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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

March 16, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

I am writing to request an update on Woodland Behavioral and Nursing Center (Woodland) in Andover, New Jersey efforts to comply with Federal conditions of participation. According to news outlets, in a letter dated February 9, 2022, the Centers for Medicare and Medicaid Services (CMS) gave Woodland until March 3, 2022 to correct egregious and flagrant conditions at its nursing facility or else face expulsion from participating in Medicare or Medicaid.¹ (CMS has since extended their deadline to August 15, 2022.²) The decision to close a nursing home, especially in rural areas, is a difficult choice and requires the Federal government to balance the needs of the community with the rights of nursing home residents and their families. However, in this case, problems at Woodland have persisted for years, calling into question the facility's ability to care for its residents.

In 2017, Woodland, then known as Andover Subacute Rehabilitation Center, agreed to pay \$888,000 to resolve allegations under the False Claims Act that it provided "substandard or worthless nursing services to some patients."³ According to the Department of Justice, Woodland agreed to enter into a Corporate Integrity Agreement with the Department of Health and Human

¹ Ted Sherman, *It's Called One of the Worst in N.J. The Feds are Threatening. Should This Nursing Home Be Closed?*, NJ.COM (Feb. 26, 2022), <https://www.nj.com/news/2022/02/its-called-one-of-the-worst-in-nj-the-feds-are-threatening-should-this-nursing-home-be-closed.html>.

² Ted Sherman, *N.J Nursing Home Blasted for Endangering Residents Gets a Reprieve. For Now*, NJ.COM (Mar. 6, 2022), <https://www.nj.com/news/2022/03/nj-nursing-home-blasted-for-endangering-residents-gets-a-reprieve-for-now.html>.

³ Press Release, Dep't of Justice, *Skilled Nursing Facility to Pay \$888,000 to Resolve Alleged False Claims Related to Materially Substandard Care* (May 31, 2017), <https://www.justice.gov/usao-nj/pr/skilled-nursing-facility-pay-888000-resolve-alleged-false-claims-related-materially>.

Services Office of Inspector General, to enhance quality assurance and accountability at its facility.⁴

Then, in April 2020, police discovered seventeen bodies in a makeshift morgue at Woodland.⁵ This discovery made national headlines, which promoted CMS to investigate the facility shortly thereafter. CMS investigators found numerous health and safety violations, including the facility's "failure to log residents' temperatures," "incorrect[] use[] of protective equipment," and, "rooming COVID-19 patients with those that were asymptomatic."⁶ CMS concluded Woodland was in "immediate jeopardy," imposed a civil penalty of \$220,235, and required Woodland to submit a "Plan of Correction" within ten days.⁷ Separate from CMS's enforcement actions, Woodland currently maintains a one-star rating from CMS's "Nursing Home Compare" tool and has numerous documented deficiencies as of March 2020 relating to health inspections, staffing, and quality measures.⁸

Unfortunately, little has changed since CMS imposed hefty fines on Woodland in 2020. New Jersey state surveyors recently released a "blistering [16 page] report" detailing Woodland's failures and licensure violations which included "failure to respond to residents in distress," "verbal and other abuse of residents," and "serious staffing shortages that would have left overloaded workers scrambling to bathe, feed, and clean patients."⁹ New Jersey surveyors also found Woodland failed to monitor for signs of COVID-19 among their residents, which could be why cases increased by 102 in the span of just one week between December 23, 2021 and January 1, 2022.¹⁰ (As of February 25, 2022, the New Jersey Department of Health reported Woodland has an active viral outbreak with 250 reported cases of COVID-19 among residents, 145 cases of

⁴ Press Release, Dep't of Justice, Skilled Nursing Facility to Pay \$888,000 to Resolve Alleged False Claims Related to Materially Substandard Care (May 31, 2017), <https://www.justice.gov/usao-nj/pr/skilled-nursing-facility-pay-888000-resolve-alleged-false-claims-related-materially>.

⁵ Lori Comstock, *Patients in Andover Nursing Home Were in Immediate Jeopardy, Report Says*, N.J. HERALD (May 7, 2020), <https://www.njherald.com/story/news/new-jersey/2020/05/07/andover-nj-nursing-home-patients-were-immediate-jeopardy-report-says/3093452001/>.

⁶ Lori Comstock, *Patients in Andover Nursing Home Were in Immediate Jeopardy, Report Says*, N.J. HERALD (May 7, 2020), <https://www.njherald.com/story/news/new-jersey/2020/05/07/andover-nj-nursing-home-patients-were-immediate-jeopardy-report-says/3093452001/>.

⁷ Lori Comstock, *Patients in Andover Nursing Home Were in Immediate Jeopardy, Report Says*, N.J. HERALD (May 7, 2020), <https://www.njherald.com/story/news/new-jersey/2020/05/07/andover-nj-nursing-home-patients-were-immediate-jeopardy-report-says/3093452001/>.

⁸ Woodland Behavioral and Nursing Center, MEDICARE.GOV, <https://www.medicare.gov/care-compare/details/nursing-home/315248?id=5c51ba4c-0fec-4933-aec7-f2af368f668f&state=NJ> (last viewed Mar. 1, 2022).

⁹ Ted Sherman, *Resident in Cardiac Arrest Left for Dead at Nursing Home, N.J. Alleges, in Scathing Report Citing Widespread Abuse*, NJ.COM (Feb. 14, 2022), <https://www.nj.com/news/2022/02/resident-in-cardiac-arrest-left-for-dead-at-nursing-home-nj-alleges-in-scathing-report-citing-widespread-abuse.html>.

¹⁰ Laura Strickler, *State Threatens to Take Over N.J. Nursing Home Where Bodies Were Stacked*, NBC NEWS (Feb. 14, 2022), <https://www.nbcnews.com/health/health-news/state-takes-new-jersey-nursing-home-17-bodies-stacked-morgue-rcna16208>.

COVID-19 among staff, and 16 COVID-19 confirmed deaths.¹¹ These figures represent the highest rate of infection of any nursing home in the State.)

On February 9, 2022, CMS threatened to terminate Woodland from participating in the Medicare and Medicaid programs “unless substantial compliance [was] achieved before March 3, 2022.”¹² CMS has since extended their deadline to August 15, 2022, telling Woodland that “[more] corrections must be made in order for the facility to continue to participate in the Medicare and Medicaid programs.”¹³ As the first deadline for Woodland has now passed, I ask that CMS produce the following information and documents by March 31, 2022:

1. An electronic copy of CMS’s February 9, 2022 letter to Woodland administrators detailing its failure to comply with Federal conditions of participation in Medicare or Medicaid.
2. An electronic copy of Woodland’s corrective action plan and anticipated time of correction.
3. A detailed explanation of the actions Woodland has taken to come into compliance with CMS’s initial March 3, 2022 deadline.
4. A detailed explanation of the remaining actions Woodland must make in order to comply with Federal requirements by August 15, 2022.
4. A written explanation of CMS’s decision whether or not to terminate Woodland’s participation in Medicare or Medicaid. If CMS decides to terminate Woodland’s participation in Medicare or Medicaid, when will CMS require Woodland to provide a plan for relocation of residents?

Thank you for your prompt attention to this matter.

¹¹ *LTC Facilities Outbreaks List*, STATE.NJ.GOV, https://www.state.nj.us/health/healthfacilities/documents/LTC_Facilities_Outbreaks_List.pdf (last viewed Mar. 1, 2022).

¹² Ted Sherman, *Residents Are At Extreme Risk, Feds Say, As They Threaten to Essentially Shut Down Troubled N.J. Nursing Home*, NJ.COM (Feb. 17, 2022), <https://www.nj.com/news/2022/02/residents-lives-at-extreme-risk-feds-say-as-they-threaten-to-essentially-shut-down-troubled-nj-nursing-home.html>.

¹³ Ted Sherman, *N.J Nursing Home Blasted for Endangering Residents Gets a Reprieve. For Now*, NJ.COM (Mar. 6, 2022), <https://www.nj.com/news/2022/03/nj-nursing-home-blasted-for-endangering-residents-gets-a-reprieve-for-now.html>.

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is fluid and cursive, with the first name "Chuck" and last name "Grassley" clearly legible.

Charles E. Grassley
Ranking Member
Judiciary Committee
U.S. Senate