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December 21, 2010

Donald Berwick, MD

Administrator, Centers for Medicare and Medicaid Services

Department of Health and Human Services

Hubert H. Humphrey Building

200 Independence Avenue, S.W.

Washington, DC 20201

RE: CMS-3140-P: Medicare and Medicaid Programs; Requirements for Long Term Care Facilities; Hospice Services

Dear Dr. Berwick:

National Patient Advocate Foundation (NPAF) would like to thank you for the opportunity to comment on the proposed rule on Medicare and Medicaid Programs; Requirements for Long Term Care (LTC) Facilities; Hospice Services. NPAF is a non-profit organization dedicated to improving access to healthcare services through both federal and state policy reform. Our mission is to be the voice for patients who have sought care after a diagnosis of a chronic, debilitating or life-threatening illness. The advocacy activities of NPAF are informed and influenced by the experience of patients who receive direct, sustained case management services from our companion organization, Patient Advocate Foundation (PAF). In fiscal year 2009 (July 1, 2009 – June 30, 2010), PAF resolved 64,188 patient cases and received more than four million additional inquiries from patients nationally.

NPAF appreciates the Agency's efforts to assure effective, coordinated care for patients residing in LTC facilities who have elected the Medicare hospice benefit. In our experience, the provision of quality care to LTC residents, especially those who are terminally ill, must include a coordinated continuum of communication between the LTC facility staff and the staff of other entities furnishing services to the resident, either directly or under arrangement with the LTC facility. Effective communication with patients and their designated representative(s) is essential to ensure that patients understand the services they will be receiving and the entity responsible for furnishing those services.

NPAF is pleased that the proposed rule outlines specific recommendations to improve the communication between the various provider entities responsible for administering quality, effective care for patients living in LTC facilities. NPAF encourages the Agency to update the instructions used by the Medicaid State Agencies responsible for LTC facility survey and certification to ensure that sufficient emphasis is placed on surveyor review of a facility's clinical and administrative documentation. This update will assure proper communication between all caregivers – regardless of their employer – is taking place, and that issues of

concern expressed in that documentation are appropriately addressed by the LTC facility and other providers serving the facility's residents.

NPAF applauds the Agency's efforts to ensure that all LTC facilities will have in place a written agreement with any hospice provider serving facility residents that specifies the roles and responsibilities of each entity. NPAF further supports the requirement that LTC facilities that do not offer Medicare-certified hospice care assist patients in transferring to a facility that would arrange for the provision of such services. The proposed rule forms the basis for coordination of care guidelines that will advantage not only the patient, but also the LTC and the hospice provider by clarifying roles and responsibilities for all.

We understand that the contractual arrangement between an LTC facility and a hospice serving facility residents must require that LTC staff orient hospice staff regarding relevant LTC policies and procedures. NPAF suggests designating a member of the LTC facility's interdisciplinary team assigned to a resident who has elected hospice as a liaison who will collaborate directly with hospice representatives to coordinate effective patient care. These liaisons would become points of contact to whom both LTC and hospice representatives could refer. Further, they could establish patient-care guidelines that identify specific responsibilities of each entity monthly with timelines for services to be rendered. Such a timeline should help eliminate the current issue of inadequate patient care due to lack of coordination between LTC facility personnel and hospice providers. NPAF recommends utilizing the same liaison approach with other external contractors providing care to LTC residents as well. NPAF also recommends that patient coordinated care documents would be provided monthly to the patients and their designated representative(s) so that all parties are duly informed.

We thank you for the opportunity to comment. We would be pleased to respond to any questions about our recommendations that may arise regarding LTC and hospice in the future.

Respectfully submitted,



Nancy Davenport-Ennis
Chief Executive Officer and President