

**Testimony of  
Stuart Shapiro, M.D.  
President & CEO  
Pennsylvania Health Care Association (PHCA)  
on  
“Long-Term Care Funding:  
The Impact of SB 850 and the Governor’s Proposed 2009/2010  
Budget”  
before the  
House Appropriations Committee  
140 Main Capitol  
State Capitol Building  
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Chairman Evans, Chairman Civera, and members of the Committee: I appreciate the opportunity to appear before you today to discuss the growing challenges confronting Pennsylvania nursing homes and their caregivers with respect to providing quality health care and quality of life to Pennsylvania’s most frail elderly and disabled in a very challenging economic environment.

My name is Dr. Stuart Shapiro, and I am president & CEO of the Pennsylvania Health Care Association, a statewide advocacy organization for the commonwealth’s elderly and disabled residents. Our sole mission is to ensure that those who need long-term care receive quality services in the most appropriate setting as they age.

Our membership --- comprising for-profit and nonprofit providers --- offers services that range from integrated retirement communities and multi-level care campuses to freestanding nursing homes, assisted living/personal care homes, and ancillary care/home-care enterprises. Overall, PHCA represents more than 326 long-term care and senior service providers that care for almost 38,000 elderly and disabled individuals across the state.

Throughout my testimony, there is one recurring theme: When times are tough, the needs are greater, and it is more important than ever that priorities be established, and that we preserve access to quality care for Pennsylvania's frail elderly and disabled residents.

When it comes to deciding how to fund the vast long-term care costs of an increasingly older population, Pennsylvania has more at stake than other states. Our commonwealth ranks third nationally by percentage of population age 65 or older, behind Florida and West Virginia, and fourth in the number of residents age 85 or older --- a segment of the population that comprises the most intensive users of nursing home care as well as HCBS. In fact, according to the Deputy Secretary of the Department of Aging, the number of Pennsylvanians age 85 and older in the system has grown 30% since 2000. Virtually all of this growth has occurred in home and community based services, not nursing home services.

Right now, more than 2 million of our 12 million state 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 poses significant quality of care and funding challenges for families, caregivers and state agencies whose charge it is to safeguard the elderly and others.

As our population continues to age, there will be an even greater need to strengthen and invest in our long-term care system. Pennsylvania currently has 722 nursing homes with 89,149 beds, and demand for nursing home services remains steady. Our facilities, on average, are 91 percent occupied, compared to 88 percent nationally. Direct nursing care averages 3.9 hours per day in Pennsylvania, compared to 3.3 hours per day nationally.

Although the typical nursing home resident tends to be female, 85 or older, and widowed, with some form of dementia, the number of post-

acute hospital short-stay patients requiring intensive medical rehabilitation services is increasing. Data from the Centers for Medicare and Medicaid Services make clear that Pennsylvania's nursing home residents are older and sicker than the national average.

Each and every nursing home is committed to quality care. Families rely on us to provide competent, compassionate care for their loved ones. Our facilities are inspected regularly, and the data on those inspections are made publicly available. PHCA members are part of several national quality improvement initiatives. We are proud of this record of success. And, we are proud of our substantial contributions to Pennsylvania's economy.

Nursing homes are an essential component of Pennsylvania's economy and, in many communities, they are the major employer.

A nationally recognized economic forecasting firm just completed an analysis statewide and county by county of the impact of our industry. In 2007, nursing homes contributed \$11.7 billion in economic activity to the state. This is over 2.2% of the gross state product.

Nursing homes employed, directly and indirectly, nearly 160,000 individuals which supported \$5.7 billion in labor income. Nursing homes generated \$1.85 billion in local, state and federal tax revenue.

Those numbers reflect the economic engine that nursing homes provide to individual communities. This engine is driven in significant measure by state and federal reimbursement which is why my testimony today is so important.

No other healthcare provider is as dependent on state and federal governments for the care they deliver to some of the commonwealth's most vulnerable residents as are nursing homes. Together, almost 80% of our residents or patients are on Medicaid and Medicare. Sixty-five percent of residents are on Medicaid and almost 15 percent are on

Medicare. Private resources and long-term care insurance make up the small balance. Historically about one-third of those entering nursing homes as private pay individuals spend down to Medicaid. Today, because nest eggs of hard working Pennsylvanians have been cut in half by the collapsed stock market, people are going onto Medicaid much earlier because they have fewer dollars to spend.

Virtually every nursing home in Pennsylvania, whether for-profit or not-for-profit, loses money caring for Medicaid patients. A 2008 study of the nation's Medicaid program found that Pennsylvania's nursing homes were paid by the State an average of \$14 per resident per day less than the cost of the care delivered. All told, that's more than a \$5,000 loss per Medicaid resident per year. When you are under reimbursed for 65% of your residents, it is tough to make it up on the other 35% of residents.

In the past 3 ½ years, Pennsylvania has under-reimbursed nursing homes **more than \$650 million** for the care of Medicaid patients. While other health care providers who treat a small percentage of Medical Assistance patients may be able to absorb lower rates of increase, nursing homes cannot.

Because of this, there is a dangerous, growing gap between the cost of quality care and the amount reimbursed by state government. Both the Governor's proposed budget and SB 850 would widen that gap.

We recognize that these are tough economic times, and, are not asking for added dollars to pay for the economic costs of inflation. We are not asking for dollars to pay for increased wages, increased costs of electricity, increased costs of food, or other inflationary items.

We are only asking that nursing homes be paid the dollars needed to care for increasingly sicker patients. Every patient is assessed when they come into a nursing home and regularly thereafter by a standard federally designed MDS, or Minimum Data Set, form. Each resident is

then given what is known as an acuity score. The state's own data shows that these acuity scores have risen rapidly, going from 1.34 in April 2006 to 1.48 in April 2009. Experts in patient acuity will tell you that this is a dramatic increase in three years.

Given this impressive data, all we are asking is that as nursing homes care for sicker individuals who require more staff, more medicines, more medical supplies, that these added costs be paid for. We are not asking the Medicaid program to pay for the wage increases of our employees. We are not asking that the Medicaid program pay for increased energy costs. We are not asking that the Medicaid program pay for any new luxuries. Nursing homes cannot control the acuity of the residents, but they should be paid for this acuity in the same way that hospitals and doctors are reimbursed for sicker and more complicated patients. This is not a rate increase...this is a sickness increase.

Neither the Governor's budget nor SB 850 includes the necessary dollars to pay for this escalating level of sickness.

In fact, because of this escalating sickness level, the Governor's proposed budget will result in 75% of the non-county nursing homes in the commonwealth that accept Medicaid experiencing a drop in their July 1<sup>st</sup>, 2009, Medicaid reimbursement dropping compared to April 2009. That is a cut in rates for 448 out of 590 nursing homes in the Commonwealth.

SB 850 is even worse. If enacted, on July 1, 2009, 91% of nursing homes would experience a decrease in rate from April 1, 2009. That is a cut in rates for 535 out of 590 nursing homes.

So, given economic realities, how do we avoid this? What is our solution?

Pennsylvania has already begun to receive nearly \$4 billion in additional federal Medicaid funds from the American Recovery and Reinvestment

Act, better known as the stimulus package. These dollars will cover the period from October 1, 2008, through December 31, 2010. The U.S. Congress intended that these dollars be used to preserve states' safety nets.

We are not naïve. We understand that the State's budget has over a \$3 billion dollar gap. We understand that both the Governor's budget and Senate Bill 850 needs to divert some of the STATE's Medicaid nursing home funds for other purposes like education, prisons, or transportation. We may not like it, but we do know times are tough and the state is facing a deficit. We do understand.

All we are asking is for the state to divert no more than \$248 million of State Medicaid dollars. Not \$286 million as proposed by the Governor or \$296 million as proposed in SB 850.

We in the nursing home profession understand the need to divert some of the STATE Medicaid nursing home funds for other purposes.

Let me say it again. All we are asking is that the state diverts **no more than \$248 MILLION of state nursing home Medicaid dollars**. Take a quarter of a billion dollars that typically would go to nursing homes and spend it elsewhere – but no more.

That would leave enough dollars in the state budget so that nursing homes wouldn't suffer a cut to their Medicaid rates, and can continue to provide quality care and protect our frailest, most vulnerable and sick elderly and disabled residents. This would assure that nursing homes are actually paid when the residents are sicker...just like they are for hospitals and doctors. While this would not reduce the widening of the gap between the cost of care and reimbursement for that care, it would begin to limit it. This would also allow those nursing homes, including county nursing homes, that serve a higher than average percentage of Medicaid residents (over 65%) to receive a small incentive payment as they have even less chance to shift the cost of care to other payors.

What we're trying to do is ensure that low-income elderly have access to nursing home care when they need it. And access to care is becoming an issue in some parts of the state. A recent study by the Hospital and Healthcare Association of PA revealed that between 42% and 68% of hospitals – depending on location – have said they find capacity for skilled nursing care is an impediment to timely and appropriate discharge of their patients. We believe this is due to Medicaid underfunding.

Let me return to the economic impact for just a moment. The largest single category of cost for nursing homes is the wages earned by the dedicated staff of nurses and aides that care for patients as well as the ancillary staff that provide other basic daily needs. This cost category represents approximately 70 percent of all expenditures in nursing homes. These people work hard. They are devoted to their patients. Without the level of reimbursement we are requesting, jobs will be at risk.

One final comment: I do not envy the challenges you, as lawmakers, and the Governor are facing as the Commonwealth is facing budget deficits of billions of dollars.

PHCA believes that every citizen should, ideally, be able to receive long-term care services in the setting of their choice where these services can be delivered in a safe, responsible, and economic manner. In fact, we have been enthusiastic supporters of the growth of home- and community-based care (HCBS) as most consumers would prefer these services until they really need a nursing home. There is, however, a mistaken notion that state resources will be saved if HCBS is expanded because large numbers of nursing home residents would be shifted toward home care. In fact, this has not happened, and, by and large, HCBS is additive to the budget.

Let me draw your attention to the chart I have here. For your convenience, a copy is attached at the end of the testimony we submitted. We also have a copy for your stenographer.

Based on data from DPW, you can see that since the 2002-03 fiscal year, the annual number of nursing home users on Medicaid has remained relatively constant, around 80,000. Over the same period, however, the number of HCBS beneficiaries has more than doubled, from 17,964 users to a projected 36,787 users. Some argue that without expanded HCBS programs, these 20,000 individuals would be in nursing homes. That simply isn't true.

Not only has the number of annual nursing home users on Medicaid stayed steady while HCBS services doubled, but the average daily Medical Assistance census in nursing homes in Pennsylvania also has remained constant.

This legislature has asked that the Departments of Public Welfare and Aging measure and track acuity in a comparable manner in both nursing homes and the home setting. Unfortunately, despite this request for several years, this is not happening. But, because some of our members provide home services as well as nursing home services, they tell us that the acuity level of most individuals being added to the HCBS program do not rise to a level of care that those in nursing homes need.

What the Medicaid HCBS program really has done is expand long-term care eligibility and coverage for a broader population. Most of these individuals previously would have been cared for by family members, friends or the community, at their own expense. Now, their care is paid for with Medicaid dollars.

While we fully support HCBS, the dollars for it should not be taken from those needed to provide quality nursing home services and limited

state dollars should be prioritized for the sickest, oldest, and frailest of the elderly.

Facility care and home care are not mutually exclusive; they are complementary. While elective Medicaid funded home and community-based care may be a wonderful thing in good economic times, it is not a federally mandated service. Perhaps now is not the time to expand this elective program further.

Given the recession that we are now experiencing, we believe that limited State dollars must be prioritized, and should be spent to assure that quality care is maintained for increasingly sicker, frailer, and older Pennsylvanians in nursing homes.

Let me emphasize that PHCA's sole mission is the delivery of quality health-care services to our frail, elderly and disabled residents, regardless of setting, so they can age in the most appropriate place at each stage of life. We understand the difficult decisions that residents face with respect to long-term care, and we look forward to working with you and the administration to make sure we develop the policies that make those decisions easier for all Pennsylvanians.

Chairman Evans, Chairman, and members of the Committee: I thank you for your time and attention, and am happy to answer any questions you have at this time.

Thank you.

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