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Independent Regulatory Review Commission

BEACON RIDGE

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Indiana, Pa.

724-349-5300

Submitted via email at **RA-DHLTCRegs@pa.gov**

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 in response to the proposed regulatory changes to the DEPARTMENT OF HEALTH 28 PA. CODE CHS. 201 AND 211 for Long-Term Care Nursing Facilities.

Of particular concern are the proposed regulations to change staffing requirements from a current 2.7 Nursing Hours Per Patient Day (NHPPD) to 4.1 NHPPD on each shift.

While we can support the need for an evaluation of the required staffing hours by the Department, unfortunately the proposed NHPPD of 4.1 has no path to success for many reasons. Currently the majority of our clients have a cap on admissions and census due to the lack of staffing. If the 4.1 staffing hours was enforced, our quality providers would have to discharge residents to meet the ratio and would have to shut down admissions totally. The hospitals are already being stretched and diverting admissions due to their own staffing issues as well as the surge in COVID. With the nursing homes not accepting their patients it is causing a multitude of issues. There is an access to care problem now. Obviously, we do not want to decline admissions but that is the current reality. Prior to COVID (2019), there was a reported negative margin of .5% in nursing homes across the country. With COVID, 2/3rds of the providers are reportedly losing substantial amounts of money and are at risk to keep their doors open. I can confirm that a number of our clients are losing substantial amounts of money due to decreased census caused by a lack of staffing, inability to accept admissions combined with increased expenses. Unfortunately, facilities cannot sustain operations with a staffing ratio of 4.1.

The current state of long term care organizations and their ability to provide services TODAY must be considered when making such proposals. Currently long term care organizations everywhere are experiencing:

- Shortages of RN's, LPN's, Certified Nurse Aides and all ancillary positions

- Many unfilled positions are being covered by overtime and agency – there has to be many considerations about burn out of the dedicated staff covering extra shifts
- Inability to meet the demand for care
- Caps on admissions due to staffing shortages
- Frustrated hospitals because we cannot take their patients
- Shortage of professionals to train people to become care givers in our field (certified nurse aides)
- Providers have been stripped of their nurse aide training programs due to certain deficiencies issue by the Department
- Nearly half of America's small businesses cannot find or retain workers
- The employment crunch across all business sectors and across the Country
- A decline in the reputation of nursing homes – nursing home reputations were a challenge prior to COVID and during COVID nursing home reputations were damaged significantly lessening the pool of candidates
- Enhanced recruitment and retention strategies including the following:
    - Examples of recruitment strategies…**INEFFECTIVE**
        - A managed client has an RN program on the campus – if any employee of this community works in the long term community they can go to the RN program free and there are **VERY** few candidates for this program
        - Multiple of our managed homes pay LPN's school loans – that has produced some success but less than a handful in a network of hundreds of employees
        - Pay rates have been increased significantly with limited success – sign on bonus and other shift differentials and shift bonus are in place with limited success
            - This is producing wage wars and
            - Constant turnover among providers

We can agree that a 2.7 can be a significant challenge particularly based on resident acuity but a 4.1 would not only provide an enhanced access to care crises but unfortunately it is not financially feasible.

- If a community is currently maintaining a 3.5 NHPPD – the increased annual cost to increase staffing to a 4.1 is roughly $500,000 for a small private home and $600,000 for a government home
- CHC (Community Health Choices -Medicaid Managed Care) locked in the MA rate with no increases at all – the Western part of the State has had no increase going on 4 years, the Eastern part of the state 3 years and central 2 years. Frozen rates with significantly increased costs equal additional operating losses
- MC Managed Care length of stay has been reduced by 50% or approx. $1,000,000 annually over the last several years for a high skilled occupancy facility – traditional Medicare is almost non-existent in certain areas of the state.
- Insurance costs for both health and liability are simply not sustainable coming in at 25 to 100% increases

This dramatic increase in NHPPD will undoubtedly force many long term care organizations to close their doors, file bankruptcy and post the for-sale signs – which in turn will limit access to

desperately needed care. We would look forward to working with the Department of Health in a collaborative and successful approach to evaluating the staffing hours' requirement that can be accomplished without elimination of providers that are gravely needed for the care of the frail and elderly in Pennsylvania.

Thank you for your diligent review and consideration of the facts are presented in the correspondence.

Sincerely,
Leah McAndrews, MSW / NHA