
Committee Meeting

of

ASSEMBLY SENIOR ISSUES COMMITTEE

ASSEMBLY BILL No. 2023

(Requires certain background checks for assisted living administrators and applicants for certificate of need)

ASSEMBLY CONCURRENT RESOLUTION No. 92

(Memorializes Federal Office of Homeland Security to examine needs of senior citizens in event of terrorist attacks)

ASSEMBLY CONCURRENT RESOLUTION No. 93

(Urges Domestic Security Preparedness Task Force and Domestic Security Preparedness Planning Group to examine needs of senior citizens in event of terrorist attacks)

LOCATION: Edward F. Gray Apartments
Irvington, New Jersey

DATE: March 18, 2002
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Craig A. Stanley, Chair
Assemblyman Jeff Van Drew, Vice-Chair
Assemblyman Peter C. Eagler
Assemblyman Alfred E. Steele
Assemblyman John E. Rooney



ALSO PRESENT:

Irene M. McCarthy
Office of Legislative Services
Committee Aide

Maggie Manza
Assembly Majority
Committee Aide

Eileen M. Mannion
Assembly Republican
Committee Aide

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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ASSEMBLYMAN CRAIG A. STANLEY (Chair): Okay. We're going to go ahead and get started.

ASSEMBLYMAN ROONEY: I guess Craig didn't want to drive to Trenton.

ASSEMBLYMAN STANLEY: Assemblyman Rooney just said I guess I didn't want to drive to Trenton today. That's why I moved the meeting up here.

ASSEMBLYMAN ROONEY: You picked the right day not to drive.

ASSEMBLYMAN STANLEY: Make it hard on everybody else. At least I can get out of driving in bad weather.

ASSEMBLYMAN ROONEY: Closer for me.

ASSEMBLYMAN STANLEY: That's right. Some of us. Reverend Steele had a shorter commute today.

ASSEMBLYMAN STEELE: Absolutely.

ASSEMBLYMAN STANLEY: Assemblyman Van Drew--

ASSEMBLYMAN ROONEY: I feel for you.

ASSEMBLYMAN VAN DREW: I flew in. I took a crop plane.

ASSEMBLYMAN STANLEY: Well, we'll certainly reciprocate a little later on in the year when the weather clears up a little bit.

ASSEMBLYMAN VAN DREW: What he means is that when it's nice and warm and pretty to go to the beach, he'll show up. Everybody wants to do all hearings in Cape May in June, July, and August.

ASSEMBLYMAN STANLEY: Let me certainly thank all of my colleagues for coming to this meeting on location as opposed to in Trenton.

One of the things that Speaker Sires indicated, when he appointed me as Chair, was that he wanted us to bring senior issues to areas and locations where seniors are so that we can get a firsthand look at some of the facilities, as well as to be able to communicate with some of the seniors who may not be able to make it down to Trenton to testify or, at least, to offer their opinions. We talked to a couple of seniors a little earlier today. They were glad that we were able to bring a Committee meeting like this to the building and express some of their concerns to us personally. And I will certainly make sure that some of their comments are put into the record, as well.

Let me also thank the Irvington UAW Housing Corps for facilitating the use of this location. It's good when people are willing to open their doors to State government so that we can do our constitutional duty on behalf of the people of the state.

Seniors' issues are, of course, very dear to many of us. As you know, we all either are of a certain age or we have parents of age. So those issues are very relevant and very salient to us. Also, we're all aspiring to be seniors some day if we aren't now. So again, that's why what happens to seniors is particularly important to us.

This meeting will cover some issues concerning security -- seniors' issues -- security and safety. Both are general issues concerning security and also post 9/11 issues concerning security. Evacuation may be one of the issues that comes up, as well as biological terrorism and biological terrorist threats.

So, without any further ado or comment on my part, I just want to, again, welcome all the members of the Committee, welcome all of you to Irvington, and ask my colleagues if they would like to open with a statement.

Vice-Chairman Van Drew.

ASSEMBLYMAN VAN DREW: Chairman, it's good to be here. I would like to thank you for your vision in reaching out into the communities throughout the State of New Jersey to meet seniors' needs. I think it is important that we bring Trenton to other communities and throughout other communities in the State of New Jersey and certainly, especially, with seniors' issues and seniors' needs. They always can't make, obviously, all the meetings that occur in Trenton. And while they have very able representation in the AARP and other groups, I think, just even symbolically alone, the fact that we get out and that we're trying to reach them and touch them and meet their needs is something that's admirable. And I thank you for that.

ASSEMBLYMAN STANLEY: Thank you, Mr. Van Drew.

Assemblyman Steele.

ASSEMBLYMAN STEELE: Thank you, Mr. Chairman.

Certainly, we can't always predict the weather, but you made the right choice not just because it was a closer ride, but certain seniors, on a day in this inclement weather, would not desire to go out. And it's just indicative of the fact that your vision and your leadership -- bringing the meeting here makes them know that we're available to them. So we're looking forward to continuing to be on the cutting edge and on the forefront of taking care of those who rightfully deserve it. And that's how we're seeing this.

ASSEMBLYMAN STANLEY: Thank you, Mr. Steele.

Mr. Eagler.

ASSEMBLYMAN EAGLER: Thank you, Chairman. I wanted to thank you and members of the staff for providing us the arrangements for

making this day possible for us to be here to meet with our seniors here in Irvington. And I look forward to a very fruitful meeting.

Thank you.

ASSEMBLYMAN STANLEY: Thank you, Mr. Eagler.

Mr. Rooney.

ASSEMBLYMAN ROONEY: Thank you very much.

Since I am a senior already -- you're only coming up the ladder -- I've already arrived-- (laughter)

I want to thank you for inviting me also. I had about half the distance that I normally travel to Trenton.

I feel for you, Jeff. I know that trip. I think we're equidistant in the opposite directions from Trenton. So it's always nice to come here and see a beautiful facility like this -- and something we are doing for our seniors.

I probably-- And I was just reminded, I chaired this Committee. I hate to admit it, but it was 1986, so it was a long time ago. And we did some great things back then. And I see some security on here and checking -- background checks -- security checks. We did that back in the old days. We did home health aides, and we did the nursing home aides and background checks for making sure that our seniors were protected.

So it goes back a ways. And I remember some of the things we've done. In fact, in my own town, there's a senior center that I was the one who spearheaded. We're actually on our third addition to the center. And we did it all through community development funds. In fact, I have a wing on it named after me. I always thought that those things were done in memorials,

but I'm still here. I'm still alive. And I'm still in the Legislature. I will be celebrating my 20th anniversary next year.

ASSEMBLYMAN STANLEY: Did they think you were on the way out or something? (laughter)

ASSEMBLYMAN ROONEY: I don't know. It was quite a tribute. I was surprised when they did it. It's only a wing. The whole center is named after our former freeholder director and another mayor of Northvale.

Thank you for inviting me today.

ASSEMBLYMAN STANLEY: Thank you very much, Mr. Rooney. I appreciate you coming.

We're going to do some bills first. We're going to deal with the actual legislation first because I know Assemblyman Van Drew has another meeting in Trenton. So, we need to just get the bill portion through so that he can vote, and then we can convene the hearing portion.

So maybe we'll take the first bill on the agenda.

MS. McCARTHY (Committee Aide): That would be A-2023. It requires a certain background check for assisted living administrators and certain requirements for applicants for certificate of need.

This bill requires the Commissioner of Health and Senior Services to implement some of the same safeguards that are required in the full review process of an application for certificate of need before approving one for assisted living residences or programs, which are under current regulations -- are subject only to an expedited review process.

Specifically, the bill provides a prior to approval of a certificate of need. The Commissioner shall evaluate the background of an applicant with

regard to: good moral character, economically capable of demonstrating of constructing or expanding a facility; capable of successfully providing services that meet or surpass the licensing standards; capable of demonstrating an acceptable track record; capable of demonstrating a track record in other areas other than health care related activities, also.

In addition, the bill requires a State and Federal criminal history background check for assisted living administrators. And the cost of the background check would be assumed by the applicant for certification as an assisted living administrator.

There's an amendment to make the bill identical to the Senate version, which passed the Senate a couple of weeks ago.

ASSEMBLYMAN STANLEY: Okay. Right now we have one person, I guess, scheduled to testify on the bill. That's Doug Johnston, actually, Betty Heuser, and Lynnette Lee-Villanueva.

Maybe you can come forward and offer testimony.

LYNNETTE LEE - VILLANOVA: I'll just stand up from here.

I think we were going to--

HEARING REPORTER: Excuse me, Mr. Chairman.

ASSEMBLYMAN STANLEY: Oh, you have to come to the mike. I'm sorry.

MS. LEE-VILLANUEVA: I believe we were going to testify in general later, but as far as this bill, AARP does support it, and we don't have any concerns with it as read.

ASSEMBLYMAN STANLEY: Okay. Thank you very much.

We need to have a motion for the Assembly Committee amendments for A-2023.

ASSEMBLYMAN EAGLER: So moved.

ASSEMBLYMAN ROONEY: So moved. Second.

ASSEMBLYMAN STANLEY: Thank you. Moved and seconded.

Now, on the Committee amendments, do you want to do the roll call?

MS. McCARTHY: Sure.

Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Yes.

MS. McCARTHY: Assemblyman Steele.

ASSEMBLYMAN STEELE: Yes.

MS. McCARTHY: Assemblyman Eagler.

ASSEMBLYMAN EAGLER: Yes.

MS. McCARTHY: Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: Yes.

MS. McCARTHY: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Yes.

Okay. Now on the bill.

MS. McCARTHY: Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Yes.

MS. McCARTHY: Assemblyman Steele.

ASSEMBLYMAN STEELE: Yes.

MS. McCARTHY: Assemblyman Eagler.

ASSEMBLYMAN EAGLER: Yes.

MS. McCARTHY: Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: Yes.

MS. McCARTHY: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Yes.

MS. McCARTHY: The bill is released with amendments.

ASSEMBLYMAN STANLEY: Okay. And now the Senate bill,

S-674.

ASSEMBLYMAN ROONEY: So moved.

ASSEMBLYMAN EAGLER: Second.

ASSEMBLYMAN STANLEY: Thank you.

Do you want to read the roll?

MS. McCARTHY: Sure.

Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Yes.

MS. McCARTHY: Assemblyman Steele.

ASSEMBLYMAN STEELE: Yes.

MS. McCARTHY: Assemblyman Eagler.

ASSEMBLYMAN EAGLER: Yes.

MS. McCARTHY: Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: Yes.

MS. McCARTHY: Assemblyman Stanley.

ASSEMBLYMAN STANLEY: Yes.

MS. McCARTHY: The bill is released.

ASSEMBLYMAN STANLEY: The next bill that we'll consider is actually Assembly Concurrent Resolution No. 92, which memorializes the

Federal Office of Homeland Security -- examine needs of senior citizens in the event of terrorist attacks.

Do you want to just give a summary of the Assembly Concurrent Resolution?

MS. McCARTHY: Sure.

ACR-92: This concurrent resolution memorializes the Federal Office of Homeland Security in carrying out its mission through coordination of a national effort to prepare and mitigate consequences of terrorist attacks, to examine the special needs of senior citizens in the unfortunate event of a future terrorist attack.

ASSEMBLYMAN STANLEY: Thank you.

This is a very important issue with this Committee. Actually, as of yet, we have seen no indication that really certain areas are being looked at with respect to the senior population. Of course, seniors are considered -- many of which are considered part of vulnerable adults. And we really have to take special precautions and special consideration when dealing with some of the threats that have come up recently, with respect to our nation.

Therefore, we felt it was important to propose a resolution that would urge Congress and the Office of Homeland Security to move expeditiously ahead with considering the special needs of this particular constituency.

We don't have anyone, I believe, that is scheduled to testify on this particular resolution.

But do any of the members want to make any comments with respect to this resolution?

ASSEMBLYMAN STEELE: Yes, Mr. Chairman. I just want to kind of echo what you just stated. I think it's always important that we keep our Federal government on the forefront of what's important as they deal with the many issues of dealing with 9/11 -- that we have to realize that it's better to be proactive. We hope that we would never have to react again.

But since we don't have the power to control that, I think it's always important that we let our seniors know by process of education. There should be some mechanism that should be in place just in case. It's always better to have a plan than to have to react with no plan. So I think it's important that we let Homeland Security know that it's important to us. Though they are in Washington representing us-- But at the same time, we're here. And our politics are local. Therefore, I think this is important and the right step.

ASSEMBLYMAN STANLEY: Thank you, Mr. Steele.

I'd like to also add that Congressman Payne is expected here today, also, to speak to that issue. When he arrives, we'll allow him to come in. I know his schedule is very hectic this morning. But hopefully we will see him. And he can offer us some information with respect to that resolution, as well.

Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: No, I agree. Obviously, it is important. I mean, the needs of seniors are greater all the time and especially during times of emergency. They may react a little bit slower. Unfortunately, at times, they may be even a little bit more vulnerable. Certainly, God forbid, and hopefully it will never happen, but in the event of any kind of biological

terrorist attacks, certainly, they will be the most vulnerable, as we've seen in the past. So, we need to ensure that as part of the overall plan, they are given new consideration.

I know that where I come from, we always worry about hurricanes and moving people out and getting them off the barrier islands. And those same types of considerations have to be given because, obviously, we have to try to get them out the first because they are, obviously, the most vulnerable and have the most problems at times. Although, I must say, there are some seniors I know, depending on the classification category, that are pretty tough. So it's a generalization. But, in general, yes. And I think it's, obviously, a good resolution that needs to be done.

ASSEMBLYMAN STANLEY: Thank you, Vice-Chairman.

Any others wishing to testify? (no response)

Okay. Call the roll.

MS. McCARTHY: On ACR-92.

Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Yes.

MS. McCARTHY: Assemblyman Steele.

ASSEMBLYMAN STEELE: Yes.

MS. McCARTHY: Assemblyman Eagler.

ASSEMBLYMAN EAGLER: Yes.

MS. McCARTHY: Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: Yes.

MS. McCARTHY: Assembly Stanley.

ASSEMBLYMAN STANLEY: Yes.

MS. McCARTHY: The resolution is released.

ASSEMBLYMAN STANLEY: ACR-93, which urges the Domestic Security Preparedness Task Force and Domestic Security Preparedness Planning Group to examine the needs of senior citizens in the event of terrorist attacks, really mirrors the previous resolution, but it pertains to the State Task Force, as opposed to the previous resolution, which pertains to the Federal government.

So, if we can just have a motion--

ASSEMBLYMAN VAN DREW: I'll move that.

ASSEMBLYMAN EAGLER: Second.

ASSEMBLYMAN STANLEY: Thank you, Mr. Van Drew.
Seconded by Mr. Eagler.

MS. McCARTHY: There's a technical amendment with that one.

ASSEMBLYMAN STANLEY: Okay. We need to do a technical amendment on that resolution, first.

ASSEMBLYMAN VAN DREW: I'll move the amendment first.

ASSEMBLYMAN STANLEY: Okay. And a second.

ASSEMBLYMAN STEELE: I'll second it.

MS. McCARTHY: Assemblyman Rooney on the amendment.

ASSEMBLYMAN ROONEY: Yes.

MS. McCARTHY: Assemblyman Steele.

ASSEMBLYMAN STEELE: Yes.

MS. McCARTHY: Assemblyman Eagler.

ASSEMBLYMAN EAGLER: Yes.

MS. McCARTHY: Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: Yes.

MS. McCARTHY: Assembly Stanley.

ASSEMBLYMAN STANLEY: Yes.

MS. McCARTHY: On the bill -- on the resolution.

ASSEMBLYMAN VAN DREW: I'll move the resolution.

ASSEMBLYMAN EAGLER: Second.

MS. McCARTHY: Assemblyman Rooney.

ASSEMBLYMAN ROONEY: Yes.

MS. McCARTHY: Assemblyman Steele.

ASSEMBLYMAN STEELE: Yes.

MS. McCARTHY: Assemblyman Eagler.

ASSEMBLYMAN EAGLER: Yes.

MS. McCARTHY: Assemblyman Van Drew.

ASSEMBLYMAN VAN DREW: Yes.

MS. McCARTHY: Assembly Stanley.

ASSEMBLYMAN STANLEY: Yes.

MS. McCARTHY: The resolution is released with amendments.

ASSEMBLYMAN STANLEY: Thank you very much.

That concludes the actual legislation that we'll be passing.

At this point, we have several persons who would like to give testimony regarding the issue at hand.

Do we have these in any particular order?

MS. McCARTHY: Who came first?

ASSEMBLYMAN STANLEY: Yes, why don't we ask-- Why don't we do that?

We're going to do it on a first come first testify basis. And we have Theresa Edelstein, from the New Jersey Hospital Association, who is here.

You win. (laughter)

THERESA EDELSTEIN: Good morning.

ASSEMBLYMAN STANLEY: Good morning.

MS. EDELSTEIN: To Assemblyman Stanley and members of the Committee, thank you for the opportunity this morning to testify before you.

I am Theresa Edelstein, Vice President of Continuing Care Services at the New Jersey Hospital Association. We represent more than 50 nursing facilities in the state, as well as approximately 15 assisted living facilities and 30 home health agencies who are part of our overall membership.

These providers, as you know, play a critical role in serving the community throughout the state. Overall, nursing homes in New Jersey serve more than 35,000 seniors, the vast majority of whom are Medicaid beneficiaries. Individuals cared for in nursing homes require around the clock care each and every day from nurses, nursing assistants, rehab therapists, social workers, and others. Assisted living providers throughout the state serve approximately 10,000 individuals, many through the Medicaid assisted living waiver. And on any given day, home health agencies provide thousand of visits to seniors in the community in buildings like this one. Our members' mission is to deliver high quality care in a safe, secure environment that affords seniors privacy and dignity.

In pursuit of this mission, the nursing homes, assisted living providers, and hundreds of home health agencies in the state make up a significant part of the employer market, particularly in urban areas. Most of

these providers also offer health education and other services to the communities in which they are located.

The biggest challenges facing these providers are workforce shortages and funding. These two issues are strongly linked to each other because nursing facilities, in particular, are so reliant on government funding sources, both Medicare and Medicaid. Reimbursement levels directly affect wages and benefits that can be provided to our staff.

In studies conducted independently in 2001, two national consulting companies concluded that New Jersey's nursing facilities are underfunded by Medicaid by as much as \$240 million. One of these studies placed New Jersey in last place in terms of the adequacy of Medicaid funding for nursing facilities, citing a \$21 per day loss compared to the cost of care.

Over the last eight years, New Jersey's nursing homes have sustained cumulative cutbacks in Medicaid of \$230 million on the Federal level. Medicare funding in 2003 is expected to decrease by almost 20 percent, or \$100 million, for New Jersey facilities, because of the expiration of fixes to the Balanced Budget Act. Nursing facilities, in general, have a difficult enough time competing in the labor market for employees, but this reimbursement climate renders them virtually unable to compete.

About half of the assisted living providers in New Jersey have become Medicaid providers in recognition of the fact that a significant proportion of residents will eventually spend their resources and qualify for Medicaid. And these providers are committed to continuing to provide care for as long as possible, regardless of the funding source.

The problem now is that the Medicaid waiver slots are all spoken for, and so far, the administration has not submitted a request for an expansion of the waiver to the Federal government. Therefore, a waiting list is being kept with priority given to individuals already residing in assisted living.

Anecdotally, we've heard that families and residents are already deciding to transfer to a nursing facility at a higher cost to the State rather than run the risk of not being granted a Medicaid waiver slot for quite some time.

Beyond this immediate problem is the fact that the Medicaid rates associated with the waiver have not been adjusted for inflation in more than seven years. This fact certainly puts assisted living providers, who have made a commitment to serving Medicaid beneficiaries, at a distinct disadvantage in the labor market, just like their nursing home counterparts, and hampers their ability to better ensure safety and security with such minimal resources.

Home health agencies also have demonstrated a strong commitment to the Medicaid population. While rates for the skilled services that home health agencies provide are generally satisfactory, the issue in home care is the rates paid for nonskilled or person care largely provided by home health aides. Currently, at \$15.50 per hour, this rate underpays agencies by about \$4.50 an hour because the rate is supposed to cover all administrative costs, as well as wages and benefits associated with running the Personal Care Assistance and Home Care Waiver programs under the Department of Human Services and the Department of Health and Senior Services.

Because of this, many agencies strictly limit their involvement in these programs because they cannot recruit and retain the personnel necessary to serve more seniors. It is impossible to say how many seniors residing in the community have been hospitalized or forced to enter a nursing home because they could not access personal care or other home care waiver services, again, at a higher cost to the State.

Nursing staff are the backbone of these providers, especially the certified nursing assistants and home health aides. Current turnover rates among nursing staff in nursing facilities range between 20 and 50 percent. Nursing vacancy rates remain high in these facilities. This crisis forces more than 80 percent of nursing facility providers to pay more than reimbursement provides so that they can simply recruit and retain adequate and qualified staff.

Nowhere are these issues more keenly experienced than in urban nursing homes where Medicaid occupancy runs at or near 85 percent, and costs are the same or more than the statewide average. These facilities tend to be older, so the cost of maintaining the physical plant is increasing. Security is often a more significant concern for these providers, which adds to the cost of labor, equipment, and supplies. In some situations, there are more employers available for workers to choose from. So, the urban nursing home loses current or potential staff to the retail and other businesses in its community. Volunteers often cannot be recruited to assist in these facilities because of transportation difficulties, location, and safety concerns.

In the midst of this, New Jersey providers continue to offer high quality care and are among the best providers in the nation. There are already

significant measures in place to ensure the safety and security of our residents, including: the Office of the Ombudsman for the Institutionalized Elderly; the hotline at the Department of Health and Senior Services; mandatory criminal background checks for nursing assistants, home health aides, and administrators; a nurse aide registry that documents sustained allegations of abuse, neglect, or misappropriation of property. These work well as deterrents to abusive or neglectful acts. The Ombudsman and the Department also provide the investigative and enforcement role when abuse or neglect is reported. All of these measures are also in place for assisted living providers.

If we are to do more in regard to safety and security, whatever we do should have a truly preventive focus and not merely be another deterrent. What do I mean? The Department of Health and Senior Services and Board of Nursing might want to consider conducting a review of the curriculum used to train applicants for certification as a nursing assistant or home health aide to ensure that there is clear emphasis on and considerable content related to the topic of safety and the role of the aide in reporting abuse or neglect.

The Department might also want to consider assisting providers by developing a specific curriculum on this topic beyond what is currently required in the area of resident rights that would be mandatory for all staff working in nursing facilities, assisted living, and home health agencies upon hire and, at least, annually.

Equally important and often overlooked is the issue of the security of seniors residing in the community, often alone and without family nearby. Some receive services through community-based organizations. Many do not. The Department might want to consider stepping up its efforts to identify and

address elder abuse in the community where seniors may be even more susceptible than in a nursing facility or assisted living setting because there aren't many pairs of eyes and ears to monitor what occurs. This is particularly true in urban areas where purveyors of services that might not be appropriately licensed tend to prey on seniors.

Another recommendation is that the Department of Law and Public Safety, Division of Consumer Affairs, consider instituting an inspection schedule for temporary help service firms, health care service firms, and other entities they license that provide health-related services in the community. Some of these agencies contract with health facilities to provide professional and paraprofessional nursing staff. Most do a fine job of ensuring that their contractees have proper clinical training, but the Division of Consumer Affairs might wish to consider mandating that these agencies also offer training, either directly or under arrangement, regarding abuse and neglect and the State's reporting requirements.

The Legislature might want to consider lending a hand in making the criminal background check process more efficient and timely and advocating on the Federal level for a nationally funded mandate that checks be done and a national registry established so that staff found guilty of abuse or neglect cannot cross the border into another state and work in their facilities or home health agencies undetected.

The Legislature might want to consider advocating for reductions in the regulatory and paperwork burdens imposed by Federal regulations so that the focus can return more to patient care than medical record requirements.

You might also want to consider supporting the Nurse Reinvestment Act that is in conference committee in Washington. These are all areas that require our collective attention so that quality care can be maintained and enhanced for seniors wherever they reside or receive care.

Thank you for the opportunity to share our thoughts with you today.

ASSEMBLYMAN STANLEY: Thank you very much, Ms. Edelstein.

I'm going to ask that--

Ms. Edelstein, would it be all right if you could, maybe, not right now but as soon as Congressman Payne finishes his testimony, come back and entertain questions? Are you going to be here for a minute?

MS. EDELSTEIN: Sure.

ASSEMBLYMAN STANLEY: It's only because I know Congressman Payne is on the run right now.

If the Congressman can come up--

Thank you.

C O N G R E S S M A N D O N A L D M . P A Y N E: Do you have to swear in? (laughter)

ASSEMBLYMAN ROONEY: We trust you, Congressman.

ASSEMBLYMAN STANLEY: Thank you for coming. We appreciate your stopping by. We know your schedule has been very hectic this morning.

Thank you very much.

CONGRESSMAN PAYNE: Thank you very much. I certainly do appreciate the invitation to testify at this very important hearing. However, one of our local, very active persons is being funeralized today, Mr. Coyt Jones. It's the father of Mayor Baraka. He passed away, and his funeral is at 11:00 this morning. And I've been asked to speak there. I had a previous meeting with the Reverend Jesse Jackson, who has come into New Jersey and will even be in Trenton later on. So, it is a pretty tight schedule, and I apologize.

I would like to ask if I would have permission to have my testimony, which I have prepared, entered into the record. I'll try to have it to you within five days. We tend to keep the records open for a few days. I'm not familiar with the State requirements.

ASSEMBLYMAN STANLEY: Sure. We can do that.

CONGRESSMAN PAYNE: But I would like to just briefly say that I think the topic is very, very important that you're talking about -- in general, seniors, but also as it relates to homeland security. We all know that 9/11 drastically changed the way we will live, actually, for the rest of our lives. And the question of seniors and their vulnerability is also very, very important.

The Federal government is certainly concerned about the safety of our citizens. And we have plans. As a matter of fact, on Friday, at the Robert Treat Hotel, there will be an all day hearing on the whole question of security. Bob Menendez, my colleague from Hudson County primarily, is the chairperson of the Democratic Homeland Security Task Force and is really working very closely with that issue. And so I would encourage any of you whose schedule happens to be free on Friday to-- Or if you'd like, call our

office. We can give you more information on the hearing. We definitely need to have preparedness for our citizens and our seniors in particular.

But I might just-- As I was listening to the previous speaker talk about the problems of seniors so far, as Medicare reimbursement-- These are all Federal issues that we're going to have to work on -- try to increase Medicare and Medicaid. I think that Medicare should actually be broader where eyeglasses should be covered or hearing aids. These things are not covered under Medicare, only under Medicaid. You can be tested to see whether your hearing is impaired or not. And if you find out it is, and you don't have the money to pay for it, you're just in trouble. So it seems to me that it's an incomplete-- There's something wrong with that picture.

The whole question of security has taken a tremendous amount of money from the Federal government. The military budget grew by \$40 billion this year. It will be about \$380 billion, excluding homeland security, which is about another \$30 billion. So we're talking about-- In the whole question of security and defense, we're talking about close to \$400 billion to be increased each year. Now, that's a big number. I know you're all talking about a \$2.1 billion short fall, possibly, in the State.

The Federal government spends \$1.1 billion a day on military, on security.

ASSEMBLYMAN VAN DREW: Could you give us three days, Congressman? Three days and we'll leave you alone.

CONGRESSMAN PAYNE: Wipe you right out. I mean, there would be no deficit.

So, you can see how tremendous, how large this whole question of security and defense is. It will exceed up into the \$400 billions. And there's no doubt in my mind that within another decade, we'll probably be spending close to half a trillion dollars a year. We've got the millions. I got accustomed to jump out of millions into the billions when I went there. But now we're talking about trillions. We're talking about a budget that currently will be 40 percent of a trillion. But it will probably move up to about a half a trillion dollars in the next decade, which means that the programs that we heard about -- the prescription drugs that we don't hear any more about, that seniors need -- the whole question about expanded health care for all. I think every American is entitled to health care. However, there are about 45 million Americans that have no health care at all -- uninsured.

And so, as this defense in homeland security budget continues to increase, there will be less and less available for the domestic programs. We only have about a 2 percent increase in domestic programs. And that's Pell Grants, that's highway funds. You name the whole gambit. And a 2 percent increase is not sufficient because many of the jobs were not-- We hadn't reached our goal with homeless housing, for example, or prescription drugs for seniors. So, with the homeland security and defense taking over a billion a day to increase, we are going to be hard hit.

Finally, there are basically three reasons that our budget-- We had a budget surplus. We had, finally, under President Clinton, actually eliminated the deficit. And we had a \$250 billion surplus in '99. We were going up to half a trillion. And this year, we were supposed to bid. And the budget was really going to have a tremendous surplus. However, because of

one, 9/11 and the additional costs for security; number two, a cooling off of the economy, which, as you know, went down near the end of last year, but definitely cooled off during 2002 and 9/11 certainly exacerbated an already difficult problem, and third, though, the large tax cut that was given back. That is probably the thing that has the most impact. We will be giving back several trillion dollars over the next couple of years. Of course, 10 percent of it will go to -- 90 percent will go to about 10 percent of the country, and the rest will have what's left. It's really something that's going to have a tremendous impact on our ability to keep up with our costs.

So with that, like I said, I really appreciate having the opportunity to come here, and I wish that I did not have to rush. There are problems with seniors as it relates to many of the caretakers of senior citizens raising children. As we know, that's a very big problem in this state and in this country. Many parents have problems, and they've been unable to handle their children. And it's not uncommon that the grandparent is taking care of the child.

However, they are penalized. They do not get the proper support that I think they deserve. If a child was put into some kind of foster care or some other care, a person would get 10 times as much as a grandparent. I think the State, this year, is going to make some additional funds available for grandparents that are raising children. However, it's insufficient. And the Federal government should look at that whole issue -- not only grandparents, but great-grandparents. I mean, it's a tremendous problem. And we need to try to relieve our seniors from the cost that they do when they step in and take care of the children.

So, once again, I certainly appreciate the opportunity to have a few words with you. I commend Assemblyman Stanley for calling a hearing of this importance to senior citizens and certainly commend you busy folks for coming. I think that shows that government is good when we have hearings where people can express the problems and we work together. They're difficult problems, no simple answers, no simple solutions. However, if we work together, I think that we will try to see a better day. And that's what we should do for our seniors and for all our people to try to make it just a brighter day tomorrow for all of our people.

So, once again, thank you Mr. Stanley, gentlemen, ladies. I appreciate the opportunity to come here.

ASSEMBLYMAN STANLEY: Thank you, Congressman Payne. I appreciate your being here.

ASSEMBLYMAN ROONEY: Just one quick--

CONGRESSMAN PAYNE: Yes.

ASSEMBLYMAN ROONEY: I was going to ask Ms. Edelstein about basically the security aspect. I think she brings up a good point. I've seen it, FBI background checks for these health aides and everything else. If you, as a Congressman, can do something with the Federal government to make sure these checks get-- Somehow, it's taking too long. A lot of them, again-- We don't get the proper information.

As she said, and I know-- I was going to ask more questions from her -- that they move across state lines and then basically prey on other seniors and other states.

So, if you could help, I think that would be something that we would really appreciate.

CONGRESSMAN PAYNE: I think that's really important because much of what is done to seniors really doesn't even reach the authority's attention. It's not uncommon for seniors to be taken advantage of, even if they're in a regular hospital.

I knew a particular case. And we worked it down through a hospital. A senior had a very expensive watch when she went into the hospital. When she left, you know, it was a watch, but it was some nickel and dime thing that just was put in where the watches were -- where the senior had their watch.

You'd be surprised at the kinds of things that-- And many times, the seniors don't even report it. They brought it to my attention, and we really worked it down to where this person was given compensation for the loss of her property.

But believe me, the untold stories are what could fill this room. And if we know of the ones that are reported to us, we can just imagine how grave it is. And I do think that we should--

I remember Senator Codey used to go into places and get hired every other week somewhere. (laughter) He put down: been arrested, been in jail, alcoholic, I steal. Come right on in. (laughter) New Jersey and You, Perfect Together.

ASSEMBLYMAN ROONEY: I remember it well. I was in the Assembly. He sponsored the bill in the Senate, and I sponsored the bill in the Assembly. So I remember it well.

CONGRESSMAN PAYNE: So we definitely-- And that's a good point. And I would be glad to work along with the State authorities to see how we could get our Federal authorities-- We could, perhaps, convene a meeting with the FBI and some of the other -- secret service -- and some of the other law enforcement agencies on a Federal level, because they do have the techniques. I mean, we've seen some of the new antiterrorist equipment on a little chip you could put the world on. You could put all of the March madness, since it began, on a quarter of a tip -- put all the scores and all the teams and all the rest just like that. Definitely, there is the technology, and there's no excuse for the lag that we see.

And I think, though it needs to be the State-Federal partnership-- And they need to get it into the local authorities, too. We're going to have a press conference, which I'm not sure I will be able to make at 11:45 in Newark, where we've gotten \$10 million for communications for the local police department. Just two weeks ago, we got \$12 million for Jersey. It's also in my district.

We're now going to be able to have-- One police department couldn't talk to the other police department. You've got the Port Authority that can't talk to New York City. They can't talk to the Transit Authority. Right in New York, you've got four or five different departments of police, and sometimes the policemen are confused. They don't know whether a policeman is really a criminal or a policeman or they don't have a way of talking to one another. And so we are trying to have all this synchronized so that people can be on the same kind of wave length -- literally on the same wave length.
(laughter)

Thank you very much. Once again, I appreciate having the opportunity to come by for a few minutes.

ASSEMBLYMAN STANLEY: Thank you, Congressman. We appreciate your testimony.

I'd like to also add that Assemblyman Payne and myself have spoken about convening a hearing on the broad issue of nursing homes and Medicaid reimbursement and some of those issues. So we will have a chance-- So, maybe what we'll do-- Actually, he expressed interest in the issue. I mentioned to him that I'm also very concerned about it. So one of the proposals was to have a joint committee hearing or a joint committee meeting of the Regulatory Oversight Committee and the Senior Issues Committee that will talk about that issue and get more specific testimony on some of the things that we're broaching today.

Actually, I know, Assemblyman Rooney, you had some questions for Ms. Edelstein if she would like to come back and entertain those questions.

ASSEMBLYMAN ROONEY: Thank you, Mr. Chairman.

Actually, what I had asked Congressman Payne was basically what I was going to ask you. One of the problems that you're experiencing with these background checks, because you mentioned that they're-- I know they take long. The FBI background check is just impossible. It happens when there's a gun permit requested.

What's the procedure now? What do they do, and how can we help you?

MS. EDELSTEIN: Well, right now, the person who needs to go through the check has to go to either a local police department or the State

Police to have their fingerprints actually taken so that they can be sent for processing. One of the problems with the actual taking of the fingerprints is that sometimes they're not done carefully, and the cards get sent. And they get sent back and have to be redone.

We know that there is technology in use in the state of Ohio that uses computer software to actually scan the fingerprints into the computer, and they can be transmitted electronically. That's certainly something I think would be very helpful in streamlining the process.

And then, as you mentioned, the processing on the FBI end is really the lengthy part of this process. The State Police are very quick to respond back to the applicant or to the Board of Nursing or the Department of Health in these instances. But it's the FBI check that takes quite a long time. I know they have other priorities that are much more important, but if there's anything that can be done to expedite it, we'd certainly like to work with you to make it happen.

ASSEMBLYMAN ROONEY: Thank you.

ASSEMBLYMAN STANLEY: Thank you very much.

ASSEMBLYMAN EAGLER: Mr. Chairman.

ASSEMBLYMAN STANLEY: Yes.

ASSEMBLYMAN EAGLER: Is it possible for us to get a copy of Ms. Edelstein's statement because I think there's important issues that we'd like to--

ASSEMBLYMAN STANLEY: Oh, absolutely. Thank you.

Next we have June Duggan of the New Jersey Association of Nonprofit Homes--

JUNE DUGGAN: Good morning, Mr. Chairman and members of the Committee. I'd like to thank you for the opportunity to speak to you today.

My name is June Duggan, and I'm the President of the New Jersey Association of Nonprofit Homes for the Aging. We represent over 135 nonprofit organizations throughout the state that provide senior services.

Our members span a continuum of services available to the elderly. They include: independent senior housing, like organizations sponsored by this building; nursing homes; continuing care retirement communities; residential health care; and assisted living facilities.

Additionally, many of our members provide community-based services like Meals on Wheels, intergenerational child care programs, and so on -- medical day care programs for the elderly.

Theresa clearly identified, I think, some of the most crucial issues, and did it very succinctly, and I won't reiterate those concerns, but I want to talk about our concerns from the standpoint of our members' desire to have a healthy, affordable, ethical, long-term care system. A long-term care system includes not just nursing homes, but includes senior housing, includes nursing homes, assisted living, and all the other health care services. And every senior in this state should have access to those services.

And I think when we get to some of the most crucial issues, we have many fine services. And I think we have tremendous providers throughout the state who are committed to providing a high quality of service to the seniors, but the reality comes down to that there needs to be sufficient funding for those services.

Theresa touched on the Medicaid funding for nursing homes, the limited access to assisted Medicaid funding for assisted living in this state. As a result, that means only certain elderly have access. You should not have to have means in order to be able to access those services.

Also, when it comes to senior housing, there needs to be a sufficient supply of affordable senior housing, and there also needs to be funding available for the senior housing that allows them to maintain the buildings so that they are a healthy, safe environment that seniors deserve.

Once again, I don't want to reiterate, I think, Theresa's comments. She touched on many of the concerns. I certainly concur with them. But I really want to emphasize the issue of access. And I think right now, the way that the system is funded, and the way programs are currently financed, means that seniors throughout the state do not have equal access to services.

Thank you.

ASSEMBLYMAN STANLEY: Thank you very much.

Next we have, from the AARP, Doug Johnston, Betty Heuser, Lynnette Lee-Villanueva.

BETTY HEUSER: Good morning, Mr. Chairman and members of the Committee.

My name is Betty Heuser, and I'm an AARP volunteer. I am currently coordinating the Capital City Task Force, which will be monitoring legislation of relevance to seniors in the Legislature.

On my immediate right is Lynnette Lee-Villanueva, and she is Associate Director of the New Jersey AARP Princeton Office. And many of you already know Douglas Johnston, our Advocacy Officer.

Many of you probably also know that we have 1.3 million members, AARP members, in New Jersey. In addition, in this particular legislative district, there are 11,000 households who are members of AARP.

Now, this morning, we've come here because we would like to speak out about issues that we feel are important to seniors. My two associates here, Mr. Douglas (*sic*) and Ms. Lee-Villanueva -- they will be speaking directly to these issues.

MS. LEE-VILLANUEVA: Thank you, Mr. Chairman and members of the Committee for allowing us to be here today. I'd like to first just talk briefly about the long-term care issue.

In New Jersey, we know that New Jersey faces an expanding aging population. Many counties in the state have an increasing percentage of older residents with some at or below the poverty level.

With Federal budget reductions reducing Medicare reimbursements for home health care and State reductions in Medicaid for nursing homes, the lack of affordable long-term care services in New Jersey for moderate and low income older residents limits the choices available. The average cost of a nursing home bed in New Jersey is \$5400 a month, or more than \$65,000 a year, according to the Department of Health and Senior Services.

AARP believes that a comprehensive, affordable, long-term care system needs to be available for all. This system would include a range of care options including in-home, community-based assisted living and nursing home services allowing individuals a choice of the most appropriate placement with adequate reimbursement to providers. All long-term care facilities should be

required to set aside some housing slots for those who have been rendered destitute by the high monthly fees. There should be protections for residents to ensure they are not immediately and involuntarily evicted when they run out of money.

DOUGLAS JOHNSTON: Thank you, Mr. Chairman and members of the Committee.

Again, my name is Doug Johnston. I'm the Advocacy Office, which is just another term for lobbyist for AARP.

I want to speak to you about a couple of consumer issues. A couple of things, first of all, I passed out to you are for your information. That little black book is both our national and state legislative priorities. It's kind of a reference tool for you if you have -- if you're curious about where AARP stands on a couple of core issues. That's a good reference for you. The regular policy book is thicker than a phone book. So I didn't want to drag them all the way in here. But actually, I am going to get copies to the Committee Chairman. And if anybody else on the Committee actually wants a copy of that policy book, please do contact us, and we'll get you one. But I am going to get you one so you'll have that as a resource.

I will spare you a long-winded listing of all of those issues. Obviously, when you represent 1.3 million members in the State of New Jersey, and 35 million members in the country, there are a lot of issues that we deal with. Long-term care, of course, is one of the most important issues that we deal with on the State level, as Lynnette mentioned.

I wanted to address a couple of consumer issues, which are on this AARP Agenda 2002, which you should have. This provides you a little

synopsis of some of the priority issues we're working on this year. One of those issues is predatory lending, which, I'm sure, is an issue you're all familiar with. You should have received some mail from our office -- several pieces of mail, over the past several weeks, dealing with predatory lending because it is a problem that is national. But it is also a very big problem in New Jersey. So we have sent you information including this, which maybe has not arrived yet in your mailbox, but it will this week.

This is a copy of a report from the New Jersey Institute for Social Justice. It details some of the real problems in New Jersey that we have with predatory lending activities. And I really encourage you to read the executive summary and keep the rest as a reference. I know you get lots in the mail, but the executive summary, I think, will be very beneficial to you to give you a perspective on the problem of predatory lending and why it is so significant.

Predatory lenders prey on seniors and the poor, and they prey on a lot of minority communities, as well. Predatory lenders are individuals or businesses that act fraudulently to, in essence, steal homes from individuals. They prey on particular neighborhoods where there are a lot of seniors, a lot of residents who have lived there for a long time, so that those residents have a lot of equity in their home. Many of them own their homes outright. A majority of people 65 years and older own their homes outright in the United States today. And predatory lenders go to those neighborhoods and talk to those residents and try to talk them into loans that they may not need and, in many cases, they most definitely cannot afford.

Some of the tactics predatory lenders use are to go to those neighborhoods and, for instance, knock on someone's door. Sometimes, they'll

even make it a complex scam. They'll knock on your door and say, "You know, your house doesn't meet code. Your roof needs to be replaced. You need to have \$10,000 worth of work done on your house." The seniors they're preying on are seniors who, many times, live alone, are quite elderly, and they don't have a lot of income coming in on a monthly basis. They're living on a pension and/or Social Security. They go to these folks and use scare tactics frequently to get them to then apply for a loan that is done in conjunction with sometimes home contractors.

There's a good example of a case that took place in Trenton -- I live in Trenton -- our office is in Princeton -- of a woman, Ozzalee Jackson who was 73 and a victim of a predatory lender who worked with a fraudulent home contractor. They came to her home, told her she needed all this work done. The lender came with her, talked her into a loan to pay for it. She never saw a dime of the money. It went straight from the lender to the contractor. Very little work was done. And within several years, her home was foreclosed on. This is a 73-year-old woman living on Social Security. You can obviously imagine the situation that puts her in.

Luckily, our Mayor, Mayor Doug Palmer, came to her rescue and was able to help her out. But that is just one example of cases that are happening all across the state. They're happening in what you might call the old suburbs, suburbs that were built in the '50s and even in the '60s. It is happening in the urban areas. And it is a prevalent problem. That's what this report details. In addition, there have been substantial reports in the *Star-Ledger* about other types of predatory lending activities that are happening around the state.

AARP favors strong legislation to address predatory lending to help protect people from predatory lenders. In the Senate there's a bill S-1200, introduced by Senator Barbara Buono, that will have a sister bill introduced very soon, we believe, before the end of this month by Assemblyman Roberts. And that bill is modeled after model legislation created by AARP based on North Carolina's law. North Carolina passed one of the strongest antipredatory lending bills in the country just a few years ago. So we are seeking your support for strong action to stop predatory lending.

I want to explain our kind of legislative philosophy very clearly because there is a difference, obviously. There's a million different ways you can do something. AARP believes very strongly that simply requiring more disclosures in loans-- For instance, I closed on a home equity loan on my house two weeks ago. And when I went to the bank that I chose, I had to sign my names, I think, 18 times. And you can imagine after the first couple of pages, I stopped reading and I was signing, and my signature was getting worse each time.

That's probably safe for a person who is going to the bank or the credit union or their savings and loan that they're choosing or the mortgage broker that they're going to. But the way predatory lenders work is they go to the victims. And so when they're signing your name 18 times, they're defrauding them by selling them loan products that they don't need, such as insurance that is for more than the value of the mortgage. They're selling you life insurance programs that you don't necessarily need. They're charging you interest rates. In many cases, they're giving you loans but what they're giving is probably the wrong word. But they're making loans to you that are actually

more expensive than the loans that you're sometimes paying off. So there's no net benefit to the borrower.

I want to give you an example. I was speaking to Assemblyman Caraballo, a couple of weeks ago, about predatory lending activities. He mentioned that he bought a house in Newark just sometime last year. And when he went to the mortgage broker recommended, I guess, by the homeowner or the realtor, this guy tried to talk him into a loan at a 13 percent interest rate. Now, of course, he looked at him like he was crazy and said, "You're nuts." He went and got a better loan, obviously.

But why did that happen? It happened because he's Hispanic and because he's in Newark. And those are target people and target areas where predatory lending is prevalent.

So, we're talking about a very serious problem that does happen all around the state. It's concentrated in those older suburbs. We hope you will support strong legislation that will prohibit predatory lending activities, not just require more disclosure, which was kind of the philosophical difference in the legislation I was talking about. More disclosure won't work because disclosure is already required in many cases right now. What we need to do is stop the predatory lending activities. And the predatory lending activities we're addressing are not the types of lending practices that legitimate companies like banks and credit unions and other financial institutions use. They don't flip peoples' loans and make them loans that are more expensive than the loan that they're paying off. They don't stick in hidden fees for services and benefits that the borrower does not really need.

We think you'll find this legislation, again, that's going to be introduced by Assemblyman Roberts very soon, will be a solution to help you protect your senior citizens in your district, no matter where you live in the State of New Jersey. And we'll be getting you a copy of the AARP model bill via the mail in the next week or two. We encourage you to take a look at that.

I can address predatory lending or go on. It's your choice.

ASSEMBLYMAN STANLEY: You can--

ASSEMBLYMAN ROONEY: A question on the lending aspect. I would just--

Years ago, one of the big problems that I saw was the reverse annuity mortgages. Is that still prevalent? One of the scams they used to pull was that they'd go in and tell a senior, "Well, you've got all of this equity in your home," etc., and they would plan so much a month. It sounded great. The problem was that they took the assessed value of the home, which many of us know that in New Jersey, you're assessed value is a lot less than what your actual value of the home is. That's what they based it on. So, when time came due, the senior passed away -- we had a lot of instances like this -- whatever the profit was above and beyond that assessed value went right into the pocket of the lending institution.

And this, we found, banks were involved in -- I mean, don't think that banks are above corruption either. Your better lending institutions did the same scam. We tried to stop it then. I had some legislation that we did. The main thing was that we put it out. I think it was -- on the radio -- they were promoting it. I called in. After that, they were alerting their consumers and the seniors to the scam.

Is that still occurring? Do you still see that?

MR. JOHNSTON: Yes. That's a good example of some of the predatory lending activities we're seeing.

Another example is there have been numerous cases over the past two years in Newark. Dozens of citizens have been, essentially, defrauded through predatory lending practices because there was a scam that was widely reported in the *Star-Ledger*, which I can get copies of that -- news clips, as well -- where there was a group of individuals, one acting as a broker, another acting as an appraiser, another acting as a loan person. And they were buying up properties for kind of a tax sales and so forth and doing superficial repairs to them, doing false appraisals on the properties, and then selling those properties fraudulently to citizens in the Newark area. And that is also a predatory lending activity we're seeing.

One of the big predatory lending practices we're seeing is the use of balloon payments. Balloon payments on a loan might be appropriate at certain times, but usually for residential loans, they don't make a lot of sense. And in many cases-- This is happening around the country, by the way. There was a widespread case of this in Kansas City, as well, recently. They will come to you and make a loan to you at a monthly payment that you can afford, even if you're very low income. But the surprise comes five or ten years out when, all of a sudden, you owe a \$20,000 check or a \$40,000 check, and you can't make it. That's when the predatory lenders come back to you again and make you a loan to make the balloon payment with more fees and a higher interest rate. And gradually, they will flip you. Some people have had their loans

flipped numerous times. And they gradually strip that equity out of your home. And that equity is exactly what they're preying upon you for.

ASSEMBLYMAN ROONEY: I think you should put out some notices through AARP about this reverse annuity mortgage because, you know, the seniors, especially in New Jersey-- Seniors have to be aware that the appraised -- the assessed value of your home that your tax collector has is a lot less than what your house is actually worth. In most communities, it's probably, I would say -- in my district it's probably 70 to 80 percent. But in some communities that have not been revalued over the years like Newark--

ASSEMBLYMAN STEELE: Yes, like Paterson.

ASSEMBLYMAN ROONEY: --like Paterson, like the big communities. I mean, you're talking about 30 percent or 40 percent. So, a senior might think, "That's all my house is worth," but it's really worth five times that. They have to be made, especially in New Jersey-- This is a New Jersey problem. A lot of other areas in the country, you have -- the assessment is different. But here, you've really-- They've got to be careful. And they got to be made aware of it. Through my senior center and through connections -- the new connection of our district, we let them know about it. But it didn't come without a cost. We wound up with a senior-- In fact, my partner, Lisa Randall, from the Assembly -- her father -- her law firm -- but her father was representing a senior that had that happen where they were told that the house was worth \$180,000, and the actual value was like \$350,000 or \$400,000. They wound up-- The husband died, and then the payoff and everything else-- When they tried to sell the house, this bank tried to collect that profit. And they went to court, and they overturned it.

But these are the things you have to tell the seniors. For years-- I even did the same thing myself. I've been in my house, as of next month, 30 years -- talking to my daughter -- and she keeps telling me, "I want your house." This was the house she grew up in. And I made a--

ASSEMBLYMAN STEELE: That's a little different, John.
(laughter)

ASSEMBLYMAN ROONEY: Well, the thing is--

ASSEMBLYMAN STANLEY: That's a different kind of predatory.

ASSEMBLYMAN ROONEY: I made a mistake of throwing a number out. I threw a number out. I'm the Mayor of the town. I know values. I threw a number out, and my daughter said, "Sold." She said, "Dad, your house is worth at least \$100,000 to \$150,000 more than that." And even I didn't know.

But these are the things that seniors have to realize. Their houses are worth a lot more than they think.

MR. JOHNSTON: That is the experience we're finding. And I do want to mention, before I move onto one or two other issues, AARP has substantial educational resources that we are going to be making available to you via the mail, in both English and Spanish, to help educate our members and your constituents. So look for that in the mail. If you're doing meetings with constituents or you want to keep some in your office, they're great documents because they're nonpolitical, of course. They're just education oriented about protecting yourself from predatory lending and other types of fraud.

ASSEMBLYMAN STANLEY: Let me just mention. I noticed that several people have offered testimony on issues that are somewhat related but not particularly related to what it is that we're -- the focus is supposed to be today, which, of course, is security and also general security and homeland security related issues.

If you come to Irvington on a rainy day, I'm going to give you a lot of latitude. (laughter) But let's try to, at least, keep the questions just confined to that area. If you have some other information you'd like to offer just generally speaking, fine. But let's -- because some of these issues we will be looking at a little more, probably specifically, in the future, such as predatory lending, which is a huge issue. And we need to really bring the banking issue or the banking industry involved to offer testimony on how that takes place, as well as AARP, as well as other regulatory agencies within the State to make sure that we deal with that issue the way it needs to be dealt with.

But specifically today, we're dealing with, of course, security -- general security for seniors, as well as post-9/11 security issues such as homeland -- the Office of Homeland Security, as well as the State Security Task Force. So if we could just continue with that in mind because we've got-- There are a lot of seniors' issues, you know. We could be here until Friday.

MR. JOHNSTON: Well, we thank you, Mr. Chairman for the opportunity to testify.

ASSEMBLYMAN STANLEY: Sure.

MR. JOHNSTON: And I hope we've given you at least some information that will be helpful to you. And we look forward to working with you closely in the months and years ahead.

AARP is gearing up in the state. You may have noticed over the past six or twelve months, hopefully. You're seeing more of AARP. And with 1.3 million members in the state, I hope we can be a resource for you on seniors' issues of security and other matters. And we look forward to working with you.

Thank you very much.

ASSEMBLYMAN STANLEY: Thank you. Thank you very much. We appreciate it.

Next, we have, from the New Jersey Coalition for the Protection of Vulnerable Adults, Susan Harrigan Fowles.

Come up, please.

Thank you.

SUSAN HARRIGAN FOWLES: Good morning. Thank you, Chairman Stanley and Assembly members, for allowing me to come today and present some of the concerns of the New Jersey Coalition for the Protection of Vulnerable Adults.

I have provided some summaries to you, so I will try to stick to a couple of issues that do more directly affect the safety of vulnerable adults.

The New Jersey Coalition for the Protection of Vulnerable Adults is an alliance of agencies, professionals, and other concerned individuals who are committed to improving the lives of those elderly and disabled individuals who are at risk of abuse, neglect, and exploitation.

The Coalition, in fact, had drafted legislation, which is currently Public Law 1993 C-249 known as the Adult Protective Services Act. This law established a system of response to reports of abuse, neglect, and exploitation of vulnerably elderly and disabled adults, for instance.

We also remain concerned about other issues that affect vulnerable adults, either the elderly, the disabled adult, or the caregivers that are trying to address their cares and concerns. We support the *Olmstead* decision which ensured that disabled adults should live in a least restrictive environment and which also does apply to the senior population.

We really have a number of issues, but one that's really important to us at this particular time concerns the Adult Protective Services Program. The Adult Protective Services Program is a State-mandated and regulated program in New Jersey under the Adult Protective Services Act and works in conjunction with many community-based programs in meeting the needs of abused, neglected, and exploited clients, while respecting the client's right to self-determination.

The New Jersey Coalition for the Protection of Vulnerable Adults opposes the mandatory reporting law, which is currently in your Assembly Committee, A-143. We do support the creation and expansion and funding of services which would have a beneficial impact on Adult Protective Services ability to deliver services to the client such as: more home care dollars; expansion of the public guardian's office; more safe and secure community housing for a vulnerable adult population; and bill paying services, which increase the security to seniors and disabled persons who need assistance in handling their finances.

However, we are specifically opposed to A-143, which supports mandatory reporting. In essence, A-143 changes one word in the Adult Protective Services Act. It changes “may report” to “shall report.” And I’d just like to review some of the reasons that we would ask you to keep this bill from being passed out of the Committee.

The Adult Protective Services Act did create the Adult Protective Services Program, which operates in each county. It has been highly effective in receiving and acting upon reports appropriate for investigation and has a substantiation rate of 65.5 percent during calendar year 2000.

There are studies, though, that show, in other mandatory reporting states such as Ohio, New York, Rhode Island, and Texas, that when mandatory reporting is enacted, the substantiation rate declines sharply. Yet, it overburdens the system with unfounded reports and decreases the Program’s ability to serve the actual most vulnerable seniors who are in need of the protective services, which include home visits and case management, to assist them in decreasing their risk to further abuse, neglect, and exploitation.

Professionals who care for vulnerable adults that reside in the community are also adversely impacted by such a mandatory reporting law. Physicians, social workers, and lawyers may have to choose between breaking the law and breaking client confidences.

What I mean by that is, a senior or disabled adult or their family member may seek the assistance of other qualified professionals in dealing with an issue which they wish to keep private. However, that professional would then be bound to make a report and thus undermine the individual’s right to privacy, autonomy, and self-determination.

A-143 fails to consider the financial resources that would be needed by the Adult Protective Services System to respond to such reports which would be expected to increase nearly threefold yet remain unsubstantiated. Adult Protective Services is a State-mandated program, but A-143 fails to provide any funding to accomplish its purpose.

Perhaps the most compelling argument against mandatory reporting in New Jersey has to do with the philosophy of the Adult Protective Services Program and other elder rights initiatives. Unlike the field of child protection, where the State's paternalistic role is an appropriate one, services targeted to adults, including the elderly, are designed to maximize autonomy and an individual's right to self-determination.

A mandatory reporting law tends to assume that the adult victim of abuse, neglect, or exploitation is similar to a child needing assistance, whether or not the adult wants it. There should never be an assumption of incompetence when offering services to an adult who resides in the community. And, in fact, the grassroots senior organizations have taken a stand against this time and time again.

Therefore, I would ask for you to carefully review that legislation. I know that it does seem a very simple change to change one word, but I think that the facts presented merit a little bit more review.

And I would be happy to answer any questions. I have provided a telephone where I could be reached.

One other area that the Coalition would like to highlight is the services of the Office of the Public Guardian. At the present time, there are some recommendations that we have to increase the capacity of the Public

Guardian's office to ensure the safety and security of those who are in need of their services, which would be adults over the age of 18, but generally applying to seniors who have been found by the court to be incapacitated. And the Public Guardian only serves those who are over 60. So, when a person is declared incapacitated, they have a guardian appointed. In the case of a senior age 60 and over, if there is not family member or any other relation to them that is capable of performing, the Public Guardian could be appointed.

We do have concerns. In the past, there have been moratoriums on the services available. So we do support an increase in funding for the Public Guardian.

Also options to be included in looking at ways to raise their level of funding include: Medicaid targeted case management and other State appropriations; also, to look into the use of volunteers.

I would be happy-- If anybody has questions now or at a future time, you can contact me on behalf of the Coalition. And I won't go too far off the path of safety and security. But I will be happy to come back with some of the other issues when you do conduct some of your other hearings.

Thank you.

ASSEMBLYMAN STANLEY: Thank you very much.

Next we have Louis Copeland Jr. from the University of Medicine and Dentistry of New Jersey.

LOUIS COPELAND JR.: Good morning, Chairman and members of the Assembly Senior Issues Committee.

ASSEMBLYMAN STANLEY: Good morning. Thank you for coming.

MR. COPELAND: Thank you for having me.

The University of Medicine and Dentistry is Newark's only safety net hospital that truly serves the insured and uninsured urban population. As we're all aware, our nation is experiencing difficult times that effect the financial stability of many businesses. This is especially true in the business of providing quality health care in an urban environment.

UMDNJ has answered the call for quality care for residents of Newark and Essex County repeatedly, while serving our mission of ensuring that our students receive a solid education that would prepare them to serve a diverse population in our nation.

For example, Dr. Arnold Rosenheck, realizing that oral cancer is increasing in urban communities among African-American and Latino males has been conducting free screenings for several years. This is his effort to educate the public and to treat the public for instances that may occur involving cancer.

Beth Israel Hospital, which has taken over the designation of being the childrens' hospital that serves the City of Newark, once United Hospital closed, is now relieving themselves of that designation. UMDNJ is prepared and has moved forward in taking steps to ensure that the importance of having a childrens' designation does remain in the City of Newark.

Now, we are faced with the concern of providing quality care for Essex County residents in the event of a bioterrorist attack. Although the State of New Jersey receives approximately \$26 million in May of 2002 for bioterrorism research and preparedness, we currently do not have a task force

or a committee that has access to State legislators that can provide information regarding the needs of their respective districts.

I believe it's the Chairman's vision and, of course, the members of this Committee that will ensure safety for many of the seniors. And we welcome any opportunity to work cooperatively with you in ensuring that there's something prepared to provide our senior citizens with the medical care they should need in case of an emergency.

Thank you.

ASSEMBLYMAN STANLEY: Thank you, Mr. Copeland.

We certainly will be reaching out to the University in terms of helping us coordinate such a strategy. There's probably nothing more needed or more urgent at this particular juncture than to have a coordinated effort with respect to our preparedness.

We've heard testimony earlier. We can't be put in a position where we're having to react without a plan. It is of utmost urgency that we devise a plan, that we put resources into devising a plan, and be prepared in the event that something as drastic and diabolical as that does happen.

I mean, none of us could have ever, even in our wildest dreams, have imagined such a massive display of destruction as we saw on 9/11. And so I don't think we should take anything for granted at this point.

But we appreciate UMDNJ's offer to come forward and step up to the plate as they have many times in the past. We will certainly engage UMDNJ in discussions on how we can help facilitate that.

MR. COPELAND: Thank you.

ASSEMBLYMAN STANLEY: Thank you.

Any members? (no response)

Thank you.

MR. COPELAND: Thank you very much.

ASSEMBLYMAN STANLEY: The last person to testify, from the Health Care Association of New Jersey, Roi Ann Morford.

R O I A N N M O R F O R D: Good morning, Mr. Chairman and members of the Committee.

I am Roi Ann Morford, from the Health Care Association of New Jersey.

I'm not going to belinger and belay. Theresa did an outstanding job, as far as what is currently available in long-term care facilities and assisted living facilities. We take those issues of abuse and neglect extremely seriously, as does the State, as it pertains to the Ombudsman's office. And we have to immediately report such abuse and neglect. And if there is a crime, we would have to refer it to the police department. And there is, by the Ombudsman's requirement-- He or she is mandated to also take up criminal actions once the alleged abuse is determined to be real.

But I would like to take a few minutes to indicate to you some areas that we feel need to be looked at. Assemblyman Stanley's bill that was released from Committee today is one that I believe the entire long-term care community would support. My Association is on record as supporting another bill that you could be looking at, as far as seniors and the elderly, would be a bill that would, at least upon initial licensure, mandate criminal background checks on all health care professionals.

In addition, writing to your delegation members-- Our members just came back from Washington. We do need a national criminal background registry. The current statute in New Jersey requires that FBI background checks be back within 120 days, and that, I need not tell you, does not work and doesn't happen. So, that puts not only the resident in particular, because they see this certified nurse aide day and night -- the same one -- and when you start having to switch the certified nurse aide personnel around, and you've got people in these facilities who suffer from dementia and Alzheimer's, it is not good quality of care. And so I would urge you to reach out to your delegation members.

And the last issue I would once again touch on-- Just to show you the magnitude of what you're facing in long-term care, Medicaid reimbursement-- Technically, on that line item, come October 1, unless we can -- somebody can find some money, we're going to be short about \$700 million in State and Federal dollars. And it's all due to what we have all talked about in terms of the intergovernmental transfer -- IGT moneys.

In addition to that, we will face Medicare shortfalls come October 1, again, in the realm in New Jersey of about \$100 million for long-term care, unless there is a fix in Washington. So you can see the cliff that you are now about to go out on with respect to long-term care providers. And I will tell you that 70 percent of your reimbursement comes from Medicaid.

In addition, anybody, as far as the Legislature is concerned-- One thing you could do is try to assist us in the area of assisted living and the waiver program. Many of you have probably heard of the 1500 slots that are now maxed out. And that is the issue that June Duggan referred to access for

Medicaid -- assisted living facilities for Medicaid residents. It requires an amendment to the State Health Plan and approval not only by the Governor's Office but by CMS.

I realize that the State needs to look carefully as to how they're going to reimburse and venture forward on Medicaid reimbursement for assisted living facilities. But when you've got people that are spending down, in those facilities, their own money-- What happens to them when those 1500 slots are no longer available? Maybe increments of 500 slots would take some of the pressure off until the State can develop a policy -- or 1000 slots to develop -- allowing you some time to look at what kind of policy you want to embark on.

With that, if there are any questions, I'm happy to answer anything. I will leave my testimony for you.

ASSEMBLYMAN STANLEY: Can you just go over how that works, that process of slots?

MS. MORFORD: The State Health-- When the-- It was the Whitman administration in 1994 under then Commissioner Len Fishman. They developed an alternative to nursing home care called assisted living. It was, for lack of a better explanation, a pilot project. And it took, obviously, as it does for any new program, it took two or three years to get off the ground. So they look at the feasibility of 1500 slots.

I worked in government, so I can say this. You threw a dart at a board, and you said, "Okay, it looks like that's the right number." And what Medicaid does is they pay, on the health care side, \$60 a day for assisted living residents freestanding, \$50 a day for health care services in comprehensive

personal care homes, and \$40 a day in assisted living housing -- your Section 8 housing, like many urban areas. That's probably the only way you're going to get assisted living services into an urban setting because you don't have that many freestanding assisted living facilities having the ability to come in. Once again, that was a dart on a board. Those services' costs have not been increased or looked at since 1994.

Now, as of this October -- past October, the demand for assisted living and Medicaid maxed out. And what the administration needs to look at is, like I said, getting the approval from old HCFA, CMS now, to increase the number of slots. And if you don't want to go into it full blown, which we could certainly understand -- and we would caution you not to open up the floodgates and let everybody come in-- You need to, at least, increase the slots by a certain number in order to take the pressure off while this new administration and you, in the Legislature, look at this and see how best to provide the access at the appropriate reimbursement level for providers. Because, I need not tell you, in nursing facilities, we are underreimbursed in Medicaid by \$21 per day per patient, and we have 29,000 Medicaid residents in nursing homes.

So, when we talk about appropriate funding, trust me, I will be sitting at the table because I do not want this industry-- It's a very good industry. And it's a very positive thing. The long-term care community has embraced this industry, but we don't want it to go the same way of reimbursement that nursing facilities have now become.

ASSEMBLYMAN STANLEY: How do you make up that \$21 a day? That means you're losing money on every patient, basically.

MS. MORFORD: You're losing money on the Medicaid resident. So what the provider community tries to do is offset it by the private pay resident. And I need not tell you that the private pay resident in this state, because of the options that are available-- People aren't going to nursing facilities. So, as a result of what you're seeing -- the shift in payer source, you've had 10 facilities in this state that have closed this year. And there will be more to come as we go on with some of the regulations that are on the books that are -- required target occupancy level, which is just arbitrary and capricious, as far as our Association is concerned. And then you add the other senior options, which, like I said, the long-term care community embraced because we feel that seniors do need to have options and access.

So, when you've got that, you've got a very volatile nursing facility industry, which up until now had been quietly humming along, taking care of the residents that they serve. But now you're going to see a wrenching of this system. And you're going to see difficulty. And when you can only pay your certified nurse aide \$10 an hour at a Medicaid facility--

They're the backbone of our industry, as was stated before. They can go to McDonald's and they can go to Kmart -- well not Kmart now, they're in bankruptcy -- but Burger King and places like that. And they don't have to do as much or put up with as much as they have to in a nursing facility, taking care of the frail and the elderly.

ASSEMBLYMAN STANLEY: You said we have 1500 slots or there were 1500 slots in the initial program.

MS. MORFORD: In the initial approval that went down to Washington that Washington approved, there were 1500 slots.

ASSEMBLYMAN STANLEY: And we fulfilled all of those slots.

MS. MORFORD: Yes, they were maxed out in October. And what the State has been trying to do is, if an individual, for example, goes from an assisted living facility to a hospital, they come off the waiver for that period of time and/or, unfortunately, they die. Then the slot becomes open again.

And what the State has been doing -- my understanding with respect to trying to do the ebb and flow is-- The policy has been to take precedence and priority for those individuals who are spending down in the facilities and becoming Medicaid eligible rather than taking somebody directly from the street as a direct admission because, after all, they usually reside in facilities anywhere from six months to three years. And if there is an obligation, when they've been paying their own way, if they don't have the ability to pay anymore, the provider community is trying to make those kinds of give and take. And the State is recognizing that.

I think there is probably a waiting list. You're maybe starting to hear of a waiting list at this point. The last time we spoke with the State, there was, I believe, 70 people that were on the waiting list waiting to get onto -- access to one of those slots. But what needs to happen is you need to increase the slots, at least in 500 allotments and at least to give yourself some time to look around and see what you're really going to do on that area.

ASSEMBLYMAN STANLEY: We'd certainly like to speak with you more about that. And maybe we can set up a meeting or something to work on that.

MS. MORFORD: I'm sure that Theresa Edelstein and June Duggan would stand ready to also assist you in this area, too, because that is of very serious concern for us.

ASSEMBLYMAN STANLEY: It's a little off our issue but certainly something that we're certainly concerned about.

Any questions from the Committee? (no response)

Okay.

MS. MORFORD: Thank you.

ASSEMBLYMAN STANLEY: Okay. I think we have gone through everyone who has applied to testify today. I appreciate all of you coming and offering testimony.

As I mentioned, we'll be having hearings throughout the state. This is our first off-site hearing since the beginning of the chairmanship. And we certainly will continue to let you know when we do move out of the Trenton area because I know it might be a little bit-- It may take a little more juggling of your transportation or your schedules for you to accommodate us. But certainly, we thank you. We think this was very productive. And we look forward to seeing you at our next meeting.

Any members have any closing comments? (no response)

Thank you. Thank you very much.

The meeting is adjourned.

(MEETING CONCLUDED)