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Q1

Please enter your name.

Bob Smythe

Q2

Please enter the House or Senate district for which you are a candidate, ex. H-1, S-1

House 165

Q3

The Commonwealth of Pennsylvania has an obligation to take care of its poorest, oldest and most frail residents through its Medical Assistance (Medicaid) program. Almost 70% of nursing home residents are on Medicaid. However, the state has not met its commitment to these individuals who require around the clock care. Today as the average daily cost of long-term care for a Medicaid resident is about \$250, nursing homes are reimbursed at an average daily rate of only about \$202, creating an average daily shortfall of about \$48 for every Medicaid resident. Pennsylvania's Medicaid reimbursement rate for nursing homes has not been increased in six years, making it one of the lowest Medicaid reimbursement rates in the country. The average annual operating margin for Pennsylvania's skilled nursing providers is now -2.8%. If elected, would you strongly advocate for and support an increase in the annual appropriation for Medical Assistance long-term care and long-term care managed care to increase rates to at least keep up with medical cost inflation (usually between 2% and 2.5% annually)?

Yes,

Other (please specify):

We need to ensure that the appropriations for Medical Assistance for long-term care and long-term managed, at a very minimum, keep pace with inflation. The failure to provide proper funding not only places a financial strain on those facilities that care for our seniors, but it also impacts their ability to fairly pay their workforce who care for our seniors and recruit new employees.

Q4

Pennsylvania's legal climate remains a significant contributor to the financial and workforce challenges facing long-term care providers in Pennsylvania. It, in large part, invites out of state law firms to advertise using inflammatory accusations to generate lawsuits, many of which would be considered frivolous. Given the vagaries of jury trials, in almost every case, insurance companies force long-term care facilities to settle such cases for fear of jackpot punitive damage awards that could put them out of business. Many states have enacted liability relief for long-term care providers, and Pennsylvania physicians have had caps on punitive damages at 200% of compensatory damages since 2002. But with no such liability relief in Pennsylvania, it is estimated that liability-related expenses cost the state's Medicaid program more than \$100 million each year. Some nursing homes now pay more in liability-related costs than they do for food-related costs for their residents. In addition, the advertising used by out-of-state law firms to raise concerns about the care provided has had a devastating impact on frontline caregivers. Many have left the profession altogether, while others are attacked in advertisements in local newspapers and on social media channels. If elected, would you support lawsuit abuse reform including capping punitive damages at 200% of compensatory damages for long-term care facilities?

Yes,

Other (please specify):

There needs to be consistency across medical facilities and health care providers in terms of a cap on punitive damages.

Q5

During the Covid 19 pandemic, long-term care providers were faced with unclear and ever-changing guidance from federal and state regulators, the prioritization of hospital and health systems over long-term care, a shortage of adequate personal protective equipment, and staffing challenges exacerbated by illness, transportation and child care disruptions. Even as long-term care providers were going to extraordinary lengths to protect their residents, the nature of a novel virus creates many challenges and provides for an environment ripe for lawsuits. In fact, some law firms are already targeting long-term care facilities and their employees using television and social media. Some have even reached out to caregivers directly through social media platforms. While most states provided medical liability relief for providers delivering care during the pandemic, Pennsylvania refused to expand these protections to providers, placing them at risk of significant settlements or verdicts simply for providing the best care, with the resources available, based on the best information and direction at the time. If elected, would you advocate and vote for legislation providing medical liability relief to long-term care providers for actions taken and care provided during a declared public health emergency (liability protection would not be extended to cases of intentional harm or gross negligence)?

Yes,

Other (please specify):

Our long term care providers were placed in an extremely difficult position following the mandate by Governor Wolf and the Pennsylvania Secretary of Health that facilities must accept individuals who had tested positive for COVID-19, as well as conflicting and frequently changing recommendations from federal and state health departments and agencies. I believe there needs to be protections in place for our long-term care facilities, which all faced very difficult situations and circumstances and performed as best they could to provide the needed care for their residents. I do believe that this liability protection should not extend to instances of gross negligence.

Q6

Over the past few years, there have been several attempts by some members of the Pennsylvania General Assembly to enact a state false claims act. The intent of this legislation is to reduce fraud and abuse in the Medicaid system and provide budgetary savings to the Commonwealth; however, states already benefit from federal false claims protections and are not required to pay a state share of a qui tam plaintiff's award, thereby securing more dollars for the state. Should Pennsylvania enact a state false claims act and as a result of this act coupled with a qui tam provision, the state would actually receive less money. Furthermore, recent versions of false claims legislation state that fraud is not required to be proven. Pennsylvania already has a Medicaid Fraud unit in the Attorney General's office, an existing anti-fraud statute, and other safeguards against Medicaid fraud and abuse and the Attorney General may participate in any federal false claims action. Any new false claims legislation would further expose this struggling sector to unnecessary legal risk providing incentives for individuals and governments to pursue any mistake or error for significant financial gain. If elected, would you actively oppose and vote against any proposed False Claims Act legislation?

Yes,

Other (please specify):

In my opinion, the False Claims Act would be duplicative in nature and would not serve in the best interest of taxpayers given the existing oversight capabilities and authorities that are already in place.

Q7

Assisted living residences are a combination of housing and supportive services as needed. These communities are widely accepted by the general public because they allow people to age in place, maintain their independence and exercise decision making and personal choice. In Pennsylvania, assisted living residences are not eligible Medicaid providers and are primarily patient or private pay. However, there are situations in which a resident of an assisted living community may no longer be able to afford assisted living and might, in fact, be financially and clinically eligible for Medicaid nursing home care. Oftentimes, the individual is forced to leave the assisted living setting and move to a nursing home where the costs are covered by Medicaid. Legislation has been proposed to permit assisted living residences to participate in the managed long-term care Medical Assistance program known as Community Health Choices. This legislation would allow these individuals to continue to age in place and would allow those eligible to receive Medicaid services in a less costly setting without forcing them to relocate to a nursing home. If elected, would you advocate and vote for legislation permitting assisted living residences to participate as providers in the Medical Assistance Community Health Choices program?

Other (please specify):

I would appreciate additional information on how this would work and its impacts on the level of funding that is available for nursing homes. Given the funding issues that are already in existence related to Pennsylvania's Medicaid reimbursement rate for nursing homes – which as PHCA notes, has not increased in six years because the appropriations for Medical Assistance have not been increased – I have some concerns about the consequences of further expansion until the existing underfunding of this appropriation is addressed.

Q8

The nursing home industry is one of the most heavily regulated in the United States, second only to nuclear power. Even so, the demand for increased regulation has continued and it is likely it will continue to gain more traction in the wake of Covid 19. The increased burdensome regulations and reporting required of long-term care facilities diverts resources from patient and resident care, the priority of long-term care providers. In many cases, these regulations are imposed without any collaboration or engagement with providers and with little understanding of the actual costs or barriers related to implementing these regulations. Given that reimbursement levels have remained woefully inadequate for the better part of the past decade, providers have had to bear increased costs due to increased regulatory requirements. A number of states have sought to curb unfunded mandates on providers by requiring fiscal analyses be published, requiring that the regulated community be engaged in the development of the regulation and require that the regulation cannot be implemented without accompanying funding. If elected, would you strongly advocate and vote for legislation to prohibit the imposition of unfunded mandates on providers, and if new requirements are deemed necessary and have a cost, they cannot go into effect unless funding is appropriated or approved to cover the full costs projected to be incurred by the provider?

Yes,

Other (please specify):

Unfunded mandates are a problem for all businesses. The industry should be included as part of the development of new regulations so that their impacts can be fully understood and steps can be taken to provide the funding from state government that is necessary to implement new regulations

Q9

In order to become a Certified Nurse Aide (CNA) in Pennsylvania, an individual must complete 120 hours of training - a combination of in-person classroom and onsite clinical training - before sitting for the state certification exam. Many prospective CNAs are not able to forego their current income in order to take full-time classes and are more likely to consider becoming a CNA if more flexible educational options existed. Many states allow for online CNA training and during the Covid 19 pandemic, Pennsylvania allowed for the hiring of temporary nurse aides who had completed only online training and an online exam. If elected, would you advocate and vote for legislation to authorize the Department of Education to certify blended (a combination of online and clinical experience) CNA training programs as an additional option for students wishing to pursue a career as a CNA?

Yes,

Other (please specify):

I would support and co-sponsor legislation introduced by Rep. Curt Sonney (HB 2830) that would amend current state law to allow TNA's hired during the declared emergency to be deemed to satisfy the requirement of completing a nurse aid training and competency evaluation program and placed on the Certified Nurse Aide Registry if they meet a certain level of training, testing and experience.