



From: [Kevin Bean](#)
To: [DH, LTCRegs](#)
Cc: [kward@pasen.gov](#); [lrossi@pahousegop.com](#)
Subject: [External] Proposed Nursing Home Staffing Level Changes
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Dear Lori,

I am writing to you today in regard to the proposed staffing changes to move from 2.7 hours of care per Resident to 4.1 ***in the middle of the worst staffing crisis this industry has ever seen while we're still struggling with the costs of providing care during a global pandemic.***

For small non profit homes in rural areas like ours, we are barely getting by right now. Most of the Residents that we care for are here under Medical Assistance, which is desperately needed in Pennsylvania as we have one of the oldest states in the country, and the average person has very little in the way of personal finances to be able to afford private care. When they need care, they often have nowhere else to turn.

The problem with Medical Assistance is that it has not had a meaningful raise in over a decade. At the current time, we receive about \$0.25 for every \$1.00 in care that we provide. Quite literally, we lose money for every person that we take care of who does not have the means to pay for their care privately. As of this writing, 65% of the people we care for fall under this category, and our situation is in no way unique.

To give you a better idea of how this translates, through the first 6 months of the year our organization is over a million dollars in the red. We employ roughly 250 people in the Ligonier area of Westmoreland County, and we're struggling to keep our doors open. Between our nursing home, home health, hospice, personal care, and companion care we provide life sustaining services for 235 people. If our business were to go under, it would represent a huge blow to the people that live and work here.

From a staffing perspective, we are currently living through the worst caregiver staffing crisis in the history of our industry. There has been a nationwide shortage of nurses for quite some time, and much of that has to do with funding. We simply cannot afford levels of pay to rival many of the businesses in our area. If Sheetz wants to raise their wages to \$17/hour, they can simply raise their prices by \$0.05 and make up the difference. For our industry, we don't have the luxury of charging the state of Pennsylvania more.

We currently struggle to get to 3.0 hours of staff per Resident even with using contracted agency staffing which can cost as much as \$45/hour depending on the agency and the type of staff. ***The people are simply not out there to hire.*** If the state mandates 4.1 hours of care, it will quickly

put us out of business. Our only choices would be to close completely, or sell to one of the out of state chains that historically provide exceptionally poor quality of care with no interest in their Residents- only their bottom line. You can already see evidence of this throughout the state. One example would be the Grane Corporation which recently sold 11 nursing homes, a Hospice company, and a physical Therapy division to an out of state provider. They also closed their Home Health agency because the legislative atmosphere in Pennsylvania is no longer conducive to doing business.

The hospitals in our area already greatly struggle to find available beds to which to discharge Residents. This staffing mandate will make that significantly worse as homes like ours go out of business or decertifying their beds, and I promise you will see many doing so. Current regulations are that you must provide *safe* care to your Residents, and our track record proves that we are doing so. We have been operating in Ligonier for 100 years this year, and have developed a well deserved reputation for quality. We ask that you continue to let homes like ours decide what is best for our Residents instead of promoting this unfunded, unrealistic mandate. As it is, we have had to cut off admissions because of staffing difficulties multiple times this year, and we are not alone in that practice. This makes it extremely difficult for hospitals to find safe discharge locations for people, which is bad for the hospital, bad for the patient, and ultimately bad to Pennsylvania taxpayers who are many times paying for that exorbitantly priced hospital bed through Medicaid.

Ultimately, it would be great to staff at 24 hours of Resident care per person, giving each Resident their own private caregiver, but this is simply not possible. It's barely possible to staff at 2.7, let alone 4.1.

A recent survey showed that only 25% of nursing homes in Pennsylvania felt confident that they could stay in business through the end of 2022 because of increased, and unfunded, costs due to regulatory changes, COVID-19, and a predatory legal atmosphere which attracts law firms from across the nation like Wilkes McHugh to target Pennsylvania businesses because of a lack of lawsuit award caps. Adding this mandate will only hasten those businesses to close their doors.

Here is what will happen if this unfunded regulatory mandate goes into effect:

- Homes will go out of business very quickly due to a lack of staffing, which will lead to civil money penalties they cannot afford to pay.
- Hospitals will run out of beds because they can't provide a safe discharge to people that need inpatient therapy.
- Thousands of Residents being cared for across the state will have to be relocated away from their friends and families into buildings owned by out of state companies that care only about their bottom line instead of their patients
- Innovation and renovation will *immediately* stifle as homes scramble to pay for increased staffing levels

Quality of care will no increase with additional staffing, it will decrease as homes are forced to reduce the amount they're spending on supplies, equipment, training, and programming

I do, however, have some suggestions which could assist with improving the care environment.

- Expand the definition of which staff members count towards those hours of care. For instance, a physical therapist providing one on one care to help someone grow stronger and be able to potentially go home is currently not counted in this number- they should be. Restorative staff, Activities staff, etc. are all people who spend time helping provide for the physical, emotional, social, and spiritual needs of the people who live in our homes. They should all be counted towards the staffing numbers if that number is going to be raised. Have a fair accounting of what it takes to properly care for people.
- Make the Temporary Nurse Aid program that has been established during the pandemic a permanent change. It is incredibly difficult to find caregivers and this program has been a Godsend towards being able to employ people, train them, and have them provide care.
- Remove the proposed connection which would allow violations from federal tags to be tagged as a state violation, also. The Civil Money Penalty environment is predatory as it is. We were recently charged \$5,000 because ONE DAY we provided COVID 19 vaccination information under the wrong tab on the reporting website after they changed the procedure with the only notification being a link on the message board to a YouTube video telling you about it. If this was linked to a state violation, it could have been a \$10,000 fine instead. If you can explain to me how fining us \$5,000 for putting information under the wrong tab is improving care in homes like ours, I would love to hear it.
- Increase Medicaid funding. Too long we have heard empty promises of the state caring about our elderly citizens with no one putting their money where their mouth is. We as Pennsylvanians have accept a litany of tax hikes, fees, fines, etc. without seeing any return on our investment. In 2004 we were promised that if Pennsylvania legalized casinos they would use the money towards education and decreasing our property taxes. Now Pennsylvania is second in the country for number of casinos behind Nevada, but our schools are combining and closing, and our property taxes have only gone up! Where is all the money going?? Use some of this to properly fund out industry!
- Fix the Community Health Choices programs. These programs were supposed to help provide better care to Pennsylvanians who qualify for Medical Assistance. Instead they fight you at every turn to provide payment, often taking 6 months to a year to pay for the care you're providing- if they don't deny the payment entirely because they can't process their own paperwork in a timely manner and the filing deadline passes. They also promised to pay for things like transportation before they were created only to cut that funding in the very first year they were put into place, leaving caregivers holding the bag.

- Scrap this proposed change from 2.7 to 4.1. Continue to let providers and state surveyors determine what is a safe level of care for their population.
- Invest state wide in promoting caregiver jobs, as well as in training programs for new caregivers. Offer incentives to people who choose this industry like tax cuts, tuition reimbursement, free training and certification.
- STOP PENALIZING HOMES BY REMOVING THEIR NURSE AID TRAINING PROGRAMS. When a building is struggling, one of the first penalties that is imposed is the removal of their Nurse Aid Training Program. If a home is struggling, they need access to *more* staff, not the creation of an environment which makes it even more difficult for them to access caregivers.

Thank you for your time and attention to this matter. It's not that I, along with many others, wouldn't like to have additional staffing, it's just that for all of the reasons I have listed, it simply isn't possible at this current time unless additional changes are made. We can't simply put something into place without any idea of how to actually make it work.

Godspeed,

Kevin R. Bean



Kevin R. Bean, COO
Bethlen Communities
724-238-2235 ext. 203 (office)
814-243-2007 (cell)

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