



House Aging and Older Adult Services Committee
Public Hearing on COVID-19 Vaccination Distribution for Older Adults and Long-Term Care in PA
March 10, 2021

Introduction

Thank you, Chairman Day, Chairman Samuelson and members of the House Aging and Older Adult Services Committee for convening this important hearing. Community Legal Services of Philadelphia (CLS) and the Center for Advocacy for the Rights and Interests of the Elderly (CARIE) thank you for the opportunity to present written, joint testimony today.

CLS and CARIE counsel and advocate for long-term care residents and their family caregivers, including the particularly vulnerable low-income, Medicaid-funded residents, many of whom are people of color. Pennsylvania's nursing homes operate in a climate that was ripe for the disaster that befell them with COVID-19.

The chaos of the COVID-19 crisis has illuminated the vulnerabilities of Long Term Care (LTC) facilities. Infection control failures and staffing shortages are just two of the longstanding problems that impact the quality of care our loved ones receive in an LTC facility. Couple these long-standing problems with the crisis of COVID-19, and the result has been far worse outcomes than the virus alone would have caused. Additionally, early COVID-19 data demonstrates stark racial disparities in COVID-19 outcomes for LTC facility residents, revealing the urgent need to address racial equity through structural reforms to the LTC system.

We are deeply worried about the crisis that has unfolded in Pennsylvania's LTC facilities as a result of COVID-19. In August, we submitted to the Departments of Health and Human Services over 40 recommendations for improving the response to the COVID-19 crisis in long-term care facilities. You can find those recommendations here: <https://www.carie.org/wp-content/uploads/2020/08/Final-Combined-Position-Paper-8.17.2020.pdf>. In November, we submitted to the Department of Health line-by-line recommendations for how the state nursing facility regulations – which have not been updated since the mid-1990s - should be amended to better protect residents. You can find those here: <https://www.carie.org/wp-content/uploads/2021/01/Cover-Letter-and-NF-Facility-Regulation-Recommendations.pdf>.

We have been participating in a Department of Health stakeholder group that meets regularly about COVID-19 and nursing facility issues. We have received reports on the progress of the Federal Pharmacy Partnership (FPP) program for vaccinating residents and staff of LTC facilities. While we applaud the successes of the FPP, we know that not all residents and staff have been vaccinated in LTC facilities. Residents and staff have missed or refused the opportunity to be vaccinated, and the fact that the FPP

only holds three clinics at each facility means that this effort does not include follow-up efforts to capture those who have been missed or who refused but can be educated and encouraged to reconsider.

We recently made recommendations to the Departments of Health, Human Services, and Aging about vaccine distribution to the long term care population and accountability across agencies; outreach, education, and informed consent; data collection on vaccine distribution; follow-up vaccines and vaccines for new residents; and centering racial equity. We appreciate the opportunity to share these recommendations with you now.

Recommendation #1: Designate a Long Term Services and Supports (LTSS) Vaccine Czar for LTC facilities and Home and Community-Based Services, who will serve as point of contact and as accountable coordinator of vaccine distribution.

We urge the designation of a single accountable individual who will be responsible for coordination across the agencies that serve vulnerable populations, the Departments of Health, Human Services, and Aging. This person should be the responsible point of contact and should lead the vaccination education, outreach, and distribution efforts. Stakeholders should be engaged with planning and in helping to identify emerging issues for the LTSS Vaccine Czar to troubleshoot and expeditiously resolve. This individual should also standardize and oversee implementation of protocols for obtaining informed consent for vaccinations and ensuring language access for individuals with Limited English Proficiency. We ask that this person center racial and ethnic equity as they identify and address cross-agency policy and operations around vaccine education, outreach, and distribution. Trusted community agencies need to be engaged to partner with the state to support these efforts. As part of its communication strategy to ensure timely, unified messaging, the office of the LTSS Vaccine Czar should have a toll-free number, contact link, and accessible public website for LTC facility administrators/staff and residents along with Home and Community-Based Services (HCBS) Waiver Program providers/staff and participants, and families/responsible parties to obtain information. Weekly public reporting to a website dashboard should include transparent information about the LTSS Vaccine Czar's activities. Once the LTSS Vaccine Czar's coordination of the LTSS vaccine distribution is complete, the role can be expanded to address other vulnerable populations such as those who are dually eligible for Medicare and Medicaid. The most recent use of a cross-agency Czar in response to the opioid epidemic provides a highly successful model for the state to replicate.

Recommendation #2: State agencies must conduct outreach and education around vaccines, and ensure that informed consent is obtained, not defer this responsibility to the pharmacies participating in the Federal Pharmacy Partnership Program.

Because the Federal Pharmacy Partnership (FPP) program was tasked with providing vaccines to LTC facilities, the state has not taken any role in outreach to or education for residents, staff, and families/responsible parties. It is our understanding that the pharmacies in the FPP are conducting education using educational materials the Department has not created or reviewed.

We believe that a more proactive approach is needed, especially as so many staff and some residents have declined their chance to get vaccinated. Vaccine hesitancy is evident among staff and we have heard from staff who simply do not trust their administrators or employers to be a reliable source for information that ensures their health and safety. An opportunity was missed to provide understandable, culturally, and linguistically competent information and to help individuals and

surrogate decision-makers receive the information they need to provide informed consent.

For this reason, we believe the state must conduct accessible, culturally, and linguistically competent outreach and education to LTC facility residents and staff who were not vaccinated during the FPP clinics onsite and to new residents who have entered LTC facilities since the FPP clinics ended. The state must also track to ensure any resident who was discharged prior to receiving the second shot is contacted to provide follow-up and any support needed to get the second dose.

Recommendation #3: The state should implement meaningful data collection practices, require compliance, share data publicly, evaluate data collected and compare it with demographic and population health data, and use data collected to develop impactful responses.

We believe it is imperative that the state collect and maintain data concerning who among LTC facility residents and staff have received the vaccine, who have not, who declined the vaccine, and the reasons why the vaccine was not received (including but not limited to: missed, hospitalized, recently received another vaccine, no consent form, refused, lack of medical decision-maker). And importantly, the state must collect and maintain data regarding racial, ethnic, and spoken language of the individual resident or staff person. We understand that data collection is challenging, but it is essential. It must be complete, accurate and current. Reporting must be required of pharmacies and vaccine distribution sources as well as the LTC facilities. Vaccine distribution and related data should also be captured from all available data sources for demographic data, including but not limited to the federal skilled nursing facility Minimum Data Set (MDS), the Pennsylvania Individualized Assessment (PIA) system, the Client Information System (CIS), the Community HealthChoices Managed Care Organizations' Managed Information Systems, or others.

With regard to racial, ethnic, and language data, the state should:

- Collect vaccine distribution data by race, including the categories of 1) African American or Black, 2) American Indian or Alaska Native, 3) Asian, 4) Native Hawaiian or Other Pacific Islander, 5) Other Race, 6) Multiple Race, and 7) White.
- Collect vaccine distribution data by disaggregated ethnicity. Currently, the state collects ethnicity by Hispanic, non-Hispanic, or unknown. Pennsylvania collects no Asian ethnic data, even though collecting disaggregated health data for Asian Americans into the nearly 2 dozen ethnic categories could help reveal disparities. More precise, disaggregated ethnic data should be collected as subgroups of these categories.
- Collect preferred spoken and written language data for residents and staff.

Transparency is essential. All data racial, ethnic and language data that is collected specifically concerning COVID-19 cases or vaccine distribution, including data culled from other systems, must be made public and readily available. Accordingly, we recommend that the state:

- Report race, ethnicity, and language data and COVID-19 vaccine dashboard specifically for LTC facility residents and staff;
- Report weekly, disaggregated totals of this information in addition to cumulative aggregates and
- Report this information in an easily understandable format.

Collected and culled data must be expeditiously used for the purpose of identifying disparities and implementing responsive efforts to ensure that diverse groups have access to the vaccine and are vaccinated.

Recommendation #4: Conduct outreach to those LTC facility residents and staff not yet vaccinated.

The state must immediately implement efforts to vaccinate LTC facility residents and staff not already vaccinated or who have missed their second dose, including through the use of data to identify those in need of this outreach. To this end, we recommend that the state:

- Allocate state funds to continue the Federal Pharmacy Partnership (FPP) program and Rite Aid partnership or develop a plan such as utilizing the existing LTC pharmacy partners for each nursing home to administer vaccines to ensure that new residents and staff are vaccinated in LTC facilities.
- Implement a plan to reach those LTC facility residents and staff who were not vaccinated through the FPP – whether because they were not eligible at time of clinics (due to receipt of another vaccine, antibody treatment, or active COVID infection), whether they were otherwise missed (for example, due to a brief hospital stay), because they refused, or even because they were admitted after the FPP administered the vaccine on-site. We urge the state to:
 - i. Create a protocol for an accountable statewide Vaccine Czar office to triage response to vaccine misses, refusals, and admissions after the FPP or Rite Aid clinics were completed.
 - ii. Require pharmacies, other vaccine distribution providers, and facilities to report every resident and staff person who misses or refuses to facilitate follow-up.
 - iii. Require facilities to report every resident that is discharged before getting the second dose and every staff person that does not receive a second dose. The state should ensure a plan for second shot receipt.
 - iv. Develop a plan to identify temp agency/home health agency staff as well as staff with multiple jobs to record whether vaccinated and, if not, target for outreach and education.
 - v. Articulate exactly who (state staff or other) is accountable for handling vaccination and education efforts for residents who missed, refused, or were admitted subsequent to the effort.
 - vi. Target diverse, culturally and linguistically competent outreach and education to staff and residents (as well as residents’ designated representatives involved in decision making) who have declined the vaccine.
 - vii. Utilize CHC-MCO service coordinators and LTC facility social workers to inform and educate about vaccine process, inform of the right to refuse, and connect to a medical professional to answer vaccine questions.
 - viii. Use LTC facility physicians and pharmacists for nursing facility residents and family physicians and pharmacists for residents in other LTC settings to inform and educate about vaccine and answer medical questions to ensure informed consent.
 - ix. Partner with local communities to help educate LTC facility staff and residents’ family members about the vaccine.
 - x. Consider deploying diverse, culturally, and linguistically competent, mobile vaccination units to offer vaccination to those in LTC facilities that missed or declined when the FPP or Rite Aid partnership completed the three clinic visits or establishing clinics for residents who can travel to a site.
 - xi. Partner with community groups who have established trust for outreach and planning to address disparities in vaccine acceptance. Research suggests that for individuals who have experienced racism or discrimination within the health care system, it is important to have trusted sources of information to address safety and other concerns.

We cannot miss the opportunity to note that thousands of older adults and persons with disabilities who

qualify for nursing facility level of care receive those services in home and community-based settings through Medicaid HCBS Waiver Programs and the Community HealthChoices program. Likewise, for the thousands of Medicare and Medicaid dual eligible who are, by definition, high risk. Far more needs to be done to ensure that these high-risk populations are vaccinated. We believe our recommendations are applicable to the effort to vaccinate HCBS waiver participants and dual eligibles and encourage the Committee to press the Departments of Health, Human Services, and Aging to incorporate our recommendations into their plans for vaccinating this population.

Along with the House Aging and Older Services Committee, we are dedicated to helping improve the lives of nursing facility residents, and appreciate the interest this Committee has shown, particularly during this difficult time. We would appreciate the opportunity to meet with your staff in the weeks ahead to further discuss our concerns around COVID-19 and LTC facilities, as well as around vaccine distribution in LTC facilities. You can reach us by emailing Pamela Walz at pwalz@clsphila.org and/or Diane Menio at menio@carie.org.

Sincerely,

Diane A. Menio, Executive Director
Center for Advocacy for the Rights and Interests of the Elderly
menio@carie.org

Pamela Walz, Supervising Attorney
Community Legal Services
pwalz@clsphila.org