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VIA EMAIL TO: A-DHLTCRegs@pa.gov
AND UPS OVERNIGHT DELIVERY

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 law firm represents long-term care facilities around the country – including dozens in Pennsylvania -- with respect to regulatory issues and Medicaid reimbursement. Our Pennsylvania clients' facilities are licensed for thousands of beds, employ hundreds of employees, and serve thousands of residents. This firm is committed to supporting our clients who strive to provide quality care and round-the-clock staffing, and to prioritize the needs of the residents they serve every day despite the challenges in hiring and retaining staff that have only become more difficult during the Covid-19 pandemic.

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 and excludes from its calculation other direct care provided by essential caregivers. Contrary to the federal regulation as written by the Centers for Medicare and Medicaid Services (42 CFR 483.70(q)(1)), this proposed state regulation does not account for direct care workers who are critical in delivering daily care to residents, including therapists (PT/OT/ST), dieticians, wound care nurses, physician's assistants, social workers, recreational therapists, and others. This direct care is essential and should be counted in any staffing calculation.

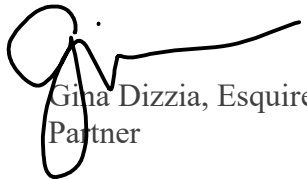
For these reasons, the proposed regulation is flawed not only against the backdrop of industry-wide challenges to engage, retain and support full-staff complements, but because it discounts the practical and clinical significance of whole categories of specialized staff that attend to residents daily and are critical to their care. We urge an amendment to the proposal to include such individuals as part of target staffing and quality of care. A failure to amend this legislation

to accurately define essential care staff for nursing home residents may result in undermining vulnerable citizens ability to access needed healthcare at these crucial institutions.

We are hopeful that the Department of Health will address these concerns and work with providers and staff to ensure continued access to long-term care services in Pennsylvania. We encourage the Department of Health to amend the provisions contained in §211.12(i) to address the concerns raised in these comments.

Sincerely,

COWART DIZZIA LLP

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Gina Dizzia, Esquire
Partner

A handwritten signature in black ink, appearing to read 'Trisha Cowart', with a long horizontal stroke extending to the right.

Trisha Cowart /s/
Trisha Cowart, Esquire
Partner