

# Pennsylvania Association of Elder Law Attorneys

*A State Chapter of the National Academy of Elder Law Attorneys*

2000 Linglestown Road, Suite 202

Harrisburg, PA 17110

www.paela.info

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**March 25, 2010**

The Honorable Todd Eachus  
110 Main Capitol  
Harrisburg, PA 17120-2116

**Re: Support House Bill 2252**

Dear Representative Eachus:

**On behalf of the Pennsylvania Association of Elder Law Attorneys (PAELA), I am writing to urge you to support HB 2252, Printers Number 3212, which repeals the language in Section 1412 of the Public Welfare Code that allows the Governor to expand Medicaid estate recovery without legislative oversight.**

PAELA is an association of elder law attorneys and its mission includes ensuring the development of laws designed to enhance the lives of older persons and those with special needs. As elder law attorneys, the members of PAELA have a first-hand view of the personal problems and dilemmas faced daily by the spouses of frail and vulnerable seniors. Expanded estate recovery would add to the burdens on these caregivers and attack their already limited financial security.

Medicaid estate recovery is based on a federal law that requires Pennsylvania to try to recoup the costs of long term care services paid by Medicaid. Estate recovery was first implemented in Pennsylvania in 1994. For the past 16 years, Pennsylvania has wisely limited its scope to the minimum required by federal law – collection from the probate estate of the recipient of Medicaid. Because the claim has been limited in this way, a house owned jointly by a husband and wife has not been subject to the estate recovery claim if the spouse in the nursing home died first.

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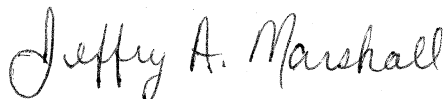
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In a misguided effort to attempt to collect additional revenues, last spring the Governor proposed expanding estate recovery to reach property held as joint tenants or tenants by the entireties, life insurance, life estates, trusts, annuities and any "other assets in which the deceased individual had any legal title or interest at the time of death." If passed, this proposal would have resulted in significant financial harm for the surviving spouses of nursing home residents. In addition, it would have created major titling and conveyancing problems for real and personal property, and would have negatively impacted the traditional use of life insurance by survivors.

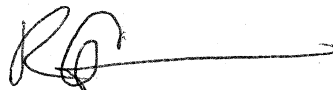
The Pennsylvania Association of Elder Law Attorneys (PAELA), along with a large coalition of groups, including the AARP Pennsylvania Chapter, Pennsylvania Bar Association, Philadelphia Bar Association, Pennsylvania Bankers' Association, Pennsylvania Land Title Association, Insurance Federation of Pennsylvania and the Pennsylvania Coalition of the Alzheimer's Association, strongly opposed the Governor's proposal and worked hard to educate legislators about the unreasonable burden and devastating financial effects the proposal would have had on some of Pennsylvania's most vulnerable citizens.

The legislative process was essential in preventing the Governor's ill-conceived proposal from passing. Under current law, the Governor unilaterally and without legislative oversight could implement a proposal like this to expand estate recovery. A change this significant, with such potentially devastating effects, should not be permitted without the public debate and discussion that are part of the legislative process. If enacted, HB 2252 would repeal the Governor's power to expand estate recovery without legislative oversight. On behalf of the members of PAELA and tens of thousands of seniors across the state who are our clients, we urge you to support HB 2252.

Sincerely,



Jeffrey A. Marshall, CELA\*  
President  
49 East Fourth Street, Suite 200  
Williamsport, PA 17701  
(570) 321-9008  
jmarshall@paelderlaw.com



Robert Clofine, CELA\*  
President-Elect  
120 Pine Grove Commons  
York, PA 17403  
(717) 747-5995  
clofine@estateattorney.com