



DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare and Medicaid Services

Survey and Certification Group
Center for Medicaid and State Operations
7500 Security Boulevard
Baltimore, MD 21244-1850

April 20, 2010

Dear Stakeholder:

The Patient Protection and Affordable Care Act (PPACA) was signed into law on March 30, 2010. The Centers for Medicare & Medicaid (CMS) is in the process of implementing the provisions for which it has responsibility. Several provisions fall within the nursing home program area where the Survey and Certification Group (SCG) has a primary or secondary role to fulfill the mandates of the new law.

We would like to invite you to comment, make suggestions, or express concerns about any of the areas for which the Survey & Certification Group has full or partial responsibility. Some examples of relevant areas of endeavor are listed in the attachment to this letter. Certain other aspects of the law will require rule-making, and these will be addressed through a separate, public process managed primarily by the CMS Office of Clinical Standards and Quality. In some instances, the rule-making will be preceded by demonstrations or collective study that will create a foundation of experience and knowledge that can inform later efforts. An example will be S&C's role in gathering information about effectively-functioning Quality Assurance and Performance Improvement (QAPI) systems in nursing homes.

Some provisions of the law require particularly quick action on the part of CMS. Examples include the national background check program, implementation of civil monetary penalty reforms, posting of 2567 reports on State websites, and implementation of the independent informal dispute resolution systems by States.

While we are open to your input at any time, we are requesting your initial feedback to Jenny Filipovits at jenny.filipovits@cms.hhs.gov by **Wednesday, May 5th**.

We look forward to working with each of you as we begin this important work.

Sincerely Yours,

Thomas E. Hamilton
Director

Attachment: Examples of Key Areas of the Health Care Reform Legislation Affecting Nursing homes.

Section 6101 – Disclosure of Ownership – Nursing homes will be required to disclose to HHS, State, Ombudsman and Office of the Inspector General information concerning names of owners, members of governing body, officers, directors, partners, managing employees; organizational structure; and certain other ownership information. The primary role of the Survey & Certification Group will be to identify user needs, identify survey & certification information system adjustments necessary to make the most effective use of the data, and linking quality of care performance information with ownership data.

Section 6102 – Ethics and Compliance Programs – The new law requires most nursing homes to have an effective compliance and ethics program for purposes of preventing and detecting criminal, civil, and administrative violations. For organizations with more than 5 nursing homes a more formal program is required. The primary role of the Survey & Certification Group will be to identify experience and resources and other essentials for an effective system.

Section 6102 – Quality Assurance and Performance Improvement Program – Each nursing home will be required to have an effectively-functioning to quality assurance and performance improvement (QAPI) system. The primary role of the Survey & Certification Group will be to identify experience and resources and other essentials for an effective system.

Section 6103 – Nursing Home Compare Website – The law requires HHS to include additional information including staffing, links to State internet sites, information on complaints and number of criminal violations by nursing homes or their employees. The law requires HHS to develop a process to improve the website and seek consultation from stakeholder groups. The law also requires States to maintain a consumer-oriented website that includes the Statements of Deficiencies and Plans of Correction. The primary role of the Survey & Certification Group will be to work with States and to arrange for the necessary data to be published on the *Nursing Home Compare* website.

Section 6105 – Standardized Complaint Form – The law requires HHS to develop a standardized complaint form and complaint resolution process. The primary role of the Survey & Certification Group will be to develop the complaint form and make it readily available.

Section 6106 – Ensuring Staffing Accountability – After public consultation, the law requires HHS to require nursing homes to electronically submit direct care staffing information based on payroll data in a uniform format. The data specifications will detail the category of work, resident census data on residential case mix, regular reporting schedule and include information on employee turnover, tenure, and hours of care provided by each category of certified employee. The primary role of the Survey & Certification Group will be to design and implement this system.

Section 6111 – Civil Money Penalties – The law provides that CMPs may be reduced in certain situations when self-reported, prohibits reduction of CMPs in other situations, and establishes the option for CMPs to be collected prior to a formal hearing and deposited into an escrow account. States are required to make an independent informal dispute resolution available upon request. Finally, the law provides more uses for collected CMPs and specifies that the Secretary approve

the use of CMPs. The primary role of the Survey & Certification Group will be to work with States to ensure implementation of the revised CMP system and the independent informal dispute systems.

Section 6113 – Notification of Facility Closure – The law requires that a nursing home administrator must submit written notice of impending closure (60 days prior to closure) to HHS, State long-term care ombudsman, facility residents, and other responsible parties. Nursing homes would be prohibited from admitting any new residents on or after the date of the written notice. Nursing homes must include in the notice a plan for the transfer and adequate relocation of residents. Payments may be continued until the resident is successfully relocated. Administrators that fail to comply with these notice requirements are subject to a CMP not to exceed \$100,000 and may be subject to exclusion for participation in any Federal health care program. The primary role of the Survey & Certification Group will be to implement the new requirements in collaboration with States.

Section 6114 – National Demonstration Projects on Culture Change and Use of Information Technology in Nursing Homes – The law requires HHS to conduct 2 demonstration projects to develop best practices. One demonstration project is for the development of best practices in nursing homes involved in the culture change movement (including the development of resources for facilities to find and access funding in order to undertake culture change). The second demonstration project will develop best practices for the use of information technology to improve resident care.

Section 6121 – Dementia and Abuse Prevention Training – The law clarifies the definition of a nurse aide to include contract staff and requires that dementia and abuse prevention training be included in initial and, if the Secretary determines appropriate, ongoing training.

Section 6201 – Nationwide program for national and state background checks on direct patient access employees of long-term care facilities and providers – The law provides funds for States to participate in a background check program using concepts developed under CMS pilot through the Medicare Prescription Drug, Improvement and Modernization Act of 2003. States that did not previously participate can receive up to \$3M in matching funds while previously participating States can receive up to \$1.5M. An evaluation by the OIG is required at the conclusion of the program. The primary role of the Survey & Certification Group will be to implement the new program in collaboration with States.

Section 6703 – National Training Institute – The Act establishes a National training institute to improve the training of surveyors with respect to investigating allegations of abuse, neglect and misappropriation of property. The institute would evaluate surveyor competencies, develop and disseminate information on best practices for the investigation of abuse, neglect and misappropriation of property, assess performance of State intake systems, analyze and report annually on complaints and conduct a national study of the cost to State agencies of conducting complaint investigations. The primary role of the Survey & Certification Group will be to implement the new program in collaboration with States.

Section 6703 – Grants to State Survey Agencies – The law provides grants to State survey agencies to design and implement optimal complaint investigation systems. The primary role of the Survey & Certification Group will be to implement the new program in collaboration with States.

Section 6703 – National Nurse Aide Registry – The law requires HHS in consultation with stakeholders conduct a study on the establishing a national nurse aide registry. The primary role of the Survey & Certification Group will be to conduct the study.