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Lori Gutierrez, Deputy Director for the Office of Policy
PA Department of Health
625 Forster Street, Room 814 Health and Welfare Building Harrisburg, PA 17120
Submitted via email to: RA-DHLTCRegs@pa.gov

Re: Rulemaking #10-221 (Long Term Nursing Care Facilities, Proposed Rulemaking 1)

June 27, 2022

Dear Ms. Gutierrez,

I am writing on behalf of the tens of thousands of SEIU Healthcare Pennsylvania members across the state who provide care to Pennsylvania's most vulnerable residents. Our members, including thousands of nursing home workers, have known for many years that Pennsylvania's long-term care system is broken; the Covid-19 pandemic has only shone a public spotlight on the severe problems that have plagued Pennsylvania's nursing homes for decades. We know that this system plays a vital role in caring for Pennsylvania's aging population, and we know that it is in desperate need of comprehensive reform. That's why we're delighted to see the Department of Health moving forward with a long-overdue thoroughgoing modernization of the state's long-term care facility regulations, which have not been updated since the late 1990s; getting these regulations right is a crucial step in reshaping this industry so that it can regain the trust of residents, families and caregivers.

My comments will focus on the most crucial aspect of the regulations proposed in Package 4: Improvements in direct care staffing.

Increased Minimum Staffing Requirements are Urgently Needed

Decades of research demonstrate that increased staffing in nursing homes is necessary for resident health, safety and dignity, yet for decades little has been done to address this critical issue. Every day, our members face the impossible task of caring for residents in critically understaffed facilities; for many of our CNA members, it is not uncommon to be assigned to care for as many as 20 or even 30 residents at a time. In this situation it is simply impossible for caregivers to assist residents with meals and toileting in a timely manner, much less provide the individual attention and care so crucial to resident wellbeing.

Raising staffing minimums will offer residents the safety and dignity they deserve. For this reason, we applaud the department's decision to propose improved staffing levels.

Increased Staffing Levels are Crucial to Resolving the Workforce Crisis

In response to the department's initial proposal to raise staffing levels in nursing homes, some commenters argued that improvements in staffing would not be possible given the ongoing workforce crisis in long-term care. The workforce crisis is indeed acute; thousands of caregivers have left the bedside during the Covid-19 pandemic. But we hear from our members every day that understaffing is a *cause* of this crisis.

Caregivers enter the long-term care industry out of a passion for care: they want to treat residents with dignity and respect, and they work these often low-wage, physically demanding jobs for that reason. At current staffing levels, however, caregivers are faced with an impossible task, and face the exhausting daily prospect of being unable to do their jobs well and protect their residents. This dynamic drives caregivers away from the bedside and is in part responsible for the extremely high turnover in the industry.



Adequately staffed long-term care facilities will be far better able to recruit and retrain passionate caregivers. The workforce crisis makes it all the more urgent that we ensure that long-term care facilities staff at a level that makes it possible for workers to do their jobs.

Increased Staffing Must be Balanced with Resources

The Department has proposed 4.1 hours of care per resident-day (HPRD) as an appropriate staffing level. SEIU Healthcare Pennsylvania fully supports this staffing level as a long-term goal. However, we understand that the state must balance the urgent need for higher staffing with available resources and Medicaid funding

For that reason, we have engaged with industry partners to call for an appropriate level of staffing combined with funding through increased Medicaid rates. Our analysis shows that the state's investment of an annualized \$293.4 million in Medicaid funding for nursing homes, which we are advocating for in the fiscal year 2022-23 state budget, can support staffing ratio requirements as follows:

- 1 CNA per 10 residents on the day shift
- 1 CNA per 11 residents on the evening shift
- 1 CNA per 15 residents on the night shift
- 1 LPN per 25 residents on the day shift
- 1 LPN per 30 residents on the evening shift
- 1 LPN per 40 residents on the night shift

These requirements are equivalent to 3.2 HPRD.

Furthermore, we recommend a lower requirement for CNA ratios for the first year to offer the industry time to adapt to the new ratios—specifically, 1 CNA per 12 residents on the day and evening shift, and 1 CNA to 20 on the night shift. These first-year requirements would be equivalent to 2.87 HPRD.

In conversations with our members across the state, they have made clear that these ratios—while still too low in the long term—would represent a dramatic improvement to resident care and dignity relative to the profoundly broken status quo. We urge the Department to revise staffing ratio requirements in light of the state budget to ensure a significant and feasible improvement to resident care.

Staffing Regulations Must Incorporate Both HPRD and Ratios

We applaud the Department's decision to specify caregiver-to-resident ratios by job classification in its proposed regulations. Ratios are crucial to the transparency and enforceability of these regulations; residents, resident families and caregivers are far better able to understand ratios and hold facilities accountable for them than they are HPRD. Few caregivers or residents can easily tell how many HPRD are being provided in a given facility, but ratios are clear and unambiguous. At the same time, for regulators, HPRD offers a clear window into overall facility staffing levels, particularly given the availability of daily (but not by-shift) staffing levels through the CMS Payroll-Based Journal dataset. Both requirements have important roles and should be included in final regulations.

In conclusion, we applaud the Department's proposal to increase staffing levels in nursing homes and urge that final regulations be proposed as soon as possible. Pennsylvania's nursing home residents have waited too long for adequate care, and these regulations represent a historic step forward in transforming this troubled industry.

Sincerely,



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Matt Yarnell
President
SEIU Healthcare Pennsylvania

