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Subject: [External] Comments on the Department of Health's (DOH) Final Form Nursing Facility Regulations
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October 25, 2022

To whom it may concern,

I am submitting the below comments related to the PA Department of Health Long-Term Care Nursing Facilities Final-Form Rulemaking.

§201.13c(B) IN ADDITION TO THE APPLICATION FORM AND FEE UNDER SUBSECTION (A), A FACILITY SHALL SUBMIT AN UPDATED ANNUAL FINANCIAL REPORT THAT MEETS THE REQUIREMENTS SET FORTH IN § 201.12(B)(8) (RELATING TO APPLICATION FOR LICENSE OF A NEW FACILITY OR CHANGE IN OWNERSHIP).

While respecting the department's wish to ensure facilities are a "going concern," this is governmental overreach to require the annual audit to be submitted as part of a license renewal. Is this going to be required of all PA health care providers? Facility fiscal years are never in sequence with license renewals; therefore, the audit information could be up to a year old.

§201.14(j) The facility shall conduct a facility-wide assessment that meets the requirements of 42 CFR 483.70(e) (relating to administration), as necessary, but at least quarterly.

Federal regulations require an annual facility-wide assessment which is sufficient. Nursing Home Administrators are already overburdened with regulatory paperwork that take significant time away from resident care. The PA Department of Health needs to rethink adding regulatory burden to providers when COVID-19 and all the associated extra work related to that continues as well as the significant workforce challenges that are not going to improve.

§201.18(d) The governing body shall adopt effective administrative and resident care policies and bylaws governing the operation of the facility in accordance with legal requirements. The administrative and resident care policies and bylaws established and implemented by the governing body under 42 CFR 483.70(d)(1), shall be in writing; shall be dated; shall be made available to the members of the governing body, which shall ensure that they are operational; and shall be reviewed and revised, in writing, as OFTEN AS necessary BUT AT LEAST ANNUALLY. The policies and bylaws shall be available upon request, to residents, responsible persons resident representatives and for review by members of the public.

The PA Department of Health needs to be educated on the role of the governing body versus administrative staff. It is the responsibility of the governing body to hire appropriate staff to implement effective administrative and resident care policies. Boards should not be forced into approving operational details!

§201.18(d.2) The administrator's ANTICIPATED BIWEEKLY WORK schedule shall be publicly posted in the facility. THE ANTICIPATED WORK SCHEDULE SHALL BE UPDATED WITHIN 24 HOURS OF A CHANGE.

This is yet another governmental overreach. Is this going to be required of all PA health care providers? Nursing Home Administrators (NHA) work incredibly hard and should not be subject to posting their schedule. If PA Department of Health keeps writing regulations of this nature, who in their right mind in the future will want to become an NHA?

§201.18(g) The governing body shall disclose, upon request, to be made available to the public, the licensee's current daily reimbursement under Medical Assistance and Medicare as well as the average daily charge to other insured and noninsured private pay residents.

What is the intent of this proposed regulation? Each facility has three different Medical Assistance rates based on the CHC contracts with the rates changing quarterly. Each traditional Medicare resident has a different rate based on their PDPM classification. Each contracted Medicare Advantage Plan has a different rate. This proposed regulation is yet another example of adding an unreimbursed regulatory burden to Skilled Nursing providers when the business model is already broken due to the lack of appropriate Medical Assistance funding.

§201.24(e) The governing body of a facility shall establish written policies for the admissions process for residents, and through the administrator, shall be responsible for the development of and adherence to procedures implementing the policies. The policies and procedures shall include all of the following:

What is the intent of this proposed regulation? Requiring the governing body to establish written policies is unnecessary and gets boards into operations!

§211.2(d)(2) Development of written policies which are approved by the governing body that delineate the responsibilities of attending physicians.

It makes sense for the Medical Director to develop policies that delineate the responsibilities of attending physicians but requiring approval by the governing body is unnecessary and gets boards into operations!

In closing, I ask IRRRC to carefully balance whether the additional regulatory burden to providers truly safeguards residents or is it regulators trying to placate activists? Today, long-term care providers are stretched in ways I have never observed in my 30 years in senior living. The business model for skilled nursing is truly broken due to the lack of appropriate government reimbursement and was

broken even before COVID-19. COVID-19, wage escalation and inflation are truly making skilled nursing unsustainable. Adding regulatory burden during this time is unwise and only accelerates nursing homes closing. What is PA Department of Health going to do when many nursing homes close and there is no one to care for the many seniors impacted?

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