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House of Representatives  
Commonwealth of Pennsylvania  
Harrisburg



September 29, 2021

Acting Secretary Alison Beam  
Pennsylvania Department of Health  
Health and Welfare Building  
8<sup>th</sup> Floor West, 625 Forster St.  
Harrisburg, PA 17120

Dear Acting Secretary Beam,

I am writing to address proposed Regulation #10-221 (Long-Term Care Nursing Facility Regulations) issued by the Pennsylvania Department of Health. I would like to convey my strong opposition and ask the Department to reconsider the proposed regulation.

Upon review of the proposal, it is clear that the Department failed to conduct a thorough Small Business Analysis, which did not estimate the cost to small businesses (i.e. nursing homes) to implement the regulation's provisions. The Department also failed to adequately engage stakeholders, as a long-term care workgroup. This workgroup was formed in 2017 but has not met since 2018 and was formally disbanded during the COVID-19 pandemic.

Furthermore, Regulation #10-221 is the first of five revisions that will comprise the final update to the nursing home regulations. Considering the relationship between the proposals, it is impossible to gauge the totality of this regulation as the Department has not supplied a timeline for the remainder of the plans.

Another overlooked facet of this plan is staffing. This proposed regulation would, among other provisions, increase the minimum number of direct care hours in Pennsylvania's nursing homes from 2.7 to 4.1 which would require a minimum of 7,000 new direct care workers to meet the proposed direct care hours minimum. There is already a shortage of employees amid this pandemic, so this increase will undoubtedly trouble facilities. The Department's plan does not include assistance for nursing homes to obtain the required level of staffing.

Finally, the Department estimates this proposal will cost nearly \$400 million per year. Meanwhile, nursing homes are already facing serious Medicaid reimbursement shortfalls of more than \$50 per resident per day. Medicaid has been paying for the majority of nursing home care throughout the Commonwealth. This new, unfunded cost will further extend financial uncertainty for providers.

Ultimately, Regulation #10-221 will force providers to limit admissions and restrict new residents in order to comply with the proposed staffing minimum. As a result, Pennsylvania, as one of the oldest states in terms of population, will face a crisis of access to care for those who need it most.

Please reconsider this proposal and engage industry stakeholders to effectively troubleshoot this issue; our most vulnerable citizens depend upon this care.

Sincerely,

Andrew J. Lewis

State Representative

105<sup>th</sup> Legislative District