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**TESTIMONY OF TIM GRAVES  
ON BEHALF OF THE TEXAS HEALTH CARE ASSOCIATION  
HOUSE HUMAN SERVICES COMMITTEE  
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Thank you, Chairman Rose, for holding this hearing today -- we look forward to continuing our work with state and federal officials to deal with the many challenges faced by the long term care profession to help ensure Texas' most vulnerable frail, elderly and disabled citizens receive the quality long term care and services they need and deserve.

The Texas Health Care Association (THCA), founded in 1950, is the state's largest long term care association. Our membership is comprised of approximately 450 for-profit and nonprofit entities – including nursing facilities, specialized rehabilitation facilities and assisted living facilities.

**BACKGROUND – NURSING HOME SERVICES AND FUNDING**

Our resident profile reflects just how vulnerable our patients really are, and how dependent they are upon adequate funding for long term care programs. Our average resident is female, approximately 85 years of age, and needs assistance with at least four activities of daily living (eating, dressing, ambulation, etc.)

The good news is that we are increasingly seeing shorter stays from patients, many of whom we are happy to say are more rapidly returning to their communities following rehabilitation and therapy.

The more challenging news is that we are admitting an older, higher-acuity patient population requiring more intensive care. In an environment where we simultaneously face a staffing crisis of historic proportion, dwindling government payments in relation to the actual costs of providing quality care, and rising demand associated with demographic trends, we as long term care providers face enormous hurdles.

Compounding this confluence of problems is the fact the public remains largely unaware about long term care, and who will pay for it. The recently-concluded National Commission for Quality Long Term Care (NCQLTC) – chaired by former Senator Bob Kerrey (D-NE) and former House Speaker Newt Gingrich (R-GA) -- found 34% of Americans believe most long term care is paid for by Medicare, 20% say it is paid for by Medicaid, and 22% say individuals and their families pay for most long term care. 13% said they do not know at all how long term care is financed under the current system.

Public education about long term care is a vital part of the overall equation. That is why hearings of this nature are important, and we thank you for holding this forum with which to detail both the issues at hand as well as possible solutions.

And now more than ever, we need to have an earnest, serious and realistic discussion about how to strengthen our Texas Medicaid program – in which our Medicaid reimbursement rates have slipped to 49th in the entire nation. This rate simply does not reflect the challenges faced daily by our state’s most vulnerable seniors and the providers who care for them.

With Medicaid financing a joint state-federal responsibility, we will be strongly urging our incumbent Austin and Washington-based lawmakers, as well as their challengers in this year’s election, to take a hard look at the fact that while the average national daily Medicaid rate per patient is \$153.83, the Texas rate is just \$106.59, according to independent data from the national accounting firm BDO Seidman, and other sources.

Even on a regional basis, we are falling behind: New Mexico ranks 30th nationally, at \$137.24; Oklahoma ranks 44th, at \$116.84; Arkansas ranks 47th, at \$111.76; and Louisiana ranks 45th, at \$115.00. But let us be clear here today before this Committee: this is not a discussion about just money and rates – it is about maintaining care quality standards and dignity for many seniors in their late 70’s, 80’s and still older.

The good news, of course, is that Texans are living longer and healthier lives. The flipside is that an increasingly older population will eventually require more extensive care, and this fact cannot be ignored.

Besides the fact that the Texas Medicaid rate requires modification to reflect the realities of the health care marketplace, we must also assess how the pending demographic tidal wave of retirees, a great many of whom will ultimately require long term care and services, will place further stress on an already over-burdened Medicaid financing structure.

Compounding our Medicaid funding crisis in Texas are the continuing threats in Washington of steep cuts to both Medicaid and Medicare. The Bush Administration – despite deserving recognition for instituting quality improvement programs in concert with our profession – is pursuing both fiscal and regulatory policies that will result in a net loss of resources under both programs.

On top of Texas’ already over-burdened state Medicaid program – additional cuts to long term care funding at the federal level will create an even more problematic scenario for your most vulnerable elderly and disabled constituents.

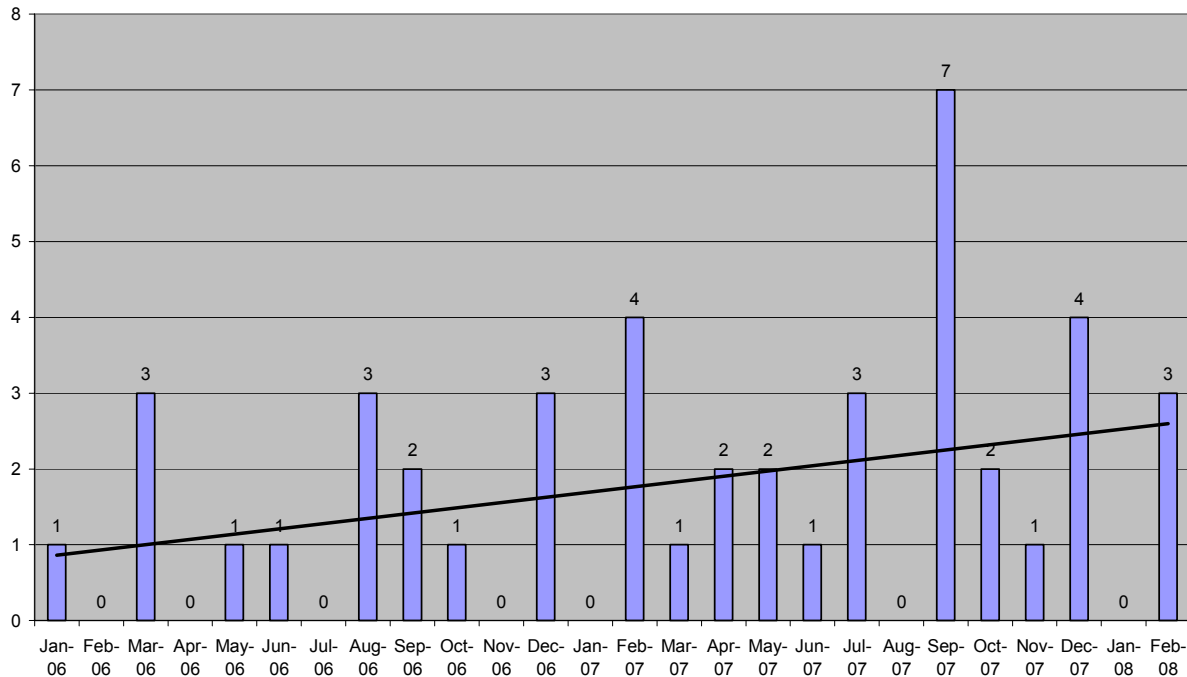
With upwards of 60 percent of nursing home operating expenses in Texas long term care facilities driven by labor costs, additional financial pressures placed on them by federal funding cuts will undermine patient care, and further destabilize our direct care workforce.

We cannot emphasize more strongly that care quality in our nursing homes – and continued progress in quality improvement – is directly tied to funding stability in Washington and in Austin. We are proud to say that here in Texas, we are indeed making strides on the quality front, but those results and systems in place to sustain progress are in dire jeopardy due the financial environment in which we operate.

**CLOSURES & BANKRUPTCIES**

Indeed Mr. Chairman, it is important to keep a watchful eye on a problem that reached dangerous levels in 2000 and 2001 – and that problem is nursing home closures as well as bankruptcies. Since January 2006, there have been 45 facility closings – with eleven facilities also now in Chapter 11 status.

**Nursing Facility Closures  
01/01/2006 - 02/29/08  
Department of Aging and Disability Services**



A facility closing is not just a severe trauma to many elderly patients forced to relocate many miles from friends and family, it is also a severe blow to the local economic base, as nursing homes are often the largest local employer -- especially in our more rural locales.

Government has every right to insist upon quality care, but so too does government have an obligation to finance that care – particularly in terms of paying the actual cost of providing that care. We do not believe that is an unreasonable expectation.

## FUNDING ISSUES AND PAY FOR PERFORMANCE (P4P)

More transparency, increased accountability and sustaining our ongoing quality improvement efforts in continued collaboration with our state and federal government is our highest priority. We are encouraged about the rapid pace of improved quality measurement standards, cognizant of our responsibility to continue being a catalyst for innovation that enhances consumer knowledge and choice, and committed to continue improving the quality of long term care for the benefit of every Texas senior today, and in the years and decades ahead.

THCA is examining several consumer focused initiatives for the next legislative session. Although the package is not complete, one of the initiatives that we are exploring involves “pay for performance”.

Let me summarize what we have learned so far: According to data compiled by the American Health Care Association (AHCA) and augmented by the Texas Health Care Association (THCA), six states, including Georgia and Oklahoma, have some type of Medicaid pay-for-performance (P4P) program in place.

The lessons learned from these states’ efforts so far indicate that a “pay-for-performance” program can enhance accountability for the expenditure of public funds, support quality-improvement initiatives by providers, provide additional tools for informed consumer decision-making, and improve efficiency of the overall delivery system.

Various performance measures are used in state P4P programs, including:

- Quality indicators derived from MDS;
- Staffing levels, turnover, and retention;
- Measures of resident satisfaction and quality of life;
- Employee satisfaction; and,
- Deficiencies or other survey outcomes.

Participating facilities are scored on the variables, and “add-on” rate adjustments are paid to the facilities on a periodic basis. I want to point out that Texas already has the staffing enhancement program. It is essentially a “pay-for performance” program that provides additional funding to participating facilities that apply for the funds to increase staff, and pay improved wages and benefits.

One of the major problems with the program -- the real stumbling block, Mr. Chairman -- is that it has never been properly funded.

As you know, lack of adequate funding for Medicaid nursing home care has been a chronic problem in the state of Texas. For example:

**In November of 2006, the HHSC estimated that Medicaid nursing home funding needed a 19% increase (\$340 million GR) for the 2008-2009 biennium to meet the cost of services.**

**An 8% increase (\$99 million GR - 3% in 2008 and 5% in 2009) was appropriated by the legislature.**

**In September 2008, a new reimbursement system for Medicaid nursing home services is scheduled to begin (TILEs to RUGs). In this underfunded environment, there are many uncertainties about this effort.**

Although a pay-for-performance program could yield many benefits, it is absolutely crucial that:

- 1) The base rate and staffing enhancement program for nursing home care be properly funded before adding a new program, such as a pay-for-performance;**
- 2) The pay-for-performance program be voluntary;**
- 3) Adequate time is allowed to develop and test the accuracy and validity of the data bases that will be used to help operate the program; and**
- 4) All “stakeholders” including legislative and state agency leaders, consumers, and providers are included in the development of the program.**

Finally, Mr. Chairman, we concur with the opinion of many lawmakers and many long term care experts that it is essential for state and federal government alike to pass laws enabling every citizen to better equip themselves with the tools necessary to pay for, and receive care in the most appropriate setting for their condition.

#### **PUBLIC AWARENESS & LONG TERM CARE INSURANCE**

In recent years, the U.S. Congress has passed legislation expanding citizens’ ability to purchase state-approved long term care insurance policies. But far more must be done both in Washington as well as Austin – including a more extensive public education effort designed to improve public awareness of the fact individuals must take more responsibility for their retirement health costs.

One interesting new federal effort is the U.S. Health and Human Services’ “Own Your Future” program, which helps Americans take a more active role in planning for their future long term care needs. The program contains an educational component with information on ways to finance one's long term care. Several states, including Texas, are engaged in a pilot effort.

Another example is the “Long Term Care Partnership” that 35 states are developing. Texas, through the provisions of SB 22 from last session, is putting that program in place. The program, under strict criteria, allows persons that use their long term care insurance benefits for long term care services, to protect financial assets should they exhaust their insurance benefits and need care under the Medicaid program.

There is considerable debate about the ultimate benefit of the program and whether it will succeed in encouraging people to purchase long term care insurance and ease the strain on state and federal Medicaid costs. Long term care insurance is not affordable for many and there will always be a need for a “safety net”. However, to the extent that the program raises public awareness related to long term care funding issues and succeeds in easing, even in a small way, the strain on federal and state budgets, it is certainly worth a try.

The bottom line is that in addition to shoring up today’s long term care financing programs, especially Medicaid, it's critical for people to start planning for tomorrow -- while they still have the ability to choose the long term care service and finance options that are best for them. Increasing long term care insurance options for every Texan is neither a cure-all nor panacea for our much larger fiscal challenges, but success will come with incremental progress on a variety of fronts.

Thank you again, Mr. Chairman, for the opportunity to testify on these important health policy matters, and we look forward to working with you, this Committee, and with the Texas legislature to ensure every Texan, from every walk of life, always retains access to the quality care they need, when they need it.