

Statement of

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**On Behalf of**

**The American Health Care Association**

**Federal Trade Commission/Department of Justice**

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**Introduction:**

My name is Bernie Dana. I am chair of the American Health Care Association's Quality Improvement Subcommittee and I am representing AHCA today. I am an Assistant Professor of Business at Evangel University in Springfield, Missouri. Before becoming a business professor two years ago, I served for 28 years in all of the various segments of the long-term care profession as a corporate leader and consultant for both non-profit and for-profit organizations. Equally important, I am a consumer of long term care services, which I will explain later.

When we talk about "long term care," we are talking about a dynamic, diverse and evolving sector of the nation's health care system that refers to many settings, not solely institutional settings like nursing homes or assisted living facilities. Yesterday you heard from our sister organization, the National Center for Assisted Living.

Today I will focus on our nation's system of skilled nursing home services. The American Health Care Association represents approximately 11,000 long term care facilities of both non-profit and for-profit ownership. Many of these facilities are providing multiple types of nursing services including post-acute care and

special care serves for residents with Alzheimer's disease or other forms of dementia. Also, our membership includes a specialized area of long term care that provides services to persons with mental retardation and developmental disabilities called Intermediate Care Facilities and group residences.

### **About Our Customers:**

Nursing home care is something that most of us are likely deal with at some point in our lives – but it is not a service we are actively seeking for a loved one or ourselves. As a result, many consumers are not educated about the complex issues of long-term care until they may suddenly need it. This was the case for my siblings and me when we were advised that our mother would need to be transferred to a nursing home at age 89 after a few days in the hospital. While I was miles away in Nebraska, my sister and father, in Ohio, went through two days of unbelievable pressure trying to choose a nursing home and navigating the mountain of paperwork that is required for the admission process.

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

**The Marketplace and Consumer Choice:**

Any discussion regarding consumer choice, competition, advertising, and quality in nursing homes must include an understanding of the relationship of government policy to these issues. Health planning policies in the 80's and 90's were based on the concept that limiting the supply and usage of health care services would help control or reduce the cost of those services. The federal government provided incentives for states to develop Certificate of Need laws and regulations designed to limit or reduce the supply of nursing home beds. As a result, consumer choices were limited and nursing home providers were somewhat assured high occupancy rates. Under these policies, nursing home providers had little incentive to compete for customers based on quality or price.

As the cost of nursing home care increased, consumers and public policy makers began to seek lower cost alternatives to the highly regulated nursing homes. In response, many states began to shift Medicaid funds to cover payment of "assisted living" and home health services for consumers with care needs on the lower end of the spectrum. Even though many states have continued policies that limit growth of nursing home services, the growth in alternatives over the past ten years has reduced the demand for nursing home services.

On the positive side, the lower demand for nursing home services has reduced occupancy rates and forced nursing home providers to once again compete for residents. Even within the prevailing paradigm of regulatory compliance, the increased competition has brought a renewed interest in the expectations of the customer and in providing value-added services to them. The lower occupancy rates are once again giving consumers a choice in selecting where they will receive nursing home services.

Another important factor in consumer choice for nursing home care relates to their ability to pay. Medicare and Medicaid programs have become important resources to assist nursing home residents with payment for their care. Medicaid is a state administered and federally supplemented program for the poor who can't pay for their own care. Medicare is a federal health insurance program for people age 65 and over. Both of the programs determine the rate they will pay the nursing home. The Medicaid rate is usually significantly less than the rates charged to private pay residents of the nursing home. At any one time, approximately 65% of nursing home residents qualify for Medicaid assistance and less than 10% of nursing home residents are receiving Medicare assistance. The remaining residents pay from their own financial resources. A small percentage of residents are covered by long-term care insurance.

**How Consumers Become Informed:**

In addition to having a choice of where to go, consumers need appropriate information to the best choice related to their needs and wants. Nursing home consumers rely on a variety of sources for information.

Nursing facilities generally do not expend large amounts of resources to mass promote their services. Many rely on a brochure, yellow page advertisement, limited media advertising, a website, and a direct-mail newsletter to supplement their efforts to reach potential customers through staff visits with referral agents such as physicians, hospital discharge planners, and social workers for congregate living facilities. They also rely on positive relations with staff, residents, and families as a primary source of word-of-mouth marketing. Most potential customers will visit a facility to personally observe and learn about the environment and services from the facility staff. Many states severely limit the amount of advertising cost that can be included in a Medicaid cost report from which Medicaid payment rates are calculated. Many will only allow “informational” advertisements.

Print or media ads usually include the facility’s licensure level and may list some of the services or special features of the facility. Few, if any, facilities make

any quality claims other than to announce the winning of a quality award or testimonial from a resident or family member.

The American Health Care Association provides free pamphlets for consumers through a toll free call-in line and the web.

Generally, the only quantitative information available to consumers about nursing home quality relates to the results of the Federal inspections that are conducted annually and when there is a complaint. In theory, these unannounced surveys conducted by a team of state regulators are okay, but in practice they are plagued by surveyor inconsistencies among regions and even within states. It is a subjective process that encourages caregivers to focus on paperwork and compliance with government regulations. By regulatory requirement, consumers can easily access these reports at every nursing home, or they can obtain the reports from their state health department. However, it is important to remember that these reports are not designed for consumer information and can easily be confusing or misinterpreted.

In the 1990's, the Health Care Financing Administration (HCFA), now known as the Centers for Medicare and Medicaid Services (CMS), launched the "Nursing Home Compare" website so that consumers could more easily access comparative information about the federal inspections of nursing homes. The

information is arranged to enable the consumer to obtain this information about a single or multiple nursing homes in a market area. CMS continues to support the Nursing Home Compare web site as an answer to consumer education and informed decision-making. As a component of the Nursing Home Quality Initiative, which was implemented nationally last year, the site now includes the quarterly reporting of eight standardized quality measures that are intended to provide meaningful measures of nursing care outcomes. Unfortunately, many of the quality measures are flawed in their construction, or they simply report demographic characteristics of a nursing home's residents. The measures do little to reflect the respect, responsiveness, living environment, and quality of life that really make a difference in the satisfaction level of nursing home residents and their families. As a result, the information has dubious value in enabling consumers to actually compare and choose a nursing home.

I know this to be true from personal experience. There are three nursing homes in the community where my mother needed nursing care six years ago. One was full. We picked the nursing home that had the fewest deficiencies at their last inspection. In fact, they had zero deficiencies. After Mom was in the nursing home for one week, my sister called me and asked me to come because she was upset with the way that mom was being treated. I flew to Ohio immediately.

After all, being the Executive Vice President of a company that owned and operated 32 nursing homes in a five state region, I was the expert in nursing home care. I was appalled and frustrated at the lack of consideration for my mother's needs and preferences simply because of their operating policy. They were compliant with the regulations, but they didn't listen to the customer very well.

### **What are the Solutions?**

Most consumers don't want confusing clinical statistics or deficiency information...they simply want to know which facilities have the most satisfied residents and families. Until recently, this kind of information has been available only anecdotally.

In the last six years, several long term care provider associations have taken the initiative to quantitatively measure, compile, and publish satisfaction-based information. The three trade associations that represent nursing homes in Michigan have collaborated to both publish and present on the Internet a Consumer Guide to Nursing Homes. This consumer guide is published every two years and reports the number of inspection citations for each facility, but more importantly it presents the percentage of families that are satisfied with the facility's services and the percentage that are willing to recommend the facility to others.

The American Health Care Association affiliate in West Virginia publishes a similar consumer guide annually. They also report to the consumer the percentage of staff members who are satisfied with the facility as a good place to work.

The various trade associations in Ohio have collaborated with the State Health Department to require nursing homes to participate in collecting and reporting on a State funded website the results of family and resident satisfaction surveys that measure all aspects of the services in addition to overall satisfaction. My dad's nursing home is in Ohio. Of the three facilities in his community, his nursing home has the worst record on the Nursing Home Compare website, but by far the highest family satisfaction rating in the community reported in Ohio's new consumer guide. Interestingly, the nursing home that my mom was in had the lowest family satisfaction rating despite having fewer inspection issues.

When given a choice, consumers clearly prefer the satisfaction results because they understand them. Nursing home residents are not merely users of services. The nursing facility is their *home*, even their entire *world*--a place where relationships and quality of life assume paramount importance. As a result, the focus of long term care must not only be on nursing care outcomes, it must include quality of life issues such as respect, dignity, and resident choice.

Research conducted by Dr. Vivian Tellis-Nayak in 1999, analyzed satisfaction survey results of 11,715 families of residents in 504 nursing homes across 26 states. The research shows that both family and staff satisfaction are compelling measures of a nursing home's overall quality and performance. Family satisfaction is a window to the quality of care the residents receive, to the stability and devotion of the staff, to the way state surveys turn out, and to the nursing home's overall operations.

For this reason, AHCA has developed a model to encourage its state affiliates to begin developing a satisfaction-based consumer guide. The model focuses on reporting a nursing home's three year trend of family satisfaction, family willingness to recommend, and staff willingness to recommend

Our profession launched the Quality First Initiative in July 2002. This is a proactive, profession-wide partnership of AHCA, the American Association of Homes and Services for the Aging, and the Alliance for Quality Nursing Home Care. The Quality First Initiative declares that we are collectively and individually committed to healthy, affordable, and ethical long term care rooted in seven principles that cultivate an environment of continuous quality improvement, openness and leadership. An independent national commission is being formed to

assess and report to the public our collective improvement on six important outcomes.

**Conclusion:**

Nursing homes are facing tremendous challenges. We have 52,000 vacancies for certified nursing assistants -- the true backbone of the long term care system and the key to customer satisfaction. The GAO predicts that the overall demand for nurse aide positions in all areas of health care will grow by 38% between 1998 and 2008.

Current challenges are compounded by knowing that the number of individuals 85 and older will double from the current 3.5 million to 7 million in 2020. The number will double again, to 14 million by 2040.

We are also facing a crisis in funding for Medicare and Medicaid assistance. An analysis by the national accounting firm BDO Seidman found that Medicaid is under funding nursing care nationally by nearly \$3.5 billion annually. Many nursing homes are experiencing significant financial strain.

Long-term care providers are proactively working with Federal and state governments to find solutions to these critical problems. At the same time, we are also actively pursuing ways to provide consumers with the reliable, valid, and timely information they need to make informed choices about the type and quality

of care and services they need, when they need it. We are intent on hearing the voice of our customers as we continuously improve and design long-term care services for the future.

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