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PROMOTING EXCELLENCE IN SENIOR CARE

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CON Public Hearing Testimony
Nursing Home and Hospital LTC Unit Standards
July 23, 2014

Thank you for the opportunity to provide testimony on behalf of the Health Care Association of Michigan (HCAM) in support of the proposed revisions to the CON nursing home and HLTCU standards HCAM is a statewide trade association representing 300 nursing facilities, county medical care facilities and hospital long term care units across Michigan. The revisions to the standards will provide greater access to high quality care for those in need of nursing home and HLTCU services.

HCAM would like to highlight four areas of concern regarding the proposed standards. The areas of concern are: CON site specific, post acute care providers, access to care requirements, and LARA citation data.

CON Site Specific Requirement
Upon application for a CON to construct a new or replacement nursing home the applicant is required by CON staff to provide a specific legal site description. This is a change from past practice where cross roads were acceptable in lieu of the specific legal definition of the property at the beginning of the application process. Some CON approvals can take years approved to allow for the appeals to be resolved and the initial proposed site may no longer be available for various reasons outside of the control of the applicant. The specific legal description is provided once the CON is approved and prior to any construction activity. During the workgroup meetings on these standards this issue was discussed and not addressed because CON staff did not believe a change to site specific language could be incorporated within the standards. The following language was proposed at the workgroup level:

> "at the Department's discretion, the Department may allow for the replacement of a previously approved new construction project that is yet to begin construction, from the original site to a proposed site within the planning area, if the applicant can demonstrate that utilizing the site originally approved for new construction will result in an undue hardship or insurmountable burden to the applicant. An assertion by an applicant of undue hardship or insurmountable burden pursuant to this provision must be made in writing and supported by affidavit or other documentary evidence as required by the Department."

HCAM does not agree with the CON staff position and supports the above language being incorporated into the standards. The current CON practice of requiring a legal site description prior to receiving a CON approval is hindering investors and providers from moving forward with new constructions. The residents pay the price of not being served in the most modern facility that we as providers can build for them. HCAM would like the Commission to accept the language presented to the workgroup and incorporate in these proposed standards.

Post Acute Care Providers
As health care reform is implemented all healthcare providers will be required to change and nursing facility's experience this through an enhanced expectation to provide a higher level of care. This change in level of care provided by these healthcare providers is referred to as post-acute care. These providers have made continuous strides in providing more Medicare post acute services from an average of less than 10% to over 20% of the days of care. This dynamic was discussed at the workgroup meetings but no appropriate change to the standards could be agreed upon to accommodate this change in care for these post acute care providers; especially, those providers who focus on post acute care and desire to have beds with only Medicare certification. This post acute care provider focus will continue to grow and will be a concern that should be addressed in future reviews of these standards.

Access to Care Requirements
On page 20 lines 888-896 a section titled "Compliance with the Following Access to Care Requirements" was added to these standards. HCAM is fully supportive of greater access to health care for all individuals in the setting that meets their care needs. Two of the criteria as stated do not apply to nursing home and HLTCU providers. These two requirements are: (i) not deny services to any individual based on payor source and (ii) provide services to any individual based on clinical indications of need for the services.

First, nursing homes do not have to admit an individual if they cannot pay for the services. In fact nursing homes have a process "involuntary discharge for nonpayment" established within their regulations. Secondly, element (ii) requiring nursing homes to admit all individuals conflicts with their regulations that state they can only admit if they can provide the necessary care. A good example would be a person on a ventilator asking admission to the nursing home who cannot provide this type of care.

HCAM is requesting that these two elements be removed until appropriate language is presented that conforms to the existing nursing home regulations.

LARA Citation Data
The standards have quality criteria that relates to the average number of citations at a D level or above from the annual LARA certification surveys. The most recent data is from March 2012 and the average is wrong. At workgroup meetings and the June Commission meeting this issue was discussed intensely. The department is pursuing correct and updated data from LARA but no timeframe of when was ever provided. HCAM wants to keep this issue on the front burners to either get corrected or be eliminated from the standard. The workgroup attendees were not in favor eliminating the quality criteria and either is HCAM but concern was expressed regarding the correctness of the data.

Thank you for this opportunity to testify. If you have any questions please contact me.
Patricia Anderson, HCAM
patanderson@hcam.org 517-627-1561 ext. 103

Nagel, Elizabeth (DCH)

From: DoNotReply@michigan.gov
Sent: Tuesday, July 22, 2014 8:34 AM
To: MDCH-ConWebTeam
Subject: Public Hearing Testimony (ContentID - 325143)

name: Karen Mesick
organization: Pilgrim Manor
phone: 616-458-1133
email: kmessick@pilgrimmanor.org
standards: Nursing Home and HLTCU
testimony: Nursing facilities are not subject to the EMTALA laws as the hospitals are. Additionally, LTC providers do not have the benevolent (charity) care resources that hospitals have. In fact, LTC providers are required to ensure that we can provide for the resident's care needs prior to admission. By admitting someone, the provider is affirming their ability to perform all the necessary care delivery that the residents needs. In order to determine if those clinical needs can be met, a provider must (or should!) consider all payment options for that resident. We don't have beefy margins; nor can we engage good staffing to provide the care (which is approx. 60%+ labor cost to most LTC budgets) for free. Lastly, we do have rights under involuntary discharge criteria to discharge for failure to pay. It's a pain in the neck and virtually impossible to do, but Federal law does provide recourse.

These criteria should be removed as it does not apply to the nursing home setting.

Thank You – Karen Mesick, Pilgrim Manor
Reference page 20 lines 888-896

Nagel, Elizabeth (DCH)

From: DoNotReply@michigan.gov
Sent: Tuesday, July 22, 2014 8:30 AM
To: MDCH-ConWebTeam
Subject: Public Hearing Testimony (ContentID - 325143)

name: Patricia Anderson
organization: Health Care Association of Michigan
phone: 517-627-1561
email: patanderson@hcam.org
standards: Nursing Home & HLTCU
testimony: CON Public Hearing Testimony
Nursing Home and Hospital LTC Unit Standards July 23, 2014

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