



**Joint Senate Aging & Youth Committee and
Health & Human Services Committee
Virtual Hearing**

Testimony on Long-Term Care and COVID-19

**Adam Marles
President and Chief Executive Officer
Leading Age PA**

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Good Morning Chairwoman Ward, Chairwoman Brooks, Chairwoman Collette, Chairman Haywood, members of the Senate Aging & Youth and Health & Human Services Committees. Let me start by thanking you for the work you do on behalf of older adults in Pennsylvania and for the opportunity to provide testimony on COVID-19 and senior services today.

I am Adam Marles, the President and Chief Executive Officer of LeadingAge PA, which represents more than 350 not-for-profit providers of senior housing, health care, and community services across the Commonwealth. These providers serve more than 75,000 older Pennsylvanians and employ over 50,000 dedicated caregivers, all of whom are affected by the crisis caused by the coronavirus pandemic, whether or not they live or work in a community with positive cases of COVID-19.

Today, I will discuss funding challenges of senior service providers, especially nursing homes, review what nursing homes are doing to prevent and mitigate COVID-19, the importance of nursing home staff and keeping them safe, and what nursing homes need from the Commonwealth to continue their work.

We have seen that the COVID-19 virus is tailor-made to attack older people. Especially vulnerable are those who receive care in nursing homes, personal care homes and assisted living facilities because they suffer from serious chronic health conditions that put them at the highest risk for the most serious outcomes of COVID-19, while their congregate living situation increases the risk of acquiring the infection if it is present. Long-term care is the epicenter of

this crisis and I appreciate that you have asked me here today to share LeadingAge PA's concerns and requests with you.

LeadingAge PA members are committed to the provision of excellent senior services. Even before the COVID-19 pandemic, our members knew that the key to their success is talent management, engaging and empowering team members in order to cultivate high performance, innovation and increased satisfaction, which brings us to the discussion of better protecting our healthcare workers with priority access to PPE and testing during this emergency.

Consider the caregivers. Their bravery, dedication, and commitment during the crisis has been profound and inspiring. We are proud of these professionals working around the clock to care for older adults. They're risking their lives to help people. Their bravery is inspiring and their work has been effective, although their success has largely gone unnoticed. You don't hear about this in the media, but 75% of our nursing homes and personal care homes have yet to have a confirmed positive case of COVID-19.

Nursing facilities, personal care homes and assisted living residences need help to continue the fight against COVID-19. Insufficient PPE, testing, and funding put our healthcare workers at risk notwithstanding all that they are doing to keep residents safe. They need help from our partners in state government to provide the funding necessary to obtain PPE, provide sufficient testing and to support other operational practices that increase expenses but protect both staff

and residents. They need help in prioritizing access to testing and Personal Protective Equipment. They need help in streamlining government reporting requirements, and they will need help in protecting themselves against frivolous lawsuits likely to erupt in the aftermath of this crisis.

First, the PPE needed to keep caregivers safe is in short supply, difficult to find, and the prices are skyrocketing. Our members spend considerable time and energy tracking down sources of PPE in order to protect their staff. Early on in the crisis, hospitals rather than nursing homes and personal care homes received the bulk of attention and the scarce PPE equipment. We were grateful to learn last week that nursing facilities, personal care homes and assisted living residences will now receive priority from the Department of Health (DOH) for PPE, but we will need all the help we can get to continue to address the severe supply shortages. These front-line caregivers provide the hands-on care that residents need on a daily basis, which means they cannot stay six feet away from residents. It is imperative that we protect them.

In addition to the shortage of PPE, the lack of testing has been a serious issue. While nursing home residents and staff have been prioritized by DOH, at times the system has been overwhelmed and the waits for results much too long. Long-term care residents need to be immediately given the same priority for testing as hospitals, with speedy results so that asymptomatic people aren't infecting one another and spreading the virus where it is most deadly.

Once we have the capacity, and we need this immediately, testing must be expanded to implement universal testing for residents of long-term care facilities to protect both residents and staff. Because it is now known that those with the disease can pass it on while they are asymptomatic, it is more important than ever to provide testing, since even the most stringent screening cannot detect COVID-19 in asymptomatic people. LeadingAge PA requests your assistance in providing both funding and priority testing to assure that long-term care residents can be tested for COVID-19 and help prevent further transmission of this deadly virus.

In addition to PPE and testing costs, senior care providers face additional personnel costs to encourage and sustain their staff. For example, many providers are offering bonuses, hazard pay, and even across-the-board pay increases for caregivers. In addition, many have implemented gestures of appreciation including free meals, paid leave and other benefit increases, and other supports. Finally, many are now relying on more-expensive agency staff to assure that staffing levels remain adequate to provide high quality care.

Early in the crisis, LeadingAge PA worked with PHCA to develop an estimate of the added costs of the COVID-19 emergency to the continuing operations of nursing homes. At the time, we only estimated the crisis would last 120 days. It now appears that the pandemic will require continued vigilance and operational modifications to maintain safety for longer than initially anticipated. Our initial calculation estimated that the cost of the pandemic would amount to \$290 million but this did not account for lost revenues or for increases members are now seeing in their liability insurance premiums.

When the estimates were made, nursing facilities had not yet encountered the significant increases we are now seeing in their liability insurance premiums. As they renew, members are reporting increases of 25%-75% in their liability insurance premiums, and many have no choice but to take much higher deductibles that may cost even more down the road.

Our initial cost estimate also did not include the ongoing vacancies and revenue losses from restrictions in surgeries such as hip and knee replacements that often require a stay in a long-term care facility or from move-ins that are on hold due to the emergency. We now believe that the initial estimate of \$290 million in COVID-19 related costs underestimates the costs that nursing homes will incur due to the Coronavirus pandemic.

LeadingAge PA appreciates and supports the Pennsylvania Senate's efforts to provide \$200 million in funding to help nursing facilities meet some of their immediate expenses for COVID-19 pandemic. We are hopeful that this amount will be enacted and that additional support will be available in the future as well, given the overwhelming costs to providers to respond to the crisis. This funding will help with some of the increased costs outlined above but I must also request a rate increase necessary to address the shortfalls in our Medical Assistance program that threaten the viability of many nursing homes.

Most people who live in nursing homes rely on the Medical Assistance program to pay for their services. The Medical Assistance program for nursing homes has been severely underfunded for years even before the COVID-19 pandemic sent costs soaring. Nursing homes have not

received a statewide rate increase for six years. A study conducted last year by RKL found that, on average, not-for-profit nursing homes were losing more than \$80 per day for each resident in the Medical Assistance program. Even before the pandemic, our members have been closing wings of their nursing homes due to insufficient funding or inability to hire enough staff to continue their high quality services. We are concerned that, without a significant infusion of funding, many of our not-for-profit members will not be able to sustain operations at all. Nursing Homes need a 3% rate increase in Medical Assistance funding this year in addition to the funding needed right away to address the initial increased costs directly related to COVID-19.

In addition to coming up with creative new ways to deliver the services needed by our vulnerable residents, senior care providers have continued communicating with residents, their families and the community at large, providing updates with letters, e-mails, telephone calls, virtual meetings and the like. While continuing to provide the services needed, our not-for-profit members also understand their important role with residents' families and in the greater community and strive to provide transparency and reassurance as much as possible while maintaining resident and staff privacy. Because of the restrictions on visitation, families and communities who may have been able to visit on a daily or weekly basis prior to the emergency are not able to visit, leading to increased worry, stress and feeling out of the loop. This has sometimes caused fears, which may lead to lawsuits after the crisis is over. At the very least, it has prompted calls for additional reporting, which even the federal government is now requiring. It would be of great help if this Committee could encourage the myriad of state, local

and federal agencies to which members must report to work together to streamline this reporting so staff can stop reporting the same information to several agencies and get back to caring for residents.

Finally, recognizing that long-term care facilities are at the center of the COVID-19 pandemic, please know that our members are doing their absolute best to continue providing needed services to our residents during this crisis. It is easy to point a finger and blame providers for something they could not do. Providers did not know at the beginning that COVID-19 is contagious prior to the appearance of symptoms, nor have they always been able to find and purchase adequate PPE in an era of scarcity, and they cannot always maintain robust staffing levels when staff become ill or too frightened to work. Defending residents has taken heroic efforts of our members' leadership and staff, using the best knowledge, PPE, and course of action available to them. In spite of all their efforts, our members will likely face frivolous lawsuits based on 20/20 hindsight unless some limited civil immunity is provided to protect them. This is an important issue where we need the Committee's help to provide reasonable civil immunity to providers who are doing their best during this crisis, so that they can continue to focus on resident care.

LeadingAge PA is committed to collaborating with you on solutions. We understand that the best interest of Pennsylvania's seniors is our collective priority and look forward to working with you to address the issues of funding, civil immunity, reporting requirements and obtaining adequate PPE and testing to support our caregivers and residents on the frontlines of the

COVID-19 pandemic. We look forward to continuing our discussion on long-term care and the pandemic response. Thank you for the opportunity to testify today. I will be happy to answer any questions you have.