

Wisconsin Association of Homes and Services for the Aging, Inc.

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To: WAHSA Members

From: John Sauer, Executive Director
Tom Ramsey, Director of Government Relations

Subject: Senator Feingold Introduces *Improving the Quality of Care in Nursing Homes Act of 2010*

Senator Russ Feingold (D-WI) Tuesday introduced S. 3407, the Improving the Quality of Care in Nursing Homes Act of 2010. (For a copy of Senator Feingold's press release announcing the bill's introduction, go to: www.wahsa.org/fgoldpr.pdf; for a copy of the response to the introduction of S. 3407 from the American Association of Homes and Services for the Aging (AAHSA), go to: www.wahsa.org/aahsapr.pdf).

S. 3407, which as Senator Feingold's press release noted was introduced at WAHSA's request, directs the Secretary of the federal Department of Health and Human Services (DHHS) to enter into an agreement with the Institute of Medicine (IOM) to conduct a study on the following:

- The current structure and methods for surveying and evaluating nursing homes.
- The nature of the relationship between the Centers for Medicare and Medicaid Services (CMS) and nursing homes and how it affects efforts to improve quality.
- The relationship between the CMS and State agencies.
- The methodology used by the CMS to survey and evaluate nursing homes.
- An evaluation of how the States and the District of Columbia implement the Federal requirements and the resulting variations and differences.
- The objectivity and the accuracy of the survey process and criteria used to assess nursing homes.
- The effectiveness of the current enforcement system in promoting and encouraging systemic organizational change leading to measurable and sustained quality improvement within the nursing home.
- Whether the current system effectively understands and measures nursing homes that are undergoing or have completed culture change activities.
- Whether the current system effectively allows States and other stakeholders to engage in innovative ways to pursue quality improvement.
- Alternatives to the current system.

Under S. 3407, the IOM is to submit its report to the DHHS Secretary and to the Congress no later than 18 months after the effective date/passage of the bill. The IOM report is to contain a description of the results of the study and the conclusions and recommendations of the IOM regarding changes in regulatory policies and procedures "to enhance the ability of the regulatory system to assure that nursing home residents receive quality care."



S. 3407 has been referred to the Senate Health, Education, Labor and Pensions Committee, chaired by Senator Tom Harkin (D-IA). A draft of the bill has been posted at: www.wahsa.org/s3407.pdf.

The IOM is the health arm of the National Academy of Sciences. In 1986, the IOM published *Improving the Quality of Care in Nursing Homes*, a report which laid out many of the policy and regulatory changes that were contained in the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), the nursing home reform provisions which established the survey and enforcement system that remains in operation today. S. 3407 in essence directs the IOM to evaluate the effectiveness of the nursing home survey and enforcement system it helped create nearly 25 years ago.

In February of this year, as part of the 2010 AAHSA Future of Aging Services Conference in Washington, D.C., WAHSA staff John Sauer and Tom Ramsey, along with members Marion Wozniak of Cedar Crest in Janesville and Steve Jaberg of Cedar Communities in West Bend, met with Senator Feingold's Legislative Assistant Sara Steines to discuss, among other subjects, the shortcomings of the nursing home survey and enforcement system and the need for an IOM study of the system. Since that time, WAHSA and AAHSA staff has worked closely with Sara Steines and other members of Senator Feingold's staff to develop what is now S. 3407.

There is a long way to go before S. 3407 becomes law and an IOM study of the nursing home survey and enforcement system begins. Indeed, there is no assurance S. 3407 will pass this session. But the reality is that the nursing home survey and enforcement system will never undergo substantive change without a revision of OBRA '87 by Congress and it is highly unlikely Congress will ever move in that direction without the recommendations of an organization with the credibility of an IOM. So we must do all in our power to see that S. 3407 becomes law. How and what we must do to pass S. 3407 will be conveyed to WAHSA members as soon as the needed steps to passage are determined.

In the meantime, a note of thanks to Senator Feingold for introducing S. 3407 on behalf of WAHSA members, their staff and, most importantly, their members, certainly is in order. Senator Feingold's contact information is as follows: (202) 224-5323 (ph.); (202) 224-2725 (fax); http://feingold.senate.gov/contact_opinion.html.