

## Why Legislation is Needed

### **Congress Should Enact Legislation to Protect Seniors and Promote Food Safety in Nursing Homes and Related Facilities By Requiring Certified Dietary Managers to be On-Site**

Foodborne illness is a serious public health threat to Americans of all ages but seniors are often most at-risk. According to the USDA and the Centers for Disease Control and Prevention (CDC), approximately 76 million cases of foodborne illness occur every year in the United States, and of those cases, more than 325,000 people are hospitalized and about 5,000 deaths occur.

Seniors as a whole tend to be more susceptible to death and chronic long-term health effects from foodborne-induced gastroenteritis because their immune systems are often impaired and their gastrointestinal tracts produce less stomach acid as they age, according to a study by J. L. Smith<sup>1</sup>. Another author, Jamie Stamey, writing in the June, 2006 issue<sup>2</sup> of Nursing Homes magazine, cites other reasons why "residents of long-term care facilities tend to be more vulnerable to foodborne illnesses than the general population" including the facts that many seniors are on antibiotics that kill beneficial bacteria and that long term care facilities are confined environments where pathogens can spread easily. Author Stamey cites data from [FoodNet, the CDC's Foodborne Disease Active Surveillance Network](#) that states the fatalities "from foodborne illness among nursing home residents are 10 to 100 times greater than for the general population."

The fact that CDC and others continue to cite this data suggests that not much has changed from the information generated in the seminal study on this subject - The Journal of The American Medical Association's report entitled "Foodborne Disease Outbreaks in Nursing Homes, 1975 to 1987"<sup>3</sup>, which reported that nursing home residents accounted for 2.4 percent of the food-borne illnesses in the United States during that period, but 19.4 percent of the deaths. The risks are significant, particularly since the **JAMA study suggests that a major contributing factor to foodborne illnesses among the elderly is that nursing home kitchens are inspected infrequently**. The Centers for Medicare/Medicaid Services confirms that it contracts with each state to conduct onsite inspections, including on food storage and preparation, and that these inspections occur "on average about once a year."<sup>4</sup> When inspections do occur, they differ vastly from traditional restaurant inspections because they examine a variety of issues that impact general resident care other than food safety and sanitation. Some states do not even have institutional food service inspectors trained in FDA food and hygiene standards. Some suggest that foodborne illness in nursing homes is grossly underreported, with a considerable number of cases attributed to other causes.

Even more disconcerting is that **there are no minimum Federal training or certification qualifications for a director of food services**. The HHS regulations at 42 CFR 483.35 say that staffing must include a fulltime, part time or consulting dietitian, but who is responsible for services when that part-time or consulting dietitian is not present? Only half of all nursing homes and long term care facilities across the country have a single full-time kitchen staff member certified in safe food handling, preparation and sanitation. Only 15 states require certifications from the Certifying Board for Dietary Managers. As more seniors enter these facilities in the

future, the health risks imposed upon them will only get worse.

Because of the seriousness of the problem, the significant health and fatality risks to the elderly, and the inconsistent and often ineffectual state inspection process, Congress must act to further protect the millions of seniors in nursing homes and long-term care facilities from foodborne illnesses. **The answer is to make certain that food service managers who run the day-to-day operations are adequately trained and certified for safe food handling. Congressional action is needed now to enact legislation to fill this void in the HHS regulations to raise the standards of care for seniors by requiring nursing home and other long-term care facilities receiving Federal funds to require the director of food services, if not a full-time qualified dietitian, to at least be certified by the Certifying Board for Dietary Managers of the Association of Nutrition & Foodservice Professionals.** This is not a burden to the industry as a facility can train an existing foodservice employee at a nominal cost. Risks of foodborne illness among residents in nursing homes can be minimized through low cost, high impact training and certification. We owe it to our parents and to America's elderly.

<sup>1</sup>J. L. Smith, "Foodborne Illness in the Elderly", Department of Microbial Food Safety, U.S. Dept. of Agriculture, note in Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration publication, "Seniors and Food Safety", May 1999.

<sup>2</sup>"Protecting Residents from Foodborne Illnesses", Jamie Stamey, RD, LDN, CFSP, *Nursing Homes* magazine, December 17, 2006.

<sup>3</sup>Journal of the American Medical Association (JAMA) Authors Douglas Archer, Ph.D., deputy director of FDA's Center for Food Safety and Applied Nutrition, and William C. Levine, M.D., Joanne F. Smart, M.D., Nancy H. Bean, Ph.D., and Robert V. Tauxe, M.D., all of the national Centers for Disease Control in Atlanta, Ga.

<sup>4</sup>Department of Health and Human Services, [Medicare.gov](https://www.medicare.gov), "About Nursing Home Inspections".