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SeniorLAW Center
Protecting the Rights of Older Pennsylvanians



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August 30, 2021

Lori Gutierrez
Deputy Director - Office of Policy
625 Forster Street, Room 814
Health and Welfare Building
Harrisburg, PA 17120
VIA EMAIL to: RA-DHLTCRegs@pa.gov

Re: Rulemaking 10-221 (Long-Term Care Facilities, Proposed Rulemaking 1)
28 PA Code Chapters 201-203 and 211

To Whom It May Concern:

On behalf of SeniorLAW Center, thank you for the opportunity to comment on the first package of proposed regulations addressing nursing homes. COVID-19 exposed longstanding problems with nursing home care that resulted in preventable deaths of residents and a devastating impact on their health and well-being. We support the Department of Health's making comprehensive reform to the outdated nursing home regulations. These changes are long overdue.

SeniorLAW Center fights for justice for older Pennsylvanians and advocates for elder justice. For over 40 years, our nonprofit legal services organization of attorneys and advocates has provided free legal representation, education, and advocacy on critical issues of law affecting older people, focusing on those in the greatest social and economic need. Our mission is to seek justice for older people by using the power of the law, educating the community, and advocating on local, state, and national levels. We envision a world that values older people, hears their voices, and guarantees their rights. We have 5 offices in Pennsylvania and through our statewide HelpLine, serve thousands of older Pennsylvanians in all 67 counties of the Commonwealth.

SeniorLAW Center writes in full support of the [comments](#) submitted by the Center for Advocacy for the Rights and Interests of the Elderly (CARIE) and Community Legal Services (CLS). More specifically, we recommend:

- Section 201.3 Definitions: The Department must revise, not eliminate, state definitions of abuse, neglect, exploitation in these regulations to avoid negative impact on state enforcement of Protective Services. The definitions should incorporate both the federal and state definitions by cross referencing to both the federal regulations and the state OAPSA and APSA laws.

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Protecting the Rights of Older Pennsylvanians

- 211.12(i) Nursing Services: The current 2.7 hours minimum direct care staffing levels, that have been in place since the 1990s, must be increased to a minimum of 4.1 hours of direct care per resident per day. This has been a consistent recommendation from nursing care experts and CMS for over twenty years. We unequivocally support this increase in the minimum direct care staffing level. However, the change to the number of hours per resident per day reflected in the proposed revision to §211.12(i) alone is not sufficient to ensure sufficient staffing to meet each resident's individual care needs. Other portions of §211 must be revised to ensure that nursing homes can provide quality care for residents.

Finally, the longstanding direct care workforce shortage has reached crisis proportions during COVID-19. The Department must work with other state agencies to address these shortages so nursing home residents can get the care they need to live with dignity. Increasing Medicaid rates that are specifically targeted to direct care along with utilizing federal pandemic related funding are among potential strategies that must be pursued.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'KCBuck', followed by a horizontal line.

Karen C. Buck
Executive Director
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