



August 26, 2021

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

Re: Department of Health Proposed Nursing Facility Regulations

Ms. Gutierrez,

On July 31, 2021 the PA Department of Health published a proposal to update nursing facility regulations. Skilled Nursing facilities work tirelessly to provide quality care to those in need with many challenges such as staffing concerns, funding and ever-changing regulation and guidance.

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 NHPPD on each shift. A particular NHPPD does not equal quality. Each nursing home has unique qualities such as acuity of residents, training, competency and tenure of staff, and characteristics of the building. DOH does not seem to understand the realities of the current, and perhaps worst, staffing crisis of our time. Also note that nurses and nurse aides are not the only staff that provide care to nursing home residents. Therapists, life enrichment staff, and others provide care and services that add to the overall wellbeing of residents. The Centers for Medicare and Medicaid Services (CMS) even recognizes this in their definition of direct care staff.

Skilled Nursing facilities are already significantly underfunded and have not seen a Medical Assistance (MA) 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 NFs by the Community HealthChoices Managed Care Organizations. Additionally, there is no recognition that you may need to raise private pay rates hence increasing the numbers of individuals that spend down assets thus increasing the MA rolls.

If these regulations are implemented, this is a significant change in position for the state regulations. In the past, federal regulations had been incorporated but the state regulation did not make the statement that federal violations would also be considered state violations. This could result in both state and federal fines for the same incidences. Federal fines in particular are already very expensive and may not lead to the desired outcome of increasing quality in poor providers.

Before any regulation is passed, please consider these concerns and reach out to operators to fully understand the implication of these regulation changes.

Sincerely,

A handwritten signature in black ink that reads "Holly B. Vareha".

Holly B. Vareha