

OFFICE OF THE LONG-TERM CARE OMBUDSMAN



EST. WITHIN THE PA DEPARTMENT OF AGING

October 26, 2022

Chairperson George D. Bedwick, Esq.
Vice Chairperson John F. Mizner, Esq.
Commissioner John J. Soroko, Esq.
Commissioner Murray Ufberg, Esq.
Commissioner Dennis A. Watson, Esq.
Pennsylvania Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Re: Department of Health Final Form Long-Term Care Nursing Home Facilities Regulations Rulemaking #10-221, #10-222, #10-223 and #10-224

Dear Commissioners:

The Pennsylvania Office of the Long-Term Care Ombudsman works to resolve concerns on behalf of individuals residing in long-term care settings, including skilled nursing facilities. Ombudsmen empower residents by educating them on their rights under federal and state law and advocate for those who are unable to advocate for themselves, to ensure that they receive the highest quality of care. We also work to bring about change that improves care at the local, state, and national levels.

Since 2018, and especially as a result of the pandemic, the Pennsylvania Department of Health has worked to update its regulations, and our advocacy office appreciates the opportunity to have consulted and offered comment on the proposed rulemaking packages, which will help to improve the quality of care and quality of life for those living in nursing homes across the commonwealth.

While I am disappointed that the final form regulations do not include higher staffing minimums, greater emphasis on resident rights, and more accountability for providers who abdicate their commitments to care for our most vulnerable elders and individuals with disabilities, the proposed regulations do include much-needed improvements and transparencies in the provision of skilled nursing care in Pennsylvania.

Among key improvements are the change in ownership notification requirements, heightened scrutiny of a proposed provider's financial and performance history, and clarified language throughout to address the failures of care observed during the COVID-19 public health emergency.

Specifically:

§ 201.12. Application for license of a new facility or change in ownership.

- § 201.12a. Notice and opportunity to comment. (New Section on final-form) - Section 201.12a is a new section providing notice about an application for a new facility or change in ownership and an opportunity to comment.
 - Section 201.12a(a) requires a new facility applicant to provide notice to the Long-Term Care Ombudsman.
 - Section 201.12a(b) requires a change of ownership applicant to provide notice to residents, resident representatives, employees, and the Long-Term Care Ombudsman.
 - Section 201.12a(d) states that the Department post notice of the receipt of an application for license of a new facility or change in ownership, and a copy of the completed application form submitted under Section 201.12 on the Department's website and provide a 10-day public comment period.

§ 201.12b. Evaluation of application for license of a new facility or change in ownership

- Section 201.12(b)(7) adds new provisions including a requirement that a prospective licensee submit the names, addresses, e-mail addresses, and phone numbers of a parent company, a shareholder and any related party of the persons identified in paragraphs (1) through (6).
 - Section 201.12(b)(8) adds requirements for annual financial reporting with specific requirements to improve transparency into ownership and related parties.
 - Section 201.12(b)(13) adds a new requirement that a prospective licensee is required to identify whether an immediate family relationship exists between a prospective licensee, a person identified under paragraph (1) (regarding ownership and ownership interest) and a person under paragraph (7) (regarding parent companies, stakeholders, and related parties).
 - Section 201.12b(b) adds the Department will post notice of the approval or denial of the application on its website.

The Office of the Long-Term Care Ombudsman, on behalf of the individuals in Pennsylvania's skilled nursing facilities, supports the proposed regulatory changes, noting that they are the minimum standards for how care is delivered. These regulations promote practicable accountability, but are not a metric of quality of that care.

Sincerely,



Margaret Barajas

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*"Advocate for those who can't,
support those who can,
and ensure all long-term care consumers
live with dignity and respect."*

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