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CHAIRMAN,
HEALTH COMMITTEE

House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

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Independent Regulatory Review Commission

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(STATE EMPLOYEE RETIREMENT SYSTEM)

September 28, 2021

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Commission Members:

I write in support of the Rulemaking #10-221 (Long Term Nursing Care Facilities, Proposed Rulemaking 1) to increase minimum staffing hours from 2.7 to 4.1.

As noted by many of the commenters, the Covid-19 pandemic exposed the fissures in our skilled nursing facilities that left residents vulnerable to illness and death. Chief among these issues is addressing problems related to inadequate care, including insufficient staffing, high staff turnover, or inappropriate care provision. The pandemic showed us that implementing new standards for nursing home care is a moral imperative.

I'd like to comment on two of the main arguments made by opponents to the increased hours for care:

One set of comments relates to the current difficulty of hiring staff. The other major concern reflected the costs of hiring additional staff.

Certainly, many industries are struggling with hiring, and the health care industry has been hit particularly hard. And there will be associated costs with increasing staffing hours.

In the first instance, it's true that we are in an extraordinary period of labor shortage, particularly for the health care industry. However, these regulations must be forward thinking, not dealing with the exigencies of today, but rather what is necessary to ensure the long-term safety of residents, irrespective of the inevitable ebbs and flows of labor availability.

Regarding costs, there is no question that increasing staff hours should, and will increase costs. It is the role of the legislature to appropriate sufficient resources to pay for staffing hours for Medical Assistance patients. Additionally, however, arguments about increased costs and staffing should be viewed in context of the industry as a whole. Private equity investment in nursing homes has increased 20-fold, from $5 billion to $100 billion, since 2000.[1] Nursing homes are – at some level – producing a profit for investors without necessarily improving care. While the regulators cannot delve into the accounting books of these corporations, these numbers beg the question of whether economics arguments justify compromising the health and safety of patients.

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And news stories make clear just how dire of a situation these residents face. Just this month, an analysis by the New York Times found that 21 percent of nursing home residents have been placed on sedating antipsychotic medication – a number far higher than would meet the prevalence of schizophrenia in the general public.[ii]

Recent commentary from the National Academies, "Reimagining Nursing Homes in the Wake of Covid 19," pointed to the existing model itself as a problem. Nursing homes were originally designed to house large populations of older adults with similar needs over extended periods, the authors noted. However, they found that current day residents of nursing homes are extremely heterogeneous, with a little more than 40 percent staying fewer than 100 days and receiving skilled nursing care and rehabilitation. Another large segment – 48 percent according to the Alzheimer's Association[iii] – suffer from dementia and require different care and services to meet specialized needs. The authors noted that for these groups, quality care looks different. Large institutional settings designed for economies of scale may not be well suited to provide individualized care tailored to the unique needs of different conditions.[iv]

Meanwhile, the industry is in flux, with census counts down as Pennsylvania trends toward supporting older adults to live at home by providing home and community-based services. In Pennsylvania, nursing facility residents numbered nearly 81,000 in 2010, but only 73,000 in 2020, according to data compiled by the Kaiser Family Foundation[v].

The nursing home industry needs support right now to hire, train and staff workers. In the long run, we must set new standards for what these facilities can be in the future– particularly if they are to regain the confidence of families looking to entrust older adults in their care.

Ultimately, nursing homes have finally been pushed to the brink of change, a perfect time to reset and rebalance with the safety of patients in mind. Again, I reiterate my support for Rulemaking #10-221 (Long Term Nursing Care Facilities, Proposed Rulemaking 1).

Sincerely,

Dan B. Frankel
Chairman
Democratic Health Committee

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[i] Scott, D. (2021). Private equity ownership is killing people at nursing homes. Vox. https://www.vox.com/policy-and-politics/22295461/nursing-home-deaths-private-equity-firms

[ii] Thomas, K, R. Gebeloff and J. Silver-Greenberg. (2021) Phony Diagnoses Hide High Rates of Drugging at Nursing Homes. New York Times. https://www.nytimes.com/2021/09/11/health/nursing-homes-schizophrenia-antipsychotics.html

[iii] Jennifer Ebersole Comments to IRRC on behalf of Delaware Valley and Greater Pennsylvania Chapters of the Alzheimers Association. August 26, 2021

[iv] Fulmer, T. T., Koller, C. F., & Rowe, J. W. (2021). Reimagining Nursing Homes in the Wake of COVID-19. National Academy of Medicine. https://nam.edu/reimagining-nursing-homes-in-the-wake-of-covid-19/

[v] KFF analysis of Certification and Survey Provider Enhanced Reports (CASPER) data.