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HOUSE OF REPRESENTATIVES
COMMONWEALTH *of* PENNSYLVANIA

VIRTUAL HEARING: COVID in Long-Term Care

Hosted by Rep. Joe Hohenstein

February 16, 2021 | 1 p.m. to 3 p.m.

Discussing COVID-19's impact on long-term care facilities and how to support staff and resident health and safety.

1 p.m. - 1:30 p.m. Andy Pickett, Director
Bureau of Emergency Preparedness and Response, PA Department of Health
PA Department of Health

Keara Klinepeter, Executive Deputy Secretary
PA Department of Health

Q & A with legislators

1:30 p.m. – 2 p.m. Kristin Ahrens, Deputy Secretary
PA Department of Human Services

Q & A with legislators

2 p.m. - 2:30 p.m. Matt Yarnell, SEIU Healthcare PA

Q & A with legislators

2:30 p.m. - 3:00 p.m. Anne Henry, Leading Age

Q & A with legislators



pennsylvania
DEPARTMENT OF HEALTH

**House Democratic Policy Committee Hearing
COVID-19 in Long-Term Care Facilities
July 16, 2020**

Testimony of:

**Sarah Boateng
Executive Deputy Secretary**

**Keara Klinepeter
Special Advisor to the Secretary**

**House Democratic Policy Committee Hearing
July 16, 2020**

Good afternoon Chairman Sturla, Representative Hoenstine, and members of the House Democratic Policy Committee. My name is Sarah Boateng and I am the Executive Deputy Secretary for the Department of Health. Joining me is Keara Klinepeter, Special Advisor to the Secretary. We are pleased to be with you this afternoon to discuss the Wolf Administration's work to protect the vulnerable populations who reside in long-term care facilities as we continue to deal with COVID-19.

While COVID-19 is still a novel, or new virus, there is much we have learned since its initial reports out of China, its introduction to the US in February, and its arrival in Pennsylvania in March. At that time, we were only seeing the beginning of more widely available testing capacity and were only at the beginning of the decline of new daily cases. Thankfully, our outlook has improved, daily case counts are still below the peak we saw in April, but we have not yet defeated this invisible enemy and continue to take action.

Many have worked tirelessly all across the Commonwealth, from within PEMA at our Department Operations Center to each County or Municipal Health Department to every hospital, to reduce transmission of this deadly virus. That is also true in nursing homes and other long-term care facilities where our heroic frontline workers are caring for our most vulnerable.

The Department of Health (DOH) has worked hard to support these facilities. Whenever a long-term care facility reports even a single case of COVID-19, the Department of Health considers it an outbreak, conducts an assessment of the situation, and offers up a variety of resources. These resources include having the facility work with Department of Health staff to identify measures to slow and stop the spread, utilize the services of ECRI, our infection control consultant; or deploying the Pennsylvania National Guard to assist with staffing.

DOH has also worked to fill gaps in the need for personal protective equipment (PPE) for these facilities. Working tirelessly along with the Department of General Services and PEMA, DOH has pushed out over 2,400 shipments of PPE to long-term care facilities. These long-term care-specific shipments included 2,837,070 N95 masks (or equivalent), 1,185,200 procedure masks, 1,057,100 gloves, 340,700 face shields, and 315,254 gowns.

To achieve the goal of stopping this spread, we have worked with partners such as DHS and DMVA to offer staffing assistance, testing, or infection control consultations and best practices in cohorting positive residents. We have also recently partnered with Omnicare, a CVS company, to help facilities achieve the goal of universal testing by the July 24th deadline set by DOH. We will continue these efforts within the Department and with all those we partner with for the benefit of the residents.

Additionally, we have heard from concerned family members, who have not been able to be present with their loved ones since early this year. These stories are heartbreaking. However, the pause on visitation was a necessary measure to prevent rampant spread of the virus into these facilities. Realizing that emotional and mental health are just as important as physical health, we have begun the process of resuming safe visitation at facilities who develop a reopening plan and meet certain testing, staffing, and other prerequisites. Some of these include facility-wide testing for both staff and residents, cleaning protocols, and being COVID-free for 14-day intervals.

We take the safety of these residents very seriously and strive to do all we can to ensure facilities have the guidance needed to ensure that safety. Our guidance draws on national standards and is informed by approaches throughout the country, but balances with the realities of the long-term care system's

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needs specific to Pennsylvania. It is our hope that facilities are able to meet these benchmarks and allow residents and their loved ones to reconnect in a safe socially distanced manner – but closer than over an iPad.

As you can see by all of these activities, long-term care facilities have been and will continue to be a priority of Department of Health and the Wolf Administration. Thank you for your time and am happy to take questions.



**Virtual Hearing
House Democratic Policy Committee**

**Testimony on COVID-19 and
Long-Term Care Providers**

**Anne Henry
Sr. Vice President and
Chief Government Affairs Officer
LeadingAge PA**

February 16, 2021

Good Morning Chairman Bizzarro and members of the House Democratic Policy Committee. Thank you for your commitment and attention to long-term care providers and the health and safety of older Pennsylvanians during the COVID-19 pandemic.

I am Anne Henry, Senior Vice President and Chief Government Affairs Officer of LeadingAge PA. I am grateful to be here with you today to discuss the needs of long-term care providers during the ongoing COVID-19 pandemic.

LeadingAge PA is a statewide trade association representing more than 360 not for profit providers of senior housing, health care, and community services across the Commonwealth. Our members include about 200 nursing facilities, nearly 200 personal care homes or assisted living residences, more than 80 affordable housing developments, and more than 175 Continuing Care Retirement Communities. Our members also provide adult day services, home health care, home care, hospice, independent living options for older adults and the LIFE program.

2020 was an especially challenging year for our members. If the early months of 2021 are any indication, this year will continue to offer more challenges and frustration to our members.

Seniors in Pennsylvania have been overlooked by our government, and they deserve better! In 2019 according to a report by the Kaiser Family Foundation, Pennsylvania ranked ninth in the percentage of population over age 65.¹ Many of them need our help, whether with battling COVID-19, tracking down vaccinations, or simply needing assistance in meeting their daily health and personal care needs. More needs to be done to assure our seniors have access to high quality providers when their needs escalate and their ability to live independently must be facilitated and supplemented with care and services. More needs to be done to quickly facilitate their access to vaccines. And more needs to be done to support senior care providers during the pandemic.

Pleas for help and requests to collaborate with state government from long-term care providers and seniors have been systematically overlooked by the current administration, including calls for a rate increase for Medical Assistance for nursing homes who care for some of Pennsylvania's sickest and poorest seniors. On February 3, 2021, Governor Wolf delivered his budget address focusing on children and schools- but without mention of what Pennsylvania is doing for the grandparents of those youngsters. We aren't saying that children and their education isn't important but we owe all citizens of Pennsylvania care, compassion, and investment - no matter their age.

Just over a year ago, the coronavirus had found its way to the United States and claimed its first victim in the San Francisco Bay area. Within weeks, Pennsylvania long-term care providers were

¹ <https://www.kff.org/other/state-indicator/distribution-by-age/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>, accessed Feb. 10, 2021.

battling the unknowns of the coronavirus infection. Long-term care providers faced employee and resident fears coupled with rapidly changing guidance on infection control practices requiring personal protective equipment (PPE) that was generally unavailable through conventional purchasing agreements – and sometimes not at all.

PPE shortages were widespread. We all saw images of nurses and doctors donning garbage bags and ski goggles as we watched the evening news. We asked for priority, and we received a general resource account email address – not an individual- from the PA Department of Health and reporting requirements of par levels and burn rates. Eventually, PEMA drop shipped some PPE to long term care providers but masks in particular where often expired and straps were deteriorated rendering the equipment almost useless.

Before PPE availability rebounded, our long-term care members scrambled and scraped to find testing for the coronavirus while our local pharmacies set up drive-thru clinics in their parking lots for the general public. Again, long-term care providers were given a resource account email address to request assistance with testing. Eventually, Pennsylvania did contract with CVS for testing of nursing facility residents and staff. Unfortunately, often times the days of testing were long and disorganized and some of the testing was even cancelled by email late into the night when testing was to begin early the next morning. The federal government did come through with some testing kits but in some cases, the accuracy of these tests were questionable.

In the summer of 2020, both the federal and state government mandated ongoing surveillance testing of residents and staff. The frequency of testing was and continues to be based on the county positivity rates. These testing requirements have not changed for long-term care providers even though many have received the vaccine and we don't expect them to change any time soon.

Don't get me wrong, testing was an important step to control the virus, but at the time it was originally mandated, testing availability was limited to Reverse Transcriptase Polymerase Chain Reaction tests- better known as PCR tests. These tests have to be completed in a laboratory setting, under strict regimens of amplification and decontamination. The processes along with the mandates to test all residents and staff resulted in tremendous delays, slowing the delivery of results to days and sometimes weeks. Often time's residents and staff had been swabbed again for the next test before they even received the results of the last one. The results were meaningless- but we sent facilities through the motions.

Most if not all mandated testing of staff and residents in long-term care facilities didn't come from government but rather from providers doing everything possible to contract with available laboratories in order to meet requirements. All were hopeful that these tests would be covered by health insurance and for residents this is usually true. However, health insurance companies for long-term care staff are just now denying claims for mandated surveillance testing conducted months ago, indicating there is no medical necessity for asymptomatic

testing. We were concerned from the beginning that insurance would not cover the testing mandates for asymptomatic staff and we continue to ask the administration to assist in having these claims paid. To highlight the costs - one of our members, an average-sized nursing facility located in rural PA reports that testing has been costing more than \$75,000 a month.

Many long-term care providers are self-insured so were forced to cover the cost of testing from the beginning – again with no end in sight. Long-term care providers are and will continue to struggle financially due to the extraordinary costs of the pandemic. We have asked for help to cover these costs. PA Department of Insurance did issue an FAQ but without a mandate for insurance to pay or availability of reimbursement for provider who are self-insured, the fragile financial state of providers only grows worse.

We were grateful in May that the General Assembly passed Act 24 of 2020, affording long term care providers some much needed funds to help with the costs of the pandemic. However, the process for providers to receive these funds from the Department of Human Services hasn't been without its hiccups, as some providers still haven't received their allocated dollars. For most providers, these funds as well as relief funding from the federal government, didn't come close to covering the ongoing extraordinary costs of the pandemic.

Even before the pandemic, nursing homes were reducing their capacities or considering closure or sale due to the systemic underfunding in the Medical Assistance program. During 2020, in three separate instances, we saw all of these scenarios. All three providers pointed to large and long-standing gaps between Medical Assistance reimbursement and the actual costs to provide care. The coronavirus pandemic accelerated financial woes as providers bought PPE sometimes at many times the cost prior to the pandemic, thanked hard working staff with bonuses or other financial incentives in order to make sure they had sufficient staff and saw mounting bills for decontamination and the increasing costs of liability insurance. Costs continue to rise, but Medical Assistance reimbursement remains static, imposing continuing hardship and concerns for ongoing financial viability. Today, another member will be announcing the sale of their nursing facility to an out of state for profit provider.

We hoped Pennsylvania's prioritization of the vaccine for our seniors and the providers who care for them would be different from the other struggles of the pandemic. Pennsylvania enrolled in the Federal Pharmacy Partnership (FPP) where the selected pharmacies were tasked with providing on-site vaccination to residents and staff in long-term care communities. Last week these pharmacy providers reported that they completed their first clinics in all nursing facilities and are moving on to second and third clinics. Pennsylvania seems to have moved on to vaccinating the persons in phase 1A who live in the community at large. Yet, there is seemingly no plan for individuals that are not yet vaccinated but are admitted to a nursing facility or is newly employed by that facility after the FPP has finished their mission.

The FPP program as implemented in Pennsylvania, seemed to receive inconsistent information from the Department of Health about who would be eligible to receive vaccine. The federal

government program allowed for the inclusions of personal care homes, assisted living residences, independent living on continuing care retirement campuses and some senior affordable housing properties, but allowed states to decide whether these populations could participate in the FPP. Apparently based on the instructions from the PA Department of Health, both CVS and Walgreens generally refused to vaccinate anyone other than residents in nursing facilities when they began their clinics, even though a personal care home or assisted living residence was located in the same building as the nursing facility. In addition, Pennsylvania's initial FPP vaccine clinics were delayed in their start-up phase while awaiting direction from the Department of Health.

Many seniors living in affordable housing or in independent living on the campus of a continuing care retirement community continue to wonder when they will ever have their turn. They hear on the news about the individual who stopped at the grocery store after work to pick up dinner and was offered the vaccine because the pharmacy would otherwise discard the opened vial – and they wonder why they haven't been considered in an online sign-up process that leaves most people frustrated and very few with appointments. These are seniors who have been urged to stay in their homes and not leave due to the threat of the virus yet Pennsylvania seems to be unwilling to bring the vaccine to them when it would be much safer and more efficient. When I say seniors in reference to individuals who are living in continuing care retirement communities, I am not talking about 65 year olds. The average age of these individuals is approximately 85 years of age and many are older. Some no longer drive and some don't have the computers or smart phones needed to try day after day to arrange for a vaccine clinic. Yes, the state does have a phone number but often the wait time is long and incredibly frustrating.

When we ask the administration about vaccine clinics for these seniors, we perpetually hear that the problem is not Pennsylvania but rather it is a Washington D.C. problem. The prior federal administration wasn't forthcoming; the current administration isn't sending enough supply. However, Pennsylvania doesn't seem to be willing to prioritize our seniors living in congregate settings for the vaccine. Instead, we just keep adding eligible individuals to phase 1A. Why wouldn't we want to prioritize the vaccine to these individuals living in congregate settings by expanding needed resources such as allocating more vaccine for this population: expanding the number of vaccine providers; or allowing more qualified individuals such as doctors and nurses to administer the vaccine BUT we need to act rather than simply finding someone to blame.

LeadingAge PA has called on the Commonwealth to convene a taskforce to quickly develop and execute a plan to prioritize seniors in our vaccine distribution and ensure that all of our older adults wanting a vaccine have access to one. We appreciate the taskforce that Governor Wolf announced last week with members of the General Assembly but we are still perplexed that seniors and providers who have asked to be heard for nearly a year now continue to not be granted a seat at the table.

Last week, the Federal government launched a program designed to deliver vaccine to 40,000 community pharmacies across the United States. The rollout began with first doses arriving February 11, and we understand the program will be incrementally increased as more vaccine becomes available. We propose that Pennsylvania should allow the Federal Retail Partnership to serve the population at large across the commonwealth. This would allow the Department of Health to focus almost exclusively on ensuring access to seniors living in congregate settings. We can assist with the coordination of clinics in these settings, if the Department of Health will agree that these seniors need to come before others in the general population. Doing so will save lives across Pennsylvania and serve to elevate the status of our vaccine rollout among states across the nation. We have repeated many times- as we expand access – when everyone is a priority no one is a priority. Help us get these seniors vaccinated.

We all need to work together to make sure the seniors in our commonwealth are not forgotten. They deserve the assurance that the senior service providers they rely on for care and services are going to be there for them. That means that provider need to be reimbursed for the services they provide, and supported in their ongoing efforts to provide quality care especially during this pandemic. Please join me in elevating these issues and supporting our aging population.

Thank you for the opportunity to offer comments on the experiences of our members and the older Pennsylvanians they serve. On behalf of our membership, thank you for the work you do to support and protect seniors and senior service providers across Pennsylvania. I look forward to working with you to improve the Commonwealth's efforts for these individuals and their caregivers. I would be happy to answer any questions you have.



An affiliate of the County Commissioners Association of Pennsylvania

February 15, 2021

The Honorable Ryan Bizzarro
Chair
House Democratic Policy Committee
G-50 Irvis Office Building
Harrisburg, PA 17120

Dear Chairman Bizzarro:

First, congratulations on your appointment as Chair of the House Democratic Policy Committee. Second, thank you for the Policy Committee's continued attention to long-term care and residents of Pennsylvania during the COVID-19 pandemic. The continued attention that the House Democratic Policy Committee (HDPC) has provided to Pennsylvania Coalition of Affiliated Healthcare & Living Communities (PACAH) members, and their residents, has been paramount during this difficult time.

As introduction, PACAH is an affiliate of the County Commissioner Association of Pennsylvania. Our members care for one of the most vulnerable populations - a population extremely vulnerable to COVID-19. Before and during the COVID-19 outbreak, PACAH members have been the safety net for many counties in Pennsylvania, delivering a level of access to care that other facilities may not provide. This is even more true in the current environment. As many non-PACAH facilities struggle to provide care, PACAH's county facility members have risen to the occasion, providing the same level of support and care that Pennsylvania residents have come to expect. This is especially true for our Medicaid residents who lack the resources for care that others may have.

We are grateful for the opportunity to share our thoughts and experiences regarding COVID-19 and issues that long-term care facilities are facing during this time. As we have confronted this pandemic, PACAH members continue to face an unprecedented number of hurdles in our fight to provide the highest level of care. Daily, these challenges place uncertainty and undue burden on long-term care.

The most pressing issue is the issue of rate setting and structure of reimbursements for care. For over the last several years, the Commonwealth of Pennsylvania has transitioned to a structure that provided for managed care organizations to distribute funds in exchanged for facilities either paying a periodic bed assessment or conducting an intergovernmental transfer if the

facility was owned by the county. Unfortunately, when creating this structure, the formulas set assumed that facilities would maintain a certain level of enrollment in their facilities. The COVID pandemic has completely turned this assumption upside down.

According to projected reconciliations, most facilities will be unable to make their full assessment payment to the Department of Human Services due to significant reductions in resident populations. The cause of this reduction can be contributed to several reasons from resident deaths to reluctance of Pennsylvanians to enter a long-term care facility. Regardless of the reason, many facilities will begin to pay more in assessments than receive from the managed care structure, which will ultimately cause every facility to begin to financial operate in the red through no fault of their own. We would like to ask the Committee to take a full look at the managed care structure of long-term care and determine what can be done to ensure facilities can continue to keep their doors open.

Along with rates and reimbursements, facilities still face mounting pressure on several fronts, from families wishing to have the facility open to visitors to weekly infection control inspections due to anonymous public comments. While facilities understand the frustration that resident family members feel, many facilities struggle each day to follow the basic Department of Health guidance to avoid infection and submit reports. While facilities continue to operate at the highest level possible, we encourage all of facilities to commit resources to communicating with their residents, staff, and community leaders to ensure everyone knows the great work each facility is doing. We ask that this Committee continue to assess the guidance coming from the Department of Health to ensure that the risk mitigation effort correlates to the burden on facilities.

Finally, vaccines continue to be a source for concern as the systems currently in place are not ensuring that all long-term residents receive the vaccine. We were recently informed that if a resident receives the first dose of the COVID-19 vaccine and subsequently contracts the virus then they will be ineligible to receive the second dose of the vaccine. While we understand the guidance in place as it related to antibodies and vaccine rationing, at some point, these residents will need either the second and final dose of the vaccine or both rounds of the vaccine again. Unfortunately, there is no system or guidance in place to ensure that the pharmacy partners will circle back to ensure these residents receive the proper vaccine dosage. Without guidance in place, these residents will overlooked resulting in half of the long-term care residents being vaccinated while the other half are not.

The issues we mention above are only a few in the entire long-term care system as we face COVID-19. However, we feel that if these issues are not addressed many will develop a false sense of security as it relates to long-term care and its residents. We would respectfully ask that this Committee look at the issues we've addressed and work with all long-term care associations to address these needs in a practical and efficient manner.

While we continue to fight for our residents and staff, PACAH thanks the HDPC for their attention to long-term care during this time. We hope the Committee will consider our comments as they work to support our long-term care facilities, their staff and their residents.

Sincerely,

Chase Cannon

Chase Cannon
Executive Director
Pennsylvania Coalition of Affiliated Health Care & Living Communities
