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Testimony Before the
SENATE COMMITTEE ON FAMILIES, SENIORS, AND HUMAN SERVICES
Wednesday, March 14, 2012

Good afternoon Committee Members. My name is Greg Wilson. Thank you for the opportunity to provide input regarding SB 884. I have been a licensed nursing home administrator in Michigan for 33 years. My 130 bed Facility is a member of both the Michigan County Medical Care Facilities' Council and Aging Services of Michigan. In addition to these two associations, I have also chosen to work closely with the Alliance for Health and its' Skilled Nursing Facilities' Alliance Committee to lend input to this Bill. I have had the honor and privilege to work with my State Senator, Geoff Hansen, in this regard. I wish to again thank and commend him and his staff for their untiring efforts in drafting this bill. They worked closely with the Department of Licensing and Regulatory Affairs; all three long term care associations to present this draft bill for your consideration.

In short I strongly support SB 884. This Bill serves as a great step in the right direction in improving both internal and external communications between the legislature, the regulator and the skilled nursing facility provider. Key to this initiative is to understand the ever increasing reliance on skilled Nursing Services in our health care continuum. Both providers and regulators have the same goals in common. These goals are quality of care, access to services and cost containment. No one testifying before you today will try to mislead you into thinking that there are not skilled nursing facilities in Michigan requiring increased regulatory oversight. The role of the regulator is key in ensuring the safety and well-being of our seniors. It is understood and accepted that the Bureau of Health Systems must enforce Federal standards. This legislation was not drafted in an attempt to demean Director Pemble or his staff, but rather to improve communications and working relationships within the bureau and with the skilled nursing provider. In the past, the "Green Bill" attempted to resolve many of the same barriers to effective enforcement that remain today. Like the "Green Bill", Senator Hansen's Bill requires a vigilant annual oversight by the legislature if we are to continue to move forward in the effort.

Attached you will find examples from recent events at Oceana County Medical Care Facility that further demonstrate and reinforce why this bill is needed.

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Continued testimony in support of SSB-884
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Issues I would like to address are the overlapping timelines of the Facility Reported Incidents (FRI) and the Annual Standard Survey, the lack of communication between the Bureau of Health Systems (BHS) and the Department of Community Health (DCH), the timeliness of the reports (CMS-2567) being return to the facility, and the inconsistency of interpretation of regulations.

On July 15, 2010 we had an abbreviated survey that resulted from a FRI. We received one citation at a level D as a result of the abbreviated survey from BHS. We received the CMS-2567 on July 22, 2010. At this time, July 15, 2010, started the clock ticking for the facility to become in substantial compliance by October 15, 2010, (or deny payments for new admissions) and by January 15, 2011 at which time our Medicare and/or Medicaid participation would be terminated. We mailed the plan of correction to the BHS on July 28, 2010 with the plan of correction date of 8/6/2010. On September 13, 2010 we requested BHS to accept evidence of deficiency correction in lieu of a revisit which was accepted on August 25, 2010. This cleared us of the one citation.

On August 20, 2010 we had the Annual Standard Survey. (The surveyors did not review the plan of correction of the abbreviated survey of July 15, 2010 as they had not been told to do the follow-up.) We received four (4) citations at level D and one at level F as a result of the annual survey. Due to these five citations, this created an overlap, and kept the clock ticking, as were considered to be still out of compliance. We receive the CMS-2567 on August 27, 2010. Our plan of correction was sent to the DCH on 9/3/2010 with our plan of correction date of 9/24/2010. The DCH accepted our plan of correction on September 16, 2010. At this time we requested that our first follow-up survey for the July 15, 2010 abbreviated survey be combined with the follow-up with the annual standard survey. The reason for this combined survey request is that this would be considered our first follow-up survey which would clear us of the citations (if successful) back to the date of our plan of correction. If there were two separate survey follow-ups the second follow-up would clear us of the citations (if successful) on the date the surveyors determined substantial compliance, which would be the day they exit the building following their follow-up survey. DCH performed a follow-up survey and stated we corrected all of citations from our Annual Standard Survey on October 15, 2010.

On September 22, 2010, we had another abbreviated survey from a FRI. This survey resulted in one citation at level-D and one citation at level-J. This created an overlap that kept the clock ticking as we were considered to be still out of compliance. In addition as a result of the citations DCH was recommending to the Centers for Medicare and Medicaid Services that we receive Federal Civil Money Penalties of \$8,600.00 for the level-J citation and \$200.00 per day effective September 17, 2010, until the level-J citation has been corrected. In addition to the fines we were also in a position of not being reimbursed for new Medicare or Medicaid admission beginning October 15, 2010.

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On October 19, 2010 we received the CMS-2567 which took 18 working days. We mailed in our plan of correction on October 26, 2012 with a plan of correction date of 9/23/10. We received notification of the acceptance of our plan of correction on November 4, 2010. We also mailed in an Informal Dispute Resolution to BHS, disputing the two citations from this abbreviated survey. On November 10, 2010 we had the follow-up survey (considered the 2nd follow-up survey) that cleared us of all of the citations from the abbreviated survey of 9/22/2010. At this point in time we thought we had fines that totaled \$19,400.00 in addition to not receiving reimbursement for new residents we that were admitted after October 15, 2010. We continued to admit new residents as this is the only nursing home in Oceana County.

On November 24, 2010 we received verbal notification from BHS, that the two citations from the abbreviated survey of September 22, 2010 were deleted. On December 2, 2010 we received a notification from BHS of the citation deletion with reasons for the deletion. The following were the reasons for the deletion: "F Tag deleted because the Michigan Operation Manual which was effective @ time of this incident, directs facility to immediately report an elopement of a resident who remains missing for more than 2 hrs. The 2567 does not demonstrate findings that are suggestive of mistreatment, neglect, abuse or injury of unknown origin with would require the Facility to report and investigate. The information presented in the 2567 does not substantiate immediate jeopardy. There is no evidence to support immediate threat of serious harm or impairment and findings does not support culpability. The 2567 also does not support that the facility did not provide appropriate supervision to prevent accidents."

With the deletion of the two citations we were not fined and we were able to be reimbursed for residents who were admitted on and after October 15, 2010.

I hope that I have demonstrated to the Committee that SSB-884 will bring about some much needed changes and over site to the survey system. If you need any documentation to support the testimony described above, they are available upon request.