



August 17, 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 of Paramount Nursing and Rehabilitation. Our nursing facility is a 92-bed facility located in Fayetteville, Pennsylvania. We employ 119 employees and provide services to 70 residents. As the Nursing Home Administrator, I can attest to our facilities commitment to providing high quality care and prioritizing the needs of the residents we serve each and every day.

After reviewing the proposed regulation, we have grave concerns regarding the amendments to increase the required minimum number of hours of general nursing care from 2.7 to 4.1 hours for each resident and excluding other direct care provided by essential caregivers.

Our facility along with all the other skilled nursing facilities in this area are experiencing staffing challenges with workforce availability of direct care staff. As the Administrator, I have done everything I can to not have to use agency staffing to meet the current 2.7 nursing care hours. We are struggling to hire enough CNAs and LPNs with the current requirement. This increase in nursing care hours will force facilities to seek out agency staff which any administrator will tell you does not lead to having better quality of care. The agency staff member is filling a slot. They have no vested interest with the residents. The current hours only account for CNA, LPN and RN direct care hours with residents. Nursing homes use an interdisciplinary approach to meet resident care needs which involves therapists, social workers and dietitians. These disciplines should be considered when determining total direct care hours along with nursing hours.

We have recently increased our wage matrix well above our competitors and offer large sign-on bonuses to try to hire and retain enough staff. This additional wage increase will create a financial strain on the facility as the current reimbursement for Medical Assistance Residents has remained stagnant for the last several years. The financial impact of trying to maintain 4.1 nursing care hours will ultimately force nursing homes to close as reimbursement from Medical Assistance does not come close to cover the nursing home costs to care for a resident.

During the COVID crisis the federal waiver has allowed skilled nursing facilities to employ Temporary Nurse Aides (TNA) with specific training provided by the facility. This has helped with some of our staffing challenges, however on April 8, 2021 the federal Centers for Medicare and Medicaid Services (CMS) issued guidance clarifying that TNAs must

still complete all areas of required training under the federal regulations and successfully pass the state's competency exam to become a Nurse Aide and be enrolled on the PA Nurse Aide Registry. As a result of this new guidance, Pennsylvania Department of Education stopped accepting and processing TNA applications while the new guidance is reviewed to determine the impact on the Act 138 pathways. This needs to seriously be looked at as the state of Pennsylvania has failed to have adequate training programs for CNA's or LPN's. In Adams County, there weren't any CNA training programs offered for 2020. It was just announced last month that a program will be starting at Transitions Healthcare Center in Gettysburg, PA. Franklin County only has 1 CNA training program through the Franklin County Vo-Tech which was not accepting students through most of 2020. There certainly not enough training programs to train new CNA's entering the profession for 11 Skilled Nursing facilities between Adams and Franklin County. I need to also add the amount of time it takes for a new CNA to get scheduled for a competency exam is extremely long. This has taken some individuals over 6 months to even get scheduled due to the lack of testing sites within the state of Pennsylvania. The lack of training programs and testing sites should be a serious factor to be looked at to see that the 4.1 hours certainly is not an obtainable goal. Please research how many current CNAs and LPNs live within each county throughout the state and you will easily be able to see the shortage not just to skilled nursing facilities but to the healthcare industry as a whole. Our current staff are picking up additional shifts now due to the vacancies and we have to worry about staff burnout. These increased nursing hours will have a negative impact to our staff who will feel even more pressure to work more hours and could cause staff to seek employment outside the nursing home industry.

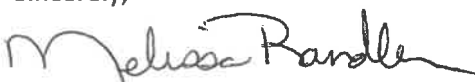
Another factor to consider, is that skilled nursing facilities will be forced to reduce their capacity to accept admissions if the 4.1 hours requirement passes. The facilities will have to keep their total census low in order to meet this nursing hour mandate. This will have a negative impact on the hospital systems that will have no where to discharge our most vulnerable population. I know the local hospitals in both Adams and Franklin counties are currently struggling with finding nursing home placement for long term residents, because the area nursing homes aren't able to admit due to not having enough staff. The hospitals are at capacity for admissions and critically ill patients will not be able to be admitted because the hospitals can't discharge the patients in need of long-term care. This scenario is already happening. I can only image how exacerbated this issue will become if the nursing care hours are mandated to 4.1.

What will the outcome be if the nursing homes fail to meet the 4.1 nursing care hours mandate and the DOH will penalize the facility for not meeting this state mandate? The only options for the skilled nursing facilities will be to reduce their capacity. If you surveyed every nursing home in the state, their responses would all be the same regarding not having enough staff now. What is currently happening in the industry is that facilities just keep competing for the same staff because there is a shortage of CNA's, LPN's and RNs in the entire state. Skilled nursing facilities struggle with staff retention because a staff member can just quit and go down the street depending on what that nursing facility is currently offering for wages and sign-on bonuses.

All skilled nursing facilities would love to be hiring more staff but everyday we are faced with the same challenges of trying to find staff to hire. I would ask that much more insight and thought should have gone into this proposed rule. I would have expected that our state government would have spoken with long term care industry leaders to gain more education and understanding of our challenges before such an increase in nursing hours was proposed without clearly understanding the negative impact this provision will have to the long-term care industry.

Thank you for your time in reviewing and considering my comments. We are hopeful that the Department will amend the provisions contained in 211.12(i) in a manner that will address the concerns raised in this letter.

Sincerely,



Melissa Randler, NHA, MBA

Paramount Nursing and Rehabilitation