Testimony by

The American Health Care Association

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The American Health Care Association, along with assisted living, represents approximately 11,000 nursing homes of for-profit and not-for-profit sponsorship; many of the facilities are involved in multiple types of aging services. Also, our membership includes a specialized area of long term care that provides services and supports to persons with mental retardation and developmental disabilities (MR/DD) called Intermediate Care Facilities and group residences.

Evolving Services

When we talk about "long term care," it's important to understand that we're talking about a dynamic, diverse and evolving sector of the nation's health care system that refers to many settings.

We see aging service options from assisted living, care in one's home, to adult day care centers. Many rehabilitation and subacute providers work in intensive care settings that have equipment and technology that rivals that of many hospitals.

Some people--elders and the disabled--choose to reside in independent living communities that provide very minimal services. Other people choose large campuses, which provide independent living arrangement with comprehensive care capabilities, while many individuals prefer a small residential home with just a few other residents. With all these options however, the focal point is still nursing facilities, which often serve to rehabilitate patients from an acute illness or injury so that they can return home or to another long term care setting, or a facility may provide end of life care for an individual through a local hospice organization.

This written testimony will discuss marketing and communications issues mainly as they relate to nursing facilities, and to provide a context around which to allow you to better understand the forces that impact the long term care community.

One common denominator to all settings is that the long term care community offers a critically important service to the elderly, the disabled and their families. In today's society, seeking professional care giving may be a necessity for families with two wage earners, busy family lives, children in college or when the family cannot manage a difficult health care situation, like a loved one with Alzheimer's Disease. As caregivers we must provide a safe and secure environment—one that respects its residents and patients and honors its role within the community.

Long term care will continue to evolve and diversify, and we can look forward to even more segmentation of the long term care marketplace – simply because patients want and demand more options. Clearly, this adaptation to the consumer's needs and wants is one positive trend.

Another positive trend is the increasing emphasis on quality of care and quality of life issues and the use of care outcomes for patients as a way to evaluate a facility's performance. AHCA has been a stalwart advocate for making it easier for consumers to determine the quality available at a facility in comparison to other facilities. Later I will discuss two related consumer-oriented developments called the Nursing Home Quality Initiative of the Centers for Medicare and Medicaid Services—CMS--and the Quality First Initiative, a profession-wide movement that has set ambitious, quality-related goals for facilities to meet by 2006

The Front Line

Today, there are more than 1.5 million caregivers serving some 3 million patients. These caregivers are the true backbone of our nation's long-term care system, and are key to customer satisfaction, yet facilities have serious, intractable recruitment and retention problems. Nursing home employees toil in very difficult circumstances, with little recognition and often for modest salaries and few benefits. It makes it difficult to be the best you can be for the people and the institutions of long term care.

For those of you who may not be familiar with the nurse aide position, these trained, certified caregivers take on the toughest tasks – and are responsible for 80% of the direct, hands-on care of patients. These are the people who clothe, feed, turn, bathe and assist with the most intimate tasks for our patients, perhaps your parents or grandparents. Caregivers may become surrogate family members to patients and grieve as any family member would when a loved one dies.

Yet today according to AHCA's 2002 staffing, vacancy and turnover rate study, there are 52,000 vacant CNA positions and this is in a troubled economy with rising unemployment.

The federal General Accounting Office (GAO) has reported that the overall demand for nurse aide jobs in all areas of health care is expected to grow from 2.1 million to 2.9 million between 1998 and 2008. This means we need to recruit, train and retain in our workforce hundreds of thousands of new nurse aides in just the next five years.

There is a staffing crisis today and a far larger one looming for the future as 77 million Baby Boomers retire and begin to use long term care services starting in about the year 2020. There will be significant projected worker shortages as the public's need for long term care services increases.

Look what the future holds:

According to the U.S. Census Bureau, people aged 85 and older are more likely to need nursing home care than any other age group. By 2020, the number of individuals 85 and older – currently at 3.5 million – will double to 7 million, and double again to 14 million by 2040.

Who will be the caregivers, and where will they come from?

Problematic Financing Systems

Staffing is but the tip of an iceberg. Our government needs to get serious about devising a coherent national long term care strategy.

Why ask the government for a strategy? That's because the government – state and national – is our biggest customer. Medicare and Medicaid pay for nearly 75% of the patients in nursing homes—75%! We are paid at fixed rates— Medicaid is traditionally, sorely under funded and Medicare is under pressure to make up the difference.

So, while we seek solutions to our staffing crisis, it is important to understand that labor shortages, along with quality and access issues, are a direct result of our under funded, dysfunctional payment system.

Medicaid, a state and federal program for the poor and people who can't pay for their own care, is in deep, deep trouble. In fact, an independent analysis of the nation's Medicaid program, completed by the national accounting firm BDO Seidman, found that Medicaid is under funding seniors' nursing care nationally by nearly $3.5 billion annually. This amounts to an average underpayment for services rendered to Medicaid patients of about $10 per patient per day and Medicaid funds care for two-thirds of nursing home residents.

Today, the Medicaid program pays, on average, nearly $4.75 per hour, per patient, for 24-hour of complete and supervised patient care. That's much less than we pay a teenage babysitter. With this amount, nursing facilities are challenged with also recruiting, training, and retaining skilled nurses, nurse aides and other staff. It is no wonder why we have difficulty attracting and retaining the kind of quality caregivers and support staff our patients want, need and deserve.

Also suffering is the aging physical plant of many nursing facilities. CMS in its recent nursing facility industry market update detailed that "the industry will require a significant amount of capital to refinance maturing debt and maintain facilities in the near term."

Medicaid has placed extreme pressure on state budgets. That's especially so now in a tough economic environment. The majority of states have been pressured to reduce or freeze Medicaid payments for our elderly and disabled. The seriousness of this particular crisis--the worst since World War II--cannot be understated. The economic stimulus funding in the tax package that Congress passed and the President signed recently has been helpful in taking some pressure off the states.

Medicare

You're probably most familiar with Medicare. This federal program for those over 65 offers a very limited—that is, short--long term benefit. It pays fully for the first 20 days of nursing home care and the patient must make a daily co-payment for the next 80 days; today the co-pay is $105. After the 100th day, Medicare stops and the consumer must pay privately or qualify for Medicaid.

Today, Medicare subsidizes Medicaid. However, Medicare has its own set of problems and payments have seesawed and caused a round of financial problems in 1999 and 2000 when many national chains filed for bankruptcy. CMS, in the update I previously mentioned, warns that the "uncertain government payment environment concerned [analysts] that current market conditions could result in a second wave of bankruptcies."

Many of us may wonder how nursing homes survive. The fact is many are not surviving, and most are under serious financial strain, which constrains our quest for quality.

What's the prognosis? Until Medicaid is placed on a firmer financial footing with a realistic level of governmental investment in this key program, access to care will continue to be threatened, our valued nursing staff will continue to leave the profession, and quality may be compromised.

As an aside to the financing problems, AHCA has put forward a plan that we hope will serve as a road map for policy-makers to eventually create a public-private partnership to encourage greater reliance on long term care insurance--currently it is estimated only 6% of Americans have this type of coverage—and less use of public funds to pay for long term care.

Distorted Surveys

Let me briefly discuss one more problem on the long term care front that negatively impacts consumers and every aspect of a facility's operations, as well as the image of the profession as a whole. It's the federal and state survey and enforcement system.

Every facility is inspected on a 12 to 15 month schedule by the federal government and when there is a complaint. In theory, the system is okay, except that, in practice, it is plagued by surveyor inconsistencies from region to region and even within states. It is a subjective process that encourages caregivers to focus on paperwork and compliance with government regulations. It focuses more on how to measure structure and process than on how to measure outcomes. This is for two reasons:

- Indicators of structure and process are easier to devise and to measure; and,
- In the early years, the role of experts outweighed the judgment and wishes of residents and families.

Publicly reported survey results are often distorted, confusing and misinterpreted and are of limited use to the consumer in choosing a nursing home. In an Issue Brief published by The Commonwealth Fund titled "How does Quality Enter into Health Care Purchasing Decisions?" several barriers to communicating about quality were listed, including:

- Lack of consensus on what constitutes quality of care;
- Legislative and political limitations;
- Burden associated with collecting or obtaining information;
- Generally poor quality of data;
- Lack of agreement on standardized performance measures;
- Difficulty in interpreting existing performance measures; and,
- Measures focused on care processes rather than patient outcomes.

The present survey system, which is the basis for reporting on nursing homes by the government, the media and organizations like the Consumer Reports, is not geared to helping the public understand or interpret a survey or to boost the chance of solid decision-making about choosing a facility.

The survey system is based on the presumption of negative outcomes, distinguishing only between compliance and noncompliance and not recognizing in a timely way corrective actions

taken by the facility or recognizing innovation and exemplary performance—information consumers need in choosing a nursing facility.

Survey information is available to consumers as a condensed series of reports on the CMS web site, "Nursing Home Compare." It also is available through state survey agencies, long term care ombudsman offices or individual nursing homes in its original form. CMS continues to promote the Nursing Home Compare web site as an answer to consumer education and informed decision-making. It is one tool of many that consumers should use. However, CMS doesn't ask users if the web site meets their needs or if it helps them choose a nursing facility that meets their needs and expectations. Alternative sources of information for consumers do not exist as all rely on basic survey data with all its considerable flaws.

Quality Measures

In November 2002 there was a potentially useful addition to the Nursing Home Compare web site. The Nursing Home Quality Initiative--NHQI--introduced by the federal Health and Human Services Department and CMS in 2002--requires all nursing facilities in all states to participate in the program. The goal of this initiative is to publicly report nursing facility quality measures to assist the consumer in making nursing home choices, to improve patient care outcomes and to help identify clinical areas that may need improvement within the facility.

The public reporting of nursing home quality measures is done via the CMS Nursing Home Compare web site, on eight standardized measures that are intended to capture meaningful aspects of nursing care outcomes. The measures are posted and updated quarterly on the CMS Web site. An additional component of the NHQI is the reporting of "statewide averages" for the measures so consumers can compare results to other facilities in the state where the facility is located.

In an effort to inform consumers about the NHQI and the availability of the quality measures, CMS placed one-time-only newspaper ad in each state to promote consumer awareness of its web site. The ads included information on 50 local facilities. However, even in this system there are many limitations which need to be corrected, for example:

- The core patient assessment instrument--called the Minimum Data Set or MDS--is flawed and has serious shortcomings;
- Quality measures do not capture instances of a patient's right to choose or refuse care, which impacts the results; and,

- Patients may refuse pain medication to maintain a sense of self-control or refuse medication based on cultural and spiritual values. A facility with excellent pain management protocols may actually "look bad" in NHQI ratings by showing a high incidence of pain among residents.

An extremely important component of the NHQI is that it introduced the involvement of state Quality Improvement Organizations (QIOs) to assist nursing home providers in achieving quality clinical systems and improvement in care outcomes. The QIOs, under CMS contract, also help the public understand and use the quality measures and are available to answer consumer questions.

The NHQI is a work in process. AHCA, on behalf of its membership, is an active and visible stakeholder in the government's efforts to make it a valuable tool for the consumer.

Quality First Initiative

Quality, as they say in reference to many other issues, cannot be legislated or mandated. It takes a commitment to "doing the right thing" in spite of the obstacles. Thus, the profession, in July 2002, launched the Quality First Initiative--a proactive, profession-wide partnership to advance the quality of care and services for older persons and persons with disabilities and to restore the confidence and trust of the public.

The members of the American Health Care Association have a long history of continuously striving for performance excellence. Through this initiative AHCA members, along with those of the American Association of Homes and Services for the Aging and the Alliance for Quality Nursing Home Care, are committed to healthy, affordable, and ethical long term care rooted in seven principles. They are:

- Continuous Quality Assurance and Quality Improvement;
- Public Disclosure and Accountability;
- Patient/Resident and Family Rights;
- Workforce Excellence;
- Public Input and Community Involvement;
- Ethical Practices; and
- Financial Stewardship.

Outcomes have been defined which demonstrate the profession's results in meeting these needs and by 2006 a national commission will report on six expected outcomes:

- Continued improvement in compliance with federal regulations;
- Demonstrable progress in promoting financial integrity and preventing occurrences of fraud;
- Demonstrable progress in the quality of clinical outcomes and prevention of confirmed abuse and neglect;
- Measurable improvements in all Centers for Medicare and Medicaid Services Continuous Quality Improvement measures;
- High rates on consumer satisfaction surveys will indicate improved consumer satisfaction with services; and,
- Demonstrable improvement in employee retention and turnover rates.

The National Commission will be to support the profession's Quality First Initiative in five primary areas and to serve as a voice for the profession and those who need the services we provide.

By endorsing the Quality First Covenant, we will work in partnership with consumers and government to create an environment and a field of care and services in which consumers can feel confident that they are receiving the high quality care and service that they deserve.

Marketing Communications

"Marketing communications" has not really been a factor in the long term care community since the mid-60s introduction of Medicare and Medicaid. Governments--state and federal—came to control the marketplace in the 1970s and 1980s, especially through the Certificate of Need process (CON). Through the CON process the number of nursing facilities was tightly controlled and some states have actually imposed moratoriums on new beds—not because of a glut of beds but usually as a means to control expenditures for governmental programs. Not a typical, competitive marketplace.

Consequently, nursing facilities do not have a history of mass promotion of their services; they usually do it, so to speak, one person at a time either as a consumer calls and visits the facility or marketing is done by an admissions coordinator who visits local referral sites such as hospitals, doctors offices etc. Independently owned facilities do not tend to have in house communications capability, such as a marketing director, and will rely on a person in the administrative office or activities department to handle the occasional contact with the press—usually concerning a social event at the facility or a tour by a top level elected official. Yellow

Page advertising is typical and the use of web sites is increasing. Multi-facility operations will offer more in the way of promotional material yet still there is not a focus on advertising as a way to secure clients.

Consumers are known to rely on word-of-mouth input from friends and others who are familiar with a facility or recommendations from professionals in the community such as doctors, therapists and the like. When prospective clients visit to tour the facility there is generally a substantive dialogue with an admission coordinator or social worker regarding the facility's services, capabilities and appropriateness. AHCA encourages prospective residents and their families to visit facilities several times at different hours of the day so as to develop a clear appreciation for what the facility offers.

The government is our biggest customer as it pays, on average, for 75% or our patients. The government also distributes educational information to the consumer via the web and in printed form explaining how the long term care system works—however the information for the average consumer to digest is very complex and detail-oriented, especially in the financial areas of Medicare and Medicaid. Consumers may attempt to educate themselves but invariably they rely on the person-to-person assistance offered by a knowledgeable nursing home staff to help them navigate difficult questions, such as eligibility for government programs.

Our profession continuously encourages consumers to plan ahead for long term care. AHCA advises consumers to avoid making decisions in a crisis atmosphere such as when an elderly relative has a stroke or fractured hip and "suddenly" needs a place to recuperate prior to returning home. AHCA established a consumer outreach program that provides pamphlets, available through a toll free consumer line or on the web, and promotes it through press releases and radio interviews. Pamphlets run the gamut of what consumers need to know from "Having a Conversation about Long Term Care" to "How to Pay," to a basic primer on "Long Term Care Insurance" to quality of life issues like "Tips on Visiting Someone in a Nursing Facility." Many of AHCA state affiliate organizations offer similar material to consumers along with linking to AHCA's web site.

In sum, there are many sources that try to arm the consumer with the tools to be a wise user of long term care services.

Customer Satisfaction

The many hurdles that long term care providers face as a profession--staffing and finance to name a few--are but distant thunder to the average facility, perhaps in rural America, whose primary focus and responsibility is to the people it cares for, their families and employees. Providers used to think that complying with government regulations and having a good survey was a sign of "quality," yet over the past decade we've learned otherwise. It really is--or should be--about customer satisfaction. To that end the profession has taken positive steps to advocate for official government recognition of this fact and to develop survey instruments to collect this information.

Since the mid-90's nursing homes have placed an emphasis on generating data that reflects the customers experience and perspective. Many facilities already conduct satisfaction surveys with patients/residents and/or families. While no data exists on the prevalence of these assessment activities, 30%-40% would be a conservative estimate.

In 1995 and 1996 AHCA worked with the Gallup research organization to create a series of "Customer Satisfaction Questionnaires." The model questionnaires provide facilities with many validated questions from which to create their own customer surveys. These surveys are available free of charge to our members and are available on AHCA's web site.

In 2001 AHCA developed a model Consumer Guide. This Guide gives direction to providers in all settings on the attributes and format for presenting facility specific data to aid consumers in the selection of a facility. The Guide includes data from survey process, a description of key services, family satisfaction and its willingness to recommend, as well as employee feedback on the facility.

Also in 2001 AHCA commissioned a study by Dr. Vivian Tellis Nayak titled "In Search of a Universal Survey Tool: An Analysis of Satisfaction Survey Instruments for Nursing Home Residents." The study explored the correlations between customer satisfaction and other measures of quality -- financial, staffing, survey outcomes -- and to determine the extent to which a universal measurement tool could be created from the existing surveys that were already in use. The core conclusion is that both family and staff satisfaction are compelling measures of a nursing home's overall quality and performance.

In 2002 AHCA developed the manual, "Creating Consumer-Based Satisfaction Guides: A Handbook for AHCA State Affiliates." The purpose of this manual is to provide state organizations with the tools and guidance to create their own guides. State associations who have pioneered these activities, namely, Michigan, West Virginia and Ohio, provided much of the information.

This very month, June 2003, AHCA is publishing a manual for providers on "How To Conduct Satisfaction Surveys" to help those new to developing surveys and to provide a source of benchmarking for those that have on-going surveying activities.

Voice of the Long Term Care Customer

Quality is often a condition that is hard to define so there can and should be multiple measures of "quality" for any service or product. Quality measures should be identified by various stakeholders but those that originate from the customer have far-reaching implications for the value of products and services. Yet in our long term care system that "voice" has been stifled because of the over-reliance on the old survey system and the fact we have not had a competitive marketplace.

Harry Beckwith, the author of the book "Selling the Invisible," makes a very important point that consumers of a service do not have the ability to assess the service regardless of whether it is provided by a lawyer, a doctor or a nursing home. They do not have sufficient understanding of the underlying laws, medicine or chronic illnesses (especially the stages of Alzheimer's or other chronic diseases). Consequently, they must trust the service provider. It is in the nature of the service commodity, and it is true across all services. This insight provides an important guideline and roadmap. In order to earn the consumer's trust, providers must be open to challenging consumer questions and points of view. Customer satisfaction surveys will help us identify and formalize these opinions and can provide the basis for future actions. Resident, family, and staff satisfaction surveys, although often labeled a soft measure of quality, can be a very robust quality assessment tool.

Today care outcomes measures are coming to the fore and are getting wider publicity; such as the Nursing Home Quality Initiative and satisfaction surveying is emerging as an important and valid outcome indicator.

Thus, the traditional emphasis on the structures and processes--our current survey system--needs to be more inclusive of the opinion of residents and their families. Without

customer satisfaction data we do not have the whole picture of a nursing home's overall quality. Communicating "satisfaction" information to the community would go far in helping people choose a nursing home and help inject competition to provide and to communicate quality information to the long term health care marketplace--even as those looming sounds of "distant thunder" intrude on the operations of every nursing facility and make quality, whatever your definition, ever harder to attain and retain.

Supplemental, Written Statement of the
American Health Care Association,
Federal Trade Commission/Department of Justice Hearing on Long Term Care,
Submitted June 12, 2003.

ATTACHMENTS

1. *A Guide to Residential Services for Persons with Mental Retardation or Developmental Disabilities (MR/DD)* (AHCA-2003).
2. *Results of the 2002 AHCA Survey of Nursing Staff Vacancy and Turnover in Nursing Homes* (AHCA-2003).
3. *Nursing Workforce: Recruitment and Retention of Nurses and Nurse Aides Is a Growing Concern* (GAO-01-750T) (GAO-2001).
4. *A Briefing Chartbook on Shortfalls in Medicaid Funding for Nursing Home Care* (BDO-2002).
5. *Health Care Industry Market Update* (CMS-2003).
6. *How Does Quality Enter into Health Care Purchasing Decisions?* (The Commonwealth Fund – 2003).
7. *Nursing Home Compare* – www.medicare.gov/NHCompare/home.asp (CMS).
8. *Quality First: A Covenant for Healthy, Affordable, and Ethical Long Term Care* (AHCA/AAHSA/Alliance – 2002).
9. *AHCA Consumer Guide Model.*
10. *In Search of a Universal Satisfaction Survey Tool: An analysis of Satisfaction-Survey Instruments for Nursing Home Residents, Families and Staff* (ViTel Research-2001).