

Written Testimony of



Delivered by

Zach Shamberg

President and CEO

**For a Public Hearing on
The Impact of COVID-19
Regulatory Suspensions**

**Delivered before the
House Majority Policy Committee**

April 27, 2021

Chairman Causer and members of the House Republican Policy Committee,

Good morning and thank you for the opportunity to join you for today's hearing.

I'm Zach Shamberg, president and CEO of the Pennsylvania Health Care Association, better known as PHCA. I am here today to speak on behalf of our members – those long-term care providers, workers, and residents in nursing homes, assisted living communities and personal care homes – to address the importance of COVID-19 regulatory waivers.

And, ultimately, I hope my testimony today will help the members of this committee, as well as the Wolf administration, to consider making some of these waivers permanent, especially as our Department of Health works towards new, revised regulations for nursing homes in Pennsylvania.

Just over one year ago, in March 2020, when COVID-19 cases were beginning to occur in communities across Pennsylvania, long-term care providers were already conducting efforts to protect their residents and frontline workers from the dangers of the virus.

PHCA was warned, in late February, by our sister association in Washington state – where we saw the first reported cases of COVID-19 in the United States, which occurred in a nursing home – that the virus would greatly impact our most vulnerable citizens. Those residents of long-term care, with comorbidities and underlying conditions, would be the most susceptible segment of our population to the virus. Our friends in Washington state cautioned us then about the need for PPE and testing, as well as staffing challenges we would likely encounter – challenges we are still combating today.

As schools, restaurants and other businesses began to close, our healthcare heroes remained on the front lines of the pandemic to serve our seniors.

But, needless to say: they needed support. They could not do this on their own.

And for the purposes of today's discussion, you should know that long-term care – and the facilities we represent – is the second-most regulated industry in the entire United States, behind only nuclear power. A nursing home administrator cannot sneeze unless it's written in the regulations. So, for any kind of flexibility, we must request and receive a waiver.

Even before the COVID-19 pandemic, long-term care providers were attempting to combat a workforce crisis and nursing shortage. The last twelve months have both amplified and exacerbated those challenges. So much of what we will discuss today is focused entirely on our frontline heroes, and building – and maintaining – the workforce pipeline in the third-oldest state in the country.

In March 2020, the first letter we sent to the Wolf administration during the pandemic focused entirely on our workforce and regulatory relief. We asked for four critical waivers: flexibility on staffing minimums; flexibility for those who could perform certain duties in our facilities, as the response to the pandemic truly became an 'all hands on deck' approach; the ability to offer childcare services in our facilities, as the vast majority of our workers are female and many are mothers, if not single mothers; and temporary licensure expansion for healthcare workers from out of state, so that providers could recruit frontline workers from those states who weren't experiencing the same case counts we were in

Pennsylvania, without waiting six months for approval from the Department of Health or state Board of Nursing.

Three of those waivers were granted. The childcare request was not. And those three waivers were critical in the pandemic response.

Another critical staffing waiver allowed for the creation of the temporary nurse aide, or TNA, program. To recruit workers to the frontlines, we needed to be creative. In Pennsylvania, as in other states, we utilized an entirely brand new position. After an 8-hour online training program, as well as hands-on training in a nursing home, Pennsylvanians could be hired as temporary nurse aides to help provide aspects of resident care and aid in the epicenter of the pandemic.

I am very proud to tell you that nearly 5,000 Pennsylvanians completed this training, and joined the men and women on the frontlines.

To put it another way: at a time when thousands of Pennsylvanians throughout the state were losing their jobs, long-term care was hiring. And it is because this waiver allowed it. And legislation that this body passed last year, and the Governor signed into law, allows for those same TNAs to become CNAs, and maintain their employment moving forward.

We would also encourage utilizing and extending any waivers that eliminate hiring and training barriers – which currently exist in long-term care – to ensure the availability of a competent and appropriately-trained workforce.

For instance, consideration should be given to extending the suspension of the 120-day limitation for nurse aides to work in a nursing home if they are unable to schedule their licensure test due to limited testing sites, or a backlog. Not extending this suspension, under those circumstances, would sideline many healthcare workers – and we would risk that brave worker never following through with their certification. We simply cannot afford to take that risk.

In addition, any steps that can be taken to allow facilities to onboard staff more efficiently to help address staffing challenges are critical. For example, allowing nursing homes, when appropriate, to continue to use a single-step tuberculosis test or questionnaire will allow for new employees to complete their orientation – without resident contact – while waiting for the results of their one-step test. This will better position new staff to provide resident care at the end of their orientation.

Physician services also play a vital role in resident care, and I would be remiss if I did not mention the importance of telehealth and telemedicine, and the waivers that allowed our providers to administer this virtual healthcare to our residents – especially as facilities were forced to restrict outside visitors. Telehealth transported our physicians to a resident's bedside in a quicker, more efficient, and safer manner, which allowed us to address critical needs.

Additionally, waiving the 30-60-90-day schedule requirement for in-person physician visits for nursing home residents to allow for those telehealth visits to be conducted, as appropriate, has served as a benefit to both residents and workers.

These waivers and suspended regulations have proven to improve resident care and workforce availability effectively and efficiently during the extent of this public health emergency. Without these waivers, relief would never have arrived on the frontlines.

Moving forward, if these waivers are to continue, we believe this would be a big step in the right direction for long-term care providers to strengthen their frontline support – during the pandemic and beyond.

We look forward to working with members of the general assembly, as well as the Wolf administration, to address easing the regulatory burdens in long-term care. Ultimately, there must be collaboration.

Thank you, and I'll be happy to take questions at this time.