



From: [Matt Yarnell](#)
To: [DH, LTCRegs](#)
Subject: [External] SEIU HCPA Comments on Reg Package 2
Date: Monday, November 8, 2021 1:33:11 PM
Attachments: [SEIU Comment on LTCF Package 2.pdf](#)

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Hi,

Please see our attached comments.

Matthew W. Yarnell

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November 7, 2021

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To:

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 10-222 (Long-Term Care Facilities, Proposed Rulemaking 2)
28 PA Code Sections 201.23 and 207.4, Chapters 203, 204 and 205

To whom it may concern,

I am writing as the president of SEIU Healthcare Pennsylvania, which represents thousands of caregivers and other staff at over 100 long-term care facilities across the Commonwealth. Our members are pleased that the Wolf administration has taken up the task of revising and modernizing Pennsylvania’s long-term care facility regulations; these regulations have not been updated in over 20 years, and the need for comprehensive reform in the long-term care sector has never been clearer in the wake of the Covid-19 pandemic.

The Regulations as a Whole

We understand that the current proposed rulemaking is the second of five regulatory packages, and that future packages will address other issues in the industry. We urge the Department to consider the following key issues at every stage in the regulatory process:

- **Staffing:** The Department has heard the voices of advocates, residents and families across the Commonwealth and has proposed a safe staffing level of 4.1 nursing hours per resident-day. We applaud this commitment and urge the department to specify detailed staffing requirements for each category of nursing staff, by shift, in accordance with the [recommendations](#) put forward by CARIE and CLS. We further urge the department to ensure strong enforcement mechanisms.
- **Ownership:** Pennsylvania’s long-term care industry has been plagued by irresponsible ownership, leading to disastrous outcomes for residents. The Department should revise regulations to require dramatically more disclosure and public notice and to empower regulators to prevent irresponsible owners from acquiring facilities in Pennsylvania.
- **Person-Centered Care:** In all aspects of the regulations, the Department should prioritize resident rights and dignity and empower residents to make choices about their own care.

Comments on Rulemaking Package 2

We applaud the Department’s efforts to modernize and streamline regulations relating to facility closure, the Life Safety Code, and physical standards for facilities. In general, we support the Department’s effort to bring Pennsylvania regulation in line with federal requirements and to avoid duplication. However, federal standards are not always adequate to ensure high-quality care. In some instances the Department risks replacing stronger state requirements with weaker federal ones, which creates potential hazards for resident care.

Chapter 201, Section 201.23: Closure of Facility

With the long-term care industry facing rapid change and significant financial pressure, it has never been more important to ensure that facility closures take place in an orderly way that ensures safety and autonomy for residents and fair treatment for staff. Long-term care facilities are not only healthcare facilities but are also home to thousands of vulnerable Pennsylvanians; ensuring an orderly closure process is vital.



Section 201.23(a): Under current regulations, facilities are required to give 90 days' notice of a planned closure. Given the tremendous complexity of resident needs and the dangers posed by sudden changes, we believe that 90 days is the minimum appropriate time for notice. The Department proposes to reduce this to 60 days, in line with federal guidelines. We recommend that the Department reconsider and maintain the 90-day requirement.

Section 201.23(c): This provision in existing regulation requires that "sufficient time shall be given to the resident or the resident's responsible person to effect an orderly transfer." The Department proposes eliminating this requirement, since federal regulation requires facility operators to submit a plan for ensuring orderly transfer. However, submitting a plan is not the same as ensuring orderly transfer. The current regulation is stronger, and we recommend maintaining it in the interest of residents' rights.

Section 201.23(g): The Department proposes to delete this provision in existing regulations, which requires that facilities submit "proof of financial responsibility... to insure that the facility continues to operate in a satisfactory manner" during the closure period. We are deeply concerned that this provision puts residents and caregivers at risk. One need only point to the collapse of Skyline in 2018, in which the sudden insolvency of a large nursing home chain resulted in unpaid bills and [staff had to purchase food for residents](#), to recognize the importance of ensuring continued financial responsibility during facility closures. The Department argues that federal regulations already require the submission of a financial plan. But existing state regulations require not merely a plan but proof of financial capacity; we recommend maintaining the existing regulations.

Finally, we echo the public comments from CARIE and CLS available on the Independent Regulatory Review Commission's website concerning Chapters 203, 204 and 205 of the revised regulations and encourage the Department to center resident advocates' concerns in this package and the revision as a whole.

Best,
Matt Yarnell
President, SEIU Healthcare PA

