

**Testimony of Mark J. Schulte  
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On behalf of the  
American Seniors Housing Association**

Chairman Grassley, Senator Breaux, and Members of the Committee, my name is Mark Schulte. I am President and Chief Executive Officer of Brookdale Living Communities, a publicly-traded provider of seniors housing and assisted living services headquartered in Chicago, Illinois. Brookdale's portfolio consists of 13 seniors housing properties containing 2,795 units located in 10 states, with additional properties now being developed in Illinois, Michigan, Texas, North Carolina, and New York.

I am here today on behalf of the American Seniors Housing Association (ASHA), which was created in 1991 by the National Multi Housing Council (NMHC) to represent the interests of the larger and most prominent firms in the country participating in the seniors housing industry. ASHA's members are engaged in all aspects of the development and operation of housing for seniors, including the construction, finance and management of such properties.

### **Executive Summary**

With the population of older Americans projected to increase dramatically over the next several decades, and the cost of long-term care spiraling, policymakers must act now to create incentives that encourage those who can afford to do so to pay for their own long-term care needs in the most cost-effective, desirable setting possible. In recent years, seniors and their families have helped to create an innovative and highly efficient long-term care option - seniors housing - that combines residential multifamily housing with direct access to needed supportive services and health care.

The emergence of seniors housing, including congregate, assisted living, and continuing care retirement communities, has occurred because these residences have been tailored to accommodate the demands of older adults and their families for:

Community-based settings;  
Direct access to supportive services and health care;  
Security;  
Opportunities for social interaction;  
Individualized care;  
Economic efficiency;  
Personal choice;  
Wellness and preventive health programs; and  
Independence-enhancing living environments.

While greater numbers of seniors and their families are turning to seniors housing each year to provide affordable, high quality shelter and assistance with the activities of daily living, public policy can provide further stimuli to reduce the nation's over-reliance on nursing homes for taxpayer-funded custodial long-term care. The American Seniors Housing Association urges policymakers to consider the following proposals:

1. Encourage individuals to use their own resources (e.g., home equity) to pay for long-term care, eliminate the 7.5 percent of adjusted gross income threshold applicable to medical deductions for

qualified long-term care insurance premiums, continuing care retirement community (CCRC) entrance fees, and other prepaid long-term care expenses.

2. Expand the Medical Savings Account demonstration to include participation by individuals.

3. Clarify that assisted living residences are eligible for tax-exempt bond financing.

## **Introduction**

Between 1910 and 1990, the number of individuals aged 65 and over in the U.S. soared from 3.9 million (4.3 percent of the population) to 31.2 million (12.6 percent of the population). And while widespread concern already exists over how to fund the long-term care needs of the elderly, the U.S. has not yet even begun to experience the impending onslaught of the fast approaching "age wave." According to the U.S. Census Bureau's population projections, the elderly population will double between 1990 and 2025, reflecting the aging of the post-World War II baby boom generation and a projected increase in life expectancy at birth to 81.2 years.

Of particular importance to policymakers who are addressing the impact and needs of a rapidly aging America is the imminent increase in the population's older age cohorts. In this decade alone, the population aged 85 and above is projected to increase by 42 percent. Between 2000 and 2010, this age group is expected to increase again by an additional 32 percent. The implications of these projections for publicly funded long-term care are sobering, given the widespread strain both state and federal budgets are already experiencing,

Although long-term care services can be delivered effectively in a variety of settings, the U.S. has historically relied on nursing homes to provide the bulk of these services to the frail elderly. Spiraling costs and increasing consumer discontent, however, have led policymakers and advocates for the elderly to search for even more desirable and less-costly long-term care options. Perhaps the most promising long-term care solution for the elderly is seniors housing, a rapidly emerging industry well-suited to delivering affordable services and supportive care in residential, community based settings. Drawing on its diverse influences from the multifamily housing, health care, hospitality, and long-term care industries, seniors housing effectively responds to the needs and desires of elderly persons who require varying degrees of supportive assistance.

## **Seniors Housing: A Market-Driven Long-Term Care Option**

The care needs of most frail elderly persons are primarily supportive - not medical in nature. In recent years, hundreds of thousands of older adults and their families have embraced the development of a variety of non-subsidized, private pay seniors housing residences across the country. While the services, living units and amenities of each residence are unique and can be classified under a variety of different categories (including congregate seniors housing, assisted living residences, and continuing care retirement communities), collectively they share a number of common attributes that effectively and efficiently meet the shelter and supportive health care needs of older adults.

Because these residences and associated services are typically not reimbursed by federal or state funding sources, consumer preference and choice have defined this long-term care option. This attribute, perhaps more so than any other distinct feature of seniors housing, has fueled the development of a market-driven product that can be found in communities large and small in all 50 states. To understand how and why seniors housing has become a growing, privately funded long-term care option, one must appreciate its unique characteristics.

## **Residential Community-Based Settings**

Seniors housing comes in a wide variety of shapes and sizes, from 300-unit high-rise buildings in urban centers to 50-unit Victorian-style, low-rise residences tucked quietly in suburban neighborhoods or rural communities. In general, much of the nation's seniors housing stock is conveniently located near shopping, restaurants, medical facilities, places of worship, libraries, public transportation, and other popular community resources. This should come as no great surprise, however, given the industry's responsiveness to consumer preference and seniors' overwhelming desire to remain well-integrated within the community. In addition, although seniors housing must meet a host of life safety and accessible design requirements, most residences feature all the high quality residential characteristics sought by persons of all ages. Unlike most institutional care settings, seniors housing residents generally decorate their living space with their own furniture, pictures, drapery, and other treasured amenities of home.

## **Opportunities For Social Interaction**

Forty-three percent of all older households in 1989 were single-person households, the majority of which (79 percent) were women. Because the elderly are subject to attrition in their social and familial networks, many older persons living alone experience a profound decline in the quality and quantity of their personal relationships. In addition, gerontologists who have studied elderly persons living alone have found that social isolation and loneliness frequently result in low levels of self-esteem and diminished life satisfaction.

Problems related to social isolation and loneliness, however, are extremely rare for the five to six percent of elderly Americans who reside in seniors housing. Additionally, prominent gerontologists such as Dr. Lenard W. Kaye and Dr. Abraham Monk note that the research findings confirm positive effects of planned housing for the elderly on a variety of measures including: housing satisfaction, general life satisfaction, involvement in community and on-site activities, and the quality of socio-behavioral relations.

## **Security**

Although Americans of all ages fear crime, older adults who live alone often feel particularly vulnerable. Fear of being victimized has been effectively neutralized by practices routinely employed by the seniors housing industry. In addition to the widespread practice of staffing residences with on-site personnel 24-hours a day, 90 percent of all residences utilize security systems which help reduce the fear of crime. Indeed, according to a recent study by the American Association of Retired Persons, residents of seniors housing feel more secure from crime than any other segment of the older adult population. Another common fear of older adults - being unable to elicit help in the case of medical emergency - has also been effectively addressed by the seniors housing industry. Since over 95 percent of seniors housing residences feature monitored emergency response systems, residents know that immediate help is available should an emergency occur.

## **Access to Supportive Services and Health Care**

Recent research conducted by the American Seniors Housing Association and the public accounting firm Coopers & Lybrand challenges the widely held belief that seniors housing serves only the active and independent elderly. The findings from this research suggests otherwise, since the average seniors housing resident is nearly 82 years old. Most residents choose to move into the supportive, nurturing

residential environment of seniors housing after experiencing significant life changes, such as the loss of a spouse or increased physical frailty. By responding to the needs of these older persons and their families, seniors housing offers direct access to an array of independence-enhancing supportive and health care services.

In the ASHA/Coopers & Lybrand survey, for example, housekeeping services were available in 86 percent of all seniors housing residences; on-site nursing services in 63 percent; transportation services in 95 percent; social programs in 82 percent; emergency call systems in 96 percent; and security systems in 89 percent. The widespread availability of both supportive services and health care reflects the industry's responsiveness to the demands of the market shaping the development and operation of seniors housing. Unlike other long-term care options, appropriate access to supportive services and health care in seniors housing is not determined by government formulas, third-party reimbursement, or federally-mandated regulatory requirements. Service delivery is driven solely by the needs and desires of the elderly and their families.

### **Individualized Care and Economic Efficiency**

Because market forces are the primary determinant of service delivery systems in seniors housing, the supportive care available to each resident can be individually tailored to meet his or her unique and ever-changing needs. The cost-effectiveness of seniors housing over other long-term care options stems from natural economies of scale, on-site centralization of service delivery, and built-in incentives for residents to utilize services only when needed. Since services provided in these dwellings are typically paid for out-of-pocket, there is no incentive for residents to use services unnecessarily. In addition, many residences have the capacity either directly or indirectly (through third-party providers, such as home health agencies) to allow residents to purchase needed services in the most cost-effective and appropriate time increments. For example, since many seniors only require short-duration personal care assistance (such as assistance with dressing or eating), supportive care can often be purchased in 15- or 30-minute increments.

The individualized seniors housing approach encourages residents to remain as independent as possible, avoiding the pitfalls of "learned helplessness" that arise when mandated services are provided in institutional environments to individuals regardless of whether they require assistance. This highly personal approach to service delivery, unique to seniors housing, keeps costs down and at the same time assures that the quality of supportive and health care services will be high. Additionally, by carefully monitoring and incrementally accommodating increased supportive care needs that often accompany the aging process, seniors housing plays a critical role in delaying or eliminating the need for more costly institutional care.

Another advantage of seniors housing over other forms of long-term care is that providers are not required to use overqualified and more costly medical personnel to deliver services that are supportive in nature. Unlike other long-term care options that are driven by a "medical model," seniors housing uses appropriately trained, non-medical professionals to deliver most of the supportive care that is needed by residents.' Seniors housing has the added advantage of enabling residents to establish stable, ongoing relationships with caregivers who become familiar with each individual's unique care needs.

Seniors housing further distinguishes itself by actively seeking family involvement in care planning, resident assessment, and service delivery. This "hands-on" role played by family members augments services, encourages meaningful social interaction, and contributes to the affordability of seniors housing.

The broad flexibility of seniors housing to accommodate the changing needs of older adults also allows many residences to care for persons with higher acuity needs. Some residences, such as continuing care retirement communities, offer residents the full spectrum of housing and supportive health care services, including skilled nursing care provided in the community's licensed nursing beds. Other residences offer combination care levels, such as assisted living and skilled nursing, while some provide highly specialized care for individuals suffering from Alzheimer's disease or related disorders.

### **Personal Choice and Wellness**

By allowing even the frailest of elderly persons to maintain as much control over their lives as possible, seniors housing is fundamentally different than other long-term care options, particularly those now reimbursed by the government. Residents are treated as individuals, not as patients, and are encouraged to remain as independent as possible. Since the popularity of seniors housing has grown, in part, out of rejection of an historically paternalistic and medically-oriented long-term care system, personal choice has become one of the industry's most notable features. Residents can maintain as much control over their lives as they would in conventional apartments, while having the ability to easily access supportive services and other preventive health programs necessary to enhance independence.

Many residences routinely offer supervised fitness programs, health fairs, wellness seminars, scheduled transportation to medical facilities and other requested destinations, and a host of other preventive programs that encourage resident health and well-being. In addition, many residences also offer a range of activities and programs that encourage social, intellectual, and personal growth. While not all residents choose to participate in every activity offered, opportunities for individual growth and well-being abound - from community volunteer programs to college-level educational courses. Residents can continue to enjoy lifelong hobbies, but at the same time take advantage of countless new opportunities to expand their horizons. Thus, while it is true that leisure activities are plentiful in most seniors housing residences, it is equally true that seniors housing offers residents numerous avenues to remain engaged in activities that foster self-esteem, life satisfaction, and physical and mental well-being.

### **Special Accessibility Design Features**

Numerous researchers have identified specific housing conditions that can jeopardize the health, safety, and security of older persons. And although decreased sensory ability and physical frailty can predispose older individuals to accidents in the home, the primary culprit is often unsafe home features. Accidents, the fifth leading cause of death for persons over the age of 65, occur most frequently in the home and result primarily from falls on stairways, floors and in bathtubs. Seniors occupancy of older dwellings places them at greater risk of experiencing physical deficiencies, frequently because deferred maintenance and inaccessible design features are common in older homes. According to the U.S. Census Bureau, nearly three of every 10 older households live in homes built before 1940, and over 36 percent in houses built before 1950.

Despite the high estimates of need, home design modifications are rarely made by seniors. A national study conducted in 1987, for example, found that among elderly households with at least one member with a health or mobility problem, only two percent had made two or more design modifications in a two year period. Long before accessible design standards were mandated in the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act, seniors housing had taken a leadership position with regard to constructing high quality interior and exterior environments that are accessible to those with disabilities.

As numerous gerontological researchers have noted, seniors housing incorporates a range of design

features to address the physical, informational, perceptual, cognitive, and social needs of the elderly. Recognizing the unique needs of older persons, seniors housing has developed a host of design techniques that result in supportive environments that maximize an individual's ability to function. In addition, unlike other institutional long-term care settings that are developed and operated much like acute care medical facilities, seniors housing maintains the residential qualities that seniors and their families overwhelmingly prefer.

## **A Flawed Long-Term Care System**

Seniors advocates, health care professionals and numerous academicians agree that the U.S. long-term care system routinely fails both the taxpayer and consumer alike. These systemic difficulties, which have serious economic consequences for the U.S., occur in large part because of long-standing federal and state policies that have created powerful financial incentives for even the wealthiest Americans to "spend down" to poverty levels, or transfer assets, in order to qualify for Medicaid-funded long-term care services provided in nursing homes.

Medicaid, a federal/state welfare program created in 1965, contributed \$36 billion to pay 51.7 percent of national nursing home costs in 1993, and 50 percent of all nursing home residents use Medicaid as their primary source of payment. In order to qualify for Medicaid-funded nursing home benefits, elderly persons must either be poor or become poor by divesting their assets and incomes. Although Congress and President Clinton imposed a criminal penalty on certain asset transfers in the Health Insurance Portability and Accountability Act of 1996 and targeted the penalty toward lawyers in the recent budget bill, Medicaid planning continues to be practiced by persons of all economic strata across the country. And although Medicaid can serve an important social function as a "safety net" for individuals truly in need, the reality is that seniors continue to "game the system" by transferring their assets and income to family members in order to meet Medicaid eligibility requirements.

Since Medicaid pays for long-term care in nursing homes once a person has "spent down," the system strips away the incentive individuals might otherwise have to plan for and fund their own long-term care needs. As noted in *Long-Term Care Public Policy & The Future of seniors Housing, ...* Americans do not plan ahead for long-term care, because they can wait until the last minute and receive publicly financed care. They often go to nursing homes instead of seniors housing or home care, despite their preferences, because Medicaid pays generously for nursing home care, but covers very little home care or seniors housing. Few people take advantage of home equity conversion to finance long-term care or insurance, because Medicaid exempts the home (and all contiguous property) regardless of value. Long-term care insurance is unpopular because most people will not pay for something they can get from the government for free."

While Medicaid pays for the vast majority of public funding for long-term care, Medicare, a universal insurance program for all persons aged 65 and older, primarily provides acute care coverage for hospital and surgical care and accompanying rehabilitation. Consumer misperceptions notwithstanding, Medicare covers neither long-term care nor custodial care (although Part A of the Medicare program will cover care in a skilled nursing facility for up to 100 days if a beneficiary requires skilled nursing care on a daily basis for an acute illness).

The obvious incentives created by these policies encourage even the wealthiest individuals to transfer their assets in order to qualify for Medicaid nursing home benefits. This extremely expensive and inefficient approach to publicly-funded long-term care warrants immediate attention in light of the rapidly changing demographic composition of the U.S. Since 1970, costs for nursing home care have increased by an annual average of 12.6 percent - far above the rate experienced in other health care sectors including hospital care, drugs, and physician services.

The rapid aging of the U.S. population will further cause the government costs associated with providing nursing home care to older persons to skyrocket, from \$37.6 billion in 1990 to a projected \$64 billion in 2005. By the time the U.S. begins to experience the full effects of an aging post-World War II baby boom generation sometime around the year 2020, it is estimated that nursing home costs for disabled older persons will exceed \$110 billion per year.

Although an increasing number of states now utilize Medicaid-waivers or other programs to fund long-term care services in community-based seniors housing, the preponderance of public funds for long-term care continue to flow into nursing homes. States, which are required to contribute between 21 and 50 percent of Medicaid financing, have instead responded to spiraling costs of long-term care by limiting the number of nursing home beds that can be built through moratoria on the issuing of licenses or through Certificate of Need (CON) restrictions. These widespread practices, while minimizing states' long-term care costs, created an artificial scarcity of supply in most states, resulting in guaranteed demand for services. Thus, even the lowest quality nursing homes - those most likely to fail in a free market economy - often run at or near full occupancy.

The U.S. long-term care system is further flawed because policymakers have relied almost exclusively on heavy-handed regulation, rather than competition, to control quality of care in nursing homes. Massive government regulation, implemented by policymakers to ensure resident safety, has resulted in institutional and often impersonal living environments. In addition, the federal regulation thrust upon nursing homes has steadily driven up long-term care costs.

A final, but significant flaw, is that Medicaid pays 100 percent of a beneficiary's costs (both shelter and services) in a skilled nursing facility, but does not provide any reimbursement for either the shelter or service component of seniors housing. Thus, older adults who planned for their long-term care needs and moved into seniors housing are not eligible for any assistance until becoming impoverished. These residents may be capable of paying for the cost of their shelter, but unable to fund needed services over time as frailty increases. Rather than providing necessary financial assistance for these incremental service needs, the system leaves the household no choice but to "spend down" in order to qualify for Medicaid's nursing home benefit, which picks up all costs room and board - plus services.

### **Creating The Right Incentives**

Because seniors housing is predominately a private pay business operating in a competitive, free-market environment, consumers (seniors and their families) have unquestionably been the driving force behind the industry's steady proliferation. What is most remarkable about seniors housing's rapid emergence, however, is that it has occurred in spite of financial incentives available to persons who can transfer their personal assets, "impoverish" themselves, and apply for government-funded long-term care benefits provided by nursing homes.

The monumental demographic changes that will occur in the next few decades make it imperative that policymakers seek ways to create a more efficient, competitive, market-driven long-term care system that will deploy the nation's limited resources more responsibly and better meet the needs of an aging population. An improved paradigm for long-term care is needed - one that is sensitive to consumer needs and preferences, free from the harmful effects of over-regulation, and driven by free-market principles that foster high quality, efficient service delivery, as well as affordable shelter.

Forging a stronger, more efficient long-term care delivery system does not necessarily mean policymakers must create new programs and increase government outlays on long-term care. Indeed,

policy measures that eliminate the incentive for seniors to "game the system," and instead encourage individuals to pay for their own long-term care in privately funded residential care settings, will result in a dramatically more efficient and less costly long-term care system.

### **Conclusion and Recommendations**

While greater numbers of seniors and their families are turning to seniors housing each year to provide affordable, high quality shelter and assistance with the activities of daily living, public policy can provide further stimuli to reduce the nation's over-reliance on nursing homes for taxpayer-funded custodial long-term care. Recognizing this, the American Seniors Housing Association urges policymakers to consider the following proposals:

1. Encourage individuals to use their own resources (e.g., home equity) to pay for long-term care, eliminate the 7.5 percent of adjusted gross income threshold applicable to medical deductions for qualified long-term care insurance premiums, continuing care retirement community (CCRC) entrance fees, and other prepaid long-term care expenses.
2. Expand the Medical Savings Account demonstration to include participation by individuals.
3. Clarify that assisted living residences are eligible for tax-exempt bond financing.