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***Improvements in the Modern Home Healthcare Industry:
Responses to Nursing Shortages & New
Technological Advancements***

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I. INTRODUCTION

A radical change is sweeping the 21st century: the baby boomers are now aging, and they are beginning the “Geezer Boom.”¹ It is estimated that by 2030, one-third of the American population will be senior citizens, those sixty-five and older, which would represent the greatest percentage in history.² In addition, the aging population is expected to remain old longer because of increasing life expectancies.³ The baby boomers have more recently become aware of the impending strains their aging population will have on society; thus, they have begun seeking healthcare reforms, particularly focusing on improving the conditions of long-term care. Traditionally, the model for long-term care has included nursing homes, however, many baby boomers believe ‘there is no place

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¹ Melinda Beck et al., *The Geezer Boom*, NEWSWEEK, Winter 1990/ Spring 1991, at 62.

² *Id.*

³ *Id.*

like home,' and they are seeking to enhance the quality of home healthcare services.⁴

Home healthcare is a formal, regulated, Medicare and Medicaid sponsored program that provides care delivered by health professionals in the patient's home.⁵ Currently, home healthcare is the fastest-growing sector in the healthcare industry.⁶ Demands for home care services continue to increase "because of the aging population, consumer preference, and technological advances" that make it more convenient to provide care in homes.⁷ These demands, however, are being harmed by the shortage of nurses. In 2009, the "Home Healthcare Nurse Promotion Act" was proposed to increase home healthcare services by improving training, recruitment, and retention of home healthcare nurses.⁸ Although this bill acknowledges the increasing elderly population and proposes programs to alleviate the shortage of home healthcare nurses,⁹ Congress cannot overlook the other issues affecting the quality of care. The government must continue to recognize the needs of home healthcare and seek improvements since the burdens of the aging population ultimately affect every member of society.

This Article will discuss the importance of improving the home healthcare industry in order to ensure high quality of care for the baby boomers that will

⁴ Vickie Ragsdale & Graham J. McDougall, *The Changing Face of Long-Term Care: Looking at the Past Decade*, 29 ISSUES MENTAL HEALTH NURSING 992, 992 (2008).

⁵ Susan Louisa Montauk, *Home Health Care*, 1998 AM. FAM. PHYSICIANS 1608, 1608, available at <http://www.aafp.org/afp/981101ap/montauk.html>.

⁶ Kenneth Brummel-Smith, *Home Health Care: How Long Will it Remain "Low Tech"?*, 65 S. CAL. L. REV. 491, 502 (1991-92).

⁷ Carol Hall Ellenbecker et al., *Predictors of Home Healthcare Nurse Retention*, 40 J. NURSING SCHOLARSHIP 151, 151 (2008).

⁸ Home Healthcare Nurse Promotion Act, H.R. 1928, 111th Cong. (2009) [hereinafter H.R. 1928].

⁹ *Id.*

soon inundate the system. This article begins with a brief history of the home healthcare industry and a review of recent reforms that have led to the current administration of the home healthcare program. Next, this article evaluates the importance of funding home care programs through Medicare and Medicaid. Finally, solutions to nursing shortages and technological advancements will be explored to provide insight to the prevailing improvements in the quality of home healthcare.

II. HISTORY OF HOME HEALTHCARE

At its inception, home healthcare was developed to provide transitional services for those discharged from hospitals in the earlier phases of recovery.¹⁰ This system was designed by Medicare regulations as a means for cutting back costs by decreasing hospital stays.¹¹ Before 1980, Medicare only supported post-hospitalization care to individuals already receiving benefits.¹² After 1980, a new face of home healthcare emerged with the liberalization of restrictions on Medicare benefits.¹³ Among the first restrictions removed was the requirement that home care be limited to those who had been recently hospitalized.¹⁴ Later, in 1988, the significant decision in *Duggan v. Bowen*¹⁵ eliminated limits on the number of days per year one could receive home care, as long as it was less than

¹⁰ H. Gilbert Welch et al., *The Use of Medicare Home Health Care Services*, 335 NEW ENG. J. MED. 324, 324 (1996).

¹¹ *Id.*

¹² *Id.*

¹³ Alan M. Jette et al., *Quality of Medicare-Reimbursed Home Health Care*, 36 GERONTOLOGIST 492, 492 (1996).

¹⁴ Welch et al., *supra* note 10, at 324.

¹⁵ See *Duggan v. Bowen*, 691 F. Supp. 1487 (D.D.C. 1988).

seven days each week.¹⁶ Other critical changes included barring denial of care to patients with chronic diseases and allowing all patients to receive physician prescribed home care.¹⁷ Collectively, all of these changes led to an increase in availability of home care, especially for those suffering from ongoing medical problems that require long-term care.¹⁸

III. CURRENT HOME HEALTHCARE PROGRAM

Home healthcare is the fastest growing expense in the Medicare program,¹⁹ primarily because of the “aging population, the increasing prevalence of chronic disease, and increasing hospital costs.”²⁰ Between 1980 and 1996, the number of patients receiving home care increased by more than 400%.²¹ As a result of such a demand, there has been a substantial growth in the home care industry. In 1961, there were only 208 home care agencies present throughout the United States,²² but by 2002, that number increased to more than 17,000.²³

The rise in the development of the home care industry can also be attributed to preferences for home-care services. Home healthcare offers skilled

¹⁶ Brian Davis, *The Home Health Care Crisis: Medicare's Fastest Growing Program Legalizes Spiraling Costs*, 6 ELDER L.J. 215, 229 (1998).

¹⁷ Welch et al., *supra* note 10, at 325.

¹⁸ STAFF OF H. COMM. ON WAYS & MEANS, 108TH CONG., BACKGROUND MATERIAL AND DATA ON THE PROGRAMS WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS 2-78 (Comm. Print 2004) [hereinafter 2004 GREEN BOOK].

¹⁹ Davis, *supra* note 16, at 216.

²⁰ Montauk, *supra* note 5.

²¹ *Id.*

²² Jette et al., *supra* note 13.

²³ Beth Piskora, *Home Health Care for Your Elderly Parents*, BUSINESSWEEK, Sept. 10, 2008, available at http://www.businessweek.com/print/investor/content/sep2008/pi20080910_761489.htm; U.S. CENSUS BUREAU, INDUSTRY STATISTICS SAMPLER: NAICS 621610 HOME HEALTH CARE SERVICES (2004), <http://www.census.gov/econ/census02/data/industry/E621610.HTM>.

nursing, health assistance, and companionship.²⁴ In addition, many find it an appealing option to remain in their homes and receive nursing care.²⁵ Home healthcare is also generally less expensive than institutional care²⁶ because visits to the physician's office are significantly decreased.²⁷ Finally, these services may be necessary for those who lack care from family or friends.²⁸ Above all, most prefer home care because Medicare covers virtually all costs.²⁹

Since the 1960s, Medicare has included home healthcare as a benefit.³⁰ Although this benefit is not given freely, it has several restrictions that ensure regulations on quality and costs control. In order to receive Medicare-covered home healthcare there are four requirements: a beneficiary must be under medical care of a physician, require skilled nursing care, be homebound, and the home healthcare agency providing care must be approved by the Medicare program.³¹ While the number of home healthcare visits is unlimited, covered costs for care will require a physician to prescribe home care and include all pertinent diagnoses, estimate of required visits, rehabilitation potential, and necessary

²⁴ Davis, *supra* note 16, at 221.

²⁵ Jennifer Rae Fleming, *The Blurred Line Between Nursing Homes & Assisted Living Facilities: How Limited Medicaid Funding of Assisted Living Facilities Can Save Tax Dollars While Improving the Quality of Life of the Elderly*, 15 U. MIAMI BUS. L. REV. 245, 267 (2006-07).

²⁶ Gina M. Reese & Joseph H. Hafkenschiel, *Hot Topics in Home Health Care*, 20 WHITTIER L. REV. 365, 365 (1997-98).

²⁷ Kristen R. Jakobsen, *Space-Age Medicine, Stone-Age Government: How Medicare Reimbursement of Telemedicine Services is Depriving the Elderly of Quality Medical Treatment*, 8 ELDER L.J. 151, 176 (2000).

²⁸ Welch et al., *supra* note 10, at 328.

²⁹ Fleming, *supra* note 25.

³⁰ *Id.*

³¹ CTRS. FOR MEDICARE & MEDICAID SERVS., MEDICARE AND HOME HEALTH CARE 1, 3 (2007), available at <http://www.medicare.gov/Publications/Pubs/pdf/10969.pdf> [hereinafter MEDICARE & HOME HEALTH CARE BOOKLET].

care.³² In addition, Medicare only provides support for skilled nursing care, which includes physical therapy, speech-language pathology services, and continued occupation therapy.³³ A homebound individual is defined as one who cannot leave home without a taxing effort, requires the aid of supportive devices, such as a cane, or one who cannot leave home at all.³⁴ Although, a home healthcare agency can provide skilled nursing, it must be Medicare-certified to receive reimbursements for care services.³⁵ Among the many requirements for certification, a home health agency must be engaged in providing skilled nursing services through registered professional nurses and physicians, is licensed pursuant to State law, meets federal requirements in the interest of the health and safety of beneficiaries, and meets any additional requirements necessary for effective and efficient care.³⁶

The foundation of home healthcare is nursing care. Physicians merely order the patient's treatment and prescribe personalized therapy.³⁷ Physician oversight on home healthcare patients can be attributed to lack of home care training, an increasing concern about medical liability, and loss of interest in making less profit.³⁸ Services in home care are passed onto skilled nurses and home health aides. A licensed nurse must perform skilled nursing care.³⁹ A skilled nurse is responsible for such services as: monitoring vital signs, managing

³² Davis, *supra* note 16, at 225.

³³ MEDICARE & HOME HEALTH CARE BOOKLET, *supra* note 31, at 3.

³⁴ 2004 GREEN BOOK, *supra* note 18, at 2-71.

³⁵ Home Health Agency, 42 U.S.C.A. §1395x(o) (West 2009).

³⁶ *Id.*

³⁷ Brummel-Smith, *supra* note 6, at 492, 494.

³⁸ *Id.* at 492.

³⁹ MEDICARE & HOME HEALTH CARE BOOKLET, *supra* note 31, at 6.

diabetic side-affects, evaluating drug reactions,⁴⁰ and changing catheters.⁴¹ Other care provided by skilled nurses includes physical therapy, training to use special equipment, therapy to regain speaking, listening or memory skills, and occupational therapy.⁴² Medicare will only cover costs of home health aides if the beneficiary is also receiving skilled care.⁴³ Home health aides perform “personal care activities under the direct supervision of a registered nurse.”⁴⁴ Personal care and assistance provided by home health aides includes: assistance with grooming, bathing, and providing medications.⁴⁵ They may also provide homemaker care, such as house cleaning, changing bed linens,⁴⁶ and meal preparation.⁴⁷ Clearly, for the home healthcare system to function efficiently, care provided by nurses is essential; however, the ever increasing shortage of nurses is causing a lack in quality.

IV. RELIEF OF NURSING SHORTAGES

Contrary to current trends of increasing unemployment rates, the growth of employment in the long-term care sector is rising. Currently, the demand for long-term care is continuing to increase while there is a limited supply of licensed nurses to deliver high-quality care to the elderly.⁴⁸ The nursing industry is

⁴⁰ *Id.*

⁴¹ Brummel-Smith, *supra* note 6, at 492, 494.

⁴² MEDICARE & HOME HEALTH CARE BOOKLET, *supra* note 31, at 6.

⁴³ *Id.*

⁴⁴ Brummel-Smith, *supra* note 6, at 494.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Kristin Jenkins Gerrick, *An Inquiry into Unionizing Home Healthcare Workers: Benefits for Workers and Patients*, 29 AM. J.L. & MED. 117, 120 (2003).

⁴⁸ Robyn Stone & Mary F. Harahan, *Improving the Long-Term Care Workforce Serving Older Adults*, 29 HEALTH AFF. 109, 111 (2010).

projected to increase from 6.5% in 2000⁴⁹ to 109% in 2020.⁵⁰ It is estimated that one million newly registered nurses will be needed to cover all home care demands by 2016.⁵¹ The shortage of competent and licensed long-term care nurses is attributed to several factors, including: a large retiring nursing population,⁵² lack of traditional sources of labor, low wages, decrease in retention, and inadequate work settings.⁵³ The market for long-term care will continue to surge due to a strong preference for home-based care, increase in chronic diseases, and the escalating population of elderly.⁵⁴ Fortunately, Congress has recently recognized the negative effects of imminent shortages and has proposed solutions that concentrate on improving recruitment, education, and training for long-term care nurses.⁵⁵ While these congressional proposals may help to alleviate shortages, other reforms must not be overlooked. These reforms include focusing on retention, starting incentive programs, allocating more resources to elder care, defining competencies, improving working conditions, and creating specialized training.

A. *The Home Healthcare Nurse Promotion Act*

Even though the new era of healthcare is focusing on a myriad of reforms, initiatives for accessibility to elderly care appears to be paramount. This is evident in the enactment of the Home Healthcare Nurse Promotion Act. This Act

⁴⁹ Ellenbecker et al., *supra* note 7.

⁵⁰ Home Healthcare Nurse Promotion Act, H.R. 1928, 111th Cong. § 2(a)(3) (2009).

⁵¹ *See Id.* § 2(a)(4).

⁵² *Id.*

⁵³ Stone & Harahan, *supra* note 48.

⁵⁴ H.R. 1928 § 2(a)(2).

⁵⁵ *See id.* § 2(b)

recognizes that the significant shortage of home healthcare nurses is hindering access to cost-effective care.⁵⁶

The Nurse Promotion Act provides three approaches to provide relief, yet fails to describe how the proposed programs will be administered. The first approach focuses on assisting non-profit home health agencies and visiting nurse associations to improve training and development of home healthcare nurses.⁵⁷ The Act does not specify any particular program, but research has found successful training and educational programs combine classroom and on-the-job training tailored for long-term care service delivery.⁵⁸ The second approach includes “promoting and facilitating academic-practice collaborations.”⁵⁹ In order to promote a joint effort between academic and practice, policymakers, educators, and employers should jointly assess the developmental needs for the home healthcare workforce.⁶⁰

Finally, the last approach aims to improve recruitment and retention of home healthcare nurses.⁶¹ The driving force for improving recruitment is providing home health nurse training grants.⁶² This grant program under the Act will begin as a pilot program and will terminate within five years of being implemented, at which point Congress will report all findings.⁶³ The grants will provide funding for home nurse training and will give priority to non-profit

⁵⁶ See *id.* § 2(a)(1).

⁵⁷ See *id.* § 2(b)(1).

⁵⁸ Stone & Harahan, *supra* note 48, at 113.

⁵⁹ H.R. 1928 § 2(b)(2).

⁶⁰ Stone & Harahan., *supra* note 48, at 113.

⁶¹ H.R. 1928 § 2(b)(3).

⁶² See *id.* § 832.

⁶³ See *id.* § 833.

nursing associations.⁶⁴ This program, however, will only provide grants to no more than ten accredited schools of nursing that have an existing home healthcare curriculum.⁶⁵ Although there are limited grants initially disbursed, implementing this pilot program will allow Congress to determine whether grants are successful in recruiting nurses.

B. Initiatives to Improve Recruitment for Home Healthcare Nurses

The Home Healthcare Nurse Promotion Act highlighted the importance of recruitment in securing the supply of high-quality home healthcare through a pilot program; however, in order to meet future demands of long-term care, more action is required. Along with expanding financial support through grants and scholarships, education should be reformed and long-term care nursing policies should be defined.⁶⁶

Along with grants, incentives should be created to entice those considering entering the long-term home care field.⁶⁷ These incentives can range from scholarships, grants, and loan forgiveness programs.⁶⁸ Aside from providing financial rewards to potential students, incentives should be used to recruit qualified faculty to educate and prepare long-term care nurses.⁶⁹ Admittedly, a plan for long-term care incentives may take more time to develop because it will require government funds, but it remains a vital key in persuading people to enter the home care field. In addition, a simple solution to improving recruitment of

⁶⁴ See *id.* § 833(a).

⁶⁵ *Id.*

⁶⁶ Stone & Harahan, *supra* note 48, at 112-114.

⁶⁷ *Id.* at 113.

⁶⁸ *Id.*

⁶⁹ *Id.*

home care nurses is to expose students to long-term care roles and settings through education and training.⁷⁰ For instance, participation in a clinical rotation in long-term care may encourage students to enter the field.

C. Improvements in Home Healthcare Nurse Retention

It is apparent that Congress is making strides to mitigate the shortage in elder nursing care, but it has failed to acknowledge other improvement initiatives. The Home Health Care Nurse Promotion Act emphasized a system for recruitment instead of retention. A focus on retention is required since staff turnover is not only costly, but is detrimental to both staff morale and the care of patients.⁷¹ During these times of nurse shortages, it has become increasingly difficult to replace home care nurses.⁷² Studies have concluded that “job satisfaction, job benefits, comparable wages, and agency size and ownership” all affect retention.⁷³ A recent study, conducted to determine the predictors of home care nurse retention, found that 50% of the nurses left their job because of overwhelming, stressful demands, and poor relationships with the administration.⁷⁴ Job stress in home healthcare also negatively affects a nurse’s ability to provide patients high quality care.⁷⁵ The major source of job stress for home care nurses is attributed to the administration and paperwork.⁷⁶ Home healthcare nurses with supportive management and positive communication from

⁷⁰ *Id.* at 112-113.

⁷¹ Ellenbecker et al., *supra* note 7.

⁷² *Id.*

⁷³ *Id.* at 159.

⁷⁴ *Id.* at 156.

⁷⁵ Carol Hall Ellenbecker, *A Theoretical Model of Job Retention for Home Health Care Nurses*, 47 J. ADVANCED NURSING 303, 307 (2004).

⁷⁶ *Id.*

supervisors are more likely to stay at their job.⁷⁷ Therefore, to significantly increase home healthcare nurse retention, policymakers, and administrators must address high workload demands and remedy such issues in order to decrease stress.⁷⁸ Just a mere recognition of nurses' complaints and developing a plan for enhancing the workplace should be sufficient to considerably reduce staff turnover.

V. TECHNOLOGICAL ADVANCEMENTS IN HOME HEALTH CARE

The advent of new technologies has begun a trend to provide health care services via information technology to home care patients, even to those not technologically savvy. The benefits of integrating such technology are numerous, but mostly include cost-savings, eliminating travel for the elderly, enhancing communication, and providing patient autonomy. Health-related technology is referred to as "telehealth" or "telemedicine," and includes the use of electronic communication and information technologies to provide support from a distance.⁷⁹ The numerous benefits of telehealth in home healthcare continue to increase as technology becomes more accessible. The importance of telemedicine is most present in rural areas with a shortage of physicians.⁸⁰ In rural areas, it is likely that the elderly patient would have to travel long-distances to access physician care.⁸¹ By being able to communicate with physicians either by telephone or television monitor, the elderly patient is relieved from the taxing

⁷⁷ *Id.* at 306-07.

⁷⁸ *Id.*

⁷⁹ Jakobsen, *supra* note 27, at 156.

⁸⁰ *Id.* at 168.

⁸¹ *Id.* at 169.

energy of having to travel and in some cases, with constant supervision, patients may be diagnosed and treated earlier, before their disease advances.⁸² Telemedicine also attributes to cost-savings benefits, “as low as one-third of the cost of on-site care.”⁸³ The savings begin by allowing the patient to live in their home while recuperating instead of receiving treatment at the hospital.⁸⁴ Additionally, patients can receive primary care by a midlevel practitioner while being supervised remotely by a physician, which will save costs from frequent physician visits.⁸⁵ Finally, telemedicine provides an increase in autonomy by allowing the patient to become more involved in his own health care and consequently, learning how to improve his own health.⁸⁶

In-home telemedicine continues to grow and initiatives for improving technology have become the focus of some technological healthcare companies. In 2010, the Mayo Clinic, GE Healthcare, and Intel launched a yearlong study to research the care and cost-benefits of home based care for the elderly.⁸⁷ The study will monitor 200 patients over the age of sixty who suffer chronic conditions as they use at-home medical devices daily.⁸⁸ The medical devices will be able to measure “vital signs, such as blood pressure, peak air flow, weight, or blood sugar readings.”⁸⁹ The study aims to determine whether technological at

⁸² *Id.*

⁸³ *Id.* at 170.

⁸⁴ *Id.* at 170, 177.

⁸⁵ *Id.* at 168-69.

⁸⁶ *Id.* at 177.

⁸⁷ Marianne Kolbasuk McGee, *In-Home Telemedicine Study Launched*, INFORMATIONWEEK, Feb. 23, 2010, <http://www.informationweek.com/news/healthcare/patient/showArticle.jhtml?articleID=223100390>.

⁸⁸ *Id.*

⁸⁹ *Id.*

home monitoring will be effective in reducing emergency visits, hospitalization, and if remote clinicians can successfully recognize critical signs of patients' health issues.⁹⁰ This study will likely find successful results as other countries such as the United Kingdom and Norway have reported substantial savings and improvements due to telemedicine.⁹¹

VI. CONCLUSION

Modern technological advancements in medicine have allowed baby boomers to receive high quality care throughout their lives and this should not be any different as they continue to age. The "Geezer Boom" will undoubtedly have a great impact on all of society and reforms on health care should accommodate these changes. Above all, the aging population should be allowed to personally make decisions regarding their preference for long-term care. The preference for home healthcare will only continue to rise and improvements must be made now to prepare for the high demand. An initiative to alleviate the shortage of home healthcare nurses is a powerful start in improving long-term care, but more must be done in order to ensure high-quality home care. Education and training for home healthcare nurses should be reformed and standardized in order to guarantee overall quality standards. Technological advancements should continue to be improved and more importantly a widespread database should be implemented to allow home care nurses, physicians, and patients to communicate easily. These technological advancements will also improve nurse retention since most nurses

⁹⁰ *Id.*

⁹¹ Jakobsen, *supra* note 27, at 169-70.

find the paperwork required daunting and stressful. Finally, Congress must be more transparent with healthcare reforms and produce structured and comprehensive plans for all states to follow in providing high quality care. Ultimately, the effectiveness of home healthcare depends on the improvements made to the current system and with such a large part of the population demanding high-quality care it cannot be overlooked.