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Statement of Jonathan Sugarman, MD, MPH, on AHQA Proposal to Modernize Medicare Beneficiary Complaint Program

Good afternoon. I am Dr. Jonathan Sugarman, Immediate Past President of the American Health Quality Association, and CEO of Qualis Health, a Seattle-based QIO.

AHQA's proposal for legislation to modernize the Medicare beneficiary complaint program represents a much needed and forward thinking contribution to public policy, as few stakeholders find much satisfaction in the current program.

In the decades since the initial development of the current Medicare beneficiary complaint program, there have been significant advances in understanding regarding problems with the quality of health care, and ways in which to improve quality. For instance, the Institute of Medicine, in its reports on medical errors and on the quality chasm, clearly and unequivocally found that the vast majority of quality problems are related to poorly designed and functioning systems, rather than to incompetent, lazy, or reckless individuals.

To be sure, such individuals exist, and these individuals should be dealt with promptly and firmly. Indeed, the medical malpractice system is designed to assign individual culpability and to exact

punishment and compensation for negligence. Licensing boards are empowered to restrict the ability of such people to practice medicine.

We recognize, of course, that there are substantial opportunities to improve the functioning of medical malpractice law and the state licensing boards. Neither, however, were developed primarily to improve systems of care. Conversely, the Medicare beneficiary complaint system was not designed to award damages or to punish individual behavior, other than by excluding grossly incompetent providers from Medicare.

The role of the Medicare QIO program should be to protect the entire population of Medicare beneficiaries, and to support improvement of America's health care system. Unfortunately, the current Medicare beneficiary complaint system as regulated by CMS has not been implemented in a manner that focuses on rapid resolution of disputes and systematic improvements in care, and has not kept up with our evolving understanding of quality improvement. For instance, CMS does not regularly analyze and report the specific types of quality of care concerns that are identified by QIOs. Thus, there has been no opportunity to share knowledge based on thousands of quality problems confirmed by QIOs across the country each year.

We have also come to understand that the most effective resolution to many quality concerns raised by Medicare beneficiaries is for the beneficiary and the provider to communicate with each other, and for appropriate explanations and apologies to be provided as necessary. The current CMS system is not designed with this in mind.

AHQA’s proposal encourages increased transparency to complainants, remediation of systems problems, and prompt referral to appropriate authorities when willful and reckless actions are identified. It also supports prompt and candid communication between patients and practitioners when complaints arise. This is good public policy, and is very consistent with the goal of the QIO program—to assure the right care for every person every time.