

OPENING STATEMENT
"Betrayal: Quality of Care in California Nursing Homes"
Monday, July 27, 1998
SENATOR JOHN BREAUX
RANKING MEMBER

Mr. Chairman, I commend you for taking the lead on this important issue and calling for these two days of hearings. Of the wide range of issues that we have studied in this Committee - - preserving Social Security, strengthening Medicare, protecting consumers against fraud, to name a few - - none are more important than protecting the welfare of our most vulnerable citizens. At today's hearing, we will hear stories of what can happen in nursing facilities when safeguards don't work, when they aren't carried out, or - - worst of all - - when people just don't care.

I join you in making it clear to nursing home residents and employees, to policymakers in state and federal government, and all Americans, that this indeed *is* an important issue, one that deserves a close examination. Our goal, Mr. Chairman, must be to find solutions to the problems we will hear about today - - and find them quickly.

Today we will hear testimony from those who have been victimized by an ineffective system. Several of our witnesses traveled great distances to tell their stories, and I want to commend them for their efforts and thank them for sharing their testimonies.

Before we hear about some upsetting experiences our witnesses have endured, I would like to recognize the efforts of President Bill Clinton and Donna Shalala, the Secretary of Health and Human Services, who last week answered the Committee's call to address these problems. The initiatives the Administration announced, which include increasing inspections of nursing facilities that are repeat offenders and posting inspection results on the Internet, appear to address many of the concerns we will hear about today and tomorrow. We will hear more about the Administration's plans when Mike Hash of the Health Care Financing Administration testifies tomorrow.

In fact, Mr. Chairman, I suggest that the Committee offer its expertise in this area and work together with the Administration, advocates, and representatives of the industry to ensure that our common goal, protecting vulnerable and sick citizens, is met successfully and *soon*.

Today, we will hear about cases - - bad cases - - that took place in California's nursing homes. At tomorrow's hearing, we will learn how prevalent these problems are. The General Accounting Office, which did a study for the Chairman and me, will report that the current nursing home inspection process may not be doing what it was intended to do: protect residents against harm and neglect. Particularly troublesome is that in some cases state surveyors missed problems that affected the safety and health of nursing home residents, and that even when such problems were identified, enforcement actions did not necessarily ensure that the problems were corrected and did not recur. Any oversight system that lets that happen must be fixed.

We also will be talking about solutions tomorrow. I look forward to hearing from HCFA to learn more about the Administration's plans. I also look forward to hearing from our industry representatives to hear about what they are doing now to help their members avoid these problems.

Mr. Chairman, this unfortunately is not the first time we have heard about problems of this sort. As the result of horrible conditions in some facilities, in December of 1987 the Congress enacted a nursing home reform law that was supposed to correct weaknesses in oversight of nursing facilities.

Congressional action was prompted, in part, by an Institute of Medicine report. One of this report's conclusions's was that the states generally concentrated on helping facilities to improve their performance, rather than enforcing certification standards. Another finding was that state survey agencies lacked formal enforcement procedures and guidelines.

Nearly a decade later, on July 1, 1995, the Health Care Financing Administration's final rules for the new law became effective. Mr. Chairman, this hearing, in general, is about the effectiveness of these rules, how states are implementing HCFA's nursing home regulations and guidelines, and to what extent HCFA is overseeing the activities of the states.

But, this is the sort of discussion I expect we will have tomorrow, when we will have HCFA, the GAO, and representatives of the industry here. Today is reserved, rightly so, to hear what happens when the system does not work. Mr. Chairman, I again commend you for taking the lead on this issue, and I look forward to working with you, the Administration, resident advocates, and representatives of the industry to ensure that we never have to have a hearing of this kind again.