



Pennsylvania Assisted Living Association (PALA)

Testimony

Senate Aging and Youth Committee

***Current Status and Needs of Personal Care and
Assisted Living Communities One Year after COVID-19***

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Margie Zelenak

Executive Director

mzelenak@pala.org

Senator Ward, Senator Collett and the Aging and Youth Committee,

Thank you for the opportunity to present today. This is the first time our association has been invited by the committee to discuss issues currently affecting Personal Care and Assisted Living communities in the Commonwealth. I appreciate the ability to present by Zoom since today is the first time I am able to visit one of our member communities since the onset of COVID.

I am Margie Zelenak, the Executive Director of the Pennsylvania Assisted Living Association (PALA). PALA represents Personal Care Homes (PCH) and Assisted Living Residences (ALR) throughout the Commonwealth. As a member of the Governor's Long-Term Care Council, I represent PCH and ALR communities as their voice on the Council. I have worked in senior living for over 20 years including as a Personal Care and Assisted Living Administrator.

Personal Care Homes and Assisted Living Residences are regulated by the Department of Human Service (DHS) Office of Long-Term Living (OLTL) and not the Department of Health (DOH). Currently, there are 1,132 PCH and 64 ALR serving approximately 50,000 seniors across Pennsylvania. PCH and ALR are an important part of the Long-Term Care continuum. Communities can range from a small, 8 bed Victorian home to a large, 200 bed resort type community, with each offering various services and amenities. PCH/ALR is private pay in the Commonwealth except for SSI which is only \$37.00 a day. Some seniors may have Long Term Care Insurance to help provide for their care, but insurance policies also vary on their reimbursement. Act 56 of 2007 enacted a new level of care, Assisted Living Residences. The first community was licensed in June 2011. This level of care is to be an alternative to nursing homes with the expectation for Medicaid funding which has yet to be implemented.

In our communities, seniors receive compassionate care from thousands of frontline staff including licensed nurses, direct care workers, nursing assistants, dietary aides, housekeepers, maintenance, and administrative staff. These caregivers have been and continue to be Heroes providing care during this pandemic.

The transmission of COVID-19 has affected residents and staff in PCH and ALR at alarming rates. On May 7th, the DHS report indicated 11,791 residents and 6,931 staff have been COVID-19 positive and, most unfortunately, there have been 1,787 resident COVID-19 deaths.

CURRENT STATUS

Guidance

PCH and ALR await the updated guidance from the Department of Human Services. Providers received information to encourage implementation of the CMS guidance that was issued April 27th for nursing homes but are still waiting for guidance from DHS. Again, our members have been subject to skilled nursing guidance that does not always apply to PCH and ALR. Added to the confusion was the release of the PA Health Alert that was contrary to the CMS and CDC guidance for communal dining, activities and mask wearing for vaccinated residents. COVID-19 exacerbated the already confusing distinction between nursing homes regulated by the DOH and PCH/ALR regulated by DHS. Our members often receive differing guidance, and matters were further complicated by guidance from the Regional Response Health Collaborative Program (RRHCP) and Regional Congregate Care Assessment Team (RCAT).

Licensing Regulation Suspension

There are several licensing regulations suspensions that DHS implemented because of COVID-19. Several are tied to the Governor's Declaration of Emergency. These suspensions have afforded providers the opportunity to focus on fighting COVID-19. For example: Regulation 2600/2800 104 (b) suspension permits a community to use paper and plastic products for meals for infection control. Staffing is an ongoing struggle with outbreaks and vaccine hesitancy. Suspension of regulation 2600/2800 57 permits the community to alert BHSL about the staffing issues and approve a plan for the staff shortage.

Visitation

Many of our members have opened their doors to visitors after vaccination of residents. The DHS April 5th guidance included updates to the visitor policies. Communities struggled, and continue to struggle, during the past year to continue to monitor COVID and not restrict the residents from being with their loved ones. Outdoor areas were used to accommodate early visitation along with window visits finally leading to indoor visits and hugs from loved ones. During the visitation restrictions, providers facilitated visits through FaceTime and Zoom to keep residents connected with their loved ones. The negative impact of social isolation has been difficult to quantify, however, the challenges have been real and residents as well as family members have suffered during this past year.

Testing

Routine testing continues for unvaccinated staff based on the county positivity rate. Testing is one of the largest expenses for our members during COVID-19. The previous Regional Response Health Collaborative Program (RRHCP) that was funded through Act 24 ended December 30th. This program assisted with Personal Protective Equipment (PPE) and Testing. The replacement program, Regional Congregate Care Assessment Team (RCAT), is a scaled down version that only assists with PPE and Testing if there is an outbreak. I must also mention that the Point of Care Rapid Testing that was only available to PCH/ALR that were able to obtain a CLIA (Clinical Laboratory Improvement Amendment) waiver from DOH to provide the testing. Many providers were unable to secure a physician that would participate as the required medical director. This hindered the community's ability to determine within minutes the results of the COVID-19 testing.

Vaccinations

An important tool that is helping to curb positive cases is the COVID-19 vaccine. The Federal Pharmacy Partnership (FPP) that conducted three vaccine clinics for our members was essential in bringing the vaccine directly into the communities. The DOH announced ongoing vaccinations for residents and staff will be conducted through the FPP. Long-term care pharmacies that service communities were given access to apply to participate in the FPP. This will assist in vaccinating new staff and residents. The April 23rd report provides the statewide numbers; 83% of Residents are vaccinated and 49% of Staff are vaccinated. Vaccination hesitancy among employees of our communities is apparent. It can be from 30% to 78% of staff participating in the vaccination plans. Some communities are mandating vaccines for their employees, improving the number of staff vaccinated to protect the vulnerable population. PALA was disappointed with the introduction of HB 262 Right to Refuse and SB 471 Medical Freedom Act, which would affect an employer's policy on medical requirements including vaccination for employees. Each employer must make the determination for condition of hire or employment not the government.

PALA's national association, Argentum, released a position that recommends states should take steps to consider mandating vaccines for health care workers, to include senior living employees. Among the issues that should be considered are:

- State requirements for all health care workers, including staff at senior congregate care settings, to receive COVID-19 vaccinations at an appropriate time and as a requirement for employment while providing exemptions for medical and religious reasons;

- Providing the opportunity for congregate care settings, where appropriate, to opt-in as a COVID-19 vaccine administration site;
- Full authorization of COVID-19 vaccines by the FDA as appropriate and at the earliest opportunity.

Staffing

This is one of the major issues for our members. Direct Care work force issues were a struggle prior to the pandemic. As a member of the Governor's Long-Term Care Council, we presented to the Governor "A Blueprint for Strengthening Pennsylvania's Direct Care Workforce" in April 2019. The struggle to hire and retain employees during COVID continues to be a major added expense. Communities offered Hero pay along with bonuses to maintain the staffing requirements needed to provide for the residents. When schools turned to virtual learning many direct care workers make the hard choice to leave their jobs because of the need to be with their children. Two of our members stated that the lack of staffing was one of their reasons for closing. Direct Care staff is not the only crisis, but qualified PCH/ALR Administrators are getting harder to find as many look to retirement after a stressful year fighting COVID-19.

Occupancy

Seniors have avoided transitioning to a Personal Care Home or Assisted Living Residence because of COVID-19 fears and the previous visitation restrictions. The normal high occupancy for providers has been reduced to 64-74% in many cases. There is also confusion on the guidance for new admissions which is highly inconsistent. One member had one positive resident case in their community and was told 3 different things from the RCAT on admitting new residents: *We got 3 different answers in one day (today!). One said we can admit now. One said not until the 20th (14 days after the positive case). Then one said 14 days after the 14 days are up! Makes no sense.*

Confidence needs to return so seniors are comfortable in knowing they will be safe in our communities. This can be accomplished with vaccines, continuing infection prevention protocols and visitation.

Funding

PALA thanks the General Assembly for appropriating \$50 million from the CARES Act specifically to PCH/ALR communities. These funds assisted with COVID-19 expenses incurred from March 1, 2020 to November 30, 2020. The rollout of the payments to communities was a slow process with some providers not receiving checks until December 2020 and even January 2021. Communities continued to have expenses for PPE, testing, infection control and adapting for outdoor and indoor visitation after

November 30th. As a note; providers were required to submit a report on the expenses for the funding even when several had not even received a check.

Needs of Personal Care and Assisted Living Communities

Guidance

- Accurate and expediated guidance that specifically address PCH/ALR.
- DHS guidance for PCH/ALR should be released in conjunction with DOH guidance for nursing homes.

Licensing Regulations

- Review the regulatory suspensions, implemented with the Governor's declaration of emergency, to consider continuing if appropriate for communities to provide ongoing care because of COVID.
- Development of guidelines for the use of smart technology by residents and PCH/ALR.
- Consistent application of regulations among the four BHSL regions.

Visitation

- The passage of HB 649 and SB 190 will address any future issues with visitation during an emergency declaration by establishing the Essential Caregiver Program.

Testing

- Review the requirements for continued testing based on county positivity rate and vaccinated residents and staff.
- Provide funding to PCH/ALR for testing.
- Review the requirements for a CLIA waiver to provide Rapid Point of Care testing in PCH/ALR communities.

Vaccination

- Continued access for COVID-19 vaccinations.
- Ability to mandate vaccinations for staff.
- Full FDA approval of the COVID-19 vaccine.
- Priority in future additional boosters for the COVID-19 vaccine.
- Development of a plan for future administration of COVID-19 vaccine boosters or ongoing vaccination needs for PCH/ALR.

Staffing

- Raising the awareness of the important role, workers in PCH/ALR have in serving older adults of the Commonwealth.
- Standardizing the training which can allow career paths for development.
- Expand the labor pool by not eliminating potential employees DHS regulatory education requirements.

Occupancy

- Assisted Living: Provide Medicaid funding for Assisted Living to prevent older adults, who do not require skilled care of a nursing home, but lack the financial resources.
- Increase the awareness of the important role that PCH and ALR provide in the Continuum of Care in the Commonwealth.

Funding

- Provide funding from the American Rescue Plan to sustain PCH and ALR as they recover from the financial strain of COVID-19.
- Raise the SSI Personal Care Home Supplement. It is currently \$37.00 per day. There has been no increase in the state portion of the supplement since 2006.
- Provide funding from the lottery for financial assistance to reside in a PCH/ALR for seniors diagnosed with Alzheimer's disease that are unable to remain in their home or do not have a caregiver. (HB 464)

In closing, Pennsylvania needs to develop a plan for aging as the baby boomers begin to enter the care system. There needs to be options for housing at all stages of life including Personal Care and Assisted Living. Currently, the options are in-home services or a nursing home with no financial support for anything in between. Home is not always the right place to age. Many family members are using their retirement to support their parents and will not have the resources for their own care. Let's begin the conversation to review the State Plan for Aging in Pennsylvania.

Thank you for the opportunity to be the voice of Personal Care and Assisted Living communities at this hearing. I would be happy to answer any questions at this time.