million nursing home residents are a small share of the total U.S. population (less than 1 percent), they comprise nearly 30 percent of COVID-19 deaths reported by the Centers for Disease Control and Prevention (CDC). Nursing home residents are at a high risk for COVID-19 infection and death because the virus has a high mortality rate among elderly adults and those with underlying health conditions. In addition, the congregate nature of nursing homes, with staff caring for multiple residents and shared communal spaces, as well as high incidence rates in the surrounding community, can increase the risk that COVID-19 will enter the home and easily spread. Further, efforts to reduce the spread of COVID-19 in nursing homes have required changes in typical nursing home practices—such as restricting visitors and isolating residents exposed to COVID-19—raising concerns for vulnerable residents, who may have less social interaction and third party oversight of their care.

The Centers for Medicare & Medicaid Services (CMS), an agency within the Department of Health and Human Services (HHS), is responsible for ensuring that nursing homes meet federal quality standards to participate in the Medicare and Medicaid programs.[1] In response to the pandemic, HHS, primarily through CMS and CDC, has taken a series of actions with nursing homes, such as providing guidance, developing targeted inspections to improve infection control practices, and distributing testing

[1]To monitor compliance with these standards, CMS enters into agreements with state survey agencies in each state government to conduct inspections, including recurring comprehensive standard surveys and as-needed investigations. CMS's Center for Clinical Standards and Quality has responsibility for overseeing state survey agencies' survey and certification activities, among others.

devices to homes.[2] In addition, in May 2020, CDC began collecting weekly COVID-19 data from nursing homes through its National Healthcare Safety Network system.

The CARES Act includes a provision for us to conduct monitoring and oversight of the federal government's efforts to prepare for, respond to, and recover from the COVID-19 pandemic.[3] In response to the CARES Act, we have examined the response to COVID-19 in nursing homes in four reports since June 2020. To help inform today's discussion, my testimony will summarize our findings on nursing home issues from these reports.[4] In particular, my statement will address:

1. COVID-19 trends in nursing homes and their experiences responding to the COVID-19 pandemic, and
2. HHS's response to the COVID-19 pandemic in nursing homes.

In addition, I will highlight key actions that we recommended HHS take and the current status of those recommendations. While my comments today focus on the findings of our CARES Act reports, they are also informed by our longer-term body of work examining nursing home oversight and quality prior to the pandemic.

To conduct the work for the previously issued reports on which my comments are based, we reviewed CDC data, agency guidance, and other relevant information on HHS's response to the COVID-19 pandemic. We interviewed agency officials, as well as researchers with experience in infection control, advocates for individuals residing in nursing homes and their families, national associations representing nursing homes, and representatives from associations representing state and local officials. More detailed information on our methodology can be

[2]In our May 2020 report, we found that infection control deficiencies were widespread and persistent in nursing homes in the years prior to the COVID-19 pandemic. See GAO, *Infection Control Deficiencies Were Widespread and Persistent in Nursing Homes Prior to COVID-19 Pandemic*, GAO-20-576R, (Washington, D.C.: May 20, 2020).

[3]Pub. L. No. 116-139, § 19010(b), 134 Stat. 281, 579 (2020).

[4]See GAO, *COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and Other Challenges Require Focused Federal Attention*, GAO-21-265, (Washington, D.C.: Jan. 28, 2021); *COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response*, GAO-21-191, (Washington, D.C.: Nov. 30, 2020);*COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions*, GAO-20-701, (Washington, D.C.: Sept. 21, 2020); and *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts*, GAO-20-625, (Washington, D.C.: June 25, 2020).

found in the issued reports.[5] In addition, we supplemented this information with updated data from CDC on COVID-19 reported by nursing homes for the week ending February 7, 2021.[6] We analyzed the CDC data as they were reported by nursing homes to CDC and publicly posted by CMS. We did not otherwise independently verify the accuracy of the information with these nursing homes. We assessed the reliability of the data sets used in our analyses by checking for missing values and obvious errors and reviewing relevant CMS and CDC documents. We determined the data were sufficiently reliable for the purposes of our reporting objective.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[5]For example, see GAO-21-265.

[6]We analyzed the most recent data available on February 18, 2021. The CDC data on COVID-19 in nursing homes were accessed on February 18, 2021, for the week ending February 7, 2021, from https://data.cms.gov/Covid19-nursing-home-data. For the data on COVID-19 in nursing homes, we analyzed and reported data that had been determined by CDC and CMS to pass quality assurance checks for data entry errors. According to CDC, data used in this analysis are part of a live data set, meaning that facilities can make corrections to the data at any time.

Nursing Home COVID-19 Cases and Deaths Are Declining after Winter Surge; Persistent Challenges Remain in Pandemic Response

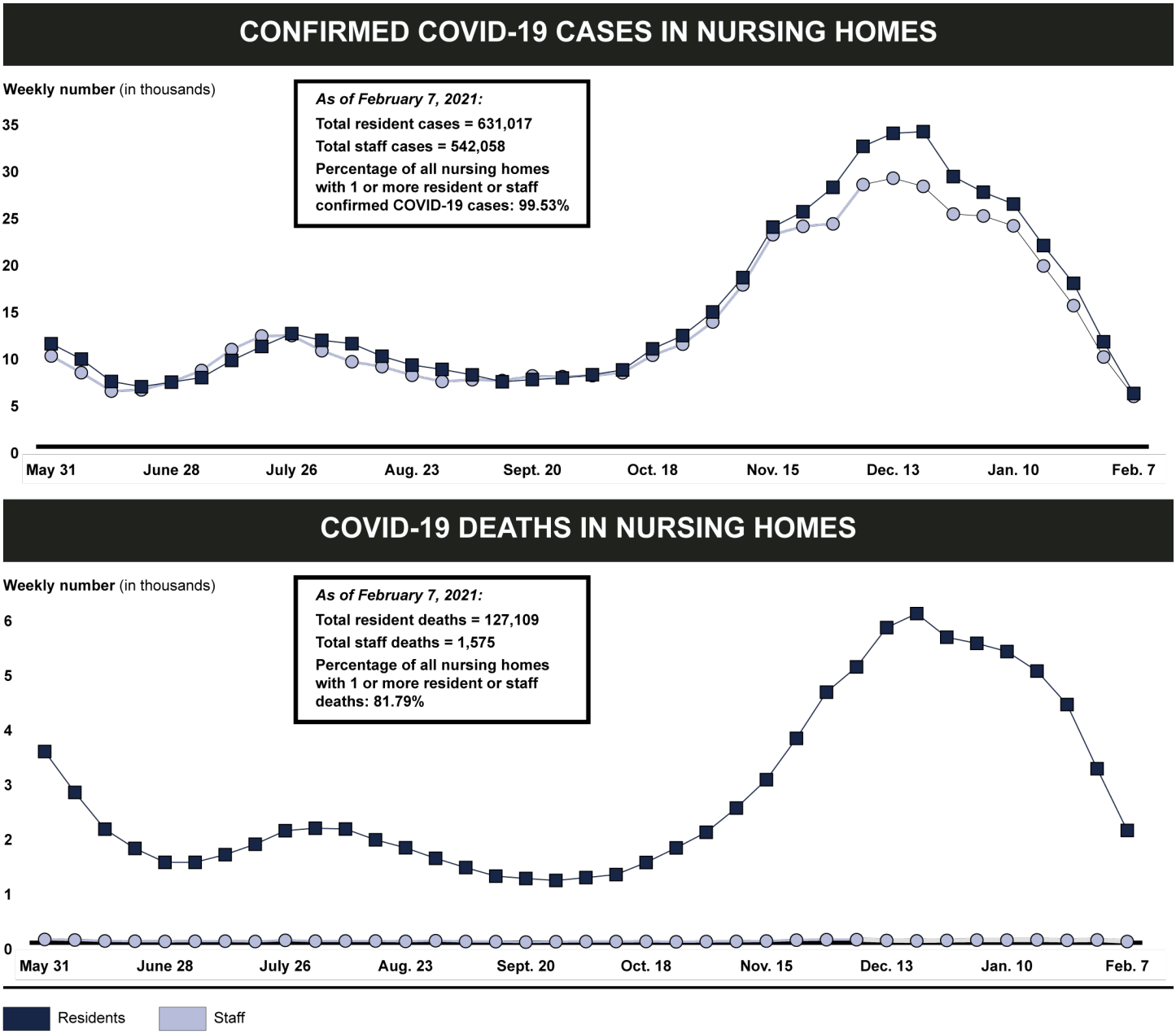
After a Winter Surge, CDC Data Show a Decline in COVID-19 Cases and Deaths among Nursing Home Residents and Staff to Levels Closer to Those of Fall 2020

Our analysis of CDC data shows that winter 2020 was marked by a significant surge in the number of COVID-19 cases and deaths for nursing home residents and staff. Specifically, during mid-December 2020, there were more than 33,600 new resident cases and 28,600 new staff cases, which was more than twice as high as the prior case number peaks in summer 2020. CDC data show that cases and deaths in nursing homes are on the decline. Specifically, as of the week ending February 7, 2021, resident and staff cases have both declined by more than 80 percent since their peaks in December 2020. The changing weekly COVID-19 death counts in nursing homes generally moved in the same direction as changes in the country as a whole. With the introduction of vaccines, observers are hopeful that nursing homes may be beginning to see a reprieve; however, the emergence of more highly transmissible

virus variants warrants the need for continued vigilance, according to public health officials.[7] (See fig. 1).

[7]These numbers are likely underreported because they do not include data for the 998 nursing homes (6.5 percent) that did not report COVID-19 data to CDC for the week ending February 7, 2021, or that submitted data that failed data quality assurance checks. The week ending May 31, 2020, is the first single week of data reported to CDC. The week ending May 24 is the only earlier week of data, and could potentially include cases and deaths for multiple weeks dating back to January 1, 2020, for those homes which voluntarily reported such data. It is therefore not comparable with data for other weeks, and we excluded it. According to CDC, data used in this analysis are part of a live data set, meaning that facilities can make corrections to the data at any time.

Figure 1: New Weekly Confirmed COVID-19 Cases and Deaths among U.S. Nursing Home Residents and Staff, as Reported by Medicare- and Medicaid-Certified Nursing Homes, May 31, 2020, through Feb 7, 2021



Source: GAO analysis of Centers for Disease Control and Prevention (CDC) data. | GAO-21-402T

Data table for Figure 1: New Weekly Confirmed COVID-19 Cases and Deaths among U.S. Nursing Home Residents and Staff, as Reported by Medicare- and Medicaid-Certified Nursing Homes, May 31, 2020, through Feb 7, 2021

	New Weekly Cases		New Weekly Deaths	
Week ending	Residents	Staff	Residents	Staff
31-May	10,988	9,674	3,497	61
7-Jun	9,341	7,895	2,750	51
14-Jun	6,954	5,931	2,078	33
21-Jun	6,406	6,063	1,725	29
28-Jun	6,888	6,889	1,472	25
5-Jul	7,376	8,131	1,472	28
12-Jul	9,203	10,364	1,612	30
19-Jul	10,687	11,809	1,802	24
26-Jul	12,067	11,860	2,050	45
2-Aug	11,344	10,238	2,095	31
9-Aug	10,999	9,065	2,081	33
16-Aug	9,650	8,544	1,883	33
23-Aug	8,709	7,621	1,737	26
30-Aug	8,247	6,954	1,544	38
6-Sep	7,660	7,151	1,375	24
13-Sep	6,927	7,052	1,219	21
20-Sep	7,160	7,548	1,176	13
27-Sep	7,327	7,472	1,139	20
4-Oct	7,679	7,580	1,192	23
11-Oct	8,185	7,886	1,247	23
18-Oct	10,436	9,757	1,468	24
25-Oct	11,853	10,935	1,736	18
1-Nov	14,365	13,305	2,021	23
8-Nov	18,043	17,260	2,464	25
15-Nov	23,425	22,612	2,982	32
22-Nov	25,061	23,503	3,738	49
29-Nov	27,666	23,765	4,582	57
6-Dec	32,041	27,953	5,043	57
13-Dec	33,428	28,639	5,762	42
20-Dec	33,601	27,765	6,019	35
27-Dec	28,816	24,819	5,586	43
3-Jan	27,144	24,607	5,474	50
10-Jan	25,887	23,554	5,326	49

	New Weekly Cases		New Weekly Deaths	
Week ending	Residents	Staff	Residents	Staff
17-Jan	21,455	19,277	4,968	53
24-Jan	17,423	15,046	4,357	45
31-Jan	11,193	9,570	3,183	52
7-Feb	5,672	5,368	2,054	23

Notes: Dates refer to the end of a week (e.g., May 31 refers to the entire week from May 25 through May 31).

According to CDC, data used in this analysis are part of a live data set, meaning that facilities can make corrections to the data at any time. Data presented reflect the data downloaded as of February 18, 2021, which includes data through the week ending February 7, 2021. We excluded data for the week ending May 24, 2020, because it is the first week for which data are available from the CDC and could include cases and deaths from multiple weeks dating back to January 1, 2020.

Weekly and cumulative case and death counts are likely underreported because they do not include data for the nursing homes that did not report COVID-19 data to CDC for that week or from nursing homes that submitted data that failed data quality assurance checks. Additionally, as we previously reported, the Centers for Medicare & Medicaid Services (CMS) does not require nursing homes to report data prior to May 2020, although nursing homes may do so voluntarily. We recommended that the Secretary of Health and Human Services—in consultation with CMS and CDC—develop a strategy to capture more complete data on confirmed COVID-19 cases and deaths in nursing homes retroactively to January 1, 2020. See GAO, *COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions*, GAO-20-701, (Washington, D.C.: Sept. 21, 2020).

Weekly staff deaths reported for the weeks ending May 31 through February 7 ranged from 13 (week ending September 20, 2020) to 61 (week ending May 31, 2020).

Some Challenges Nursing Homes Faced Persisted While Other New Challenges Have Emerged

In our prior CARES Act reports, we found that nursing homes have faced many difficult challenges battling COVID-19.[8] While challenges related to staffing shortages have persisted through the pandemic, challenges related to obtaining Personal Protective Equipment (PPE) and conducting COVID-19 tests—although still notable—have generally shown signs of improvement since summer 2020. Further, with the decline in nursing home cases, CMS updated its guidance in March 2021 to expand resident visitation, an issue that has been an ongoing and persistent challenge during the pandemic. Some new challenges have also emerged as vaccinations started for nursing home residents and staff. (See table 1). Some of these challenges, such as staffing shortages, obtaining PPE, and conducting testing, are critically important for infection control.

[8]See GAO-20-701; GAO-21-265; GAO-21-191; and GAO-20-625.

Table 1: Key Pandemic Challenges Experienced by Nursing Homes

Challenge	Description	Status
Visitation	Through interviews with researchers, advocacy organizations, and national association officials from July 2020 to February 2021, we consistently heard that nursing homes have faced an ongoing tension between providing residents with important visitation and minimizing the potential for a COVID-19 outbreak: • The restriction of visitors has negatively affected residents' mental and physical health. Researchers and advocacy organizations have noted that the isolation resulting from decreased visitation can cause loneliness, anxiety, and depression among residents. • The restriction of visitors has created limited oversight of facilities through the exclusion of resident advocates, such as family members and ombudsmen.	Challenge has persisted throughout pandemic
Staffing	In our reviews of data from the Centers for Disease Control and Prevention (CDC) and interviews with advocacy organization and national association officials from July 2020 through January 2021, we consistently found that nursing home staffing challenges were difficult and ongoing throughout the pandemic: • CDC data from July through December 2020 consistently show that about one in five nursing homes were reporting to CDC that they had a shortage of nurse aides or other support staff.[a] • From nursing home associations we interviewed, we heard that many alternative staffing sources have been used to fill critical gaps, such as seeking help from staffing agencies, sharing staff between other local providers, and using emergency waivers to hire nurse aides who had yet to complete their certification. As of January 2021, we continued to hear that staff are exhausted, face burn-out from emotional trauma, need to quarantine due to exposure to or illness from the virus, or stay home to take care of family members—all of which further strains staffing resources.	Challenge has persisted throughout pandemic
Personal Protective Equipment (PPE)	According to our reviews of data from the CDC and interviews with advocacy organization and national association officials from July 2020 to January 2021, shortages of PPE in nursing homes have improved since the beginning of the COVID-19 pandemic but remain an issue: • CDC data show that, as recently as December 2020, about 10 percent of nursing homes did not have a one-week supply of at least one of the following: N95 respirators, surgical masks, gloves, eye protection, or gowns (a decrease from about 22 percent of nursing homes in July 2020). • In interviews with advocacy organizations and national association officials from July 2020 to January 2021, we heard that, while challenges maintaining PPE supplies in reserve is an ongoing concern, supply shortages have become less severe over time.	Challenge has generally shown improvement

Challenge	Description	Status
Testing	According to our reviews of CDC data and interviews with a researcher and with nursing home association officials in November 2020 and January 2021, nursing homes' ability to use testing to identify infected residents and staff through testing protocols has improved over the course of the pandemic, but at a high cost to nursing homes: • Nursing homes have reported to CDC improved testing capacity. Specifically, the number of nursing homes testing for COVID-19 in both staff and residents has increased by 48 percentage points—from 35 to 83 percent—between August 16, 2020, and November 22, 2020, the last week complete data for overall testing were available. • Although data reported in December 2020 by nursing homes found that less than 2 percent of nursing homes would be unable to test all staff or residents within the week if needed, nursing home association officials note that the high cost of continuous testing is not sustainable indefinitely.	Challenge has generally shown improvement
Vaccinations	According to our reviews of a CDC analysis of vaccination data and interviews with nursing home and state and local government officials, nursing homes face some emerging challenges related to vaccinations: • A February 2021 CDC study estimated low rates of vaccine uptake among nursing home staff (38 percent) compared to nursing home residents (78 percent) participating in the Pharmacy Partnership for Long-Term Care Program.[b] • In interviews with nursing home and state and local government association officials since the vaccines were first administered in December 2020, we heard about reluctance among some nursing home staff to receive the COVID-19 vaccine, in addition to hearing about uncertainty around certain aspects of vaccination distribution and requirements earlier in the year.	Emerging challenge

Source: GAO review of CDC data and interviews. | GAO-21-402T

[a]According to CDC's data documentation, other support staff may include certified nursing assistants, medication aides, and medication technicians as reported to CDC by the provider.

[b]R. Gharpure, et al., "Early COVID-19 First-Dose Vaccination Coverage Among Residents and Staff Members of Skilled Nursing Facilities Participating in the Pharmacy Partnership for Long-Term Care Program—United States, December 2020-January 2021," Centers for Disease Control and Prevention Morbidity and Mortality Weekly Report, vol. 70, no. 5 (2021): 178-182.

HHS Has Taken Steps in Response to COVID-19, but Several Relevant GAO Recommendations Have Not Been Implemented

Our prior CARES Act reports have described how HHS, primarily through CMS and CDC, has taken a series of actions to address COVID-19 in nursing homes, such as providing guidance to nursing homes on infection

control practices and issuing waivers and regulatory flexibilities.[9] Examples of other actions include:

- Temporarily suspending state survey agencies' standard surveys and many complaint investigations, instead shifting to targeted infection prevention and control surveys and high-priority complaint investigations.[10]
- Creating a new reporting requirement for nursing homes to report weekly COVID-19 cases and deaths for residents and staff as of May 8, 2020.
- Distributing antigen diagnostic tests and associated point-of-care testing instruments to nursing homes.
- Distributing billions of dollars in payments from the Provider Relief Fund, established with funds provided under the CARES Act and other COVID-19 relief laws, as direct payments to assist nursing homes with responding to COVID-19.[11]
- Convening the Coronavirus Commission on Safety and Quality in Nursing Homes (the Nursing Home Commission) in June 2020, which was tasked with assessing the response to the COVID-19 pandemic in nursing homes and made recommendations for additional actions CMS could take.

[9]For example, in March 2020 CMS waived the requirement that a nursing home not employ nurse aides for more than 4 months unless they meet certain training and certification requirements. This was done to address potential staffing shortages in nursing homes due to the COVID-19 pandemic.

[10]On June 1, CMS issued survey re-prioritization guidance as part of its nursing home reopening strategy. Specifically, once a state enters phase 3—a threshold based on factors including case status in the community and the nursing home, as well as access to testing, PPE, and adequate staffing—state survey agencies were authorized to expand beyond conducting targeted infection control surveys and high-priority complaint investigations to include lower-priority complaint investigations. See Centers for Medicare & Medicaid Services, "COVID-19 Survey Activities, CARES Act Funding, Enhanced Enforcement for Infection Control Deficiencies, and Quality Improvement Activities in Nursing Homes," QSO-20-31-ALL, (Baltimore, Md.: June 1, 2020). On August 17, CMS revised this guidance to authorize traditional, comprehensive, standard surveys and lower-priority complaint investigations as soon as state survey agencies have the resources, such as staff and PPE. See Centers for Medicare & Medicaid Services, "Enforcement Cases Held During the Prioritization Period and Revised Survey Prioritization," QSO-20-35-ALL, (Baltimore, Md.: Aug. 17, 2020).

[11]As of January 15, 2021, $5 billion in Provider Relief Funds had been allocated for nursing homes and $4.764 billion had been disbursed.

- Establishing the Pharmacy Partnership for Long-Term Care Program in October 2020, an agreement with CVS, Walgreens, and Managed Health Care Associates Inc. to provide and administer COVID-19 vaccines to residents of long-term care facilities, including nursing homes.
- Directing nursing homes to expand resident visitation beginning in March 2021, after previously restricting visitors and non-essential health care personnel in nursing homes, except in certain compassionate care situations, to reduce the transmission of COVID-19.[12]

However, HHS has not implemented several of our recommendations that could help the agency address some of the challenges nursing homes have faced and fill important voids in the federal government's understanding of, and transparency around, data on COVID-19 in nursing homes. (See app. I for a description of related GAO reports and the status of their recommendations.)

- **HHS has not implemented our recommendation related to the Nursing Home Commission report.** CMS released the Nursing Home Commission's final report in September 2020, which includes 27 recommendations organized under 10 themes—such as Testing and Screening, Equipment and PPE, Workforce (staffing), and Visitation—that are paired with over 100 specific action steps for CMS.[13] CMS released a response to the report broadly outlining the actions the agency has taken to date as part of its response to the COVID-19 pandemic, but the agency did not provide an implementation plan that would allow it to track and report progress toward the Commission's recommendations.

  We recommended in November 2020 that the Administrator of CMS quickly develop a plan that further details how the agency intends to respond to and implement, as appropriate, the 27 recommendations in the final report of the Coronavirus Commission on Safety and Quality in Nursing Homes. HHS neither agreed nor disagreed with our recommendation; instead, it highlighted actions CMS has taken related to Commission recommendations and indicated that it would

[12]CMS restricted visitors and non-essential health care personnel in nursing homes from March through September 2020. In September 2020, CMS issued guidance that allowed for nursing homes to resume visitations depending on certain factors.

[13]MITRE, *Coronavirus Commission on Safety and Quality in Nursing Homes: Commission Final Report*, PRS Release Number 20-2382, September 2020.

refer to and act upon the Nursing Home Commission's recommendations as appropriate. CMS reiterated this position in February 2021.

- **HHS has not implemented our recommendation to fill COVID-19 data voids.** HHS, through CMS, implemented a COVID-19 reporting requirement for nursing homes effective May 8, 2020 (noted briefly above).[14] CMS made the reporting of the data prior to May 8, 2020, optional. As a result, CMS's data do not capture the early months of the pandemic.[15]

  We recommended in September 2020 that the Secretary of HHS, in consultation with CMS and CDC, develop a strategy to capture more complete data on confirmed COVID-19 cases and deaths in nursing homes retroactively back to January 1, 2020, and clarify the extent to which nursing homes had reported data before May 8, 2020.[16] Although HHS partially agreed with this recommendation and indicated that it continues to consider how to implement this recommendation, the agency had taken no specific actions, as of February 2021.

We maintain the importance of our recommendations. Specifically, we maintain that developing a plan for whether CMS will proceed with the Nursing Home Commission's recommendations and, if so, how it will do so would improve the agency's ability to systematically consider the Nursing Home Commission's recommendations going forward. We also maintain that collecting data on COVID-19 cases and deaths from nursing homes retroactively would better inform the government's continued response to, and recovery from, the COVID-19 pandemic, and we

[14]85 Fed. Reg. 27,550, 27,627 (May 8, 2020) (to be codified at 42 C.F.R. § 483.80(g)). CMS is responsible for ensuring that nursing homes meet federal quality standards to participate in the Medicare and Medicaid programs.

[15]Nursing homes are required to self-report data regarding COVID-19 cases and deaths among residents and staff, PPE supplies, and staffing shortages, among other things, at least weekly through CDC's National Healthcare Safety Network.

[16]Also in September 2020, GAO identified gaps in COVID-19 data for racial and ethnic minority groups, and, among other things, recommended that CDC take steps to help ensure its ability to comprehensively assess the long-term health outcomes of persons with COVID-19, including by race and ethnicity. HHS agreed with the recommendation and as of February 2021, CDC is reviewing the quality of the demographic data and assessing potential opportunities to enhance the collection of race and ethnicity data.

maintain that HHS could ease the burden by incorporating data previously reported to CDC or to state or local public health offices.

We also have recommendations from work completed prior to the pandemic that have yet to be fully implemented by CMS. Implementation of these recommendations could improve HHS's oversight of nursing homes both generally and during a pandemic. For example, in our 2019 report on abuse in nursing homes, we made six recommendations, including recommending that CMS require state survey agencies to immediately notify law enforcement of any reasonable suspicion of a crime against a resident, and that CMS provide more guidance to state survey agencies on the information nursing homes should include on facility-reported incidents. CMS agreed with our recommendations.[17] These recommendations have relevance prior to, during, and after the COVID-19 pandemic, because with reduced visitors or ombudsmen presence in nursing homes, and with the decrease or elimination of surveyor presence, there may be a higher risk of residents being abused and of that abuse going unreported.[18] This risk is higher than it needs to be because CMS has not yet implemented our relevant recommendations.

In addition to monitoring HHS's implementation of past recommendations, we have ongoing work examining COVID-19 outbreaks in nursing homes, as well as CMS's oversight of infection prevention and control protocols and the adequacy of emergency preparedness standards for emerging infectious diseases in nursing homes.

In summary, the COVID-19 pandemic has underscored the importance of issues we have previously raised about nursing home quality and oversight while pointing to new vulnerabilities unique to the pandemic. Effective federal oversight and support for nursing homes are especially critical during times of widespread disease outbreak, as the pandemic has demonstrated. As nursing homes are prioritized for vaccination, there is hope that COVID-19 cases and deaths in these homes will continue to decline. Going forward, our work on COVID-19 in nursing homes remains important for informing future pandemic responses, as well as for

[17]See GAO, *Nursing Homes: Improved Oversight Needed to Better Protect Residents from Abuse.* GAO-19-433. (Washington, D.C.: June 13, 2019).

[18]State surveyors evaluate nursing homes' compliance with federal quality standards.

addressing longer-standing challenges that have put residents' health and safety at risk, as indicated by our prior recommendations.

Chairman Wyden, Ranking Member Crapo, and Members of the Committee, this concludes my prepared statement. I would be pleased to respond to any questions that you may have at this time.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact John E. Dicken, Director, Health Care at (202) 512-7114 or dickenj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony were Karin Wallestad (Assistant Director), Sarah-Lynn McGrath (Analyst-in-Charge), Isabella Guyott, Erin Henderson, Julianne Flowers, Elise Pressma, and Kathryn Richter. Also contributing were Laurie Pachter, Vikki Porter, and Jennifer Whitworth.

Appendix I: Description of Selected GAO Reports on Nursing Homes with Recommendations

The following table summarizes the status of relevant recommendations from GAO's prior reports on nursing home oversight with the status as of the most recent detailed update. According to the Centers for Medicare & Medicaid Services (CMS), as of March 2021, there are no additional updates on the status of these recommendations, as the agency's focus has been on responding to the pandemic.

Table 1: Description of Selected GAO Reports on Nursing Homes with Recommendations, April 2011 through November 2020

Date	Title	Summary of recommendations
November 2020	*COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response* (GAO-21-191)	GAO made one recommendation related to nursing homes that the Centers for Medicare & Medicaid Services (CMS) should quickly develop a plan that further details how the agency intends to respond to and implement, as appropriate, the 27 recommendations in the final report of the Coronavirus Commission on Safety and Quality in Nursing Homes, which CMS released on September 16, 2020. The Department of Health and Human Services (HHS) neither agreed nor disagreed with our recommendation and, as of February 2021, HHS/CMS had not implemented this recommendation.
September 2020	*COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions* (GAO-20-701)	GAO made one recommendation related to nursing homes that HHS, in consultation with CMS and the Centers for Disease Control and Prevention (CDC), develop a strategy to capture more complete data on confirmed COVID-19 cases and deaths in nursing homes retroactively to January 1, 2020, in order to address gaps in the new reporting requirements on COVID-19 cases and deaths in nursing homes. HHS partially agreed with this recommendation and, as of February 2021, HHS had not implemented this recommendation.
June 2019	*Nursing Homes: Improved Oversight Needed to Better Protect Residents from Abuse* (GAO-19-433)	GAO made six recommendations, including that CMS require state survey agencies to immediately notify law enforcement of any reasonable suspicion of a crime against a resident, and that CMS provide more guidance to state survey agencies on the information nursing homes should include on facility-reported incidents. HHS agreed with the recommendations and, as of February 2020, HHS had not implemented these recommendations.

Date	Title	Summary of recommendations
April 2019	*Management Report: CMS Needs to Address Gaps in Federal Oversight of Nursing Home Abuse Investigations That Persisted in Oregon for at Least 15 Years* (GAO-19-313R)	GAO made three recommendations, including that CMS ensure all state survey agencies are meeting federal requirements for investigating alleged abuse, and that the results are shared with CMS. HHS agreed with the recommendations and, as of November 2019, HHS had implemented one of the three recommendations.
November 2016	*Nursing Homes: Consumers Could Benefit from Improvements to the Nursing Home Compare Website and Five-Star Quality Rating System* (GAO-17-61)	GAO made four recommendations, including that CMS should add information to the Five-Star System that allows consumers to compare nursing homes nationally. HHS agreed with three of the four recommendations and, as of July 2019, HHS had implemented three of the four recommendations.
October 2015	*Nursing Home Quality: CMS Should Continue to Improve Data and Oversight* (GAO-16-33)	GAO made three recommendations, including that CMS implement a clear plan for ongoing auditing of self-reported data and establish a process for monitoring oversight modifications to better assess their effects. HHS agreed with GAO's recommendations. As of 2020, HHS had implemented these three recommendations.
April 2011	*Nursing Homes: More Reliable Data and Consistent Guidance Would Improve CMS Oversight of State Complaint Investigations* (GAO-11-280)	GAO made seven recommendations aimed at ensuring CMS's complaints database is reliable, strengthening CMS's assessment of state survey agencies' performance in managing complaints, and increasing accountability for managing the complaints process. HHS generally agreed with our recommendations. As of October 2019, HHS had implemented two of these seven recommendations and indicated it would not be taking action on a third (GAO closed this as not implemented).

Source: GAO. | GAO-21-402T

Note: The hyperlinks to these reports provide additional details about the recommendations and their statuses.

Appendix II: Related GAO Reports

CARES Act Reports

COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and Other Challenges Require Focused Federal Attention. GAO-21-265. Washington, D.C.: January 28, 2021.

COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response. GAO-21-191. Washington, D.C.: November 30, 2020.

COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions. GAO-20-701. Washington, D.C.: September 21, 2020.

COVID-19: Opportunities to Improve Federal Response and Recovery Efforts. GAO-20-625. Washington, D.C.: June 25, 2020.

Other GAO Reports

Infection Control Deficiencies Were Widespread and Persistent in Nursing Homes Prior to COVID-19 Pandemic. GAO-20-576R. Washington, D.C.: May 20, 2020.

Elder Abuse: Federal Requirements for Oversight in Nursing Homes and Assisted Living Facilities Differ. GAO-19-599. Washington, D.C.: August 19, 2019.

Nursing Homes: Improved Oversight Needed to Better Protect Residents from Abuse. GAO-19-433. Washington, D.C.: June 13, 2019.

Management Report: CMS Needs to Address Gaps in Federal Oversight of Nursing Home Abuse Investigations That Persisted in Oregon for at Least 15 Years. GAO-19-313R. Washington, D.C.: April 15, 2019.

Nursing Homes: Consumers Could Benefit from Improvements to the Nursing Home Compare Website and Five-Star Quality Rating System. GAO-17-61. Washington, D.C.: November 18, 2016.

Nursing Home Quality: CMS Should Continue to Improve Data and Oversight. GAO-16-33. Washington, D.C.: October 30, 2015.

Antipsychotic Drug Use: HHS Has Initiatives to Reduce Use among Older Adults in Nursing Homes, but Should Expand Efforts to Other Settings. GAO-15-211. Washington, D.C.: January 30, 2015.

Nursing Homes: More Reliable Data and Consistent Guidance Would Improve CMS Oversight of State Complaint Investigations. GAO-11-280. Washington, D.C.: April 7, 2011.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through our website. Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. You can also subscribe to GAO's email updates to receive notification of newly posted products.

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, https://www.gao.gov/ordering.htm.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on Facebook, Flickr, Twitter, and YouTube.
Subscribe to our RSS Feeds or Email Updates. Listen to our Podcasts.
Visit GAO on the web at https://www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact FraudNet:

Website: https://www.gao.gov/fraudnet/fraudnet.htm

Automated answering system: (800) 424-5454 or (202) 512-7700

Congressional Relations

Orice Williams Brown, Managing Director, WilliamsO@gao.gov, (202) 512-4400,
U.S. Government Accountability Office, 441 G Street NW, Room 7125,
Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

Strategic Planning and External Liaison

Stephen J. Sanford, Acting Managing Director, spel@gao.gov, (202) 512-4707
U.S. Government Accountability Office, 441 G Street NW, Room 7814,
Washington, DC 20548