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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

August 30, 2021

BY ELECTRONIC TRANSMISSION

The Honorable Denis R. McDonough
Secretary
U.S. Department of Veterans Affairs (VA)
810 Vermont Avenue, N.W.
Washington, DC 20571

Dear Secretary McDonough:

The VA regularly provides well over \$1 billion annually to State Veterans Homes, to cover all or part of the care for veterans in need. Based on recent media reports and a report by the U.S. Government Accountability Office (GAO) on these State- owned and operated facilities, I strongly question the adequacy of the VA's oversight of this federal spending.

A concerning report issued in 2019 by the GAO found shortfalls in the inspection process for these State-operated facilities.¹ GAO concluded in 2019 that "VA does not have complete information on all failures to meet quality standards at SVHs [State Veterans Homes] and cannot track this information to identify trends in quality across these homes." In addition, VA does not share quality of care information about these state-run facilities on its website, GAO reported.²

It is my understanding that the VA has implemented some of GAO's recommendations, but it still does not exercise the kind of oversight that is carried out by other Federal entities with jurisdiction over civilian nursing homes that participate in Medicare and Medicaid. To illustrate: the Centers for Medicare and Medicaid Services (CMS), unlike the VA, posts quality of care information about civilian nursing homes that participate in these two Federal financing programs on its website, "CareCompare."

Issues at State Veterans Homes reportedly came to a head during the COVID-19 pandemic, when the number of COVID-19 cases among residents exceeded half of the facility's

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¹ Gov't Accountability Offc. [hereinafter "GAO"], *VA Nursing Home Care: VA Has Opportunities to Enhance Its Oversight and Provide More Comprehensive Information on Its Website*, GAO-19-428 (Jul. 3, 2019), available at <https://www.gao.gov/products/gao-19-428>.

² *Id.*

total capacity in “dozens” of State-owned or operated veterans’ homes, according to a news report.³ As noted in another such article last week: 77 veterans died in a “single massive outbreak” of COVID-19 at one such home in Holyoke, Massachusetts, leading employees of that particular facility to file a lawsuit, alleging “complete disregard for human life and inhumane working conditions” at the height of the pandemic.⁴

During the pandemic, the fatality rate in State Veterans Homes was at least double that of veterans’ homes operated directly by the Federal government, according to Politico.⁵ As further noted by Politico, the inspection process for these State-operated facilities reportedly remains very decentralized: some States reportedly do not hold State Veterans Homes to the same standards that apply to other nursing homes, while other States rely on private companies “with mixed records” to run these veterans’ facilities.⁶ In addition, there reportedly is no VA requirement that the top official at each State Veterans Home be selected based on merit.⁷

These issues are of concern for Congress because VA nursing home expenditures are increasing as veterans’ reliance on nursing home care also has increased over the last decade.⁸ With the aging of Vietnam War Veterans, these expenditures likely only will further increase in

³ Joanne Kenen, *Sadness and Death: Inside the VA’s state nursing home disaster*, Politico (Aug. 24, 2021), available at <https://www.politico.com/news/2021/08/24/veterans-nursing-home-coronavirus-502558>.

⁴ Kimberly Marselas, *Let’s Give Vets a Fighting Chance*, McKnights Long-Term Care News, available at <https://www.mcknights.com/daily-editors-notes/lets-give-vets-a-fighting-chance/>. See also Scott Fallon and Lindy Washburn, *COVID delta variant spreads in NJ nursing homes as two units at veterans homes quarantined*, NorthJersey.com (Aug. 4, 2021), available at <https://www.northjersey.com/story/news/coronavirus/2021/08/03/paramus-nj-veterans-home-delta-covid-outbreak/5468065001/> (citing deaths of 89 residents and a staff member at Paramus Veterans Memorial Home in New Jersey); Clark Kauffman, *State-run veterans home tops all Iowa care facilities in COVID-19 outbreaks*, Iowa Capitol Dispatch, available at <https://iowacapitaldispatch.com/2021/08/09/state-run-veterans-home-tops-all-iowa-care-facilities-in-covid-19-outbreaks/>.

⁵ Joanne Kenen, *Sadness and Death: Inside the VA’s state nursing home disaster*, *supra* note 3.

⁶ *Id.*

⁷ *Id.*

⁸ GAO, *VA Nursing Home Care: VA Has Opportunities to Enhance Its Oversight and Provide More Comprehensive Information on Its Website*, *supra* note 1 (“VA’s nursing home expenditures increased 17 percent (8 percent adjusted for inflation), from \$4.9 billion to \$5.7 billion, from fiscal years 2012 to 2017.”).

the coming years, VA data suggests.⁹ Accordingly, please provide answers to the following questions no later than September 24, 2021:

1. How many State Veterans Homes are surveyed by the VA and how frequently do these surveys occur? How many of the homes are not surveyed by both CMS and the VA?
2. Does the VA have the authority necessary to track how many States require State Veterans Homes to meet the same standards that apply to other State-licensed, civilian nursing homes? If not, please explain, and if so, by what date will the VA ensure that such information is tracked?
3. Does the VA collaborate or consult with other agencies, such as CMS, which has adopted an extensive system for oversight of State-licensed civilian nursing homes that receive Federal financing? If so, how and to what extent? If not, do you have plans to ensure that such collaboration occurs? Please explain.
4. Has the VA by now fully implemented the GAO's latest recommendations with respect to State Veterans Homes? If not, please identify obstacles to implementing any open recommendations or explain why such recommendations have not been implemented to date.
5. Does the VA intend to make additional reforms to its oversight system for State-run nursing homes beyond those recommended by the GAO in its 2020 report? Please explain.
6. What, if any, changes to its website has the VA made, or will it make, to ensure that quality of care information about State Veterans Homes is shared with the public? Please explain.
7. Does the VA recommend that Congress provide statutory authority to facilitate the adoption of additional reforms to the oversight system for State Veterans Homes receiving Federal resources? If so, please provide details.

⁹ *Id.* (citing VA data suggesting that veterans' use of nursing home care increased 3 percent--from an average of 37,687 veterans daily to 38,880 daily--between fiscal years 2012 and 2017, and noting that "VA projects that use will increase 16 percent from fiscal years 2017 to 2022 with the aging of Vietnam War veterans.").

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Thank you for your prompt attention to this matter. Please contact Evelyn Fortier of my committee staff at 202-224-4324 if you have any questions.

Sincerely,



Charles E. Grassley
Ranking Member

cc: Jon Tester, Chairman, Chairman, U.S. Senate Committee on Veterans Affairs
Jerry Moran, Ranking Member, U.S. Senate Committee on Veterans Affairs