



September 12, 2019

Centers for Medicare & Medicaid Services  
Attention: CMS-3347-P  
P.O. Box 8010  
Baltimore, MD 21244-1850

To Whom It May Concern:

Please accept this letter of comment on the recently proposed rule, “Medicare and Medicaid Programs; Requirements for Long-Term Care Facilities: Regulatory Provisions to Promote Efficiency, and Transparency.” This proposed rule will impact an estimated 1.3 million beneficiaries at 15,000 skilled and long-term care facilities across the country.

ASHNHA represents more than 65 hospitals, skilled nursing facilities, and other health care organizations. Our membership spans geographically from PeaceHealth Ketchikan Medical Center to Samuel Simmonds Memorial Hospital in Utqiagvik. Our diverse association unites every small rural hospital and large hospital system in the state around common goals. For over 60 years, ASHNHA members have worked to improve health care in Alaska.

In Alaska, we strive to provide the highest quality of care for our residents every day. In June, Alaska was recognized for “resuming our dominance as one of America’s best nursing home states,” for our superior grades in staffing quality. Compliance with obsolete and burdensome government regulation interferes with our ability to provide the best quality possible in the last frontier.

Alaska is America’s largest state, comprising roughly one-sixth the nation’s total land area, yet has only about two tenths of one percent of America’s population. 99.95% of the state is rural – a greater percentage than any other state in the nation. Several hundred of our communities are not reachable by road. The distance to the nearest nursing care center or medical facility is often several hundred miles that can only be travelled by air. Alaska has the fewest nursing care beds per thousand population and more capacity is necessary. However, the crushing federal and state regulatory system is preventing that development and creating significant challenges to maintaining operations. Meaningful regulatory relief is essential in our pursuit to serve Alaskans.

Every day, Alaska’s nursing care centers provide a wide range of services to the most vulnerable among Alaska’s population, the elderly and disabled. In many communities, the nursing care centers help support the access to essential health care services by improving the financial viability of Critical Access Hospitals. Their services and employees are also vital to local economies, providing family-wage jobs and services that attract other businesses.

These nursing care centers, however, are tremendously burdened by regulation and a federal statute that unreasonably requires CMS to conduct five federal licensure surveys in Alaska annually in addition to the normal State of Alaska unannounced licensure/compliance surveys. With only 19 nursing care centers in Alaska that means our members can expect a federal survey, in addition to their annual state survey, every three years. In contrast, 40

states with more than 100 skilled nursing care centers can anticipate a federal survey every 15 years. Simply put, we are over-surveyed and over-regulated which increases costs and most importantly causes our attention to be redirected from residents.

We want to thank CMS for the proposed changes in this rule that free up valuable resources, which are already scarce in Alaska, and allows us to focus on the safety and care of our residents. We urge CMS to finalize the proposed changes that will allow our team members to spend more time at the bedside, serving the patients and residents residing in our centers. For example:

#### Grievance Process (Resident Rights):

- We support the proposed changes to the grievance process and notifying residents of their choice of attending physician.
- These changes to the grievance process will reduce administrative and paperwork burden and provide the flexibility we need to determine how to assign the roles of who will oversee the grievance process while protecting the rights of residents to voice grievances, to promptly resolve the grievance, and to receive a summary of the findings and resolution of the grievance investigation.

#### Transfer/Discharge Notices (Admission, Transfer, Discharge Rights):

- We support CMS' proposal to only require copies of discharge notices be sent to the State LTC Ombudsman for involuntary discharges and to clarify that notices do not need to be sent to the LTC Ombudsman when a resident is transferred to an acute care facility on an emergency basis and return is expected.
- These changes will reduce an unnecessary paperwork burden and enable providers and Ombudsman to focus their resources where they are most needed – not on planned transfers or discharges that the resident agrees to or for emergency room visits when the resident will be returning to the nursing center.

#### Pharmacy Services:

- We support the change to allow renewal of PRN orders of antipsychotic medications when the practitioner's rationale is provided in the medical record.
- This change will retain the requirements to ensure psychotropic medications are appropriately prescribed and provide better guidance on when to use PRN medications.
- It will help address physician/prescriber access concerns for rural and other underserved providers to ensure residents retain timely access to appropriate medications.

#### Food and Nutrition Services CDM:

- We support the change to enable experienced staff members to continue in the role of director of food and nutrition services and to modify the training requirements for individuals who are newly hired in this role.
- This change will address workforce concerns and reduce burden by making it easier for facilities to fill the important director of food and nutrition services role with qualified individuals and enable them to retain staff who have worked in the facility for years prior.

Quality Assurance and Performance Improvement:

- We support the proposed changes to the QAPI requirements that will reduce administrative and paperwork burden and eliminate overly prescriptive requirements.
- For a QAPI program to be successful, it must be tailored to a center's specific needs, characteristics, systems, strengths, and priorities.
- These proposed changes will enable us to design our QAPI program in a way that best serves the needs of our community and our residents.
- Also, it is critical that CMS make changes that enable surveyors to verify that a facility has an ongoing QAPI program without requiring facilities to present documentation that would have a chilling effect on a facility's efforts to self-identify areas for improvement due to a fear of receiving citations and penalties, or of privileged information becoming discoverable because it has been shared with surveyors. The documentation and evidence shared should be at the discretion of the facility and include summaries of the facility's approach to QAPI and meeting the required QAPI program elements. CMS should go further to protect the integrity of QAPI.

Infection Control:

- We support the proposal to remove the requirement that the infection preventionist (IP) work at the facility "part-time" or have frequent contact with the infection prevention and control program (IPCP) staff at the facility.
- Changing the criteria to be based on ensuring an IP has sufficient time to meet IPCP objectives relieves some of the specialty workforce constraints faced by our state.

We support the proposed delay as it will ensure we do not expend valuable resources on implementing provisions that will soon change.

Thank you for your time in reviewing and considering our comments. We are hopeful this proposed rule will be finalized soon and bring much needed regulatory relief so we can bring our teams back to spending more time at the bedside serving the patients and residents of Alaska.

Sincerely,



Connie Beemer, MBA, PMP  
VP, Post-acute Care & Finance  
Alaska State Hospital and Nursing Home Association  
(907) 270-6448  
[connie@ashnha.com](mailto:connie@ashnha.com)

CC:

The Honorable Senator Lisa Murkowski  
The Honorable Senator Dan Sullivan  
The Honorable Congressman Don Young