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Other Health Care Reform Notes on Long Term Care *Shorts on Long Term Care September 2010*

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Kenneth L. Burgess

A few other notes on health care reform that affect long term care:

- The American Health Care Association (AHCA) recently submitted comments to the Centers for Medicare and Medicaid Services (CMS) on its proposed civil money penalty (CMP) regulation, which implements several key parts of the Patient Protection and Affordable Care Act. CMS's proposed rule addressed statutory "opportunities" for a reduction in CMPs in certain cases, an "independent" informal dispute resolution process for providers, and CMS's ability to collect and "escrow" CMPs before providers have completed their appeals of survey deficiencies. AHCA identified numerous flaws in the proposed regulations of such severity that it asked CMS to retract the proposed rule and start over. Our firm submitted extensive comments on behalf of the North Carolina Healthcare Facilities Association, which made their way into AHCA's final comments to CMS. We'll keep you posted on the progress of the rule.
- Under the reform law, providers eventually will have to implement "ethics and compliance programs." This is our old friend the corporate compliance program. When fully implemented, this part of the reform law will make compliance programs mandatory. Until now, they have been technically voluntary but highly recommended by the Office of Inspector General of the U.S. Department of Health and Human Services. Poyner Spruill developed a yearlong series of webinars, teaching materials, and model policies -- including a template "auditing and monitoring" tool -- for the AHCA. The series can be found at www.ahcancal.org. With mandatory compliance programs on the way, now is a good time to make sure yours is up to date, fully implemented, and regularly monitored for effectiveness.
- Ken Burgess will be presenting a half-day teaching session on "Implications of Health Care Reform for Long Term Care Providers" for the South Carolina Healthcare Association in late September 2010. We plan to repeat the session for North Carolina long term care providers in early 2011. Stay tuned for more details.

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