

STATEMENT
Of
The American Health Care Association & National Center for Assisted Living
Before the
U.S. House of Representatives Committee on Ways & Means
Hearing on
Health Reform in the 21st Century: Reforming The Health Care Delivery System
April 1, 2009

On behalf of the millions of caring employees within the long term care sector, and the millions of Americans who rely on these compassionate caregivers for essential care and services, the American Health Care Association and National Center for Assisted Living (AHCA/NCAL), commend Chairman Charles Rangel (D-NY) and Ranking Member Dave Camp (R-MI) and the members of this committee for today's hearing on health reform in the 21st Century.

Congress and the Obama Administration are at an historic moment. Health care reform appears to be within reach. AHCA and NCAL want to work with members of this committee and the entire Congress in an effort to find a workable solution to bring about comprehensive healthcare reform.

We are concerned that long term and post-acute care has long been viewed by some policymakers as an after thought in addressing national healthcare policies and reform initiatives. Congress must include this crucial aspect of health services in America within the context of overall healthcare reform. Skilled nursing facilities (SNFs) play a key role in patient care as thousands of individuals enter these facilities daily after a hospital stay. To not include post-acute and long term care in a reform plan would be short-sighted and not in the best interest of the millions of Americans who require this care daily.

Long Term Care – A Healthcare Segment in Need of Reform

Americans are living longer and our nation's aging population is growing. Each year, more than 3 million Americans are cared for one of the nearly 16,000 nursing facilities in the United States with nearly 80 percent relying on Medicare or Medicaid to pay for the care they need. Millions more of America's seniors depend upon care and services offered by assisted living communities or in their own homes. The demand for this kind of care is projected to more than double with as many as 9.3 million older Americans expected to rely on paid long term care services every year – either in a nursing facility or with paid home care – by 2040.

The long term care sector is a significant contributor to the economic health of communities nationwide, and its stability is vital to stimulate economic growth, especially as the demand for long term care services continues to grow.

Presently, long term care accounts for 1.1 percent of the nation's Gross Domestic Product (GDP) – \$153.8 billion annually – with substantial economic impact in nearly every community across the country. With long term care facilities contributing to the employment of more than 4.4 million individuals, the long term care sector represents one of the few growth areas in the U.S. economy. As a major driver of economic activity, the sector further supports more than \$160 billion annually in labor income, and generated \$56 billion in tax revenue in 2007 alone.

Health Care Reform Bundling Deserves Cautious Approach

We commend and support President Obama's pursuit of fundamental reform to the U.S. health care system. This reform rightly includes addressing avoidable rehospitalizations. However, a provision in the FY 2010 budget that "bundles" Medicare payments for patient care, may have unintended consequences for our patients and the long term care sector itself.

Before designing and implementing a bundling demonstration, AHCA recommends that CMS' current post-acute care demonstration be completed and evaluated for the program's potential to accurately and validly compare services, costs and outcomes across the various post-acute provider settings.

We strongly endorse a site-neutral post-acute care payment system where payment levels will be based on the condition of the individual being served, not the location of the service. It is key that any plan must utilize a case manager located in a provider setting that has the most responsibility for caring for the individual. There must also be a common data collection tool that can be used to place individuals in the appropriate care setting. This system also must not increase provider administrative costs.

The Office of Management and Budget (OMB) estimates no budget savings under the Medicare post-acute bundled payment proposal in FY 2010, five-year savings of \$950 million, and ten-year savings of \$17.8 billion, which will be used for health care reform. A similar proposal was contained in the recent Congressional Budget Office report entitled "Budget Options, Volume I: Health Care Reform" – specially Option 30. We believe that a site-neutral post-acute payment system will provide greater budgetary savings with fewer administrative burdens on providers.

Medicare-Medicaid Cross Subsidization Requires Realistic Solutions

We urge you to keep in mind that preserving adequate federal Medicare funding is a key factor in ensuring seniors retain access to quality long term care during today's challenging economic times, but also whether or not our profession will be able to continue successfully treating the changing patient population envisioned by all of us supportive of broad-based healthcare reform.

There is a real and growing interdependence between Medicare and Medicaid is increasingly problematic for all stakeholders. While 65 percent of skilled nursing facility patients rely on Medicaid to fund part, or all, of their nursing facility stay, those benefits account for only half of nursing facility revenues. Given that the prevalence of Medicaid patients in our nation's nursing facilities is four times

that of the acute care sector, special consideration of the relationship between Medicare and Medicaid is highly relevant.

In a recent letter to President Obama, U.S. Representatives Earl Pomeroy (D-ND), Shelley Berkley (D-NV), Shelley Moore Capito (R-WV), and Ginny Brown-Waite (R-FL) point out the vital fact that approximately 80 percent of nursing home patients rely on Medicare or Medicaid to pay for their long term care, and that given that the fastest growing segment of our population is those 85 and older, our nation's need for long term care will continue to increase significantly. The legislators stated in pertinent part:

“Providing appropriate funding for Medicare and Medicaid,” they state, “will ensure that this ever-increasing population will have access to needed long term care when the time arrives....” Unfortunately, the Medicaid reimbursement for care at a skilled nursing facility (SNF) has long been inadequate. This funding shortfall has been calculated at \$4.2 billion nationwide in 2008, or to put it another way, a loss of \$12.48 per patient, per day. Medicare reimbursement supplements this perpetual underfunding and until the Medicaid shortfall can be addressed we ask that you consider the interdependence of these programs when finalizing your FY 2010 budget proposal.”

Home and community-based services (HCBS) address the long term care needs of millions of Americans annually. Certainly, we believe that individual choice in the type and setting of long term care and services must be preserved, to include the availability of HCBS for all consumers. In fact, HCBS and facility-based long term care should be complementary to one another, as both fulfill unique needs for the consumer. Our concern is not about expanding the HCBS option to all Medicaid beneficiaries who meet the requirements for receiving facility-based care, but rather that such an expansion would come at a significant cost for state and federal governments that can ill-afford it. The Congressional Budget Office's *Budget Options* that was released in December 2008 analyzed this very proposal stating that, “this option would increase Medicaid spending by approximately \$20 billion over the 2010 – 2014 periods and by about \$90 billion over the 2010 – 2019 periods. That estimate incorporates a reduction in nursing home spending as a result of a modest decline—compared with current law—in the number of Medicaid beneficiaries who receive care in nursing homes and a subsequent increase in the number of individuals receiving HCBS.” In short, according to CBO, expansion of HCBS would further contribute to the financial crisis facing the entire long term care sector and our nation at this time.

Person-Focused, Cost-Effective Reform Proposal

In an effort to bring thoughtful ideas and potential solutions to the table, AHCA/NCAL and the Alliance for Quality Nursing Home Care have engaged Avalere Health to develop a comprehensive health care reform plan. Our proposal addresses the need for change – both in the financing and delivery of long term and post-acute care. Highlights of our proposal include replacing the current patchwork of financing with a voluntary federal system; developing a new, federal, catastrophic long term care benefit; enhancing private long term care financing; and streamlining our post-acute care delivery system. We believe that our plan would provide a single, unified method for maximizing individual preferences and program value, which ensures people are cared for in the most clinically appropriate, high-quality setting.

In the coming weeks, Avalere Health will release an updated long term and post-acute care financing and coverage reform model that expands upon our existing proposal and includes conservative cost-estimates that illustrate how this comprehensive reform plan would provide budgetary savings over time. We look forward to sharing that update with Chairman Rangel, Ranking Member Camp, and the members of this committee.

Quality – AHCA/NCAL’s First Priority

Long before the words quality and transparency were the catch words of the federal government and their oversight of healthcare, they were truly the compass for AHCA/NCAL and our member facilities.

We have been working diligently to change the debate regarding long term care to focus on quality – quality of life for patients, residents and staff; and quality of care for the millions of frail, elderly and disabled individuals who require our services. We have been actively engaged in a broad range of activities which seek to enhance the overall performance and excellence of the entire long term care sector. While keeping patients and their care needs at the center of our collective efforts, we keep challenging ourselves to do better, and enhance quality.

Quality & Outcomes Are Improving

The Online Survey, Certification and Reporting (OSCAR) data tracked by the Centers for Medicare and Medicaid Services (CMS) clearly points to improvements in patient outcomes, increases in overall direct care staffing levels, and significant decreases in quality of care survey deficiencies in our nation’s skilled nursing facilities.

A few examples which highlight some of the positive trends in nursing facility care according to data tracked by CMS:

- Nationally, direct care staffing levels (which include all levels of nursing care: Registered Nurses (RNs), Licensed Practical Nurses (LPNs) and Certified Nursing Assistants (CNAs) have increased 8.7 percent between 2000 and 2007 – from 3.12 hours per patient day in 2000 to 3.39 hours in 2007;
- The Quality Measure¹ tracking pain for long term stay residents vastly improved from a rate of 10.7 percent in 2002 to 4.6 percent in 2007 – more than a 50 percent decrease;
- The Quality Measure tracking the use of physical restraints for long stay residents dropped from 9.7 percent in 2002 to 5.6 percent in 2007;

¹ **Quality Measures** track nursing facility residents who have and are at risk for specific functional problems needing further evaluation. Improvements in these measures indicate positive trends in patient outcomes, but it is important to clarify that the quality measures do not reflect a percentage of the entire population, rather the percentage of those who are at risk and have the condition.

- The Quality Measure tracking pressure ulcers for post-acute skilled nursing facility patients (many of whom are admitted to the nursing facility with a pre-existing pressure ulcer) improved by 23 percent over the course of four years, from 20.4 percent in 2003 to 15.8 percent in 2007; and
- Substandard Quality of Care Citations as tracked by CMS surveys were reduced by 30 percent in five years – from 4.4 percent in 2001 to 3.1 percent in 2006.
- In January 2006, the Government Accountability Office stated that from 1999-2005 there was a nearly 50 percent decrease in the “proportion of nursing homes with serious quality problems.”

Satisfaction of patients and family members is a critical measure of quality. AHCA has recognized this vital link between satisfaction and performance, and has urged facilities to conduct such assessments for more than a decade. In recent years, we have encouraged facilities to use a nationally-recognized company, *My InnerView*, to conduct consumer and staff satisfaction surveys to establish a national database for benchmarking and trend analysis. Last year’s independent survey of nursing home patients and their families indicates that a vast majority (82%) of consumers nationwide are very satisfied with the care provided at our nation’s nursing homes and would rate the care as either good or excellent.

The long term care sector remain committed to sustaining – and building upon – these quality improvements for the future.

Culture of Cooperation – Leading to Continued Improvement

Positive trends related to quality are also evidenced by profession-based initiatives including *Quality First* and the *Advancing Excellence in America’s Nursing Homes* campaign – both of which are having a significant impact on the quality of care and quality of life for the frail, elderly and disabled citizens who require nursing facility care.

Quality First, which was established in 2002, set forth seven core principles that reflect long term care providers’ commitment to continuous quality improvement, leadership and transparency. This profession-based initiative led not only to improvements in care and processes, but to the development of the National Commission for Quality Long-Term Care. In December 2007, the Commission released its final report which addressed four critical components of long term care – quality, workforce, information technology & financing. We encourage Congress to take the recommendations of this commission under consideration – and further investigate their feasibility.

AHCA is a founding partner of the *Advancing Excellence in America’s Nursing Homes* campaign – a coordinated initiative among providers, caregivers, consumers, government and others that promote quality around eight measurable goals. This voluntary initiative is working – and outcomes and processes are improving in the more than 7,000 participating facilities. Since the onset of the campaign, there has been progress among participants in reducing the incidence of pressure ulcers in nursing homes, reducing use of physical restraints, managing pain for long term nursing home residents, and managing pain for short stay, post-acute nursing home residents.

Reforming an Oversight System to Reward and Encourage Quality

As well as including long term care in any dialogue addressing national healthcare reform, if we are truly going to be able to create a high performing long term care system, Congress must address regulatory reform. Today's regulatory and oversight system does little to recognize or reward quality outcomes. In fact, it defines "success" and quality in a context that is often measured by the level of fines levied and the violations tallied – not by the quality of care, or quality of life, as was Congress' original intent in implementing the *Nursing Home Reform Act*.

We believe that achieving a sustained level of quality care will only be fully realized when there is a collaborative effort to recognize and implement improved health care technologies and best clinical practices that are designed to improve and enhance patient outcomes. This type of culture change is essential to appropriately address the needs of a growing and changing patient population and a shrinking pool of caregivers.

We believe that such a reformed, fair, and effective survey process should embody three guiding principles:

- Surveys should be fair, accurate, and consistent;
- Surveys should protect the health and safety of residents; and
- Surveys should focus on areas requiring improvement.

Today, we know far more about promoting quality, and we have better tools with which to measure it than we did twenty years ago when the *Nursing Home Reform Act* was enacted. We need to intelligently change the regulatory process to allow and encourage us to use what we have learned – to place quality over process, care over procedure, and most importantly, put patients at the forefront.

As you consider expert testimony and review options regarding the reforms our nation must implement in order to expand coverage, improve quality and control costs, we ask that you keep one fact in mind – the majority of Americans will require long term care services at some point in their lives, which is why any national health reform plan must address long term care.

When Medicare funding for skilled nursing services is stable, quality of care and services improves. When Medicare funding is inconsistent and unstable – especially in the face of growing demand – our nation's long term care infrastructure deteriorates, to the detriment of every senior today and every retiree tomorrow.

As you and your colleagues in Congress and the Administration take on the tough task of healthcare reform, the American Health Care Association and National Center for Assisted Living stand ready to work with you to achieve person-centered, cost-effective, and sustainable long term care that is part of our nation's overall healthcare system.

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