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November 30, 2010

Ms. Jackie Pappalardi
Director, Division of Residential Services
Office of Long Term Care
NYS Department of Health
161 Delaware Avenue
Delmar, NY12054-1310

Dear Ms. Pappalardi:

I am writing to you on behalf of the nearly 300 not-for-profits and public nursing homes represented by the New York Association of Homes and Services for the Aging (NYAHS) concerning the new Quality Indicators Survey (QIS) process.

NYAHS has long advocated for a survey process that is reasonable, consistent and above all, outcome oriented. As part of a nationwide initiative in 2008, one of our members participated in a workgroup sponsored by the American Association of Homes and Services for the Aging that examined the current survey process and what short- and long-term changes could be made to improve it. The resulting report was shared with the Centers for Medicare & Medicaid Services (CMS) and state survey agencies throughout the country, including New York.

When we learned earlier this year that New York was one of the states that had been chosen by CMS to begin implementation of the new QIS process, we were excited by the prospect of what the transition to a data-driven process could bring. Unfortunately, the experience of our members that have been surveyed under the new process to date has been both frustrating and disappointing. It is our hope that several areas be addressed so that implementation of the new process can be successful, as an improved survey process is in the best interest of residents, regulators and providers.

A number of our members surveyed under the new QIS had inspections lasting between eight and nine days, involving as many as nine surveyors including training staff. The facilities selected were small, in one case only 50 residents. While we understand that there is a learning process involved in mastering the QIS, the length of time to complete these surveys considering the size of the facility is difficult to comprehend. Given the resulting disruptions to the operations of these facilities, we are also concerned about how surveys of larger facilities will be approached under this process.

As an example of the disruption, members consistently related situations where staff were taken away from resident care for as long as one hour to be interviewed and answer surveyor questions. In an independent study completed for CMS in 2007 by Abt Associates, length of survey and surveyor efficiency were cited as significant issues. Based on our members' experience, while limited to only a few facilities, these issues still appear to be problematic and perhaps more so.

It appears to be the Department of Health's (DOH's) plan to conduct the traditional survey as well as the QIS survey in the same region as surveyors are trained in the process. We are concerned with the concurrent use of two different survey instruments in the same region, as survey results are publically

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reported on both the DOH web site and the Nursing Home Compare web site. As the Abt study suggests and the experience of other states supports, the number of deficiencies cited in a QIS survey is greater than those typically cited in the traditional surveys. As this information is open to public review, those facilities surveyed under the QIS are at a considerable disadvantage when these two survey processes are used. This disparity in survey citations also significantly impacts on insurance costs to providers, and could even have a bearing on Medicaid payments if a quality pool based in part on survey findings is implemented.

Particularly upsetting to providers that have undergone the QIS is the interaction of some of the survey staff. Perhaps in response to the longer timeframes for conducting QIS surveys, surveyors have expressed dissatisfaction with the process, publically grumbled about the QIS and even suggested that facility administrators band together to oppose the QIS. The administrators we have been contacted by would rather fix the problems of the QIS than return to the current system. However, the misgivings surveyors are expressing about QIS is doing little to bolster the confidence of facility staff that an improved survey process is in the offing.

We are uncertain whether this is a data-related issue unique to the QIS, but the length of time it is taking to issue Statements of Deficiencies is excessive. One provider is still waiting after three weeks and has been told it could take as much as six weeks before the survey findings are issued. Combined with equipment – laptop and printer – problems and their uncertainty of the process, it appears that the surveyors are not sufficiently prepared to carry out the QIS successfully. We understand that the surveyors are required to complete several mock surveys as well as surveys of record before being certified as QIS surveyors. However, based on the experience to date, this number of surveys may not be adequate for these surveyors to perform as expected. We would support additional training before surveyors are permitted to complete the QIS survey of record for a facility. The need for competency-based training was one of the recommendations of the Abt study.

We know that DOH often seeks association input and collaboration on a variety of projects and initiatives. We would welcome the opportunity to discuss in greater detail some of the concerns our members have expressed regarding the QIS, and at the same time look for ways that we might jointly address some of the implementation issues that we have outlined.

We will contact you to follow up on this letter. If you have any questions in the meantime, please contact Elliott Frost, at efrost@nyahsa.org or by phone at 518-449-2707, ext. 140.

Sincerely,



Daniel J. Heim
Interim President/CEO

cc: Mr. Mark Kissinger, Deputy Commissioner, Office of Long Term Care
Ms. Val Deetz, Deputy Director, Office of Long Term Care
American Association of Homes and Services for the Aging (AAHSA)