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Testimony on Senate Bill 884
House Committee on Families, Children and Seniors
Representative Kenneth Kurtz, Chairperson
May 29, 2012

Representative Kurtz and members of the committee, thank you for the opportunity to testify today on Senate Bill 884.

My name is David LaLumia, President and CEO of the Health Care Association of Michigan. HCAM is a statewide trade association representing for and not-for-profit, county medical care and hospital-based nursing and rehabilitation facilities. Statewide, our profession consists of 427 facilities employing more than 50,000 dedicated workers throughout state and serving more than 40,000 elders and persons with disabilities each year.

In the past, HCAM and many of our members have brought forward to the Bureau of Health Systems on-going concerns regarding application of the state survey process and opportunities for quality improvement to post survey follow up, without resolution.

Specific concerns include uncoordinated and untimely revisits for annual surveys and complaint investigations. This leaves survey cycles open and results in increased enforcement actions which include financial penalties and imposition of denial of payment for new admission status. Follow up paper work is often delayed. Clinical Process Guidelines are not consistently used to establish expectations for best practice in order to arrive at the appropriate citation level. Significant inconsistency of scope and severity determination exists across all standard and complaint survey teams.

HCAM supports a robust process of regulatory oversight. However, it is the inconsistent and uncoordinated application of these survey processes, particularly the post survey activities, that have caused unnecessarily protracted survey and enforcement cycles. These have serious consequences for a facility's reputation in the community and financial stability.

I would like to share a few statistics to support the need for change.

- Michigan had the highest rate of discretionary and mandatory denial of payment for new admissions against nursing facilities compared to other facilities nationally for FYs 2006, 2007, 2009 and 2010. In 2008, Michigan ranked 2nd in this statistic. These rates were approximately 3 to 4 times higher than the national average for each respective year. Even a brief period of payment denial, resulting from a delayed revisit, costs tens of thousands of dollars to the provider in lost revenue and takes years to recover in terms of loss of reputation within the community.

- The State Survey Agency has a history of imposing civil money penalties against more skilled nursing facilities and at a rate 4 to 290 times higher than other states in CMS Region V. In FY 2011, Michigan imposed more than $9.2 million in civil money penalties alone. Ohio ranked 2nd at $2.2 million. It should be noted that Ohio has 300 more nursing facilities than Michigan.

- The average number of citations for annual standard surveys in Michigan for 2011 was 7.4, nationally it was 6.1. Michigan is 1 citation above the national average. We think an average of 7.4 citations out of more then 1000 regulatory requirements is a good scorecard for providers in Michigan.

- By the department's own statistics, it fails to release more than 15 percent of the reports of survey findings to the provider within the 10 days required by federal protocol. This unnecessarily delays a facility's ability to take aggressive corrective action.

Passage of Senate Bill 884 will address these concerns and others by requiring:

- Additional training for new nursing home surveyors.
- Greater collaboration on joint provider and surveyor training sessions.
- Quarterly meetings between the BHS and professional and trade organizations to foster better understanding of regulations, survey and enforcement processes and trends in resident care, deficient practices and enforcement.
- Most importantly, it requires the nursing home survey process to be effectively and efficiently coordinated suggesting creation of a single administrative unit and development and implementation of an electronic system to support coordination of these activities.
- Lastly, it requires closing out any open enforcement cycle before starting an annual standard survey while maintaining all federal survey interval requirements.

In closing, HCAM supports Senate Bill 884 - which does not erode federal or state law, but rather encourages the state survey agency to conduct a survey and enforcement process that is fair, consistent, accurate and timely.

Every skilled nursing facility in Michigan and each of the trade organizations that represent them have a relationship with the Bureau of Health Systems. We are not saying anything today that we have not said directly to the department. They have a tough job. We respect the work they do. We communicate with BHS and work together whenever possible to address problems that arise. Our organization has regular meetings with Mr. Pemble. We appreciate his willingness to listen to our ideas and to share information about the issues facing BHS.

Skilled nursing facilities also have a tough job. They care for some of the sickest, most frail elderly who are among our most vulnerable citizens. They are an essential part of Michigan's health care infrastructure and safety net. They are job creators and job providers and contribute to our economic growth.

They are held to a high standard by the state survey agency as well they should be. When performance does not meet state and federal standards or when mistakes are made, there are no excuses accepted.

The state survey agency should be held to a similar high standard. As essential providers and customers of the state, nursing facilities expect and deserve a regulatory environment which is prompt, efficient, consistent and which emphasizes quality improvement -- at all times, without exception.

This is what SB 884 calls for. We would encourage your support of this bill. I would like to thank Senator Hansen for his work on this issue. Thank you to the committee for hearing testimony on the bill today. And thank you to the facilities testifying today for their courage and commitment to improve the survey process and support this legislation.

Thank you Representative Kurtz.

Respectfully Submitted,

David LaLumia
President/CEO