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Complete HealthCare Resources EASTERN, INC.

STRATEGIC SOLUTIONS FOR SENIOR CARE PROVIDERS

RECEIVED

Aug 28 2021

Independent Regulatory
Review Commission

August 23, 2021

Department of Health
625 Forster Street
Harrisburg, PA 17120
Attn: Lori Gutierrez, Deputy Director
Office of Policy

Re: Rulemaking 10-221 (Long-Term Care Facilities, Proposed Rulemaking 1)

To Whom it May Concern,

Please accept this letter of comment on the recently proposed rule, "Department of Health, Title 28. Health and Safety, Part IV. Health Facilities, Subpart C. Long Term Care Facilities, 28 Pa. Code §§201.1-201.3: 211.12(i), Long Term Care Nursing Facilities".

This letter is being sent on behalf of the residents we serve and the direct care staff who work at the nursing home facilities managed by Complete HealthCare Resources - Eastern, Inc. As the Vice President of Financial Management Business Development, I oversee the budgeting and financial report for ten (10) nursing homes operating across the Commonwealth. Collectively, these facilities are licensed for 1,766 beds, employ over 2,000 employees and serve several thousand residents annually. Our organization is committed to providing high quality care and prioritizing the needs of the residents we serve each and every day.

After reviewing your proposed regulation, we have concerns regarding the mandatory increase of the minimum number of hours of general nursing care from 2.7 to 4.1 hours for each resident, which excludes other direct care provided by essential caregivers.

Most of our facilities struggle to recruit and maintain staff, particularly at the direct care level. This had been occurring prior to the COVID 19 pandemic, which has only exacerbated the issue. As the chief financial analyst for our managed facilities, I am constantly asked to review the wage scales for increases to maintain staff, not only in the direct care positions, but also in the ancillary departments such as Dietary, Housekeeping and Laundry departments. Even today, the Administrator at Broad Acres Nursing and Rehabilitation Center asked for analysis of the impact of a 7% increase for the three aforementioned ancillary departments, as staff are either leaving or pressing for an increase. This is on the heels of an increase a few months ago for the licensed staff. Last week I worked on the analysis of the increase in the starting wage rate for the Dietary, Housekeeping, Laundry and Activities staff for Elk Haven Nursing Home. The proposed increase to the start rate was over 10%, with existing staff with experience getting a similar increases. Increasing starting rates to remain competitive have a cascading impact to all existing employees. The competition for employees is not just other nursing facilities; it is also the Sheetz's, Walmarts, McDonald's and hotels in the general area that each facility competes with. Elk Haven also gave significant increases to direct care staff in recent months as well. Most long-term care facilities across the state are experiencing similar increases. These 5% - 10% increases in staffing costs are a financial hardship. These wage increases also automatically increase other employer costs, such as FICA/Medicare

costs, unemployment taxes, and workers compensation premiums, which typically based upon wages.

This comes at a time when the state has only provided an increase in the Medicaid reimbursement rate once in the last six years; a 1% increase in January 2019. This is compounded by the fact that the state reimburses nursing facilities at less than 80% of the cost care, as evidenced by the adjustment in the rate by the Budget Adjustment Factor (BAF). For most nursing facilities, this equates to \$35 - \$50 days a day.

I am not aware of any nursing home that has been successful in negotiating increases in the reimbursement rates from the three CHC providers. As such, the facilities in the southwest region of that state have gone even a longer time period without increases.

Beside wage increases noted above, nursing facilities have resorted to other financial incentives to recruit or retain staff. This includes increases in sign-on and referral bonuses, shift bonuses to pick up on slots in the schedule, weekend shift differentials, and other incentives or hazard payments due to the limited workforce. When all other measures fail and in order to have adequate staffing, nursing facilities are forced to look to Agency to meet the staffing levels needed to serve the residents. Filling of open positions through Agency comes at a significant cost; generally 30% to 40% more costly than in-house personnel.

Many nursing facilities have struggled at times to meet the current state minimum of 2.70, particularly on weekends and holidays as a result of the lack of qualified candidates. An increase to 4.10 will be impossible to meet unless the definition of what constitutes direct care is expanded beyond the traditional RN, LPN and Certified Nursing Aide. At a minimum, direct care should include:

- Hands-on therapists, whether in-house or contracted
- Activity staff
- Dietitians
- Nurse Practitioners
- Social Services

If the state minimum levels are increased, it should be a fully funded mandate and the current 20% shortfall in the reimbursement rate should be increased as well. Any such increase in reimbursement must flow directly to the Providers/Nursing Facilities, and not as an increase to the CHC Providers, to ensure the funds get to the nursing facilities. The increase in reimbursement should factor in not only the wage cost of the additional personnel to meet the 4.1 requirement, but also the related fringe benefits costs, including:

- Paid time-off for vacation, holiday, sick and personal time
- Health insurance and other employee insurance benefits
- Employment taxes
- Workers compensation costs, which are generally wage-based
- Other fringe benefit costs

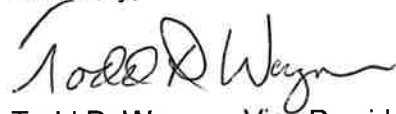
If the state proceeds with an increase in the minimum staffing level of 2.7 to a higher level, then the state should established funded programs to assist nursing facilities to recruit the required staff, as currently there is a significant shortfall in qualified staff to meet those needs. Any increased staffing levels need to be phased-in over a several year period to allow time for

the programs implemented by the state, nursing facilities and the trade association to achieve the desired results. Nursing facilities should not be punitively impacted by the inability to achieve the unrealistic 4.1 staff levels.

As the person overseeing the budget process, I am not looking forward to the budget preparation season this year that commences in September 2021 for the 12/31 nursing facilities. The cumulative impact in no Medicaid increases over the past six years, combined with the significant increases in wages, benefits and Agency costs, are having a debilitating impact on the nursing home industry in Pennsylvania. An unrealistic and unfunded mandate of a 4.1 staffing level will have a devastating financial impact on an already stressed long-term care industry; one that serves countless thousands of the most fragile members of the growing senior population.

Thank you for your time in reviewing and considering our comments. We are hopeful that the Department of Health will address our concerns and work with providers and staff to ensure continued access to long-term care services in Pennsylvania. We are hopeful that the Department of Health will amend the provisions contained in §211.12(i) in a manner that will address the concerns raised in our comments.

Sincerely,

A handwritten signature in black ink that reads "Todd D. Wagner". The signature is written in a cursive, flowing style.

Todd D. Wagner, Vice President of Financial Management and Business Development
Complete HealthCare Resource – Eastern, Inc.