

**Testimony of**

**Stuart H. Shapiro, M.D., President and CEO  
Pennsylvania Health Care Association (PHCA)/  
Center for Assisted Living Management (CALM)**

**and**

**W. Russell McDaid, M.H.A., Vice President, Public Policy  
PANPHA**

**on**

**The Department of Aging and Long-Term Living Act**

**before the**

**House Aging and Older Adult Services Committee**

**in**

**Harrisburg, PA**

**April 2, 2009**

Chairwoman Mundy, Chairman Hennessey and members of the Committee: We appreciate the opportunity to appear before you today to discuss the proposed merger of the Office of Long Term Living with the Department of Aging as included in the Department of Aging and Long-Term Living Act, HB 1152, concurrently being considered by this committee.

My name is Dr. Stuart Shapiro, and I am president and CEO of the Pennsylvania Health Care Association/Center for Assisted Living Management. PHCA is a statewide advocacy organization for the commonwealth's elderly and disabled residents and their care providers. Sharing the testimony today is Russ McDaid, Vice President at PANPHA, a statewide association representing not-for-profit senior care and service providers.

Thank you for asking us to comment today. As representatives of the elderly and their providers of care, we have a significant stake in assuring that services to the elderly continue in a manner that provides both choice and quality of services in a way that sets priorities and is affordable to individuals and to Government.

Because our Associations, and our members, believe deeply in the value of the entire continuum of long term living services, we collectively have been working tirelessly to see that all program for the elderly and disabled be implemented in a manner that will encourage this sector to continue to expand and serve a senior population which is projected to grow rapidly, and desires a wide variety of care and services in the future.

Nearly 70 percent of Pennsylvanians turning 65 this year eventually will require some form of long-term care. Right now, 2 million of our 12 million residents are age 65 or older. By 2020, more than 25 percent of our population, or some 3 million Pennsylvanians, will fall into that demographic. That is a 50 percent increase in a little more than a decade. This population data speaks to the need for a set of properly funded programs that allow individuals to age in a place that is appropriate for them at each stage of their life.

Mr. McDaid will now outline specific comments on the legislation, and then I will offer some concluding comments.

It is our collective judgment that the new Department of Aging and Long Term Living has the “potential” to improve care along the entire continuum of care. We would urge that the Department and Office of Long-Term Living work closely with the various stakeholder groups and the legislature to ensure that this “potential” is realized.

If the time is taken to be sure that the new Agency is given the authority over the programming and funding necessary to coordinate care, then it can, as the Department notes in its ‘Case for Change’ document, “. . . remove the structural barriers that still limit the Commonwealth’s progress . . .” in this area.

We have already reached out to the leadership of both the current Department of Aging and the current Department of Public Welfare/Office of Long-Term Living to discuss specific thoughts about the bill. Our testimony here today is not intended to undermine that meeting or to pre-empt it. Our preference would have been to share our concerns with the Departments in advance of this meeting, but scheduling conflicts have delayed that meeting. We would like to highlight some of our broad concerns at the hearing today, and plan to have more detailed discussions on specific provisions and language in the days ahead.

- In the Objectives section of the bill, the language is very broad and does not specifically recognize the frank reality that as people age their preferences are often *driven by their care and service needs*. This is an important distinction that should be made throughout the bill.
- As currently worded, many sections of the bill granting authority for oversight to the Department or the Area Agencies on Aging seem to imply that any time that a consumer is forced to leave their home to seek necessary care and services, the system has failed them. This may be true for younger people living with disabilities in the vast majority of situations. However, for our frail elders who are 85, 90, and older, it is an unreasonable expectation to presume that their care and services needs can or should always be met in the home.

- The definition of “Long-Term Living Services” we believe is both too narrow and too prescriptive. It does not include personal care, assisted living, or domiciliary care, and it is so prescriptive that as new settings evolve over time, it does not address these potential services/locations.
- In Section 4 of the Bill which establishes the new Department, Section 4(b) (6) would seem to place the needs of the newly formed ‘Council’ as the drivers of the new Agency. We believe the legislation should address the needs of “individuals needing long term living services and be consistent with the direction provided by the Council”.
- Section 4 (b) (11) doesn’t address the entire continuum of care when studies and evaluations are conducted, and we would suggest that this be expanded to include individuals “receiving long term living services”. As it is worded currently, would seem to only provide that study and evaluation on care in ‘facilities’—which would miss a large segment of the care and service continuum as we continue to expand choice here in the Commonwealth.
- Section 4(b) (12) gives us major cause for concern as worded, as it would seem to indicate that the goals of the new Department would be to maintain older adults and people living with disabilities in the community regardless of whether their care needs would indicate another setting might be more appropriate. While we are supportive of a long-term living system where consumers have access to the full ‘menu’ of care and service offerings going forward, the language in the bill as currently drafted seems to paint facility-based care as the ‘villain’, rather than an important part of the care continuum which many Pennsylvanians will continue to need. We would suggest amending this section to note that “. . . nursing home services are available as clinically necessary. . .”, and will provide that language in a markup of the bill in the very near future.
- When Act 56 was drafted to formally recognize Assisted Living in 2007, the legislature included an important section requiring consistent clinical assessment and ongoing clinical evaluations of individuals in nursing facilities and those utilizing home and community-based waivers designed to maintain nursing facility clinically eligible consumers in the community.

That provision in the Assisted Living Act has still not been implemented. While it is hinted at in Section 4(b) (13) (i), much like other places in the bill, the concept is only addressed as it relates to diversion from facility-based care. This section should be amended, using the language from Act 56 as agreed to, so that the Department has the information necessary to evaluate the care needs of those receiving care and services, and whether those needs are indeed being met. This information is vital to meeting the bill's stated goal of ' . . . efficient and economical administration and delivery of long-term living services . . . ', ensuring that cost and quality of care can be assessed across settings.

- The legislation creates a Council on Aging and Long Term Living that is given broad authority to advise and direct the Department's activities, yet includes few provider representatives. As representatives of providers who provide caring and compassionate care to hundreds of thousands of vulnerable Pennsylvanians annually, we find it extremely concerning that in this and other areas of the bill providers seem to be painted as part of the reason that the current system is broken. Frankly, without their willingness to care for people 24/7/365 there would be no 'system', broken or otherwise. We have language to provide you which align the representatives of the Council in a more balanced manor, respecting the equal roles that consumers and those who provide their care and services should share in the process.
- While we understand the need for gathering the views of a broader array of stakeholders than is practical to include in the 'Council', we believe that the regional council concept as currently drafted may create more confusion than input. We would suggest that the Department consider other alternatives such as regional public meetings of the 'Council' and periodic formal input sessions.
- Our only specific comment on the section re-establishing the AAA network is around the exclusion of Assisted Living and Personal Care when evaluating housing options. Any number of stakeholders in this room have noted, on multiple occasions, that the existence of a robust Assisted Living market creates an alternative to nursing facility care for those with 24/7 care and service needs which, while significant, do not rise to the level of

those provided in a nursing facility on more than a periodic basis. It's why so many of us have invested so much time and resource into evaluating the Assisted Living regulations which, if mindful of the market realities that consumers and providers face when published as final, will expand the 'menu' of care and service offerings available to Pennsylvanians. Yet, when the bill tasks the Area Agencies on Aging with housing options for consideration, assisted living facilities are not included. We believe that assisted living facilities and those personal care homes that provide a comparable level of care and services are critical to consumer choice, must be included in any and all evaluations or discussions about the continuum of care.

In fact, that leads to a set of final comments that my colleague, Dr. Shapiro will make.

Again, Chairwoman Mundy and Chairman Hennessey, thank you for inviting us to testify. I have two final comments.

My first final comment addresses a subject on which many of us have worked very hard: Assisted Living as created by Act 56 almost two years ago. We understand that the Department of Public Welfare will be circulating a draft of the regulations within the next sixty days, which we are looking forward to reviewing.

An important provision in that legislation established the provision for dual licensure and inspection of personal care homes and assisted living facilities, and we understand that the redrafted regulations will address this issue. Mr. McDaid and I testified on this before this Committee last year.

As he said a few moments ago, we believe that personal care homes and assisted living facilities are both important components of the long term living continuum, yet the management of neither of those functions is transferred to the new department. In light of the Administration's stated goal of increasing coordination of care and service offerings through the new Department of Aging and Long-Term Living, this makes little sense to us. We hope that the legislation will be amended so that oversight and funding for both personal care homes and assisted living residences become part of the proposed Department.

My final comment addresses the important subject of “integration.” I come from the business world, and when companies merge, successful integration of staff and functions is a complex and time consuming task. I believe with a merger of Government Agencies, it can be even more complex. When businesses are merged, it is standard practice to put together a very detailed “merger binder” that addresses virtually every aspect of the merger including staff functions, training, budgets, forms, etc. These binders cover every minute detail possible, as business mergers fail when different cultures are not successfully integrated, details of the merger are left to chance, and commitment to training is not robust. I would hope that this committee has reviewed the details of the merger to assure that virtually all aspects of integration are considered and that the new and expanded Department has the appropriate legal, financial, and business staff to successfully carry out its new mandates. Likewise, we would hope that you will assure that the details of coordination between the Office of Income Maintenance within DPW and the new Department are clearly elucidated. Clear lines of authority over these functions need to be established as departments merge functions.

As Mr. McDaid started his testimony, we will be meeting with leadership of the Department next week to discuss the same concerns we have expressed today. We look forward to that discussion, as well as discussions with members of the Committee.

We will be glad to answer any questions.