

**Written Testimony of**

**Pennsylvania Health Care Association (PHCA)**

**Delivered by  
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President**

**For A**

**Public Hearing with Rep. Ed Gainey on House Bill 1449  
(Nursing Facility Accountability Act)**

**Democratic Caucus Room, 418 Main Capitol Building, Harrisburg**

**Before the  
House Democratic Policy Committee**

**November 16, 2015**

Good morning and thank you Chairman Sturla, distinguished members of the Committee and Representative Gainey for the opportunity to come before the House Democratic Policy Committee to testify on House Bill 1449, the Nursing Facility Accountability Act.

I am Russ McDaid, the President of the Pennsylvania Health Care Association, better known as PHCA.

I plan to keep my testimony this morning short and simple. I'd like to talk to you about the high quality care being delivered by Pennsylvania's compassionate caregivers, the dire state of Pennsylvania's Medicaid reimbursement to nursing homes, the operating margins of nursing homes in the Commonwealth and the devastating impact Medicare cuts have had on those margins, which have sunk to all-time lows, as they relate directly to the feasibility of the measures included in House Bill 1449.

But first, some background: PHCA advocates for compassionate, quality long-term care for Pennsylvania's elderly and disabled residents. Our 500 members comprise of for-profit, non-profit and government long-term care providers who provide around-the-clock care, including nursing homes, personal care homes and assisted living residences, retirement communities and other multi-level care campuses. Their top priority is to provide quality health care and quality of life for those entrusted to their care.

Each and every day, the hardworking men and women in Pennsylvania's skilled nursing facilities provide the highest level of care to ensure our more than 50,000 sickest, frailest elderly and disabled residents live a healthy, safe life and age with dignity and respect.

Pennsylvania has 2.2 million residents age 65 and older. By 2030, Pennsylvania's 60 and older population is expected to be 29% of the total population -- approximately 4 million people. The number of Pennsylvanians age 85 or older is expected to exceed 400,000 residents in 2030—that's a segment of the population that is the most intensive users of nursing home and other long-term care services. It is important to know that, with the total number of senior citizens on the rise, many nursing facilities are struggling to survive right now.

The 'average' nursing resident in one of our member facilities is an 88 year old woman who requires assistance with four (4) or more activities of daily living, or as they are called in the industry, ADLs. These include eating, bathing, dressing, toileting, ambulating/transferring and continence. Nationally, 62% of all residents in nursing facilities have four or more ADL needs. Here in Pennsylvania its 71%. Our average resident is also likely to be experiencing moderate to severe cognitive impairment—64% of all residents in Pennsylvania and nationally have these challenges.

The bottom line is that PA's population is older and sicker, and there are very few people residing in our long-term care facilities on a daily basis who do not need the 24/7 skilled care the nursing facility provides. And, ALL need some type of care and services on a 24/7 basis, even if it is at a lower level of care such as an Assisted Living Residence or Personal Care Home.

Over the years, the acuity, or sickness, level of these residents has increased. As the level of care needed by residents has risen, so has the cost to provide this care. Unfortunately, funding has not kept pace with costs, especially for those supported by Medicaid, the state's medical assistance program, putting Pennsylvania's nursing facilities on a financially unsustainable path—even as the need for high-quality long-term care continues to grow.

Attached to the back of my testimony is a series of four slides showing the fiscal challenges facing our nursing homes.

*(First slide-Medicaid shortfall)*

The first shows the gap between what Medicaid pays for care and the true cost of care, which continues to widen. This gap is called the “Medicaid shortfall.” As you can see in the chart, a recent national study demonstrated that Pennsylvania's shortfall was \$23 per resident per day in 2014. With 65 percent of all nursing home residents relying on Medicaid to pay for their care, nursing homes now sustain an average loss of \$8,500 a year on two-thirds of the residents in their care. The shortfall for 2014 alone was estimated at \$471 million.

*(Second slide-Margins)*

The next slide shows what we have long known—that Pennsylvania's nursing homes have among the lowest margins in the country. Several recent national reports from Avalere Health, a respected Washington D.C. research company, and MedPAC, the Medicare Payment Advisory Commission, show nursing home margins at roughly 2%. An Avalere study from last year pegged the margin for Pennsylvania's nursing homes at 1.2%, with the highest Medicaid facilities at 0.3%, barely above breakeven.

*(Third slide-Medicare cuts)*

The third slide shows us how Medicaid under-funding is one piece of the financial stress for nursing homes, but Medicare funding is also a challenge. Historically, generous Medicare revenue has allowed nursing homes to care for Medicaid residents whose care was provided at payment rates substantially below cost. This is no longer the case.

Hundreds of millions of dollars in Medicare payments to nursing homes have been cut. These cuts are in addition to the \$760 billion in Medicare cuts to pay for the Affordable Care Act. Pennsylvania's nursing homes' share of the Affordable Care Act is about \$1 billion over 10 years, and the other cuts are more than \$300 million annually.

*(Fourth slide-Margins compared to other sectors)*

Our Skilled nursing facilities historically have the lowest operating margins among any health care companies. According to 2012 numbers, you can see the average net margins of the other companies in the slide displayed:

- Pharmaceutical companies, 25.8%

- Medical device companies, 19.6%
- Managed care plans, 5%
- Hospitals, 4.5%

Given these problems, our members can't invest in advanced medical technology that could aid in patient care. They can't invest in capital improvements to upgrade aged buildings. And they cannot invest in staff by offering the wages and or benefits they would like to offer, but simply cannot afford.

Despite this chronic underfunding, from the first quarter of 2014 to the first quarter of 2015, Pennsylvania nursing homes improved on 10 of 11 quality measures, according to the U.S. Centers for Medicare & Medicaid Services' five-star rating system, and now rank better than the national average on 8 of the 11 measures. Pennsylvania's nursing homes receive fewer deficiencies than the national average. In fact, our nursing homes rank the lowest in serious deficiencies, meaning the state's facilities rank better than 49 other states.

PHCA is seeking an increase of 2.4 percent in Medicaid payments to nursing homes to cover the ever increasing cost of care and make a dialogue around additional investments in direct care workers possible. The 2.4 percent is the three year average increase in the nursing homes market basket used by the Centers for Medicare and Medicaid Services (CMS) to set Medicare rates. This increase equates to \$36 million in state funds, which will bring in an additional \$40 million in federal funds. The market basket represents how much more it would cost a nursing home each year to purchase the same mix of goods and services.

To help preserve access to care for our most vulnerable populations, PHCA is also seeking continued funding for the Medicaid Access Program that the legislature created two years ago. This program provides incentive payments to centers that serve high Medicaid populations. We are asking for \$16 million in state funds, which will bring in an additional \$17 million in federal funds.

**In short, until Medicaid is able to meet the true cost of care, until the operating margins for high Medicaid nursing homes rise above 0.3% and approach other health care companies, and until Medicare cuts are restored at the national level, the state should not mandate nursing facilities in Pennsylvania to pay their employees more than their current reimbursement rates allow.**

Thank you again for the opportunity to testify today. I look forward to working with you towards a long-term care system that invests in our caregivers and quality, and I am happy to answer any questions at this time.