April 28, 2020

The Honorable Doug Burgum
Governor of North Dakota
600 East Boulevard Avenue
Bismarck, ND 58505-0001

Dear Governor Burgum,

AARP North Dakota, on behalf of our 86,000 members and all older North Dakotans, appreciates the significant efforts the state has undertaken to address the COVID-19 pandemic and the unprecedented public health and economic crisis that we face as a state and a nation. The gravity of the present challenge will require both new policies and additional resources and investments to address the growing needs of North Dakotans.

In particular, we strongly urge you to take action on needed policies to protect the wellbeing of individuals residing in nursing homes and other long-term services and supports (LTSS) settings. While severe health impacts of COVID-19 can occur across ages, as of April 13, nursing facility residents comprised 15% of all deaths nationally due to the virus. In North Dakota, as of April 28, there are a total of 117 cases in 25 long term-care facilities.

We greatly appreciate the important actions your administration has already taken in this area, including your attention to the letters AARP North Dakota sent on March 25 and April 6, and we greatly anticipate that your VP3 plan addresses these concerns and hope you release it as soon as possible. To further address the impact of COVID-19 on the LTSS population, we ask that you seriously consider the following policy recommendations:

**Transparency of Information on COVID-19 Cases**

We appreciate that the state has publicly released the names of nursing homes, assisted living communities, and other residential care facilities with confirmed COVID-19 cases among residents or staff. We urge the state to continue to engage in this level of transparency as it is critical for public health and the health and well-being of the residents and staff of these facilities. Residents and family members deserve to have this information for their own health decisions and as they consider possible next steps and interventions for their loved ones.
Involuntary Transfer and Discharge of Residents
People living in nursing homes, assisted living facilities, and other residential care facilities may need assistance with activities of daily living due to physical and/or cognitive limitations. Moving these residents from their homes can be unsafe and traumatic for them and their families, particularly when a move is involuntary and sudden. Moreover, transfer without offering appropriate and effective counseling and planning can lead to isolation and despair and the lack of predictability maximizes fear and anxiety.

We are especially concerned about reports of individuals being discharged or transferred from hospitals and unable to get back into their nursing home or other residential care. We recognize that transfer within a facility or discharge from a facility may be necessary in certain circumstances, such as complying with the Centers for Medicare & Medicaid Services (CMS) guidance to designate facilities or units within a facility to separate residents by COVID-19 infection status. However, we ask that the state put guidelines in place that would limit such discharges and transfers to rare circumstances, and that facilities work to properly mitigate any negative impacts and adequately plan and counsel with impacted residents and their families.

Furthermore, facilities should be required to report and disclose data on discharges and transfers, and give timely notice to residents and loved ones. This notice should include clear and comprehensive information on the individual’s rights around discharge and transfer, information on continued virtual visitation rights, the resident’s rights to appeal a discharge or transfer, and written notice of the state Long-Term Care Ombudsman’s name and contact information prior to discharge.

Access to Personal Protective Equipment and Testing

Personal protective equipment (PPE) is essential to efforts to reduce the spread of the virus. CMS issued guidance on April 2 that nursing home staff should use full PPE when they have direct contact with known or suspected COVID-positive residents and masks at all times while they are in the facility. We appreciate the steps the state has taken to ensure that staff caring for individuals in nursing homes, assisted living communities, and home and community-based settings are provided with proper PPE and that staff are using them as noted in the LTC recommendations released on April 3, 2020.

Testing

Testing is the only method of being certain whether or not someone is COVID-positive. To the extent possible, we believe it is important for both the staff and residents of North Dakota's LTSS facilities to continue to have ready access to testing. This ongoing and readily available testing will help control the spread of the virus among the resident population and the community at large, as staff, emergency health care providers, on-site maintenance contractors and others come and go from the facilities. AARP believes the state must continue to ensure full access to testing for staff and residents of LTSS facilities. If supply shortages prevent wide-spread testing, the state should prioritize testing for individuals with known contact with COVID-positive individuals, and for staff that have direct contact with residents, regardless of whether or not they are experiencing symptoms.

Ensuring Proper Staffing
There is an urgent need to ensure that people receiving care either at home or in a residential facility are getting the care they need during this crisis, which means that staffing issues must be addressed. Like the individuals they serve, care workers are also at high risk of infection. AARP urges North Dakota officials to take immediate action to ensure adequate staffing, which may include financial and other incentives, such as hazard pay, to better support direct care workers during this time of emergency. The state may also consider allowing nurse aides in training who have completed a specified minimum level of training to work in facilities during this emergency with proper supervision. We believe the state must also develop contingency plans to respond to situations where staffing levels are insufficient to meet the needs of residents, and plan for ways to inform residents and their families of staffing shortages.

**Virtual Visitation**

As we stated in our previous letters, for residents and their families, remaining connected is essential to their safety and health, including protecting against social isolation. As in-person visitations in nursing homes and other residential care facilities are largely halted, virtual visitation between residents and their loved ones remain critical. Accordingly, we urge that facilities be required to provide and support virtual visitation for their residents. Specifically, we urge the state to require nursing homes, temporary facilities for residents during the coronavirus public health emergency, assisted living facilities, and other residential care facilities where visitors are restricted to make available and facilitate virtual visitation via video-conference or other technologies for residents and their loved ones. The state should also ensure adequate support is provided to residents to facilitate virtual visitation.

AARP North Dakota greatly appreciates the state’s efforts to ensure the health and safety of North Dakotan’s during this challenging time. Thank you for your prompt attention to this issue. We stand ready to help in any way that we can. If you have questions, please contact me at 701-989-0129 or jaskvig@aarp.org.

Sincerely,

Josh Askvig, State Director
AARP North Dakota

cc: Chris Jones, Director North Dakota Department of Human Services