



Statement of
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American Health Care Association

for the
U.S. House Ways & Means Health Subcommittee

**“Hearing on MedPAC’s Annual March Report with
MedPAC Chairman Glenn M. Hackbarth”**

March 11, 2008

Chairman Stark, Ranking Member Camp, and Members of this Committee, thank you for allowing our profession to express our views and ideas surrounding our ongoing commitment to quality long term care and the federal government’s approach to funding nursing facility care for our nation’s seniors. We also appreciate the opportunity to reaffirm our belief that consumers deserve the highest quality care and services across the spectrum of health care settings, and employees deserve well-paid, positive work environments. As the profession responsible for the care of our nation’s most vulnerable citizens, we are proud of the advances we have made in delivering high quality long term care services and we remain committed to sustaining these gains in the years and decades ahead – when, as we all know, demand for long term care will skyrocket.

The crux of the issue at hand here today is federal funding of Medicare and Medicaid, and what constitutes “adequacy” to achieve the common goal that we share with the members of this Committee and other stakeholders to ensure ever-improving consumer satisfaction and ever-increasing levels of improved care quality.

Quality – AHCA’s First Priority

With “quality” as our watchword, it is important to note at the outset America’s nursing home providers have led the quality movement. Our sector’s leadership – which is reflected in the *Quality First* initiative, our partnership with the federal government’s successful Nursing Home Quality Initiative (NHQI), and the ongoing voluntary *Advancing Excellence in America’s Nursing Homes* campaign – has helped to improve and maintain the overall quality of care in our nation’s nursing facilities. Through the development of a private-public “culture of cooperation” long term care stakeholders are meeting the challenge of quality care head on, and this commitment has propelled the profession forward.

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AHCA/NCAL is the nation's leading long term care organization whose member facilities are committed to enhanced quality through initiatives including Quality First, Advancing Excellence in America's Nursing Homes and the Center for Excellence in Assisted Living. AHCA/NCAL represents nearly 11,000 non-profit and proprietary facilities who employ millions of caring employees and provide care and services to millions of frail, elderly and disabled citizens in nursing facilities, assisted living residences, subacute centers and homes for persons with developmental disabilities. For more information on AHCA/NCAL, please visit www.ahca.org

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. At the same time, an independent analysis confirms consistently high patient and family satisfaction with the care and services provided.

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 of the quality of care and quality of life for the frail, elderly and disabled citizens who require nursing facility care.

Some examples of positive trends according to data tracked by CMS:

- Nationally, direct care staffing levels (which include all levels of nursing care: RNs, LPNs, and CNAs) have increased from 3.12 hours per patient day in 2000 to 3.39 hours in 2007;
- 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;
- Use of physical restraints for long stay residents dropped from 9.7 percent in 2002 to 5.6 percent in 2007;
- Pressure ulcers were reduced for both low and high risk long stay residents – with hard to treat, high risk pressure ulcers reduced from 13.8 percent in 2002 to 12.8 percent in 2007; and
- For short-term stay patients (many of whom are admitted to the nursing facility with a pre-existing pressure ulcer) the incidence of pressure ulcer measure also improved – from 20.4 percent in 2002 to 17.5 percent in 2007.
- 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.

Mr. Chairman, we remain committed to sustaining these quality improvements for the future.

With our profession's quality agenda as both a backdrop and a desirable ongoing public policy priority, the matter at hand is relatively simple, Mr. Chairman. 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.

Proposed Medicare Cuts Are Short-Sighted In Sustaining Quality Patient Care

Unfortunately, the Administration's proposed FY 2009 Budget incorporates recommendations of the Medicare Payment Advisory Commission's (MedPAC). The proposed cuts and freezes to the Skilled Nursing Facility Market Basket Update constitute a Medicare cut of more than \$17 billion over five years. This is the largest portion of the Administration's proposed ill-considered Medicare cuts to nursing facilities, which, in total equal a reduction of nearly \$24 billion over five years – funds that would otherwise be directed to critical nursing and rehabilitative care to our nation's most vulnerable seniors.

Cutbacks of this magnitude not only threaten the progress we have achieved working with the federal government to improve care quality, but reduce our profession's ability to maintain quality improvement initiatives taking place on the front lines of care that are currently making a difference in the lives of our residents and those caregivers providing critical care and rehabilitative services.

Growing Sentiment Against SNF Medicare Cuts

Last week seventy-seven House members and an additional sixteen members of the Senate added their voice to the growing opposition to proposed Medicare cuts to nursing facilities in letters to their respective Budget Committees. These nearly 100 Congressional champions argued that cutting Medicare is in the wrong interest of quality patient care and long term care jobs. Specifically the letters authored by Senators Tim Johnson (D-SD) and Susan Collins (R-ME), and Representatives Shelley Berkley (D-NV) and Shelley Moore Capito (R-WV) states in part:

“Despite the growing demand for long term care, the existing financing mechanisms for Medicare and Medicaid are intertwined and increasingly dysfunctional. Medicare and Medicaid funding comprise the vast majority of all skilled nursing facility (SNF) payments. The Administration’s cuts are especially egregious when the drastic underfunding of Medicaid-financed SNF care is considered. For 2007, SNFs received \$4.4 billion less than needed to cover the costs of providing care to Medicaid patients according to BDO Seidman. However, the Administration’s FY 09 budget fails to account for this perilous situation, which will only worsen as state economies continue to decline, since it calls for nearly \$24 billion in cuts to Medicare SNF funding over five years.”

Increasingly, policymakers understand that Medicare funding policy as supported by MedPAC will adversely impact constituents' care needs at the local level, and challenge providers to maintain wages and benefits for the hundreds of thousands of direct care workers employed in skilled nursing facilities.

This growing opposition to Medicare cuts for skilled nursing facility care was also noted in a recent poll conducted by Zogby International from February 13 – 16, 2008. Poll results indicated that “a majority of respondents (63%) oppose cuts and freezes for the Medicare nursing home benefit.” The poll also found that a “strong majority of respondents (73%) say they would support a presidential candidate who will not reduce Medicare funding for nursing homes.” These respondents agreed with the statement that “such reductions could lead to a loss of jobs, less quality care and could make it difficult for seniors to find a nursing home close to friends.”

Medicare Increases Needed for Wage Increases, Investment in HIT & Sustained Quality

Given the dramatic cost increases facilities face in key areas including labor, energy, and health information technology, the failure to recommend an inflationary market basket update defies common sense, and are wholly inadequate to maintaining our gains in care quality – especially as these cost increases stem from factors beyond providers' control.

For example, the shortage of nurses and other direct care workers coupled with the fact that long term care must compete with other employers both within and outside the health care sector for these employees, contributes significantly to increasing labor costs. When facility operating margins are further reduced, we are far less able to recruit and retain qualified care givers, modernize and refurbish aging physical plants

and equipment, acquire and implement new technologies to accommodate advances in medical practices, and meet the increasingly complex care needs of an aging population.

These cost-increases and components critical to sustained quality improvements have been recognized by the Centers for Medicare and Medicaid Services (CMS). Just six months ago, in recommending its fiscal year 2008 3.3 percent market basket update, CMS' Acting Administrator, Herb Kuhn, said the update "will enable nursing homes and Medicare to continue to move forward in providing quality services for patients who need post-acute care," and "ensure that Medicare is affordable for current beneficiaries and is sustained for future generations by paying accurately and efficiently. We are confident that the new payment rates will continue to ensure beneficiary access to the important services skilled nursing facilities provide."

Mr. Kuhn's statement six months ago is just as relevant today as it was then and we entirely agree that a Medicare increase is necessary to promote "program efficiency, quality and sustainability."

The Changing Role of the Nursing Facility

A new analysis of trends in New York State nursing home care is more illustrative of the marketplace realities MedPAC routinely ignores. The report from the United Hospital Fund documents the growing role that skilled nursing facilities play as providers of short-term care for people continuing recuperation after a hospital stay. The report also finds that the "number of patients staying in a nursing home for less than two months more than tripled," from 1996 to 2005. In addition to this rise in short-stay patients, the study further concludes that, "between 1996 and 2005, both long-term residents and short-term patients have become more disabled, and more of them are cognitively impaired. In 2005, there were also more mental health diagnoses among them than in earlier years." The authors indicate that the findings of this study are representative of national trends. These facts further demonstrate why MedPAC's recommendations are out of touch with skilled nursing facility patient needs and desires.

It is important to recognize the nursing home of the 21st century is far different from its predecessors, and while it's excellent news that patients are returning home more quickly, the nature of treating the older, sicker patients themselves is increasingly problematic in the face of drastic Medicare cuts.

Medicare & Medicaid – Inextricably Linked

MedPAC's exclusive focus on Medicare margins in the long term care sector in determining payment recommendations does an enormous disservice to the poor frail, elderly and vulnerable individuals who receive care and services in America's nursing facilities. By ignoring the underfunding of care by Medicaid, MedPAC's analysis and recommendations do not present an accurate picture of the long term care marketplace. Medicaid is responsible for funding the care for 66 percent of patients in America's nursing homes, and those nursing homes lose an average of \$13 per Medicaid patient, per day.

MedPAC's continuing and exclusive focus on Medicare ignores the real and growing interdependence between Medicare and Medicaid. While 66 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 seems particularly relevant to nursing facility care. We understand that another committee has jurisdiction over Medicaid and while MedPAC does not include Medicaid as a determinant in recommending government funding policy, the millions of Medicaid patients who rely upon the care we provide do not

have the luxury of ignoring the broken funding relationship between both programs. We believe that Congress as a whole has the duty of recognizing all payers when it comes to nursing facility payments. Medicare payments cannot be considered in a vacuum.

AHCA Recommendations

Therefore, Mr. Chairman, it is a public policy error for MedPAC to dismiss the Medicare-Medicaid “cross subsidization” issue as irrelevant to the debate at hand. Based strictly upon the facts, market trends, and fiscal reality, MedPac’s recommendations should be rejected, and we make the following recommendations:

- Congress should maintain the FY 2009 full market basket for skilled nursing facilities.
- Congress should amend MedPAC’s charter to require the Commission to consider operating margins of all government payers and the adequacy of all government funding in making its recommendations. This approach will enhance economic stability and quality improvements.
- MedPAC should factor into its recommendations long term care’s progress in improving quality. Funding volatility undermines providers’ ability to remain focused on continuous quality improvement.

Mr. Chairman, America’s seniors cannot afford another setback generated by the continuing failure in Washington to recognize the tangible, growing relationship between payment policies and quality objectives. Our recommendations concerning MedPAC offer an approach that avoids such a negative scenario, and properly prepares the nation’s long term care infrastructure for the challenging task ahead.

Thank you for the opportunity to offer these comments on behalf of millions of professional, compassionate long term care givers and the millions of frail, elderly, and disabled Americans they serve each day.

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