

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

No. 104 MM 2020

**THE HONORABLE TOM WOLF, GOVERNOR OF THE
COMMONWEALTH OF PENNSYLVANIA,**

Petitioner

vs.

**SENATOR JOSEPH B. SCARNATI, III, SENATOR JAKE CORMAN,
AND SENATE REPUBLICAN CAUCUS,**

Respondents

**APPLICATION OF SEIU HEALTHCARE PENNSYLVANIA FOR LEAVE
TO PARTICIPATE AS AMICUS CURIAE**

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Date: June 17, 2020

Comes now, SEIU Healthcare Pennsylvania, by and through the undersigned attorneys, and seeks leave from this Court, pursuant to Pa. R.A.P. 531(b)(1)(iii) to participate as Amicus Curiae in the above-captioned matter, and in support thereof sets forth as follows:

1. SEIU Healthcare Pennsylvania is a labor organization that represents nearly 45,000 nurses and other healthcare workers employed in hospitals, skilled nursing facilities, home and community-based programs and state facilities in the Commonwealth of Pennsylvania.

2. As frontline workers staffing hospitals, nursing homes and home and community-based programs, members of SEIU Healthcare Pennsylvania are particularly at risk from COVID-19. They are also concerned about the well-being of patients and residents they treat.

3. SEIU Healthcare Pennsylvania has a vital interest in the efforts of Governor Wolf to address this pandemic in order to minimize its transmission. Specifically, SEIU Healthcare Pennsylvania supports the steps taken by Governor Wolf in his Disaster Declaration of March 6, 2020 and the subsequent Executive Orders pursuant to that Declaration.

4. On or about June 10, 2020, Respondents, Senator Scarnati, III, *et al.*, in the above-captioned matter filed a Petition for Review in the Commonwealth

Court seeking to mandate the Governor to issue an Executive Order proclaiming the end of the COVID-19 disaster emergency in Pennsylvania.

5. On or about June 12, 2020, Petitioner Governor Wolf filed an Application with this Honorable Court to exercise jurisdiction pursuant to its King's Bench Powers and/or Powers to Grant Extraordinary Relief.

6. On June 15, 2020, the Office of the Prothonotary of this Court issued a letter requiring Respondents, Senator Scarnati, *et al.*, to file a response to the Governor's Application by noon on Wednesday, June 17, 2020.

7. SEIU Healthcare Pennsylvania wishes to participate in this matter as amicus curiae in order to inform this Court of the need to maintain the Governor's Proclamation of Emergency Disaster from its unique perspective as an organization representing thousands of healthcare workers in Pennsylvania.

8. SEIU Healthcare Pennsylvania does not intend to duplicate the legal arguments made by Governor Wolf in his Application, although it supports those arguments.

9. The members of SEIU Healthcare Pennsylvania are among the most exposed to COVID-19 infection through their work and are also especially needed to remain healthy during the duration of this pandemic in order to serve the needs of their patients and residents. They are at risk of losing their lives due to COVID-19, not just their livelihoods. They need this public health emergency to be

effectively managed and, based upon their experience, believe that the Governor's Disaster Declaration remains the means to do so.

10. It is important for the Court to hear from SEIU Healthcare Pennsylvania to learn of the harm that will result to its members, and the residents of Pennsylvania whom they serve, if the Disaster Declaration is prematurely terminated.

11. SEIU Healthcare Pennsylvania can provide important arguments how the Disaster Declaration, and the unique executive action that can be taken pursuant to that Declaration, protects the lives of Pennsylvanians and the healthcare workers who provide critical services to them during this pandemic.

12. For the foregoing reasons, the Court should grant SEIU Healthcare Pennsylvania leave to file an amicus brief in support of Governor Wolf's Application.

13. In order to be timely, SEIU Healthcare Pennsylvania has herewith filed the attached Amicus Brief (See Exhibit A).

WHEREFORE, it is respectfully requested that this Court grant SEIU Healthcare Pennsylvania leave to participate as Amicus Curiae on the issues presented by the Governor's Application.

Respectfully submitted,

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Date: June 17, 2020

EXHIBIT A

**IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT**

Docket No. 104 MM 2020

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**SENATOR JOSEPH B. SCARNATI, III,
SENATOR JAKE CORMAN, AND SENATE
REPUBLICAN CAUCUS,**

Respondents.

**BRIEF OF AMICUS CURIAE, SEIU HEALTHCARE PENNSYLVANIA, IN
SUPPORT OF PETITIONER'S APPLICATION FOR THE COURT TO
EXERCISE JURISDICTION PURSUANT TO ITS KING'S BENCH
POWERS AND/OR POWERS TO GRANT EXTRAORDINARY RELIEF**

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I. STATEMENT OF INTEREST OF AMICUS CURIAE

Pursuant to Pennsylvania Rule of Appellate Procedure 531, Amicus Curiae, SEIU Healthcare Pennsylvania (“SEIU”), submit this brief in support of Petitioner, Governor Tom Wolf (“Governor”), and his Application for the Court to Exercise Jurisdiction Pursuant to Its King’s Bench Powers and/or Powers to Grant Extraordinary Relief.¹

SEIU is the state’s largest and fastest-growing union of nurses and healthcare workers, uniting nearly 45,000 nurses, professional and technical employees, direct care workers, and service employees in hospitals, skilled nursing facilities, home and community-based services, and state facilities across the Commonwealth of Pennsylvania (“Commonwealth” or “Pennsylvania”). SEIU is committed to improving the lives of health care workers and ensuring quality care and healthy communities for all Pennsylvanians. It accomplishes these goals by organizing unrepresented health care workers, improving health care industry standards through collective bargaining, and supporting legislation and policy initiatives expanding and protecting health care for all Pennsylvanians.

Throughout the COVID-19 crisis, the members of SEIU Healthcare Pennsylvania have served, and continue to serve, as frontline caregivers for those

¹ No person or entity other than the Amicus Curiae or their counsel paid for the preparation of this brief or authored the brief, in whole or in part.

ravaged by the disease. They have personally witnessed the painful medical realities as the virus swept over the Commonwealth, resulting in a flood of COVID-19 patients in hospitals and nursing homes.

Due to these experiences, SEIU and its members strongly support the efforts of the Governor and his administration in containing the virus and controlling its spread. Starting on March 6, 2020, when the Governor issued a Proclamation of Disaster Emergency (“Emergency Proclamation”) as a result of COVID-19, he and his administration officials have taken a variety of actions, including issuing county and state-wide stay-at-orders, easing statutory requirements to ensure the Commonwealth has needed medical care professionals and equipment to treat the sick and dying, ordering an accounting of all existing medical equipment in the Commonwealth to combat the virus, and advising the public on the numbers of Pennsylvanians who contracted and died of the illness, including those in long-term medical facilities, like nursing homes. On June 6, 2020, the Governor renewed his Emergency Proclamation because the COVID-19 crisis has not ended.

On June 10, 2020, the leadership of the Republican majority in the General Assembly placed the Governor’s efforts in peril by filing a Petition for Review in the Nature of a Complaint in Mandamus, seeking to rescind the Governor’s Emergency Proclamation and thereby void all executive orders issued thereunder. If such relief were granted, it would make our hospitals and nursing homes less safe

and more vulnerable to new COVID-19 cases, increase the risk of the spread of the virus, remove critical economic protections for Pennsylvanians without jobs or who cannot work, and forfeit critical federal funding for personal protective equipment (“PPE”), training, and other essential protections afforded Pennsylvania during this crisis.

For these reasons, SEIU Healthcare Pennsylvania files this amicus brief to provide this Court an overview of (1) the dangers faced by essential health care workers, like the members of SEIU, as they treat COVID-19 patients during this pandemic, (2) the actions taken by the Governor and his administration officials to protect these individuals, and (3) the potential for much greater suffering for essential medical care workers and other Pennsylvanians if the Governor’s emergency declaration is rescinded. Amicus Curiae respectfully request that this Court grant the Governor’s Application for the Court to Exercise Jurisdiction Pursuant to Its King’s Bench Powers and/or Powers to Grant Extraordinary Relief and reject Respondents attempt to rescind the Governor’s Emergency Proclamation.

II. ARGUMENT

A. COVID-19's Devastating Impact on Pennsylvania

Not since 1918 has the world experienced a pandemic with the lethality of COVID-19. So far, the virus has taken the lives of 116,140 in the United States, and the total number of cases stands at over 2.1 million individuals.² The pandemic struck particularly hard in Pennsylvania with 77,230 cases, another 2,253 probable cases, and 6,276 deaths.³ Pennsylvania ranks in the top ten states in the number of COVID-19 cases and deaths due to the virus.⁴

At the beginning of its deadly trek across the United States, the Center for Disease Control and Prevention (“CDC”) informed the public that those most vulnerable to COVID-19 were people sixty-five (65) years and older, and those living in nursing homes and long-term care facilities.⁵ Consistent with that

² “Cases in the U.S.,” Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last visited June 16, 2020); “Coronavirus in the U.S.: Latest Map and Case Count,” New York Times, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html#states> (last visited June 17, 2020).

³ “COVID-19 Data for Pennsylvania,” Pa. Dept. of Health, <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx> (last visited June 16, 2020).

⁴ “United States COVID-19 Cases and Deaths by State,” Centers for Disease Control and Prevention, <https://www.cdc.gov/covid-data-tracker/#cases> (last visited June 16, 2020).

⁵ “People Who Are at Higher Risk for Severe Illness,” Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-higher-risk.html>.

assessment, one third of all COVID-19 cases in the United States are residents of or employees at nursing homes and long-term care facilities, accounting for 153,000 COVID-19 cases at 7,700 facilities and 28,100 deaths.⁶ As the New York Times reported, “[w]hile just 11 percent of the country’s cases have occurred in long-term care facilities, deaths related to Covid-19 in these facilities account for more than a third of the country’s pandemic fatalities.”⁷

Pennsylvania, a state with a large elderly population, has seen a disproportionate share of cases and deaths amongst those residing in nursing homes and long-term care facilities. Of the 77,230 cases and 6,276 deaths due to COVID-19 in Pennsylvania, 16,612 cases and 4,279 deaths were among residents of nursing homes and long-term care facilities.⁸ Thus, this segment of the population accounts for 21% of all cases and 68% of all deaths in Pennsylvania.

Given the high concentration of COVID-19 cases and deaths among the elderly, it is hardly surprising that the essential, healthcare workers have become victims of the virus. One study, which was published in the Annals of Internal

⁶ Karen Yourish, *et al.*, “One-Third of All Coronavirus Deaths Are Nursing Home Residents or Workers,” New York Times, <https://www.nytimes.com/interactive/2020/05/09/us/coronavirus-cases-nursing-homes-us.html>, New York Times (May 9, 2020, updated May 11, 2020).

⁷ *Id.*

⁸ “COVID-19 Long-Term Care Facilities Data for Pennsylvania,” Pa. Dept. of Health, <https://www.health.pa.gov/topics/disease/coronavirus/Pages/LTCF-Data.aspx> (last visited June 16, 2020).

Medicine and based on current and past coronavirus epidemics, concluded that “[h]ealthcare workers are a high risk of infection from [COVID-19]” and “account for a significant proportion of infections in [coronavirus] outbreaks.”⁹ As reported by National Public Radio on April 15, 2020, nearly 9,300 health care workers in the United States contracted COVID-19, and twenty-seven (27) died.¹⁰ In Ohio, one in five positive cases for COVID-19 were health care workers, and the Henry Ford Health System in Detroit, Michigan had over 700 positive cases.¹¹ While the evidence is not complete, one group tabulating the statistics concludes that 629 health care workers in the United States have died from COVID-19 with the number growing.¹²

While there are no accurate numbers for the total COVID-19 cases and deaths among all Pennsylvania health care workers, the available statistics for those working in nursing homes and long-term care facilities are disturbing. Currently,

⁹ “Reviewing Past Infection Rates for COVID-19 Risk in Healthcare Workers,” Contagion Live, <https://www.contagionlive.com/news/infection-rates-covid-19-risk-healthcare-workers>.

¹⁰ Blake Farmer, “At Least 9,000 U.S. Health Care Workers Sickened with COVID-19,” CDC Data Shows, National Public Radio, <https://www.npr.org/sections/health-shots/2020/04/15/834920016/at-least-9-000-u-s-health-care-workers-sickened-with-covid-19-cdc-data-shows> (April 15, 2020).

¹¹ Id.

¹² The Staffs of Kaiser Health News and The Guardian, “Lost on the Frontline,” <https://khn.org/news/lost-on-the-frontline-health-care-worker-death-toll-covid19-coronavirus/> (last visited June 16, 2020).

there have been 2,936 COVID-19 cases among employees of nursing home and long-term care facilities in Pennsylvania.¹³ Strikingly, the highest number of cases were not in counties with the highest populations. Instead, the counties of Delaware, Berks, Lancaster, Lehigh, and Chester experienced the highest numbers of COVID-19 cases among these types of employees.¹⁴

Nor is the risk of infection the only hazard faced by health care workers during this pandemic. In a recent paper, the World Health Organization (“WHO”) states: “Health care workers are at the front line of the COVID-19 outbreak response and as such are exposed to hazards that put them at risk of infection. Hazards include pathogen exposure, long working hours, psychological distress, fatigue, occupational burnout, stigma and physical and psychological violence.”¹⁵ Major media have reported on the long hours, anxiety, depression, and fatigue faced by health care workers fighting on the front lines in the battle against COVID-19.¹⁶

¹³ “COVID-19 Long-Term Care Facilities Data for Pennsylvania,” Pa. Dept. of Health, <https://www.health.pa.gov/topics/disease/coronavirus/Pages/LTCF-Data.aspx> (last visited June 16, 2020). As the charts make clear, Delaware County had 410 cases, Berks County 353, Lancaster County 283, Lehigh County 234, and Chester County 205.

¹⁴ Id.

¹⁵ “Coronavirus Disease (COVID-1) Outbreak: Rights, Roles and Responsibilities of Health Workers, Including Key Considerations for Occupational Safety and Health,” World Health Organization, [https://www.who.int/publications/i/item/coronavirus-disease-\(covid-19\)-outbreak-rights-roles-and-responsibilities-of-health-workers-including-key-considerations-for-occupational-safety-and-health](https://www.who.int/publications/i/item/coronavirus-disease-(covid-19)-outbreak-rights-roles-and-responsibilities-of-health-workers-including-key-considerations-for-occupational-safety-and-health) (March 19, 2020).

¹⁶ See, e.g., “‘Please God, Just Cover Me.’ Health Care Workers Are Risking Their Lives Daily in the Fight Against Coronavirus,” Time Magazine, <https://time.com/collection/coronavirus->

These hazards are made far more severe by the much-reported lack of sufficient quantities and appropriate quality of PPE, such as face masks, which research demonstrates is a critical component in the fight against transmission of the virus.¹⁷ In fact, a survey of 1,200 in-home health care workers by the Home Care Association of America found “77% don’t have enough masks and 57% don’t have enough gloves.”¹⁸

B. Governor Wolf Addresses COVID-19

On March 6, 2020, the Governor signed a Proclamation of Disaster Emergency (“Emergency Proclamation”), authorizing the Governor to issue executive orders to combat COVID-19 and its spread across the Commonwealth. Pursuant to the Emergency Proclamation, the Governor issued a stay-at-home order on March 23, 2020 for specified counties and amended that order several times to include larger numbers of counties in the Commonwealth as COVID-19 cases

heroes/5816883/health-care-workers-coronavirus/ (April 9, 2020); The Staffs of Kaiser Health News and The Guardian, “Lost on the Frontline,” <https://khn.org/news/lost-on-the-frontline-health-care-worker-death-toll-covid19-coronavirus/> (last visited June 16, 2020).

¹⁷ Brett Sholtis, “Pa.’s Largest Nurses’ Union Accuses Hospitals of Misinforming State Officials About Protective Equipment,” Pennlive.com, <https://www.pennlive.com/coronavirus/2020/05/pas-largest-nurses-union-accuses-hospitals-of-misinforming-state-officials-about-protective-equipment.html> (May 15, 2020); “PPE, Plus Training, Lowers the Risk of COVID-19 for Health Care Workers,” ScienceDaily, <https://www.sciencedaily.com/releases/2020/05/200505164637.htm>. (May 5, 2020).

¹⁸ Bob Woods, “Home Health-care Workers in US at Tipping Point Amid Coronavirus Outbreak,” CNBC, <https://www.cnbc.com/2020/04/14/home-health-care-workers-at-tipping-point-amid-coronavirus-outbreak.html> (April 14, 2020, updated same day).

increased. Additionally, throughout the pandemic, the Governor and the Pennsylvania Secretary of Health, Rachel Levine, MD, issued a series of executive orders to assist health care workers to fight the pandemic in the Commonwealth.

In an effort to ensure as many health care professionals were available to treat COVID-19 patients, the Governor (1) streamlined the reactivation of licenses for medical practitioners, (2) permitted medical practitioners to provide services via telemedicine, (3) allowed physicians with institutional licenses to practice at more than two facilities, (4) permitted nurses to practice outside their specialty, (5) extended nursing license deadlines and provided temporary nursing and graduate permits, (6) allowed out-of-state pharmacies to ship goods to Pennsylvania, (7) permitted out-of-state pharmacies to ship goods to Pennsylvania, and (8) allowed temporary expedited licensure for certain pharmacy practitioners and pharmacies.¹⁹

The Governor also took a series of actions to increase the amount of necessary medical equipment and supplies for health care facilities treating COVID-19 patients. Utilizing the expedited procurement powers authorized by the Proclamation, these efforts included signing legislation authorizing the purchase of \$50 million in “medical equipment and supplies, such as more beds, ventilators, and personal protective equipment for hospitals, nursing homes, and emergency

¹⁹ Press Release, “Pennsylvania Is Reinforcing the Health Care System to Fight COVID-19,” <https://www.governor.pa.gov/newsroom/pennsylvania-is-reinforcing-the-health-care-system-to-fight-covid-19/> (March 28, 2020).

workers...” and creating a system for manufacturers, distributors, and other medical equipment suppliers to expedite “the purchase of critical medical supplies” for health care facilities.²⁰ He also issued an executive order requiring medical equipment manufacturers distributors, and suppliers to provide the Commonwealth an inventory of PPE, pharmaceuticals, and other medical resources and authorized Commonwealth agencies to purchase such available items at a price existing seven days prior to issuing Emergency Proclamation.²¹ The Governor also directed the Pennsylvania National Guard to help staff medical facilities, like nursing homes, that were short staffed.

Finally, the Governor signed “an executive order to provide health care practitioners protection against liability for good faith actions taken in response to the call to supplement the health care provider workforce during the COVID-19 pandemic.”²² The executive order (1) grants immunity to individuals who hold a medical license and are engaged in providing COVID-19 health care treatment or services, (2) extends immunity to medical professionals who provide health care

²⁰ Id.

²¹ Press Release, Gov. Wolf Signs Order to Provide Targeted Distribution of COVID-19 PPE and Supplies to Hospitals,” <https://www.governor.pa.gov/newsroom/gov-wolf-signs-order-to-provide-targeted-distribution-of-covid-19-ppe-and-supplies-to-hospitals/> (April 8, 2020).

²² Press Release, “Gov. Wolf Signs Executive Order to Provide Civil Immunity for Health Care Providers,” <https://www.governor.pa.gov/newsroom/gov-wolf-signs-executive-order-to-provide-civil-immunity-for-health-care-providers/> (May 6, 2020).

treatment or services at “any nursing facility, personal care home, assisted living facility or any alternate care site, community-based testing site or non-congregate care facility” that is involved in providing emergency health care services related to COVID-19, (3) affords immunity to “any person, organization, or authority” who allows their property to be “used for emergency services without compensation...,” and (4) “suspends or removes a host of regulatory barriers that would otherwise impede or prevent out-of-state, retired or other qualified practitioners from providing services where needed in the Commonwealth.”²³

C. Rescinding the Emergency Proclamation Will Seriously Endanger Residents and Employees of Hospitals, Nursing Homes and Long-Term Care Facilities.

If the Emergency Proclamation is rescinded, Pennsylvania would become the first and only State or territory to not have an operative disaster declaration related to the COVID pandemic. There exist no rational grounds for taking such action. While Pennsylvania has seen a decrease in the number of COVID-19 cases and deaths per day since the Emergency Proclamation was issued, the number of new cases still exceeded 300 throughout the month of June 2020.²⁴ In fact, on two days,

²³ Id.

²⁴ “COVID-19 Data for Pennsylvania,” Pa. Dept. of Health, <https://www.health.pa.gov/topics/disease/coronavirus/Pages/Cases.aspx> (last visited June 16, 2020).

June 7, 2020 and June 13, 2020, the Commonwealth saw approximately 700 new cases in one day.²⁵

Rather than supporting the position of Respondents in this matter, the data demonstrates that the Emergency Proclamation should remain in place because it was effective. Although the Commonwealth saw over 77,000 cases and 6,000 deaths, studies demonstrate that the shutdown orders imposed by Governors across the nation, including the one issued by Governor Wolf, prevented approximately 60 million COVID-19 cases along with countless more deaths. Respondents attempt to end the very means by which the Governor successfully controlled and contained COVID-19 and its spread.

Researchers have warned that we remain at the beginning of the pandemic, have not yet achieved herd immunity, and face a real risk that a second wave of infections will occur if we abandon the strategies that have proved successful. In fact, twenty-one states recently have seen a rise in the number of COVID-19 cases²⁶ and twelve states are experiencing an increase in the number of COVID-19 hospitalization since the Memorial Day weekend when some states began relaxing

²⁵ Id.

²⁶ Madeline Holcombe, et al., “Some States See COVID-19 Cases Surging as Restrictions Are Relaxed,” CNN, <https://www.cnn.com/2020/06/16/health/us-coronavirus-tuesday/index.html> (June 16, 2020, updated June 17, 2020).

their stay-at-home orders.²⁷ The CDC forecasts estimate that by July 4th, there will be between 124,000 and 140,000 total reported deaths in the country²⁸ and, by July 1st, there will be between 2,000 and 12,000 new COVID-19 hospitalization per day.²⁹ In fact, the Institute for Health Metrics and Evaluation at the University of Washington, relied upon by the Trump Administration, recently has increased its projection of the number of COVID-19 deaths it anticipates by October 1, 2020 by 30,000 for a total number of 200,000.³⁰

Lifting the Emergency Proclamation would end the necessary containment strategies put in place through the various executive orders issued by the Governor pursuant to that proclamation. Any successful opening strategy relies heavily upon enhanced contact tracing and testing efforts. However, should the Emergency Proclamation be rescinded, such efforts will be far more difficult.

²⁷ Madeline Holcombe, “12 States See Rising COVID-19 Hospitalizations as Arizona Asks Hospitals to Activate Emergency Plans,” CNN, <https://www.cnn.com/2020/06/10/health/us-coronavirus-wednesday/index.html> (June 10, 2020, updated June 11, 2020).

²⁸ “Forecasts of Total Deaths,” Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/forecasting-us.html> (updated June 12, 2020, last visited June 17, 2020).

²⁹ “Hospitalization Forecasts,” Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/hospitalizations-forecasts.html> (updated June 10, 2020, last visited June 17, 2020).

³⁰ Madeline Holcombe, *et al.*, “Some States See COVID-19 Cases Surging as Restrictions Are Relaxed,” CNN, <https://www.cnn.com/2020/06/16/health/us-coronavirus-tuesday/index.html> (June 16, 2020, updated June 17, 2020).

Without the executive procurement orders, it would be severely difficult for the Commonwealth to respond quickly and decisively to the evolving pandemic, which has consistently made supplies difficult to obtain, particularly for testing. Furthermore, the loss of the emergency procurement orders, which granted the Commonwealth the authority to purchase the necessary medical supplies and equipment from suppliers, would make it extremely difficult to obtain critical medical equipment, such as PPE.

Furthermore, without the Emergency Proclamation, a host of other executive orders, including ones benefiting residents and employees of nursing homes and long-term care facilities, would cease with it. These include the immunity provisions, licensure portability for medical professionals, and housing-related waivers. Re-imposing the medical licensure requirements, currently suspended under the Emergency Proclamation, will result in a dearth of health care professionals available to fight COVID-19. The result would be an end of the (1) ability for long-term care or other facilities to use military personnel to supplement staff, (2) authority of practitioners to provide services with overdue license renewals, (3) the return of retired medical practitioners to practice, and (4) relaxation of staffing requirements for long-term care facilities.

Finally, rescinding the Emergency Proclamation risks losing federal reimbursement for the costs associated with fighting COVID-19. The

Commonwealth was awarded a federal disaster declaration to reimburse costs related to emergency protective measures. These federal funds have gone to state agencies, county and local governments, school districts, authorities, and certain non-profits, such as volunteer fire companies, hospitals and nursing homes. If the Emergency Proclamation is rescinded, the federal government could end the federal disaster declaration along with the federal reimbursement funding. Depending on the cost of continuing the fight against COVID-19 in the Commonwealth, the result could be a loss in over one billion dollars in federal aid.

III. CONCLUSION

For all the above-stated reasons, this Court should grant Governor Wolf's Application for the Court to Exercise Jurisdiction Pursuant to Its King's Bench Powers and/or Powers to Grant Extraordinary Relief, and deny Respondents' request for mandamus relief, seeking to rescind the Emergency Proclamation.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE PURSUANT TO Pa.R.A.P. 127

Counsel for Amicus Curiae, SEIU Healthcare Pennsylvania, hereby certifies that the foregoing Brief does not contain any confidential information or documents and complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that mandate filing confidential information and documents differently than non-confidential information and documents.

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PROOF OF SERVICE

I, John R. Bielski, hereby certify that I have this day served via PAC File and First Class Mail, postage pre-paid, the foregoing Brief of Amicus Curiae, SEIU Healthcare Pennsylvania, upon the persons and in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 121:

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Counsel for Amicus Curiae, SEIU Healthcare Pennsylvania, hereby certifies that the foregoing amicus brief, including text and footnotes, contains 3,146 words according to Word 2016 and complies with the word count limit under Pa. R.A.P. 531(b)(3) and Pa. R.A.P. 2135(a)(1).

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