



June 29, 2022

Independent Regulatory Review Commission  
333 Market Street,  
14th Floor,  
Harrisburg, PA 17101

**RE: Phase 4 Proposed Regulations (Long-Term Care Facilities)**

To Whom It May Concern:

On behalf of the County Commissioners Association of Pennsylvania (CCAP), representing all 67 counties in the commonwealth, I write to share our comments on Phase 4 of the proposed regulations that would amend existing statutes for long-term care facilities. CCAP and its affiliate the Pennsylvania Coalition of Affiliate Healthcare and Living Communities (PACAH), want to make the Department of Health (DOH) aware of our concerns with the proposed regulations published on June 1, 2022. We thank you for the opportunity to provide input on the proposed long-term care facility regulations and ask the Independent Regulatory Review Commission to reject the proposed regulations.

We appreciate the Department's continued attention to long-term care and its residents throughout the commonwealth. County nursing homes as well as other affiliated long-term care facilities, care for one of the most vulnerable populations. During the pandemic, facilities across Pennsylvania rose to the challenge and ensured that residents received quality care. Currently, there are 20 county-owned long-term care nursing facilities across the state. County nursing facilities are the only type of facility by ownership required to accept any resident with Medicaid at the time of admission. Other facility types by ownership (for profit and not for profit) may select which patients to admit, thereby increasing the case mix of residents with higher reimbursement rates.

*Federal Law Inconsistency*

CCAP remains concerned with the inconsistencies with Federal law in the 32-page proposed regulation by DOH. The Department is proposing to increase the minimum daily hours of nursing care that must be provided to each resident. However, the proposed staffing requirements are based on a study from 2001. DOH states that the study supports their proposal and while the study is helpful, DOH is not correctly referencing it. Nursing facility residents come with an array of needs and conditions, each requiring a unique level of care. Some residents with higher acuity will require more direct nursing hours than residents with

lower acuity. More accurately, nursing hour ratios should be tied more closely to the needs of each resident. In doing this, each nursing homes situation will be taken into consideration.

#### *Cost and Regulation Compliance*

As stated previously, county-owned long-term care facilities have a higher number of Medicare and Medicaid residents in comparison with other facilities. Higher acuity residents based on these payment types produce a situation where reimbursement rates do not meet the actual cost of providing care. The proposed increase in staff to resident ratios-will result in a substantial increase in direct costs for facilities. Although the Department states that counties would be reimbursed with 84.51% of the cost, county homes will incur cost above reimbursement due to an overall increase in staffing ratios needed to maintain minimum compliance. Facilities that are found to be non-compliant face significant penalties, including monetary fines. At a time when businesses of every type are struggling to meet workforce demands, these challenges could easily result in the loss of county homes, the only safety net facilities in Pennsylvania available to our citizens who rely on Medicaid and Medicare for their long-term care needs.

We thank you for your attention to these comments. If you have any questions or would like to discuss further, please do not hesitate to contact Ashley Lenker White, CCAP Director of Government Relations, at [awhite@pacounties.org](mailto:awhite@pacounties.org) or 717-319-9396.

Sincerely,

A handwritten signature in cursive script that reads "Ashley Lenker White".

Ashley Lenker White  
Director of Government Relations