



From: [Matt Yarnell](#)
To: [DH, LTCRegs](#)
Cc: [Michael Kinnucan](#)
Subject: [External] Nursing home Package 3 comments
Date: Monday, April 18, 2022 5:38:04 PM
Attachments: [Public Comment on Package 3 \(kq\) 4-18-22 pdf.pdf](#)

***ATTENTION:** This email message is from an external sender. Do not open links or attachments from unknown sources. To report suspicious email, forward the message as an attachment to CWOPA_SPAM@pa.gov.*

Dear Lori,

Please see the attached PDF with my public comments on package 3 of the proposed Nursing home regulations.

Please let me know if you have any questions or if you are having issues viewing them.

thanks,

Matthew W. Yarnell

President
SEIU Healthcare Pennsylvania
Cell (814) 360-3149
Fax (717) 238-8354
www.seiuhealthcarepa.org



MATTHEW YARNELL
President

MORGAN LINDSEY
Secretary-Treasurer

SARAH FISHBEIN
Executive Vice President

SILAS RUSSELL
Executive Vice President

ALI KRONLEY
Vice President

AMANDA LAPINA
Vice President

CARLOS RIVERA
Vice President

WENDELL ROYSTER
Vice President

REGINA SIMMONS
Vice President

Executive Board

- Katrina Allard
- Brad Barkdoll
- John Berezansky
- Kelly Blacker
- Sam Boland
- Antonio Bowser
- Lauren Cantalope
- Maureen Casey
- Lisa Colatruoglio
- Stephanie Cole
- Cathy Curtin
- Connie Cwikla
- Shelby Dille
- David Green
- Donna Heimbach
- Justin Hensal
- Rachael Herczeg
- Ben Knight
- Denelle Korin
- Lori Kreider
- Andrea Leach
- Shannon Mahoney
- Stefan Martin
- Tonya Morrow
- Jeanette Oakley
- Lolita Owens
- Linda Parlett
- Erica Payne
- Tracy Pesanski
- William Pollock
- Katrina Rectenwald
- Courtney Reis
- Chris Rider
- Tina Siegel
- Thomas Smith
- Tynia Stevens
- Donna Stinson
- Christina Thompson
- Ruth Visintainer
- Sandra Wagner
- Keisha L. Williams
- Sandra Williams
- Annale Yobbi
- Erica Zimmerman

Monday, April 18, 2022

Submitted by e-mail to: RA-DHLTCRegs@pa.gov; irrc@irrc.state.pa.us

Lori Gutierrez
Deputy Director, Office of Policy
PA Department of Health
625 Forster Street, Room 814 Health and Welfare Building Harrisburg, PA 17120

Re: Proposed Regulation #10-223: Long-Term Care Nursing Facilities (Package 3)

Dear Ms. Gutierrez,

I am the president of SEIU Healthcare Pennsylvania, which represents tens of thousands of healthcare workers across the state including thousands of nursing home workers. On behalf of our members, I am writing to express strong support for the Department’s proposal to expand oversight of nursing home ownership. For too long, irresponsible operators have been allowed to purchase nursing homes in Pennsylvania with no accountability for past failures; the consequences of these purchases have been deadly for residents and caregivers alike. Anyone who followed the disastrous Skyline bankruptcy knows that our process is broken, and the proposed regulations go a long way to ensuring high-quality, responsible providers for facilities across Pennsylvania by increasing documentation required for new applicants and expanding the grounds on which potential operators can be held accountable for poor behavior.

However, in some areas the proposed regulations do not go far enough in ensuring a transparent, accountable process. Our union recommends that the department pursue the following changes in revising these regulations:

Recommendation 1: Ensure Public Transparency for Nursing Home Change of Ownership

The proposed regulations make no provision for public notice of nursing home sales and offer no opportunity for residents, families, caregivers, advocates or the general public to weigh in on sales. This represents a serious gap in these regulations. Those directly impacted by a sale have the right to know about it before it happens and to help ensure that potential new owners are responsible. We urge the department to:

- 1) Publish notice of proposed changes of ownership on its website as it receives them.
- 2) Publish full applications with associated documentation (redacted as appropriate to protect proprietary information) in a timely manner as the Department receives and processes them.
- 3) Require facilities to post publicly within the facility about proposed changes of ownership, to post notice on its website, and to notify staff, residents, resident representatives, family members, and the state LTC Ombudsman in writing of any proposed change of ownership and of opportunities for public comment.
- 4) Set up a process to receive comments from the public about concerns with the proposed licensee and whether the licensee meets the criteria set forward by the department.
- 5) Review and take into account public comments in making decisions about whether to approve an application.



Recommendation 2: Provide Clear Grounds for Automatic Denial of an Application

The Department’s proposed regulation lists considerations that the Department will take into account in deciding whether to approve an application, but does not make clear what circumstances would be in and of themselves sufficient grounds for the denial of an application. The Department should make clear that an application will be denied if any of the following circumstances obtain:

- 1) The applicant has or had in the past 5 years a 5% or greater ownership stake in any facility that was disqualified from Medicare or Medicaid payment for quality issues.
- 2) The applicant has or had in the past 5 years a 5% or greater ownership stake in any facility that was a Special Focus Facility or Special Focus Facility candidate.
- 3) The applicant has or had in the past 5 years a 5% or greater ownership stake in any facility that declared bankruptcy.
- 4) The applicant has been convicted of elder neglect or abuse.

Recommendation 3: Require Consolidated Financial Statements Among Related-Party Entities

While over 70% of nursing home funding comes from the state, it is very difficult for the public to understand how that money is spent because of the complex financial structure of many nursing home operators. In particular, some operators make use of related-party transactions to avoid public scrutiny: the facility is reported as purchasing some goods and services from other legal entities owned by the same operator (or sharing overlapping ownership). In a related-party transaction, the facility may purchase goods and services at inflated prices from another business, effectively moving money from the publicly-disclosed facility’s books to the books of another legal entity outside public view. This practice defeats the purpose of requirements for financial reporting.

The Department should prevent this form of evasion by requiring that facilities submit consolidated financial statements offering a comprehensive view of the finances of the operating company. This will greatly increase the Department’s ability to understand the finances of the operator and evaluate its fiscal situation.

We applaud the Department for initiating the process of ensuring better ownership and greater transparency for the Pennsylvania nursing home industry. This process represents a once-in-a-generation opportunity to clean up this broken industry, and we hope that the Department will meet the moment by revising these regulations to expand public oversight, ensure tougher ownership criteria and broaden financial reporting requirements.

Best,
Matt Yarnell
President
SEIU Healthcare Pennsylvania