

September 24, 2004

The Honorable Henry A. Waxman
United States House of Representatives
2204 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Waxman:

On behalf of the American Health Care Association (AHCA), the National Center For Assisted Living (NCAL), the American Association of Homes & Services for the Aging (AAHSA), the American College of Health Care Administrators (ACHCA), the American Medical Directors Association (AMDA), the National Association of Geriatric Nursing Assistants (NAGNA), and the millions of patients and residents we serve throughout the country, I would like to thank you for asking the General Accountability Office (GAO) to study the problem of sex offenders living in nursing homes and prisoners paroled to nursing homes.

Because nearly half of all Americans will need some type of long term care at some point in their lives, it is inevitable that persons with criminal convictions will ultimately require some form of long term care services, whether it is in a hospital, home care, assisted living, nursing home, or another long term care setting.

Health care facilities should have access to relevant criminal background information in advance of admission, and the states must take responsibility for tracking and notifying long term care providers of an individual's history. Once a patient is admitted, however, we understand that the facility incurs certain obligations to provide care and/or responsibility to discharge the person to an appropriate setting.

It is important that government and the judicial system determine how to deal with the issue of placement for those who are presently incarcerated, are on probation, or are otherwise being tracked or monitored by the criminal justice system and, if indicated, provide guidelines regarding their admission to health care facilities across the spectrum of care. It is critical that this monitoring responsibility apply to the entire health care continuum; hospitals, long term care facilities, assisted living, and the community care environment, because as patients age, they often change settings as their health care needs change.

Long term care facilities must place paramount importance on the safety and satisfaction of their patients and residents and on the assurance that the facility offers a secure environment for them, their families and employees alike. In many instances however, the matter of an individual's criminal background may not be shared with or known to health care providers. Over the past decade there has been even greater emphasis on patient privacy. The Health Insurance Portability & Accountability Act of 1996 (HIPAA) spells out specific requirements for all health care facilities to protect certain personal health care information. State or local regulations and decisions must be viewed in light of federal rules regarding patient privacy of medical records, non-discrimination laws and other issues along with practical considerations inherent in long term care settings, such as patient or resident clinical and mental capacity.

Quality care for our aged, infirm and disabled is the priority for our nation's long term care providers and caregivers. We are supportive of your recent request to the GAO asking for a study and report on the problem of sex offenders in nursing facilities and want to offer any additional resources or materials that we might provide. Please do not hesitate to contact me if we can be of further assistance.

Sincerely,



Hal Daub
President & CEO
American Health Care Association &
National Center For Assisted Living



William L. Minnix, Jr., D. Min.
President & CEO
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