



**Testimony on Improving Pennsylvania's Nursing Homes**

**Senate Democratic Policy Committee Hearing**

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Good afternoon Chairwoman Muth, Senator Fontana, Leader Costa, Senator Boscola, Senator Williams and members of the Senate Democratic Policy Committee. My name is Keara Klinepeter, and I serve as the Executive Deputy Secretary for the Department of Health. Thank you for the opportunity to discuss the Department of Health's role as the regulator of skilled nursing facilities (SNFs) and our critical work in support of the residents of Pennsylvania's long-term care facilities.

As you may know, the Pennsylvania Department of Health is charged with the licensure and regulation of nursing homes. The Department's Office of Quality Assurance oversees this important regulatory oversight of monitoring compliance through surveys, commonly known to the public as facility inspections, to ensure that facilities are providing adequate resident care in compliance with all applicable laws and regulations. This applies to federal law and regulation since, in addition to the department's role as the state survey entity, it is also contracted by the Centers for Medicare and Medicaid Services (CMS) to serve as the federal survey entity for nursing homes. As a quick point of clarity, the department does not license or regulate personal care homes or assisted living residences – both of which are licensed by the Department of Human Services and typically serve residents needing less acute care.

Department Quality Assurance Licensure staff have continuously worked to ensure that facilities are providing care that meets statutory and regulatory requirements. Throughout the COVID-19 pandemic, the department has met this goal, but not without significant challenges. As you may know, from March 2020 to August 2020, CMS directed state regulatory authorities to cease non-emergency annual surveys to prevent the introduction of COVID-19 into the facility by an inspector. During this timeframe, DOH performed virtual surveys, however, complaint surveys have been done on-site. In addition, department surveyors visited every nursing home according to CMS requirements to review infection control protocols and practices starting in June 2020. And to further ensure appropriate infection control protocols, DOH Quality Assurance surveyors have been fit tested for appropriate personal protective equipment (PPE) usage to mitigate the spread of the virus.

During the COVID-19 pandemic, the department worked to ensure that complaint surveys were investigated thoroughly. Taking into account complaint surveys provide a snapshot of the survey process, a complaint survey is originated as a result of a complaint either filed online through our complaint portal, over the phone, via letter, or through legislative offices. Complaints may be filed to the comfortability of the complainant, meaning complainants have the right to either attach their name to a complaint or file the complaint anonymously if a resident, family member, or staff member is concerned about any negative repercussions. Complaint surveys are investigated based on the complaint the department receives. For example, if the complaint centered around inadequate staffing, the surveyors would review staffing records or interview individuals who could verify staffing levels. However, like any investigation, more specific information is always most helpful to surveyors in the course of their review. From there, the information is reviewed internally to determine if any statutory or regulatory threshold was not met.

Based on their findings, the nursing home would receive notice if there was, or was not, any deficiency found during the survey. Depending on the seriousness of the deficiencies identified, one or more of the following state and federal-level enforcement actions may occur:

- Imposing a fine;
- Imposing a ban on admissions and/or readmissions;

- Issuing of a provisional license;
- Terminating participation in the federal Medicare or state Medicaid programs;
- Revoking the nursing home's license; and/or
- Mandating training programs.

The department may also refer complaints or complaint information, as appropriate, to either the State Long-Term Care Ombudsman, Adult Protective Services, or Older Adult Protective Services. Each nursing home receives the written survey results and must provide a plan of correction outlining how the identified issues will be resolved. Nursing homes are surveyed again, based on their plan of correction, to ensure that the plan was implemented appropriately and effectuated. All nursing home survey results are available at each facility and on the department's website at <http://www.health.state.pa.us/SurveysPosted/>.

The Wolf Administration has recognized the unprecedented nature of the pandemic and the pressures it has placed on nursing homes. Throughout the pandemic, some nursing care homes have struggled with adequate staffing. Despite this challenge, facilities remained responsible for providing adequate care and maintaining a safe environment for residents. While the department steadfastly upheld its regulatory responsibilities, the department did not cite a nursing home based solely on a request for assistance from federal, state, and local resources available outside of the department's regulatory channels. Additionally, some regulations and regulatory statutes relating to both licensed professionals and facilities have been suspended under the disaster declaration. While these suspensions assist in coping with the disaster emergency, they in no way change the responsibility of the nursing home to provide the quality care their residents deserve.

In closing, I would like to recognize the work of our Quality Assurance licensing survey staff, who have continued to answer the call by investigating complaints at all hours of the day and night. It is because of them that the department has and will continue to uphold the regulatory and statutory standards for care to ensure good quality of life for the residents. We also thank nursing home staff, residents, and families who have fought through all the challenges brought by this pandemic. Lastly, through the regulatory process, we look forward to the conversation with all parties on the regulatory standards of care for nursing homes in the future. Thank you for the opportunity to participate in today's hearing and I am happy to take any questions you may have.