



September 13, 2021

The Honorable Gary Day, Chairman
Committee on Aging and Older Adult Services
Pennsylvania House of Representatives
108 Ryan Office Building
P.O. Box 202187
Harrisburg, PA 17120-2187
Via Electronic Mail

Dear Chairman Day:

On behalf of the Pennsylvania Homecare Association (PHA) and the more than 700 home-based care providers we represent, we thank you and the members of your committee for your leadership and dedication to Pennsylvania's seniors and individuals with disabilities, as we work to respond to the many challenges presented by COVID-19. As our members strive to continue to deliver the highest quality care to all Pennsylvanians in need, our continued partnership with legislators and policymakers is more important than ever. To that end, we write to urge you to extend certain regulatory flexibilities that are set to expire at the end of this month.

As you know, PHA is a statewide membership association whose members bring skilled nursing, therapy, personal care, and end-of-life care into hundreds of thousands of people's homes across the Commonwealth. When Governor Wolf issued the emergency disaster declaration in March of 2020, home-based care providers – like others on the healthcare continuum – faced significant challenges that required the waiver of certain regulations to ensure that Pennsylvania's seniors and individuals with disabilities continued to receive lifesaving and life-sustaining care. These included the following:

Non-Physician Practitioners (NPPs) Ordering & Recertifying Home Health

Pennsylvania's regulations currently provide that physicians must order and recertify home health. Since May of 2020, the Department of Health waived this rule, allowing Certified Registered Nurse Practitioners (CRNPs) and Physician Assistants (PAs) to authorize these services. In 2020, federal law was also changed to allow NPPs to order and recertify home health on a permanent basis. Home health agencies across Pennsylvania have used this much-needed flexibility to ensure that their patients receive the care they need. Any premature termination of this waiver could immediately threaten access to care for thousands of Pennsylvanians, and we urge you to make this change permanent legislatively, as consistent with federal law.

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Similarly, PHA urges legislators to bring Pennsylvania into alignment with federal rules when physician signatures are required. Federal rules require signatures when the plan of care is established **or as soon thereafter as possible**. In contrast, Pennsylvania has a completely unworkable (and rarely achieved) condition of obtaining a physician signature within seven days. Stakeholders across the state have long advocated for expanding this timeframe to 30 days to be more consistent with federal requirements, yet the regulations have not been updated to make this simple, non-controversial update.

Remote Supervisory Visits

Pennsylvania home health regulations require that a Registered Nurse (RN) conduct an in-person visit every two weeks to ensure that services provided are meeting the goals of a patient's plan of care. The visit is not clinical in nature. In May of 2020, the Department of Health suspended this regulation, allowing the visits to take place remotely. In the federal proposed home health rule issued by the Centers for Medicare and Medicaid Services (CMS) this year, CMS proposes to make permanent the ability for certain supervisory visits to take place remotely, noting that most visits will remain in-person. PHA asks legislators to make this flexibility permanent, as consistent with federal rules, to allow flexibility in ensuring that patient care goals are met.

Extension of Service Areas for Homecare Agencies

As a general rule, the Pennsylvania Department of Health limits homecare providers to a 60-mile radius for patient/consumer care. In May of 2020, the Department relaxed this standard, provided that an agency can provide adequate supervision and monitoring of care to its consumers. During the COVID-19 public health emergency, a number of homecare agencies have used this flexibility to expand their coverage area and ensure that consumer needs are being met, despite ongoing, immense staffing and workforce challenges. In fact, the workforce crisis has gotten worse as the PHE has continued, and there is a critical need for continued flexibility of coverage areas for homecare agencies, to prevent the unnecessary and unsafe interruption of services for people in great need of care.

COVID-19 Vaccine Transport by Home Health Care Agencies

As you know, Pennsylvania's home health agencies advocated strongly to assist with vaccinating the homebound, and many of them did just that, vaccinating patients, their family members, and other individuals in their communities. On May 4, 2021, the Department of Health issued guidance waiving 28 PA Code 601.31(d), which provides that drugs and devices may only be dispensed by licensed pharmacists or licensed physicians to the patients in their care and expressly allowing agency-licensed nursing staff to transport the vaccine to homebound individuals. As the need for boosters increases and the need to respond to vaccine hesitancy continues, it remains critically important that this waiver remain in place.

Interviewing Direct Care Workers (DCWs) Remotely/Temporary Suspension of Two-Step TB Testing

Also in May of 2020, the Department of Health suspended the requirement that face-to-face interviews be conducted with DCWs prior to hire. Since that time, agencies have used Zoom and other technologies to conduct applicant interviews, and we urge your assistance in allowing this to continue. Homecare agencies are reporting unprecedented workforce challenges, and any reasonable flexibility that supports the hiring of competent, qualified personnel is absolutely critical.

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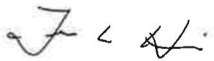
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Similarly, the requirement for an initial baseline 2-step Mantoux skin test for tuberculin skin testing has been temporarily suspended. Applicants must still complete individual risk assessments and symptom evaluation prior to hire, and the requirements will resume upon the termination of the PHE. We ask that this flexibility continue, so as not to unnecessarily delay the hiring of qualified, competent, home-based caregivers at a time when the need is so great.

The above is not an exhaustive list of waivers that home-based care providers received over the course of the PHE, but they are examples of critical waivers that we respectfully ask you to continue to help keep seniors and individuals with disabilities safe in their homes, and able to access much-needed personal and professional healthcare.

Thank you for your time and attention to these very important regulatory issues. We welcome any opportunity to discuss these issues in more detail and look forward to continuing to work with you in responding to the ongoing challenges of COVID-19.

Sincerely,



Teri L. Henning, CEO
Pennsylvania Homecare Association
thenning@pahomecare.org
(717) 649-6498

cc: The Honorable Steve Samuelson, Democratic Chair – House Committee on Aging and Older Adult Services
Shannon Walker, Republican Executive Director – House Committee on Aging and Older Adult Services
Chuck Miller, Democratic Executive Director – House Committee on Aging and Older Adult Services
Members of the House Committee on Aging and Older Adult Services

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