

September 13, 2019

Seema Verma, MPH  
Administrator, Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
7500 Security Boulevard  
Attn: CMS-3347-P  
P.O. Box 1810  
Baltimore, MD 21244-1850

RE: Medicare and Medicaid Programs; Requirements for Long-Term Care Facilities:  
Regulatory Provisions to Promote Efficiency, and Transparency

Dear Administrator Verma:

On behalf of the American Speech-Language-Hearing Association, I write to offer comments on the Medicare and Medicaid Programs; Requirements for Long-Term Care Facilities: Regulatory Provisions to Promote Efficiency, and Transparency.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 204,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

ASHA opposes the proposal to eliminate the requirements, currently outlined in 42 Code of Federal Regulations (CFR) Section 483.85, regarding the appointment of a corporate compliance officer, a designated compliance liaison, and a compliance and ethics program contact person. Compliance officers and related professionals play a critical role in ensuring long-term care facilities comply with state and federal laws, payment regulations, and appropriate standards of clinical practice. The numerous settlements reached with the U.S. Department of Justice (DOJ) and the U.S. Department of Health and Human Services' Office of Inspector General (OIG) over the last decade by post-acute care entities clearly demonstrate that additional, not less, oversight and compliance safeguards are needed.<sup>1, 2</sup>

ASHA maintains that eliminating the requirement to designate a corporate compliance officer and a designated compliance liaison will negatively impact the corporate integrity agreement process established by the OIG. These agreements often include explicit obligations for corporate compliance officers to complete or ensure completion of the agreement on behalf of their corporate entity. Compliance monitoring supports ASHA members' and other clinicians' ability to provide medically necessary care based upon their clinical judgement, expertise, and best practices as opposed to arbitrary administrative mandates that can be particularly problematic in post-acute care settings such as long-term care facilities.

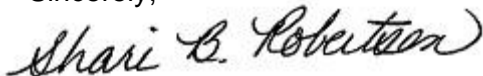
The rights of consumers must be protected despite the financial commitment for long-term care facilities to maintain corporate compliance staff. In addition, the cost to taxpayers and the federal government to follow-up and address concerns with compliance issues will likely be greater without these positions fully staffed.

ASHA recommends that the Centers for Medicare & Medicaid Services not finalize the NPRM. Instead, ASHA recommends engaging a broad cross-section of stakeholders, including

consumers and providers as well as representatives from the long-term care industry and representatives from the DOJ and OIG, who are familiar with enforcement actions in the post-acute sector, to develop and implement the most efficient and effective mechanisms to ensure improved compliance. Such an approach could result in a streamlined requirement that maintains an obligation for an internal and external point of contact in a more efficient manner.

Thank you for the opportunity to comment on this proposed rule. If you or your staff have additional questions, please contact Sarah Warren, MA, ASHA's director for health care policy for Medicare, at [swarren@asha.org](mailto:swarren@asha.org).

Sincerely,



Shari B. Robertson, PhD, CCC-SLP  
2019 ASHA President

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<sup>1</sup> The United States Department of Justice. (2017). *Genesis Healthcare Inc. Agrees to Pay Federal Government \$53.6 Million to Resolve False Claims Act Allegations Relating to the Provision of Medically Unnecessary Rehabilitation Therapy and Hospice Services*. Retrieved from <https://www.justice.gov/opa/pr/genesis-healthcare-inc-agrees-pay-federal-government-536-million-resolve-false-claims-act>.

<sup>2</sup> The United States Department of Health and Human Services: Office of Inspector General. (2016). *Corporate Integrity Agreement Between The Office Of Inspector General Of The Department Of Health And Human Services And North American Health Care, Inc.* Retrieved from [https://oig.hhs.gov/fraud/cia/agreements/North\\_American\\_Health\\_Care\\_Inc\\_09162016.pdf](https://oig.hhs.gov/fraud/cia/agreements/North_American_Health_Care_Inc_09162016.pdf).