

PHCA

Membership Bulletin

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Gubernatorial Candidates Respond to PHCA Questionnaire

PHCA's Government Relations Committee developed a questionnaire that was submitted to the four gubernatorial campaigns requesting their response to issues of greatest concern to the long term care provider community. We have received responses from the Fisher and Rendell campaigns, and their answers are printed here for your consideration as you make a choice for Election Day, November 5. In the event we receive responses from the other candidates, we will print their remarks in a future publication.

Members are encouraged to make themselves aware of the candidates' positions on these issues. However, these positions should not be the only things considered when choosing a candidate. The committee hopes this publication will provide some guidance as to how the next governor may view issues that are of concern each day in the long term care community. PHCA thanks the candidates for taking the time to respond to our questionnaire.



- Pennsylvania has a disjointed system for responding to the chronic and long-term needs of Pennsylvania's most frail and elderly citizens. As Governor, what steps will you take to create a more integrated and coordinated strategy to handle the health, social and shelter needs of Pennsylvania's older population?**

Fisher: Pennsylvania has an obligation to protect and care for our senior citizens. As Attorney General, I have taken on the tobacco companies, scam artists and drug companies who have preyed on our seniors. As Governor, I will continue my efforts to improve the quality of life for our seniors by fostering a state government that works together to help and protect our seniors. The Departments of Aging, Insurance and Public Welfare need to have a more integrated approach in dealing with insurance, community based services, health care and enhanced quality of life. The leadership of these departments will need to work together so that we are providing a coordinate range of services to seniors whether it be home care assistance or prescription drug coverage through PACE.

Rendell: I would ask the Cabinet Secretaries of Aging, Welfare and Health to conduct a special session with the Intra-governmental Council on Long Term Care to address the Council's Transition Paper and make recommendations on how our new administration should implement steps to create a more coordinated and integrated long term care system that will be more effective for both providers and consumers to negotiate and use.



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2. **Do you believe that Pennsylvania currently provides Medicaid funding sufficient to provide quality long-term care and services for Pennsylvania's seniors? If not, what actions will you propose?**

Fisher: I will work within existing budget constraints to increase Medicaid funding for long-term care to our seniors. In addition, I will establish tax credit program for employers who provide employees with long term care insurance. This will increase available Medicaid dollars for patients who do not have long term care insurance.

Rendell: On the state level, Pennsylvania's new budget threatens the financial well being of people whose spouses require medical assistance, Medicaid, for nursing home care. For years the practice in Pennsylvania has been to permit a substantial exemption for home equity and common assets of a couple in figuring the institutionalized spouse's eligibility for medical assistance for nursing home care. This assistance averaged \$5,300 per month in Pennsylvania, a great help to the institutionalized spouse while the spouse remaining at home could still retain their financial independence.

Pennsylvania's 2002-03 budget provides less money for medical assistance, assuming a change in regulations by the state Department of Welfare to have couples use more of their assets before becoming eligible for medical assistance for long term care. Hearings on the proposed regulation change likely will not occur until a new administration is in place. As Governor, I will enlist the aid of AARP and other advocates for the elderly to fight against any increased spend down provisions. Further, increases in the spending down of a couple's assets may be totally unnecessary if more Medicaid dollars are included in the new federal budget. A federal spending bill currently under consideration would give Pennsylvania an additional \$400 million for medical assistance.

3. **Recent changes in federal law will limit the Commonwealth's ability to use Intergovernmental Transfers (IGTs) to obtain literally hundreds of millions of dollars in federal matching funds for the Medicaid program – funds the state has used to pay for long term care and senior services. What actions will you Administration take to address this loss of federal Medicaid funds?**

Fisher: I will work with Senator Specter, Senator Santorum and our Congressional Delegation to fight for increased funding from the Bush Administration. In addition, I will review every program delivering services under Medicaid during my transition to study if we can pool resources and receive mandate relief from the federal government to free up more dollars to put directly into care – including long term care for seniors.

Rendell: The loss of these funds will, under the current statutory schedule, be phased in over several years. I will work with other Governors of the many states affected, to get the federal government to replace these funds, through an expanded Medicaid program – or a different funding stream.

4. **The Legislature has addressed several components of the tort and liability crisis over the past twelve months. Still, nursing facilities assisted living residences and other long-term care providers see no relief in the marketplace, as premiums continue to increase and availability of coverage is shrinking. What more needs to be done to stabilize the liability and insurance marketplace so providers will experience real relief?**

Fisher: As a legislator and Attorney General, I have been a leader in efforts to fight for reform of our litigation and insurance systems. I supported Act 135 in 1996 that would have reduced the time period of protracted litigation and excessive punitive damages.

The Supreme Court suspended key provisions of the Act in January 1997. This past January, I called on the Supreme Court to address these issues and they have since acted with rules to limit frivolous lawsuits and impose costs on those who file them.

I was a strong advocate this year for the passage of the Fair Share Act, which sought to eliminate the doctrine of joint and several liability. A reform to our system was passed, and it is a critical first step in providing comprehensive tort reform for Pennsylvania. Additional steps that need to be taken and that I support include:

- ◆ **Venue Reform:** I have called for venue reform, and now there is a Venue Commission that will recommend solutions to this problem that also drives up jury verdicts because of Philadelphia's high jury verdicts, and as a consequence drives up malpractice insurance. My representative on the Venue Commission has taken a hard line on limiting lawsuits to location of occurrence, and I am committed to this standard.
- ◆ **Full Implementation of Act 135:** I will continue to press the Supreme Court to implement the full provisions of Act 135 including the restoration of the early expert requirement.

In addition, Pennsylvania's Insurance Department has become trapped in bureaucracy and is not serving physicians, citizens or the industry well at all. As Governor, one of my top priorities will be to overhaul our Department of Insurance and make it more consumers-oriented and focused on increased competition among insurers. Some first steps will be to focus on bringing more underwriters into Pennsylvania for all insurance coverage – especially medical malpractice insurance. This will create more competition in the marketplace and lower insurance malpractice insurance premiums.

Rendell: (a) In order to protect access to care in the short term and as a matter of fundamental fairness, Pennsylvania needs to reduce the cost of liability coverage and urge reimbursement levels in targeted areas over the next three to five years while tort reforms, like the new "fair share act" (which I supported) phase in and the current insurance market cycle phases out. I am committed to exploring every possible option to accomplish this goal.

The most attractive current option appears to be the use of state bond funds to refinance and restructure the Medicare unfunded liabilities in order to reduce the annual surcharge over the next five years. This reduction will significantly lighten a physician's overall insurance costs. These bonds would be secured by fees from physicians and hospitals and not the taxpayers of Pennsylvania. Given that the per capita debt in Pennsylvania is so far below that of most other comparable states, and the importance of our health care industry to the economic future of Pennsylvania, the state could and should use its debt capacity to help this vital sector overcome the short-term challenge to physicians and hospitals.

(b) I will seek to maximize federal Medicaid dollars to help solve the short-term problem and ensure continued access to services by all Pennsylvanians. Thus, I would support a 10 to 15 percent enhancement in Medicaid program payments for physicians in certain high risk specialties and services such as obstetrics, orthopedics and neurosurgery in order to offset the higher costs of providing these services due to medical malpractice liability cost increases. The fairly small increases in state payments (which could come from a portion of the Tobacco Endowment Fund) would be matched by federal dollars. This proposal would actually shift some of the short term costs of resolving the medical malpractice liability crisis to the federal tax base.

(c) I would support passage of a Trauma Center Stabilization Act to help safeguard the availability of Pennsylvania's vital safety net of 23 trauma centers across the Commonwealth and partially offset the higher costs of operating these critical services. This proposal is similar to legislation currently pending in the General Assembly sponsored by Rep. Kurt Schroeder of Chester County. Its fairly low costs (less than \$25 million) could be partially offset by reviewing the existing standards for trauma centers in Pennsylvania to see if we can save some dollars by modifying Pennsylvania standards that are stricter than comparable national standards.

(d) I will lead a delegation of Democrats and Republicans to go to Washington to lobby against caps on Medicare and Medicaid reimbursements. Citing the damage such reimbursement caps cause (for physicians, hospitals, and other providers alike), I will attempt to create a multi-state coalition to deal with the serious financial pressures created by Medicare and Medicaid reimbursements caps. I have a demonstrated track record of successful federal lobbying on such initiatives including the Crime Bill, on the issue of unfunded mandates, and on welfare to work.

(e) I will move to authorize joint physician negotiation as other states have done to give doctors leverage in dealing with managed care companies on the issue of the level of reimbursements for basic procedures.

(f) I will also identify as a priority the attraction of more managed care companies to Pennsylvania. By creating additional competition on the managed care side of the health care equation, I believe we can create a more competitive marketplace for the negotiation of provider reimbursement rates.

(g) I will increase the oversight of medical malpractice insurers by the Insurance Department. My Insurance Commissioner will be a watchdog to ensure that rates are fair and reasonable, that rate setting practices are financially and actuarially prudent, that insurance companies do not use releases of reserves to manipulate their profitability, and that appropriate controls on investment practices by insurance companies doing business in the Commonwealth of Pennsylvania are followed. In addition to regulation of the insurance industry, I will strengthen the professional licensure apparatus in Pennsylvania. Studies show that 2 percent of doctors are responsible for more than 40 percent of medical malpractice claims. The Rendell Administration will work hand in glove with the medical profession to weed out "bad" providers who are driving up medical malpractice insurance premiums for everyone.

(h) I support additional tort reforms--

- ◆ Support Venue Reform: I support the principle of cases being tried in the jurisdiction where the alleged malpractice occurred and will urge the Supreme Court and the legislature to move decisively to adopt that recommendation.
- ◆ Work with the Supreme Court to adopt a certificate of merit procedure: I support a system similar to New Jersey's that would require every medical malpractice plaintiff to obtain an affidavit of merit signed by a doctor attesting to the validity of his/her claims.
- ◆ Work with the Supreme Court to have new rules of procedure adopted that embody the procedural changes contained in Act 135 of 1995.

5. **Pennsylvania, like many other states, has been expanding the availability of home and community based long term care options as an alternative to nursing home care. Considering demographic trends, and the growth of our elder population over the next several decades, more services of all types will be needed to meet the demand, including nursing home beds. What are your thoughts on striking an appropriate, safe and responsive settings?**

Fisher: I support the expansion of community-based services because they allow seniors to live in their homes longer. However, there are still needs for independent living, assisted living and long term care facilities. It is my goal to create a market place for all of these options including access to community based care. I believe that a continuum of care within an existing facility offers seniors who need to move away from a community based environment offers them the best option for an enhanced quality of life. I support changes to the regulation of assisted living facilities so that they are different from long-term care facilities.

Rendell: As Governor, I will support efforts to expand caregiver programs so that the elderly can remain in their homes. Some 95 percent of the elderly living at home who need assistance rely on family members to be their caregivers. Often family caregivers must make financial sacrifices, reducing their job hours or helping to pay health care and home expenses. I favor legislative proposals to support family caregivers by providing a tax credit against their personal income tax, and by increasing current reimbursements for out of pocket expenses from \$200 to \$500 a month.

This funding will enable families to care for their aging loved ones in a home and community-based setting. These grants also provide financial assistance to grandparents raising their dependent grandchildren. Expanded funding will help to avoid unwanted nursing home placements and the attendant expenses (*e.g.*, Medicaid). In February 2002, HHS released \$128 million in grants to the states for innovative programs. Pennsylvania drew down \$6.9 million. As Governor, I will lobby the Federal government to increase Pennsylvania's share of this funding.

As Governor, I will also seek to increase the level of public financial support, including leveraging of federal resources and the support of state legislative initiatives, to cover the cost of housing and services for low-income people who need personal care services. People who need these supports are typically low-income women who have no community safety net and need 24-hour supervision due to physical frailty or cognitive impairments, but do not need health care services from a nursing home.

6. **Some states have found ways to encourage personal responsibility for the costs of long term care by offering incentives for individuals to purchase long term care insurance, or expand savings and investments for future needs. By relying on private financing for long-term care, future Medicaid spending could be reduced. Do you have a plan to encourage private planning and financing for long term care needs, and how would it be implemented?**

Fisher: I would like to provide employers incentives for offering long-term care insurance to their employees. By reforming the Insurance Department and bringing in more carriers we can lower insurance rates on health care and other policies. This would provide more resources for employers to provide expanded coverage for long-term care. In addition, I would support the state establishing a tax credit program for employers who provide employees with long term care insurance.

Rendell: As Governor, I will increase outreach efforts so that people will understand that insurance is an option in dealing with rising costs of long term care and should be considered as part of their retirement planning. I will also explore the use of state tax credits to encourage individuals to establish their own long-term care insurance programs, like the federal IRA program and use tax incentives and credits for employers to make this coverage available to their employees. Ensuring adequate coverage of home care providers can be a key determinant in keeping older Pennsylvanians in their homes longer.

7. **Pennsylvania’s nursing facilities employ more than 100,000 people in a variety of occupations. The provider community is currently struggling with a significant shortage of workers qualified and dedicated to the care of our residents. How can Pennsylvania plan for meeting future staffing needs?**

Fisher: There are several steps that we need to take in order to increase the amount of health care workers. First, we need to re-emphasize health care as an occupation that provides personal satisfaction and good career opportunities in our public schools. Second, we need to overhaul our vocational training and job training programs to make certain that we are meeting the demands of today’s workforce needs. This includes training programs for long-term care employees. Pennsylvania has the second oldest population in the country, and we will continue to have a need for skilled health care workers. Third, we need to provide health care employees like nurses and aides grants to pursue the training they need to do their jobs.

Rendell: As Governor, I will support current legislative efforts to provide financial support for the education of health care professionals. I will expand loan forgiveness and scholarship programs to encourage nurses and other health care workers to work in underserved or professional shortage areas into nursing and other health care professions. For example, the State’s ‘New Economy Technology’ Scholarship program does not include nursing or other health care professions. By expanding this program to include the health care professions, we can provide financial incentives and support to individuals who may be discouraged otherwise. In addition, our workforce development programs must target long-term care, and reimbursements must be sufficient to allow adequate compensation for all employees.

Beyond implementing even-handed enforcement of current legislation and regulations governing nursing homes, there are a number of efforts I will pursue to foster the continuous improvement of nursing care in Pennsylvania’s long term care facilities. Among these strategies are:

- ◆ Create a “Gold Seal” certification program awarded by the state under the advisement of a multi-disciplinary group of professionals and practitioners that would identify excellent standards of practice for nursing homes to meet. If such facilities met these standards, they would be awarded a Gold Seal certificate that would inform the public of their high standard of care. Benchmarks already exist through the body of knowledge currently being generated by the Wellspring, Pioneer, Eden and Magnet Accredited Nursing models.
- ◆ Develop “Teaching Nursing Homes” through partnerships between local nursing home facilities and BSN and MSN schools of nursing throughout Pennsylvania which would provide advanced practice nurse consultants and students to work with Directors of Nursing of nursing homes to foster enhanced levels of care.

- ◆ Provide incentives for Pennsylvania Schools of Nursing to seek funding for establishing and sustaining careers in geriatric advanced practice nursing (APN) from the Geriatric Nursing Education Project funded by the John A. Hartford Foundation and administered by the American Association of Colleges of Nursing. Scholarships are made available to schools of nursing to expand enrollments of students and nurture leadership abilities of scholarship awardees.
- ◆ Create alliances to compete for national public and private funding to enhance the practice of nursing throughout the state especially in the field of gerontological nursing (e.g. the Health Resources Services Administration, Robert Wood Johnson Foundation's Colleagues in Caring grants, federal Nurse Reinvestment Act funds and Nursing Education Loan Repayment program).
- ◆ Form public/provider partnerships to jointly hire and share the expertise of a consulting Advanced Practice Nurse in gerontological nursing to provide clinical supervisory expertise to Directors of Nursing and other supervisory nurses.
- ◆ Form a public private partnership to fund supervisory and management-training programs for RNs and LPNs in long term care facilities. Perhaps offer these programs onsite and/or use telehealth conferencing to reach as many nurses as possible.

As Governor, I will take steps to establish the State Center for Health Careers and charge it with taking a comprehensive approach to collecting and analyzing health care workforce information, particularly the supply and demand for workers across the continuum of care. This information will be used to plan for the demand we are likely to face over the coming years and to help target career outreach, such as financial assistance to students and education programs. This will assist health care policymakers and health care leaders in assuring the deployment of health care personnel with the skills needed to deliver care in communities across the state.

As Governor, I will charge the Pennsylvania Department of Labor and Industry to work with the new State Center and other state agencies, to collect and analyze workforce information. The new Center will explore specific objectives related to nursing including:

- ◆ Evaluate the most effective means of enabling nurses to access higher levels of nursing education through improved transition of associate degree and diploma nurse education to baccalaureate programs;
- ◆ Encourage hospitals to participate in nursing services recognition programs, such as the voluntary accreditation of the American Nurses Credentialing Center Magnet Hospital recognition program; and
- ◆ Foster dialogue between all nursing stakeholders on how to assure that Pennsylvanians have access to quality nursing care.
- ◆ As Governor, I will also work with government agencies and private payors to provide sufficient financial assistance for nursing and allied health education programs to sustain the current schools, to prevent further nursing school closures, and to ensure that nurses and other allied health professionals educated in Pennsylvania remain in Pennsylvania.

8. **The regulatory environment in Pennsylvania is quite adversarial, and providers' relationships with the regulatory agencies continue to deteriorate. What would you do as Governor to restore civility in relations between regulatory agencies and providers to build a true private-public partnering in meeting the care needs of our aging community?**

Fisher: There is no question that the relationship between the long-term care community and the state has been hostile. As Governor, I will work with the leadership and members of the PHCA to bring the stakeholders together so that a true, working partnership can be accomplished. I will require that you are included in the development of changes on the front end so that we have regulations that protect our seniors but do not place unnecessary burdens on those providing the care.

Rendell: Assisted living facilities and personal care homes offer a residential setting that provides or coordinates personal care services, 24-hour supervision, some assistance with the tasks of daily living, assistance with medications and social activities. They also offer room, board and meals. These facilities have grown rapidly with Pennsylvania's escalating senior population – but the resources to regulate them have not.

As Governor, I am committed to ensuring that these homes are properly regulated to safeguard the health and safety of their residents. I will see to it that the Department of Public Welfare is properly staffed so that required annual inspections are effectively done at some 1,800 personal care homes in the state. I will correct the poor record keeping of complaints and follow-up inspections cited in recent years by making sure the department is fully computerized and that its procedures are standardized. The Rendell administration will also address the need to update and enhance current regulations to better reflect the changing structure of the personal care home/assisted living industry and the needs of the residents living at these facilities

9. **As consumer demands have changes, providers have responded by offering much more robust assisted living options. Pennsylvania continues to regulate assisted living as personal care homes, although those regulations have not been changed in a number of years. How would you approach regulation of assisted living as the next Governor?**

Fisher: Pennsylvania seniors are living longer, and as someone grows older they should not be faced with a choice of just long term care facilities. As Governor, I am committed to a continuum of care options for our seniors. This includes independent living, assisted living and long term care facilities. I believe that independent and assisted living facilities are different than long-term care facilities. While these facilities may all be located in the same area and operated by the same management, the regulation of these facilities should be different than long-term care facilities. I support a different set of regulations for assisted living facilities that will protect our seniors from abuse and enable them to live a better quality of life.

Rendell: I support defining and regulating assisted living residences separate from the current definition and regulation of personal care homes. As more Pennsylvanians face choices concerning long term care options, and as the marketplace offers an increasingly complex array of alternatives to consumers, government must assure that public safety is protected and consumers are empowered with accurate, easily understood comparative information to make informed choices among (the services and settings offered) providers. I would define assisted living and personal care, and would appropriately regulate both settings. Such a regulatory environment should assure that consumers get necessary information about options regarding the quality of care and cost. I also will employ a "smart" regulatory approach that balances appropriate consumer protections with sufficient flexibility to allow consumers real choices in residence, care and services.