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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

April 18, 2016

VIA ELECTRONIC TRANSMISSION

Mr. Mark Parkinson
President and Chief Executive Officer
American Health Care Association
1201 L Street, N.W.
Washington, DC 20005

Dear Mr. Parkinson,

Earlier this year, a judge in Champaign County, Illinois issued a warrant for the arrest of Channing J. Butler who was accused of soliciting men to have sex with elderly women at Bickford Cottage – a memory care facility for seniors – where Butler was an employee.¹ During their investigation, police learned that Butler recruited these men so that he could videotape them having sex with the elderly women aged 88, 90, and 95 whose memories were failing.² In addition, Butler’s cellphone contained pictures of seniors in compromising positions.³ Butler has since been charged with solicitation to commit aggravated criminal sexual assault, a Class 1 felony.⁴ Additionally, a news outlet published a story in December 2015 outlining 36 instances of elder abuse beginning in 2012 perpetrated through the use of cell phone technology like Snapchat.⁵ For example, at a nursing home in New Jersey, a nursing assistant photographed a resident’s genitals and sent it to a friend.⁶ The friend then uploaded the picture to Facebook. In Wisconsin, two workers took photos and videos of nude or partially nude elderly residents and shared them on Snapchat.⁷ And a similar abuse occurred in New York.⁸

Although many offenders have been fired and prosecuted by state authorities, there may be many more unreported incidents of abuse via social media and cell phone technology. The

¹ Mary Schenk, Man arrested over alleged plot to videorecord sex with memory-care patients, THE NEWS GAZETTE (Jan. 19, 2016), <http://www.news-gazette.com/news/local/2016-01-19/man-arrested-over-alleged-plot-videorecord-sex-memory-care-patients.html>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ See Charles Ornstein, Inappropriate Social Media Posts by Nursing Home Workers, Detailed, PRO PUBLICA (Dec. 21, 2015), <https://www.propublica.org/article/inappropriate-social-media-posts-by-nursing-home-workers-detailed>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

Centers for Disease Control and Prevention (CDC) reports that the “physical and psychosocial consequences of elder abuse are numerous and varied.”⁹ Although social media, according to the *Washington Post* has “powerful potential for capturing transgressions that previously might have gone unrecorded,”¹⁰ it is unclear what is being done to ensure that these consequences of digital abuse are avoided. But, what is clear is that the federal, state, and local governments must use all the tools at their disposal to protect the elderly from nursing home abuse via social media and other digital tools.

As you know, the American Healthcare Association (AHCA) is the nation’s largest association of long term and post-acute care providers and advocates for quality care and services for frail, elderly, and disabled Americans.¹¹ AHCA members provide essential care to approximately one million individuals in 12,000 member facilities.¹² Many of these facilities accept billions of dollars in taxpayer funds through Medicaid and have to abide by various health and safety standards as a result. Given AHCA’s experience and knowledge in this area, Congress needs to know more about AHCA’s best practices and what it is doing to protect the elderly in nursing homes. It is important that members of Congress and the experts in the private sector work together to find common sense solutions to new forms of elderly abuse. Therefore, please answer the following:

1. Please provide detail on what, if any, best practices and model policies AHCA advises its members on employee background screening.
2. Please provide detail on what, if any, best practices and model policies AHCA has created on the use of cell phones and preventing victimization using social media.
3. What, if any, efforts is the AHCA undertaking to prevent elder abuse via social media (i.e. training, programming, advocacy, etc.)?

⁹ See HHS OIG, OEI-06-88-00360, *Resident Abuse in Nursing Homes: Understanding and Preventing Abuse* (1990); HHS OIG, A-05-97-00010, *Review of Elder Abuse Identification, Investigation and Resolution Procedures for Illinois Long-Term Care Facilities* (1997); HHS OIG, A-12-96-00016, *State of Maryland’s Ombudsman Program for Processing of Elder Abuse and Neglect Complaints and Accuracy of Geriatric Nurse Aide Registry* (1997); HHS OIG, OEI-06-98-00340, *Abuse Complaints of Nursing Home Patients* (1999); HHS OIG, OEI-01-04-00340, *Nursing Home Complaint Investigations* (2006); HHS OIG, OEI-07-10-00422, *Criminal Convictions for Nurse Aides with Substantiated Findings of Abuse, Neglect, and Misappropriation* (2012); HHS OIG, OEI-07-13-00010, *Nursing Facilities’ Compliance with Federal Regulations for Reporting Allegations of Abuse or Neglect* (2014).

¹⁰ Charles Ornstein, *Nursing home workers have been posting abuse photos of elderly on social media*, THE WASHINGTON POST (Dec. 21, 2015), available at https://www.washingtonpost.com/national/health-science/abusive-photos-on-social-media-posing-threat-to-nursing-home-patients/2015/12/19/d71b4204-9ec8-11e5-bce4-708fe33e3288_story.html.

¹¹ American Healthcare Association, *Who We Are*, https://www.ahcancal.org/about_ahca/Pages/Who-We-Are.aspx (last visited

¹² *Id.*

Thank you in advance for your cooperation with this request. Please number your responses according to their corresponding questions and respond no later than May 3, 2016. If you have questions, please contact Josh Flynn-Brown or Paul Junge of my Committee staff at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Chairman
Committee on the Judiciary