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Comments on Department of Health Proposed Regulation #10-242: Communicable and Noncommunicable Diseases
Submitted on September 10, 2026

Introduction

The Commonwealth Foundation appreciates the opportunity to comment on proposed regulation 10-242, amending 28 Pa. Code Chapter 27. The foundation has strong objections to the broad powers given to the Department of Health (DOH), which conflict with basic constitutional rights, and the failure of the department to assess the costs of these changes to schools, daycares, and healthcare providers.

Pennsylvania was the first state to [amend its constitution in 2021](#) to limit executive authority following COVID-19. Two amendments capped a governor's emergency declaration at 21 days and gave the legislature the power to end or extend them without his signature. The message is clear: Pennsylvanians do not support governing by decree.

However, the proposed regulations reinstate and expand these executive powers.

Beyond an overreach of executive powers, the proposed regulations highlight shortcomings in the regulatory process that ignore significant costs on businesses. In this case, costs to childcare providers and healthcare providers. Without accurate cost projections, it is impossible to conduct a true cost-benefit analysis to determine whether these regulatory changes are in the best interest of Pennsylvanians.

Overreaching Powers Already Rejected by Voters

The Department of Health seeks broad expansion of its disease control powers — in a way that undermines constitutionally protected rights — in a direct response to *Corman v. Acting Secretary of*

Pennsylvania Department of Health. Although the case focused on the legality of a statewide school mask mandate, the proposed regulations allow for far more than school masking.

The new rules empower the department to prevent, contain, and mitigate issues proactively, moving beyond mere observation. These powers include enforcing social distancing, closing facilities, conducting private interviews with minors without parental consent, and entering private property without justification or a warrant.

The Shapiro administration isn't merely seeking to reestablish authority revoked in 2021; it is seeking unchecked powers that cut to the very heart of our freedoms as citizens. Governor Shapiro is asking his own agency to write itself new powers. This sets a dangerous precedent that should concern all Pennsylvanians who believe government answers to its citizens.

Current regulations state a person may not obstruct a health representative who seeks to enter a house to investigate a case or outbreak, provided the official presents identification. The proposed language seeks to expand these already broad powers in several ways.

Namely, expanding language in § 27.152 from “investigation of a case or outbreak” to the much broader “public health emergency or unusual occurrence” in section § 27.60a. Next, the regulations broaden language in the same section from “no interference to entry of a home” to “no obstruction of an investigation broadly.” And finally, the new regulations establish express authority for contact tracing.

Proposed § 27.60 (b) states:

“The Department or local health authority may enter an apartment, building, health care facility, school, college, or university, or other location as necessary to conduct its investigation under this chapter if the representative presents government identification documentation to establish that they are an authorized representative of the Department or the local health authority.”

Proposed § 27.60 (c) states:

“The Department proposes to require a person, including an employee or official of a school, to permit the Department or local health authority to meet and speak with a student or other person, in private, and to prohibit the person from interfering with the student or other person’s ability to exercise their right to give consent under 35 P.S. § 10103. Pursuant to 35 P.S. § 10103, “any minor may give effective consent for medical and health services to determine the presence of or to treat... venereal disease and other diseases reportable under the act April 23, 1956 (P.L. 1510), known as the ‘Disease Prevention and Control Law of 1955,’ and the consent of no other person shall be necessary.”

These provisions allow health department representatives to enter private places such as homes, businesses, and colleges—all without a warrant. Schools would be required to grant officials private access to students during the school, without requiring parental notification or consent.

This unfettered power is precisely the executive overreach that Pennsylvanians rejected in 2021. Further, the absence of any language referring to consent, probable cause, or an administrative or search warrant creates the perception that these powers supersede constitutional protections – that the DOH is above the law -- and could likely confuse or pressure individuals into giving up their rights.

Notably, the language does not reserve these powers for a time of emergency.

The timing of this attack on privacy is significant given the Pennsylvania Supreme Court has [recently reiterated](#) that Article I, Section 8 of the Pennsylvania Constitution can afford greater protection against warrantless government searches than the United States Constitution.

In addition, violators of this proposed regulation would face serious penalties, including fines, raising the importance of language that is clear, constitutional, and reserved for the most severe situations.

Finally, no other neighboring state has adopted regulations of such sweeping magnitude. The department notes these regulations are unique among neighboring states or as the department says, “ahead of other states in the region.” The department is seeking additional authority for authority’s sake.

Reveals Regulatory Process Shortfalls

In multiple instances, the department fails to estimate the cost of these new regulations on healthcare providers or childcare providers.

“Schools, colleges, universities and childcare group settings will benefit from proposed amendments to reflect current terminology and to enhance readability, such as the proposed alphabetical chart for exclusion and readmission requirements in proposed § 27.71a, which will make it easier to comply with the regulations and may result in efficiencies. . . The proposed amendments, including the addition of exclusion and readmission requirements for 18 new diseases, infections and conditions, align with current recommendations from the American Academy of Pediatrics (AAP) and will ensure the health and safety of students and staff attending these entities. However, these entities may also be negatively affected by an increase in staff and student absences from this expansion, necessitating the need, for example, to employ substitute teachers. Because this cost will vary based on the number of illnesses and time missed, the Department is not able to estimate the specific effects of this proposed amendment.”

The department should work with stakeholders to develop estimates on the cost of increased reporting, and how the expansion of reportable diseases could impact childcare workers and the families they serve.

In response to the sweeping scope of these new regulations and the lack of verifiable cost estimates, Senator Michele Brooks is [proposing legislation](#). The proposed legislation will impose a sunset on these regulations and require approval by the General Assembly before they take effect. Sunset clauses are a powerful tool ensuring regulations provide in practice the benefits intended at implementation. This approach is not only appropriate for sweeping regulations lacking cost estimates, but all new regulatory restrictions, given the cumulative effect of red tape from multiple agencies on entities throughout the commonwealth.

Conclusion

The proposed regulations give the Department of Health powers that Pennsylvania voters denied the executive branch years ago and attempts to add new powers including broad authority to enter homes and schools, close businesses, and privately interrogate children without parental knowledge or consent. This gross overreach is unnecessary, inappropriate, and most likely unconstitutional.

Respectfully,



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