



From: [BRIAN LEVESQUE](#)
To: [DH_LTCRegs](#)
Cc: [Adam Marles](#); [Anne Henry](#); [James Pieffer](#); [JEFFERSON KAIGHN](#)
Subject: [External] The Pennsylvania Department of Health's (DOH) proposed nursing facility regulatory changes
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[image002.png](#)
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August 26, 2021

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

Dear Deputy Director Gutierrez:

My name is Brian Levesque, and I am the Executive Director of Granite Farms Estates, an Acts Retirement-Life Community, Inc. Granite Farms Estates is a not-for-profit Continuing Care Retirement Community (CCRC) in suburban Philadelphia, where we care for over 350 residents across 3 levels of care. Our parent organization, Acts Retirement-Life Communities, Inc. is the nation's 3rd largest not-for-profit provider of senior services. We operate 26 communities across 9 states, including 8 CCRCs in the Commonwealth of Pennsylvania. I am writing to you today with regard to the recently proposed nursing home regulatory changes. Specifically, the change to the state minimum Nursing Hours Per Patient Day (NHPPD).

The proposed change from a state minimum of 2.7 to 4.1 NHPPD is unrealistic for all providers, both not-for-profit and for-profit alike. Our community operates at a budgeted NHPPD of 3.63, which is well above the required 2.7. Raising the NHPPD to 4.1 would put undue burden on the community as a whole and would not necessarily improve care and services of our already 5-star community. This near-sighted approach to "improving the quality of care" is not feasible and not practical. Please allow me to explain further.

A set NHPPD does not equal quality care. Every nursing home is different. The acuity of the residents we care for, characteristics of the building and its layout, and the tenure of the staff should all be factors in deciding staffing levels. Resident care plans should be used in determining staffing. Setting a blanketed and unrealistic NHPPD should not be the sole decision-making tool.

I indicated that this NHPPD is unrealistic. The reason should be very clear, given the current employment crisis our nation is facing. This is, without a doubt, the worst staffing crisis I have experienced in my 16 years in the field of aging services. Our organization has worked hard to offer sign-on bonuses and above-market rates for new employees, even matching or exceeding our competitors. Lately, our competition is not the local nursing homes or other CCRCs. Our competition for staff has been big-box stores, fast food chains, and a particularly large e-commerce delivery system. They are offering rates and bonuses we can not compete with. We have lost our

applicants and even some staff to these giants. Even if we, as providers, could afford to operate our communities at a 4.1 NHPPD, we simply do not have the staff to do it. The Commonwealth of Pennsylvania has done nothing to help us in this staffing crisis. Instituting a new minimum NHPPD will take time and needs to be initiated with this staffing crisis in mind. As I previously stated, we simply do not have the ability to staff at these levels. Ample notice needs to be given to providers, and this needs to be done gradually. We urge the Commonwealth to give us at least one year from publication of the final regulations to comply with any increase.

It should also be noted that nurses and nurse aides are not the only staff that provide direct care to residents, and their time should be calculated as well. Rehabilitation staff (PTs, OT, STs), Life enrichment staff, administrative staff, and others also provide care to residents. They all add to the overall wellbeing of residents. The Centers for Medicare and Medicaid Services even recognizes this in their definition of direct care staffing. We ask that you modify your proposal to include the care provided by these vital staff members in the calculation of the proposed 4.1 NHPPD. We have witnessed numerous occasions where a physical or occupational therapist has answered a call light and assisted a resident to the bathroom. Well within their scope of practice, these staff members should be given credit for the care being provided.

Granite Farms Estates is a bit unique, in that we do not participate in the Medicaid program. Our residents are all private pay residents. If a resident should outlive their resources through no fault of their own, we have a benevolent care program through the Acts Legacy Foundation, our organization's charitable foundation. Residents can apply for financial assistance through this program in order to remain in our community. We do not burden the Commonwealth's Medicaid program. However, we recognize that if this proposal comes to fruition, we will need to potentially raise the private pay rates for our residents. This will cause an incredible burden on both the residents as well as our foundation and may cause residents who once qualified for admission to our organization to go to another, thus eventually burdening the Medicaid system.

Over the past several years, we have all heard stories of once quality nursing homes selling to for-profit providers with track records of providing sub-standard care. These transactions are directly related to poor financial performance. A former employer of mine, a once 5-star, deficiency-free building, sold to a for-profit company with a less than stellar reputation. Nursing facilities have been closing beds, closing buildings, and limiting the number of residents for which they can care. Burdening providers with these additional staffing requirements will force the hands of many providers, especially for those who participate in the Medicaid Program. These providers have not seen adequate increases in their funding for over 7 years.

I implore you to reconsider your approach to improving the quality of care for our residents. I ask you to focus your efforts on implementing nurse and nurse aid training programs, working with nursing home providers instead of against them, look at increasing Medicaid funding for those who participate in the program, look for ways to collaborate with providers and member organizations, rather than punish them, and understand that simply raising a number does not equal raising the quality of care we provide. You have much more work ahead of you in order to help us and our residents that we hold so dearly.

Should I be of further assistance or should you have any questions, please contact me at blevesque@actslife.org or 610-358-3440.

Respectfully,



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Board Member, LeadingAge PA

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Granite Farms Estates

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