



Lutheran  
SeniorLife  
Passavant  
Community



August 18, 2021

Lori Gutierrez  
Deputy Director, Office of Policy  
625 Forster Street, Room 814  
Health and Welfare Building  
Harrisburg, PA 17120

Dear Ms. Gutierrez:

I am writing to you to express my concern regarding the proposed update to the Pennsylvania nursing facility regulations that were recently published in the July 31<sup>st</sup> edition of the Pennsylvania Bulletin. I served as a member of the LTC Workgroup in 2017-2018 and appreciate the process that the Department undertook to evaluate regulations that have not been updated since 1999.

While I applaud the Department's commitment to continue to ensure quality of care to our elders and to ensure that regulations are current and appropriate for the times in which we live, I am writing to express my concern with one specific element of the proposed change: **211.12--** Increasing the minimum number of direct resident care hours from 2.7 to 4.1 per resident day. Please keep in mind that I serve as the Executive Director of a 5 STAR community whose staffing hours well exceed that of the current state minimum (although we would not presently meet the 4.1 requirement). I believe that a minimum of 2.7 hours per resident day is woefully inadequate to safely meet the needs of those who have been entrusted to our care; however, increasing that minimum to 4.1 hrs. per resident day presents a number of very real and critical issues that the State must take into consideration.

First, we are experiencing an unprecedented staffing crisis. At present we have 26 vacant positions (nurses and nurse aides). We offer a beautiful person centered environment and we were recently named as a "Great Place to Work™". We review and increase our wages frequently, offer robust signing bonuses, offer tuition reimbursement and generous benefits. We also offer paid nurse aide training programs and have established relationships with various educational institutions. Despite all of our exhaustive efforts, we are unable to recruit qualified, competent individuals to fill our vacant positions. As a result we rely heavily on temporary agency personnel as well as overtime of existing staff all of which have significantly increased our expenses. With the added stress of COVID-19 and impact to our team's mental health, we are experiencing a higher level of turnover as individuals are leaving the healthcare profession all together. It is becoming increasingly more difficult to find temporary agency staff as the

agencies are experiencing challenges in filling their vacant positions. Increased staffing minimums to the proposed 4.1 hppd magnifies these issues and the question remains where will the individuals come from to fill the positions that need to be filled to meet the increased minimums?

Second, as a non-profit, faith based community our ability to absorb additional expenses related to increased staffing minimums, is minimal at best. It is stated that the anticipated increase just to fill the required nurse aide positions equates to an estimated \$386 million across all MA long-term care nursing facilities. The PA Bulletin further states that “DHS does not have sufficient data to determine who will bear the burden of the remaining costs not covered by MA, for the MA facilities, but believes that at least some of this amount will have to be borne by the regulated community.” Nursing facilities have been underfunded for years and in fact have not seen a Medical Assistance rate increase in seven years. We have repeatedly been asked to do more with less and we have seen increases in expenses including significant increases in staffing costs. Nearly 60% of our population in our nursing community are covered by Medical Assistance. The result will undoubtedly mean significant increase in rates to a private pay population which is unable to bear the burden of the increased expenses. The result, I fear, will be an increasing number of communities that will close their doors and the elders that they serve will be displaced.

Thirdly, I am concerned with the statement within the PA Bulletin that indicates that the new minimum hours will become effective on the final publication date. Due to the inability of nursing communities being able to effectively recruit capable, qualified staff, we will not be to meet the new minimums immediately. We will need time to recruit, hire and on board staff.

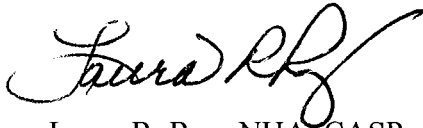
With all of those concerns, I would respectfully ask the Department to consider:

- 1) Reevaluating the proposed minimum requirements. I fully support moving from a 2.7 hppd requirement but would ask that you seriously consider the inability communities are having in filling positions despite valiant efforts to do so. And therefore, would ask that you consider a lower minimum requirement or even consider a phased approach that over say 2-3 years, the minimum requirement would be ramped up to a new minimum. Or at the very least provide for communities to be able to demonstrate their efforts to recruit/fill positions and to not punish them if they are unable to fill positions especially if there are no quality of care concerns within the community.
- 2) Including other staff (i.e. therapists, etc.) in the calculation of the minimum requirement. Speech therapists assist individuals with their meals, and occupational therapists work with individuals on ADL's and therefore, should be included in the calculation.
- 3) Ensuring that communities are adequately reimbursed for the care that they provide. I strongly advocate for an increase to the MA rates especially in light of the increased costs communities will absorb to meet the minimums. It is absolutely unrealistic to expect communities to absorb the full cost of these proposed minimums and to simply say “the benefits to older Pennsylvanians now and in the future outweighs those costs” does not account for unforeseen closures that will occur.

My fear is that while the Department longs to improve the quality of care to our state's frail elders, nursing communities will not be able to meet the minimum requirements and will be forced to close. Where will the frail elders go? They are in a nursing community because they need to be. If they could be cared for in their home, they would be. In the PA Bulletin you state that the percentage of individuals requiring nursing care in a community will increase, my question is who will care for them?

As one who chose a career in long term care because I am passionate about ensuring that our elders are cared for with dignity, respect, compassion and competence, I have dedicated myself and my community to excellence in person centered care. I am pleading with you to reconsider these minimums and listen to the voices of like-minded individuals so that we can arrive at a solution that will achieve the desired effect.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura R. Roy". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Laura R. Roy, NHA, CASP  
Executive Director