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August 16, 2021

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

Dear Ms. Gutierrez:

On July 31st, the Department of Health published in the Pennsylvania Bulletin a portion of its proposal to update nursing facility regulations. As a Board Member of Presbyterian SeniorCare (located in Pittsburgh with services provided to seniors throughout western Pennsylvania), I would like to provide comments relative to these proposed nursing facility regulations.

The proposed regulations seek to require nursing homes to increase the requirements for staff from 2.7 nursing hours per patient day (NHPPD) to 4.1 on each shift. We do not believe that a particular NHPPD equates to quality. Each nursing home has unique qualities such as acuity of residents, training, competency, and tenure of staff and building characteristics. Today, the federal government allows for the facility assessment and resident care plans to determine appropriate staffing, which we believe would be more appropriate for Pennsylvania to adopt.

In addition, as a Board Member we are constantly discussing the staffing crisis that exists today and continue to look for solutions to meet our current needs. It is real and won't be solved in the near term. The federal government recognizes that nurses and nurse aides are not the only staff that provide care to nursing home residents. Their definition of direct care staff includes other providers of care such as therapists and life enrichment staff. As an example, it is very common for speech therapist to assist an individual to eat a meal while they evaluate swallowing. I witnessed this when my own Father was in a nursing facility. We recommend that the DOH do the same in the calculation of the 4.1 staffing proposal.

And, of course, there is always a financial concern with meeting these new requirements. Nursing facilities are already significantly underfunded and have not seen a Medical Assistance rate increase in seven years. While DHS has made some projections of costs, there is no guarantee that these funds will be included in the budget or that increased payments will be made to nursing facilities by the Community HealthChoices Managed Care Organizations. Remember that "costs" include salaries, the cost to recruit and the cost of benefits.

Nursing facilities have been closing beds, selling to out-of-state providers with track records of providing less than acceptable quality of care and closing buildings. Providers that are unable to staff at 4.1 NHPD may be less likely to serve residents who are difficult to care for. This obviously would create further problems for Pennsylvania seniors and their families.

The proposed regulation also adds language that states that a violation of federal regulations will also be a violation of state regulations. This is a significant change in position for the state regulations which could result in both state and federal fines for the same incidences. Federal fines are already very expensive and may not lead to the desired outcome of increasing quality in poor providers.

If the DOH moves forward with these proposed regulations, we ask that they not be implemented in piecemeal and there is a minimum of a 30-day public comment period on the entire regulatory package. Additionally, after the comment period of the full regulatory package, they should have to go through the full regulatory review process.

I thank you for the opportunity to provide comments on these proposed new regulations. Please consider the above comments prior to finalization.

Respectfully,

Sandra R Tomlinson

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Board Member
Presbyterian SeniorCare