



*a tradition of caring*

August 9, 2021

Department of Health  
625 Forster Street  
Harrisburg, PA 17120  
Attn: Lori Gutierrez, Deputy Director  
Office of Policy

Re: Rulemaking 10-221 (Long-Term Care Facilities, Proposed Rulemaking 1)

To Whom it May Concern,

Please accept this letter of comment on the recently proposed rule, "Department of Health, Title 28. Health and Safety, Part IV. Health Facilities, Subpart C. Long Term Care Facilities, 28 Pa. Code §§201.1-201.3: 211.12(i), Long Term Care Nursing Facilities".

This letter is being sent on behalf of the residents we serve and the direct care staff who work at HCF Management, Inc. As the Vice President - Operations, I oversee seven nursing homes operating across the Commonwealth. Collectively, these facilities are licensed for 840 beds, employ approximately 1,000 employees and serve 720 residents. Our organization is committed to providing high quality care and prioritizing the needs of the residents we serve each and every day. We are a family owned and operated company that has served the residents of the Commonwealth for over 41 years. I am a third generation family member of this business.

After reviewing your proposed regulation, we have concerns regarding the mandatory increase of the minimum number of hours of general nursing care from 2.7 to 4.1 hours for each resident, which excludes other direct care provided by essential caregivers.

First, there are not enough caregivers to meet current requirements. We have gone to great measures just to secure minimum requirements. There is not enough people in the workforce to cover current needs, no less the extreme increase that is being proposed. We have done many things to try and increase staffing in our skilled nursing facilities. We are often competing with non-healthcare industries for a small number of people. Also, many have left the health care field because of the strict PPE guidance, testing, new OSHA standards, and now vaccine requirements. Our profession is extremely difficult and challenging to work in and to recruit and retain staff.

From a strategy standpoint, the first thing we have done is increased wages significantly. We have also hired a firm to bring over 100 Registered Nurses from the Philippines due to the extreme shortage in nurses. We have employed several agency and travel nurses from a variety of different organizations. Even with multiple agencies contracted, they cannot meet current need. They are often unreliable and of poor quality, both for nurses and CNA's. We have offered significant signing bonuses and referral bonuses for direct care worker positions. We have also recently purchased a new software system to predict the success of employees staying upon the application and hiring process. We have also spent considerable dollars in advertising in traditional sources and non-traditional sources trying to find staff. We have also used new technology to recruit new staff, which has been proven to be very costly. We have done all of these things, in many circumstances, just to get to minimum staffing levels. We

applaud efforts to raise the quality of care in the Commonwealth, but an increase to this PPD is not practical, sustainable, or logical.

The current proposal is also not feasible from a financial standpoint. This is an unfunded mandate. This proposal would cost our organization over \$5,000,000 on the low end, with actual estimates totaling over \$7,000,000 in wages alone, no less another \$2,000,000 in benefit costs for a total of over \$9,000,000 for just seven skilled nursing facilities. Given today's environment with COVID and substantial losses occurring each month for our businesses, this would jeopardize our sustainability in the industry. This mandate would only add to these losses and would put facilities in the Commonwealth out of business. This change could force good operators to leave the Commonwealth. Further, our skilled nursing facilities lose, on average, approximately \$50 per patient per day on all Medicaid residents. We currently serve 501 Medicaid patients per day. This equates to a yearly loss of approximately \$9,000,000 a year serving the Commonwealth's most frail and elderly population. Without significant resources and increasing our rates very significantly, this proposal is not feasible.

There are also several other staff members that we would deem direct care workers for the terminology of this requirement. Physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, respiratory therapists, physicians, nurse practitioners, nurse consultants and activities staff all provide direct hands on care and should be considered as part of the 4.1 hours per patient day. They provide care to our residents and it would be disappointing if they would not be included in those numbers.

Thank you for your time in reviewing and considering our comments. We are hopeful that the Department of Health will address our concerns and work with providers and staff to ensure continued access to long-term care services in Pennsylvania. We are hopeful that the Department of Health will amend the provisions contained in §211.12(i) in a manner that will address the concerns raised in our comments.

Sincerely,



Scott Unverferth  
Vice President – Operations, HCF Management, Inc.