



TESTIMONY BEFORE THE HOUSE HEALTH AND GOVERNMENT
OPERATIONS COMMITTEE

**House Bill 758: Health Care Facilities – Reporting and Reimbursement for Never
Events**

POSITION: OPPOSE

Bill Summary

House Bill 758 states that if a hospital or related institution admits an individual from a long-term care facility (includes nursing home) for a never event, the hospital or related institution must report the never event to the Secretary and CMS within 10 days of admittance. Failure to report makes it a rebuttal presumption that the event then occurred at the hospital or related institution unless the LTC facility had already reported the event. If the hospital, related institution or LTC facility is deemed responsible for the never event, they will not be reimbursed for any treatment related to the never event and must reimburse the hospital for any treatment costs.

LifeSpan Position

LifeSpan Network opposes House Bill 758. Nursing homes already have their own process under federal and State law for reporting incidents within a nursing facility. “Serious reportable events” sometimes referred to as “never events” were developed by the National Quality Forum for hospitals, not nursing homes. There are twenty-eight serious reportable events. Many of these events are unrelated to events that would ever take place in a nursing home – such as surgical events, infant discharged to wrong person, etc. Therefore, it is inappropriate to try to apply “serious reportable events” to nursing homes.

As stated above, it is important to note that nursing homes are already required to report similar events to the Office of Health Care Quality. Per federal law, a nursing facility is required to report all alleged violations of involving resident neglect or abuse, injuries of unknown source and misappropriation of resident property. This report must be done as soon as possible but no later than 24 hours after the discovery of the incident. Several of the “serious reportable events” would fall within the definitions of neglect or abuse and are already reported to OHCQ, such as death or disability from elopement or death or

disability associated with use of restraints or bedrails. Nursing facilities must also investigate the event and report the investigation results to OHCQ, including the corrective actions it will take to ensure that the event does not take place again in the facility. OHCQ can then issue a civil penalty against a provider, ban Medicaid admissions, mandate staffing patterns in the facility, etc. Unlike other “health care facilities,” this is the process that the federal government and the State have established for nursing home violations. It would be unjust to allow these penalties to exist and then to add additional penalties to the process for the same violation. In addition, the goal of these citations is to change behavior and increase quality of care. A bill heard earlier this week is another, more positive measure for changing behaviors to increase quality of care.

LifeSpan is also concerned with the “rebuttable presumption” contained in the bill. Over the last two years, nursing homes have been underfunded \$125 million (total funds). This does not take into account the loss of an inflationary adjustment, which will increase this underfunding by another \$30-50 million. Consequently, nursing home staff is stretched to the limit with providing quality patient care and completing administrative requirements. Even if the event did not take place in the facility, a nursing facility could be severely penalized by not reporting it within 10 days of admission. To prohibit treatment costs and/or require the nursing home to pay for all treatment associated with an event simply because a staff person inadvertently did not disclose that a patient came into the facility with a “never” event would be very detrimental to the facility. Given the list of events, it could be difficult for a nursing home to even know that an event took place in a prior facility within the required 10 day time frame.

For these reasons, LifeSpan urges an unfavorable report.

###

LifeSpan Network is a senior care provider association representing approximately 300 providers, including nursing homes, assisted living facilities, medical adult day care providers, continuing care retirement communities and senior housing communities. Our members provide care to approximately 45,000 seniors.

Submitted by:

Danna Kauffman
Senior Vice President of Public Policy
dkauffman@lifespan-network.org
410-279-5572