

ROB KAUFFMAN, MEMBER
89TH LEGISLATIVE DISTRICT



House of Representatives
Commonwealth of Pennsylvania
Harrisburg



CONSUMER PROTECTION,
TECHNOLOGY & UTILITIES

RULES

September 21, 2026

Chairman George D. Bedwick
Vice Chairman John F. Mizner, Esq.
Commissioner John J. Soroko, Esq.
Commissioner Murray Ufberg, Esq.
Commissioner Dennis A. Watson, Esq.
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Via Electronic Email to:

irrc@irrc.state.pa.us

CC: danicmy@pa.gov

Re: Proposed Regulation No. 10-242 (IRRC No. 3490), Communicable and Noncommunicable Diseases

I write as the Minority Chairman of the House Judiciary Committee to express serious constitutional concerns regarding the Department of Health's proposed regulation. Although periodically updating Pennsylvania's disease-control regulations falls within the Department's regulatory authority, several provisions of the proposed rulemaking would confer extraordinarily broad authority upon the Department and local health authorities without adequate standards, procedural protections, or recognition of constitutional limitations.

Among its most troubling provisions are the open-ended authorization of disease-control measures, compelled access to confidential medical records, private government interviews of minors without parental notice or consent, and inadequate procedural protections for individuals subjected to isolation or quarantine. This comment, however, primarily focuses on its purported authorization of warrantless entry into private homes.

Most alarmingly, proposed Sections 27.60a and 27.60b would permit the Department or a local health authority to enter any "apartment, building," or "other location" whenever an official considers entry "necessary" to conduct an investigation, contact tracing, or partner services.

The proposed rule requires no consent, judicial warrant, probable cause, reasonable suspicion, or demonstration of exigent circumstances. Under the text as drafted, a government agent need only present an administrative badge before demanding entry into a person's home.

No government official should be permitted to unilaterally decide that entering a private home is “necessary” and then treat that determination as its own judicial authorization. As the United States Supreme Court explained in *Johnson v. United States*, the Fourth Amendment requires that the justification for entry be evaluated by “a neutral and detached magistrate instead of being judged by the officer” seeking to conduct the search.¹ The Fourth Amendment to the United States Constitution and Article I, Section 8 of the Pennsylvania Constitution exist precisely to prevent this form of executive overreach and to safeguard the sanctity of the home. Indeed, as noted by the U.S. Supreme Court in *Payton v. New York*, “the physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.”²

Crucially, public health objectives do not suspend these bedrock guarantees. In *Camara v. Municipal Court*, the Court rejected the notion that public health and safety searches could bypass the Fourth Amendment, holding that non-consensual administrative searches of private property require a warrant.³ The Court reasoned, in part, that “administrative searches of the kind at issue here are significant intrusions upon the interests protected by the Fourth Amendment, [and] such searches when authorized and conducted without a warrant procedure lack the traditional safeguards which the Fourth Amendment guarantees to the individual[.]”⁴

Article I, Section 8 of the Pennsylvania Constitution provides even greater protections against unreasonable government intrusion. The Pennsylvania Supreme Court has repeatedly emphasized that this provision reflects the Commonwealth's commitment to individual privacy and requires that the warrant requirement “be given the broadest reasonable application to searches conducted by government officials in this Commonwealth.”⁵ Most recently, the Court invalidated statutory provisions authorizing government agents to enter and search private land without a warrant or probable cause.⁶

These concerns are compounded by Sections 27.60a(c) and 27.60b(b) of the regulation, which prohibit an individual from “obstructing” or “interfering” with an investigation, contact tracing, or partner services. Neither term is defined, which creates a genuine risk that a homeowner who refuses warrantless entry, requests legal counsel, or insists that an official obtain lawful judicial authorization could be accused of violating the regulation merely for exercising a constitutional right. That risk is not merely theoretical: violations of Chapter 27 may be prosecuted as summary offenses and, upon conviction, may result in the imposition of fines and court costs.⁷

¹ 333 U.S. 10, 14 (1948).

² 445 U.S. 573, 585 (1980).

³ 387 U.S. 523 (1967).

⁴ *Id.* at 534.

⁵ *Commonwealth v. Gary*, 91 A.3d 102, 148 (Pa. 2014) (Todd, J. dissenting); analysis adopted by *Commonwealth v. Alexander*, 243 A.3d 177, 202 (Pa. 2020); see also *Commonwealth v. Tobin*, 828 A.2d 415 (Pa. Commw. 2003).

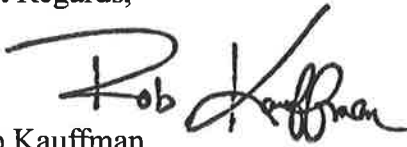
⁶ *Punxsutawney Hunting Club v. Pennsylvania Game Commission*, No. 23 WAP 2023 (Pa. July 21, 2026).

⁷ 35 P.S. § 521.20(a).

Public health policy and constitutional liberty are not mutually exclusive. The Commonwealth can respond effectively to public health threats without abandoning the constitutional protections that restrain government intrusion into the home.

For these reasons, I strongly urge the Department to withdraw the regulation. I further urge the Independent Regulatory Review Commission to carefully examine the proposed regulation's statutory authority, reasonableness, and conformity with the United States and Pennsylvania Constitutions before permitting it to proceed.

Best Regards,

A handwritten signature in black ink, appearing to read "Rob Kauffman". The signature is fluid and cursive, with a large initial "R" and "K".

Rob Kauffman
State Representative
89th Legislative District

RK/jd