(103)

Original: 2294

Philadelphia Welfare Rights Organization
1231 North Franklin Street
Philadelphia, PA 19122

February 18, 2005

Mary S. Wyatte
Acting Executive Director/Chief Counsel
Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

Dear Ms. Wyatte:

The Philadelphia Welfare Rights Organization is an organization that represents welfare recipients in Philadelphia, some of whom reside in the Commonwealth's personal care homes. **We strongly urge the Independent Regulatory Review Commission to approve the final form personal care home regulations resubmitted by the Department of Public Welfare on February 11, 2005.**

The final form regulations are the result of 5 years of discussion, negotiation, and compromise amongst providers, consumer advocates and Department staff about critical life safety and quality of life issues. While these regulations do not contain all of the increased consumer protections that we had hoped for, they are an important improvement over the current licensing regulations and will afford considerably greater protections to vulnerable personal care home residents.

The Philadelphia Welfare Rights Organization is especially pleased that the final form regulations make desperately needed improvements in the amount and the quality of training required for administrators and direct care staff. Under the current regulations, administrators need only have 40 hours of training to run a facility that cares for frail and ill individuals who may have complex needs. There are no standards for administrator training courses, and it is generally acknowledged that the quality of many is dubious. Worse yet, because there is no testing requirement, there is no way to ensure that a new administrator has learned the course content or even paid attention while in class. The current situation is even worse for direct care staff, who can be employed for up to six months before receiving any training at all on their job functions. These standards are simply outrageous and are reflected in the tragedies – deaths and injuries from medication errors, fires, bed sores, residents wandering away, and failure to recognize and respond to acute care needs – which occur on a regular basis. The current training requirements are outdated for a setting where residents have become increasingly frail and medically complicated in recent years. The Department has been more than responsive to providers' concerns about costs by grandfathering all current administrators and staff, as well as reducing the required number of training hours even below the number to which provider representatives agreed in the stakeholder groups.

We are also particularly pleased that the final form regulations require that an individualized assessment of needs and service plan be completed for each resident.

Currently, it is our experience that residents' needs go unidentified and/or unaddressed in many homes. Moreover, residents have no way to determine which specific services they are entitled to expect and how often they should receive them. During the Department's extended and very open process, a stakeholder workgroup which included all of the industry trade groups as well as small providers approved by consensus the assessment and service plan provisions which appear in the final form regulations.

We also see as a key element of these regulations the increase in fire safety protections. At least 55 residents have died in personal care home fires in the past decade. These fire safety improvements, especially the requirement of a second fire exit, target the conditions that resulted in these deaths so that future tragedies will be prevented.

The following changes are also important improvements:

1) Increasing the qualifications required to become an administrator of a personal care home from their current very minimal level,
2) Creating a medications administration course so that untrained staff will no longer dispense medications to residents,
3) Requiring annual, unannounced inspections so that licensing staff will get an accurate picture of conditions in each home,
4) Requiring homes to prove actual correction of violations and not just simply submit a plan of correction before being relicensed,
5) Implementing the statutorily permitted ban on new admissions as an enforcement tool to prevent poorly-performing homes from continuing to operate as usual while appealing license revocation, often for months or years,
6) Creating a process for residents to have their complaints addressed by the home within specified timeframes, and
7) Strengthening residents' rights.

The Philadelphia Welfare Rights Organization believes, in fact, that the regulations should be even more stringent in certain areas – including administrator training and assessments - where the Department has eased requirements from the proposed regulations in response to provider cost concerns.

However, we firmly believe that the final form regulations make essential strides towards improving and protecting the lives of personal care home residents. While the regulations do not go as far in some areas as we had hoped, they represent meaningful improvement to a system that has seen too many preventable tragedies in recent years. Additionally, we appreciate that all compromise involves conciliation and know that it would be unrealistic to have expected all our recommendations to have been included.

It should be noted that the costs that will be incurred by providers in order to comply with these regulations have been significantly reduced from those that would have resulted from the proposed regulations, in response to concerns raised by providers during the regulatory process. Limiting application of several regulations to only those homes with nine or more residents, eliminating most written policies and procedures requirements, and grand-fathering on staff training, qualifications, and some physical site requirements in the proposed

regulations were all done to reduce provider costs. Some of the larger one-time costs will result in improved standards and safety that will significantly reduce the providers' risk of liability and, consequently, their annual liability insurance costs. Also, many of the costs are capital improvements for which tax deductions will be taken.

In conclusion, we again urge you to approve the final form personal care home regulations. These regulations shore up many of the gaps in the current system and provide protections for our vulnerable citizens, while balancing the needs of the personal care home industry.

Sincerely,

Yvette Long

Yvette Long

Original: 2294

96

PENNSYLVANIA PROTECTION & ADVOCACY, INC.

1414 N. Cameron Street, Suite C
Harrisburg, PA 17103

Phone:
Voice: 800-692-7443 or 717-236-8110
TTY: 877-375-7139 or 717-346-0293

Fax:
717-236-0192

Email:
ppa@ppainc.org

February 18, 2005

Mary S. Wyatte
Acting Executive Director/Chief Counsel
Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

Dear Ms. Wyatte:

Pennsylvania Protection and Advocacy, Inc., (PP&A) is the non-profit agency responsible for providing protection and advocacy services to Commonwealth residents with disabilities as mandated by federal law. PP&A represents all persons with disabilities, including those who reside in the Commonwealth's personal care homes. Federal statutory authority empowers us to investigate incidents of abuse and neglect of individuals with disabilities in the Commonwealth. For over ten years PP&A has advocated for the protection and the health and safety of persons with disabilities that live in personal care homes. We strongly urge the Independent Regulatory Review Commission to approve the final form personal care home regulations resubmitted by the Department of Public Welfare on February 11, 2005.

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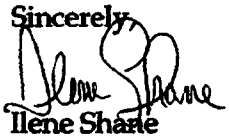

Ilene Shane
Executive Director
Pennsylvania Protection and
Advocacy, Inc

FAX Cover Sheet

PENNSYLVANIA PROTECTION & ADVOCACY, INC.
1414 N. Cameron Street, Suite C, Harrisburg, PA 17103
800/692-7443...717/236-8110...717/236-0192 (fax)

TO: Mary Wyatt
FROM: Judy Banks/Ilene Shane
FAX#: 783-2664
SUBJECT:
DATE: 2/18/05
PAGES (including this cover sheet): 4
COMMENTS:

Mental Health Association In Pennsylvania

Original: 2294

RECEIVED
2005 FEB 18 PM 4:02
REVIEW COMMISSION

1414 N. Cameron Street, 2nd Floor ▯ Harrisburg, PA 17103 ▯ 717-346-0549 ▯ Fax: 717-236-0192 ▯ Website: www.mhapa.org

February 18, 2005

Mary S. Wyatte
Acting Executive Director/Chief Counsel
Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

Dear Ms. Wyatte:

The Mental Health Association in Pennsylvania (MHAPA) **urges the Independent Regulatory Review Commission to approve the final form personal care home regulations resubmitted by the Department of Public Welfare on February 11, 2005.**

The final form regulations are the result of 5 years of discussion, negotiation, and compromise among providers, consumer advocates and Department staff about safety and quality of life issues. While the MHAPA believes that these regulations fall short of the increased consumer protections which we had advocated for, they are an improvement over the current licensing regulations and will afford additional protections to vulnerable personal care home residents.

Critical additional protections included in the final form regulations are:

1) Improvements in the amount and the quality of training required for administrators and direct care staff,
2) Increased qualifications required to become an administrator of a personal care home from their current very minimal level,
3) Provision for an individualized assessment of needs and service plan for each resident,
4) Increased fire safety protections in the specific areas which have been the cause of at least 55 fire-related incidents in recent years,
5) Medications administration course so that untrained staff will no longer dispense medications to residents,
6) Annual, unannounced inspections so that licensing staff will get an accurate picture of conditions in each home,
7) Require homes to prove actual correction of violations and not just simply submit a plan of correction before being re-licensed,

The MHAPA is disappointed that the regulations are not more stringent in certain areas – for example, administrator training and assessments - where the Department has eased requirements from the proposed regulations in response to provider cost concerns. Too many deaths, injuries, and rights violations have resulted from untrained or poorly trained staff because the current qualification and training levels are woefully inadequate.

While the regulations do not go as far as we believe they should, we are convinced that the final form regulations make essential strides towards improving and protecting the lives of personal care home residents. We accept that all compromise involves conciliation and know that it would be unrealistic to have expected all our recommendations to have been included.

We would like to point out that the costs which will be incurred by providers in order to comply with these regulations have been significantly reduced from those which would have resulted from the proposed regulations, in response to concerns raised by providers during the regulatory process. Limiting application of several regulations to only those homes with nine or more residents, eliminating most written policies and procedures requirements, and grand-fathering on staff training, qualifications, and some physical site requirements in the proposed regulations were all done to reduce provider costs. Some of the larger one-time costs will result in improved standards and safety that will significantly reduce the providers' risk of liability and, consequently, their annual liability insurance costs. Also, many of the costs are capital improvements for which tax deductions will be taken.

Again, the MHAPA urges IRRC to approve the final form personal care home regulations. These regulations shore up many of the gaps in the current system and provide protections for our vulnerable citizens, while balancing the needs of the personal care home industry.

Sincerely,

Sue Walther
Executive Director

V: 717/346-0549
F: 717/236-0192
Email: swalther@mhapa.org

Mental Health Association in Pennsylvania
1414 N. Cameron Street, 2nd Floor
Harrisburg, PA 17103

Fax

To:	Mary Wyatte	**From:**	Sue Walther, Executive Director
Fax:	717.783.2664	**Pages:**	3
Phone:		**Date:**	02.18.2005
Re:	Final Form PCH regulations		

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

• **Comments:**

Mental Health Association In Pennsylvania

Original: 2294

1414 N. Cameron Street, 2nd Floor ▯ Harrisburg, PA 17103 ▯ 717-346-0549 ▯ Fax: 717-236-0192 ▯ Website: www.mhapa.org

February 18, 2005

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Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

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Sue Walther
Executive Director

Original: 2294

EMBARGOED MATERIAL

COALITION FOR PERSONAL CARE HOME REFORM

~THE ADVOCACY ALLIANCE~
~THE ARC OF PENNSYLVANIA~
~ CENTER FOR ADVOCACY FOR THE RIGHTS AND INTERESTS OF THE ELDERLY ~
~ CONSUMER HEALTH COALITION ~
~ DISABILITIES LAW PROJECT~
~ ELDERLY LAW PROJECT OF COMMUNITY LEGAL SERVICES~
~ THE HOMELESS ADVOCACY PROJECT ~
~ MENTAL HEALTH ASSOCIATION OF ALLEGHENY COUNTY ~
~ MENTAL HEALTH ASSOCIATION OF FAYETTE COUNTY ~
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~ MENTAL HEALTH ASSOCIATION IN PA~
~ MENTAL HEALTH ASSOCIATION OF SE PA~
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~PA MENTAL HEALTH CONSUMERS ASSOCIATION~
~PENNSYLVANIA PROTECTION AND ADVOCACY~
~ PENNSYLVANIA VA MEDICAL CENTER – BEHAVIORAL HEALTH ~
~ UNITED CEREBRAL PALSY OF PENNSYLVANIA ~
~ UNITED WAY OF SOUTHEASTERN PENNSYLVANIA ~

February 18, 2005

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Acting Executive Director/Chief Counsel
Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

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Sincerely,

Pamela Walz

Pamela Walz
Director, Elderly Law Project
Community Legal Services
On behalf of the Coalition for
Personal Care Home Reform

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Pamela Walz

Pamela Walz
Director, Elderly Law Project
Community Legal Services
On behalf of the Coalition for
Personal Care Home Reform

COMMUNITY
LEGAL SERVICES, INC.

Law Center North Central
3638 North Broad Street, Philadelphia, PA 19140
Phone: 215.227.2400, Fax: 215.599.1711
Web Address: www.clsphila.org

FACSIMILE TRANSMITTAL COVER SHEET
FACSIMILE NUMBER: 215-599-1711

DATE: 2-18-05

TO: Mary S. Wyatte, Acting Executive Director

ORGANIZATION: IRRC

FAX NUMBER: (717) 783-2664

FROM: Pamela Walz

TELEPHONE: 215-227-2400

TOTAL NUMBER OF PAGES (including cover sheet): 4

REGARDING: PCH regulations

105

ORIGINAL: 2294

Clarion County Welfare Rights Organization
4096 Master Road
Emlenton, PA 16373

February 18, 2005

Mary S. Wyatte
Acting Executive Director/Chief Counsel
Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

Dear Ms. Wyatte:

The Clarion County Welfare Rights Organization is an organization that represents welfare recipients in Clarion County, some of whom reside in the Commonwealth's personal care homes. **We strongly urge the Independent Regulatory Review Commission to approve the final form personal care home regulations resubmitted by the Department of Public Welfare on February 11, 2005.**

The final form regulations are the result of 5 years of discussion, negotiation, and compromise amongst providers, consumer advocates and Department staff about critical life safety and quality of life issues. While these regulations do not contain all of the increased consumer protections that we had hoped for, they are an important improvement over the current licensing regulations and will afford considerably greater protections to vulnerable personal care home residents.

The Clarion County Welfare Rights Organization is especially pleased that the final form regulations make desperately needed improvements in the amount and the quality of training required for administrators and direct care staff. Under the current regulations, administrators need only have 40 hours of training to run a facility that cares for frail and ill individuals who may have complex needs. There are no standards for administrator training courses, and it is generally acknowledged that the quality of many is dubious. Worse yet, because there is no testing requirement, there is no way to ensure that a new administrator has learned the course content or even paid attention while in class. The current situation is even worse for direct care staff, who can be employed for up to six months before receiving any training at all on their job functions. These standards are simply outrageous and are reflected in the tragedies – deaths and injuries from medication errors, fires, bed sores, residents wandering away, and failure to recognize and respond to acute care needs – which occur on a regular basis. The current training requirements are outdated for a setting where residents have become increasingly frail and medically complicated in recent years. The Department has been more than responsive to providers' concerns about costs by grandfathering all current administrators and staff, as well as reducing the required number of training hours even below the number to which provider representatives agreed in the stakeholder groups.

We are also particularly pleased that the final form regulations require that an individualized assessment of needs and service plan be completed for each resident.

Currently, it is our experience that residents' needs go unidentified and/or unaddressed in many homes. Moreover, residents have no way to determine which specific services they are entitled to expect and how often they should receive them. During the Department's extended and very open process, a stakeholder workgroup which included all of the industry trade groups as well as small providers approved by consensus the assessment and service plan provisions which appear in the final form regulations.

We also see as a key element of these regulations the increase in fire safety protections. At least 55 residents have died in personal care home fires in the past decade. These fire safety improvements, especially the requirement of a second fire exit, target the conditions that resulted in these deaths so that future tragedies will be prevented.

The following changes are also important improvements:

1) Increasing the qualifications required to become an administrator of a personal care home from their current very minimal level,
2) Creating a medications administration course so that untrained staff will no longer dispense medications to residents,
3) Requiring annual, unannounced inspections so that licensing staff will get an accurate picture of conditions in each home,
4) Requiring homes to prove actual correction of violations and not just simply submit a plan of correction before being relicensed,
5) Implementing the statutorily permitted ban on new admissions as an enforcement tool to prevent poorly-performing homes from continuing to operate as usual while appealing license revocation, often for months or years,
6) Creating a process for residents to have their complaints addressed by the home within specified timeframes, and
7) Strengthening residents' rights.

The Clarion County Welfare Rights Organization believes, in fact, that the regulations should be even more stringent in certain areas – including administrator training and assessments - where the Department has eased requirements from the proposed regulations in response to provider cost concerns.

However, we firmly believe that the final form regulations make essential strides towards improving and protecting the lives of personal care home residents. While the regulations do not go as far in some areas as we had hoped, they represent meaningful improvement to a system that has seen too many preventable tragedies in recent years. Additionally, we appreciate that all compromise involves conciliation and know that it would be unrealistic to have expected all our recommendations to have been included.

It should be noted that the costs that will be incurred by providers in order to comply with these regulations have been significantly reduced from those that would have resulted from the proposed regulations, in response to concerns raised by providers during the regulatory process. Limiting application of several regulations to only those

homes with nine or more residents, eliminating most written policies and procedures requirements, and grand-fathering on staff training, qualifications, and some physical site requirements in the proposed regulations were all done to reduce provider costs. Some of the larger one-time costs will result in improved standards and safety that will significantly reduce the providers' risk of liability and, consequently, their annual liability insurance costs. Also, many of the costs are capital improvements for which tax deductions will be taken.

In conclusion, we again urge you to approve the final form personal care home regulations. These regulations shore up many of the gaps in the current system and provide protections for our vulnerable citizens, while balancing the needs of the personal care home industry.

Sincerely,

BJC

Barbara J. Custer

104

ORIGINAL: 2294

Butler County Welfare Rights Organization
P.O. Box 259
Hilliards, PA 16040

February 18, 2005

Mary S. Wyatte
Acting Executive Director/Chief Counsel
Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

Dear Ms. Wyatte:

The Butler County Welfare Rights Organization is an organization that represents welfare recipients in Butler County, some of whom reside in the Commonwealth's personal care homes. **We strongly urge the Independent Regulatory Review Commission to approve the final form personal care home regulations resubmitted by the Department of Public Welfare on February 11, 2005.**

The final form regulations are the result of 5 years of discussion, negotiation, and compromise amongst providers, consumer advocates and Department staff about critical life safety and quality of life issues. While these regulations do not contain all of the increased consumer protections that we had hoped for, they are an important improvement over the current licensing regulations and will afford considerably greater protections to vulnerable personal care home residents.

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7) Strengthening residents' rights.

The Butler County Welfare Rights Organization believes, in fact, that the regulations should be even more stringent in certain areas – including administrator training and assessments - where the Department has eased requirements from the proposed regulations in response to provider cost concerns.

However, we firmly believe that the final form regulations make essential strides towards improving and protecting the lives of personal care home residents. While the regulations do not go as far in some areas as we had hoped, they represent meaningful improvement to a system that has seen too many preventable tragedies in recent years. Additionally, we appreciate that all compromise involves conciliation and know that it would be unrealistic to have expected all our recommendations to have been included.

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homes with nine or more residents, eliminating most written policies and procedures requirements, and grand-fathering on staff training, qualifications, and some physical site requirements in the proposed regulations were all done to reduce provider costs. Some of the larger one-time costs will result in improved standards and safety that will significantly reduce the providers' risk of liability and, consequently, their annual liability insurance costs. Also, many of the costs are capital improvements for which tax deductions will be taken.

In conclusion, we again urge you to approve the final form personal care home regulations. These regulations shore up many of the gaps in the current system and provide protections for our vulnerable citizens, while balancing the needs of the personal care home industry.

Sincerely,

Donna Ealy

Donna Ealy

104

Original: 2294

Armstrong County Low-Income Rights Organization
251 Briar Hill Road
Kittanning PA 16201

February 18, 2005

Mary S. Wyatte
Acting Executive Director/Chief Counsel
Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

Dear Ms. Wyatte:

The Armstrong County Low-Income Rights Organization is an organization that represents welfare recipients in Armstrong County, some of whom reside in the Commonwealth's personal care homes. **We strongly urge the Independent Regulatory Review Commission to approve the final form personal care home regulations resubmitted by the Department of Public Welfare on February 11, 2005.**

The final form regulations are the result of **5 years** of discussion, negotiation, and compromise amongst providers, consumer advocates and Department staff about critical life safety and quality of life issues. While these regulations do not contain all of the increased consumer protections that we had hoped for, they are an important improvement over the current licensing regulations and will afford considerably greater protections to vulnerable personal care home residents.

The Armstrong County Low-Income Rights Organization is especially pleased that the final form regulations make desperately needed improvements in the amount and the quality of training required for administrators and direct care staff. Under the current regulations, administrators need only have 40 hours of training to run a facility that cares for frail and ill individuals who may have complex needs. There are no standards for administrator training courses, and it is generally acknowledged that the quality of many is dubious. Worse yet, because there is no testing requirement, there is no way to ensure that a new administrator has learned the course content or even paid attention while in class. The current situation is even worse for direct care staff, who can be employed for up to six months before receiving any training at all on their job functions. These standards are simply outrageous and are reflected in the tragedies – deaths and injuries from medication errors, fires, bed sores, residents wandering away, and failure to recognize and respond to acute care needs – which occur on a regular basis. The current training requirements are outdated for a setting where residents have become increasingly frail and medically complicated in recent years. The Department has been more than responsive to providers' concerns about costs by grandfathering all current administrators and staff, as well as reducing the required number of training hours even below the number to which provider representatives agreed in the stakeholder groups.

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7) Strengthening residents' rights.

The Armstrong County Low-Income Rights Organization believes, in fact, that the regulations should be even more stringent in certain areas – including administrator training and assessments - where the Department has eased requirements from the proposed regulations in response to provider cost concerns.

However, we firmly believe that the final form regulations make essential strides towards improving and protecting the lives of personal care home residents. While the regulations do not go as far in some areas as we had hoped, they represent meaningful improvement to a system that has seen too many preventable tragedies in recent years. Additionally, we appreciate that all compromise involves conciliation and know that it would be unrealistic to have expected all our recommendations to have been included.

It should be noted that the costs that will be incurred by providers in order to comply with these regulations have been significantly reduced from those that would have

resulted from the proposed regulations, in response to concerns raised by providers during the regulatory process. Limiting application of several regulations to only those homes with nine or more residents, eliminating most written policies and procedures requirements, and grand-fathering on staff training, qualifications, and some physical site requirements in the proposed regulations were all done to reduce provider costs. Some of the larger one-time costs will result in improved standards and safety that will significantly reduce the providers' risk of liability and, consequently, their annual liability insurance costs. Also, many of the costs are capital improvements for which tax deductions will be taken.

In conclusion, we again urge you to approve the final form personal care home regulations. These regulations shore up many of the gaps in the current system and provide protections for our vulnerable citizens, while balancing the needs of the personal care home industry.

Sincerely,

Shirley Beer

Shirley Beer

Original: 2294

(100)

The Arc Pennsylvania

Building 2, Suite 221
2001 North Front Street
Harrisburg, Pennsylvania 17102
Telephone: (717)234-2621
Fax: (717)234-7615
www.thearcpa.org

Joseph Kohler
President

Stephen H. Suroviec
Executive Director

February 17, 2005

Mr. Arthur Coccodrilli, Commissioner
Independent Regulatory Review Commission
14th Floor, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Personal Care Home Regulations

Dear Commissioner Coccodrilli:

We **support** the personal care home licensing regulations to be considered by the IRRC on February 24th.

The Arc of Pennsylvania is a statewide organization that provides advocacy and resources for persons with cognitive, intellectual and developmental disabilities. Our organization's emphasis is on persons with mental retardation. Due to the under-funding of the state's community MR system, many persons with mental retardation live in personal care home rather than living in their own home or in a group home supported by the MR system. These are vulnerable citizens and regulations that protect their health and safety are needed. The current regulations are inadequate and fail to meet even minimum health and safety standards in many cases.

The regulations before you, if passed, will improve the situation for the vulnerable citizens we represent. Major new components include the following:

- Stronger fire safety protections
- New initial needs assessment and support plan requirements
- Better physical site and environmental protections
- Structured medications administration component

While advocates such as The Arc may not have gotten everything they wanted in these regulations, we believe they will be an improvement over the current 14-year old regulations. The multi-year process employed the Department of Public Welfare to develop these regulations was inclusive and all stakeholders were afforded opportunities for real input. Compromises were made and the regulations you are considering are a product of that process. We ask that you vote to approve the regulations.

Sincerely,

Stephen H. Suroviec
Executive Director

Original: 2294

(90)

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGING
555 Walnut Street, 5th Floor
HARRISBURG, PENNSYLVANIA
17101-1919

SECRETARY OF AGING

(717) 783-1550

February 18, 2005

Mr. Robert E. Nyce
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Mr. Nyce:

I write to express the Department of Aging's support for passage of the Department of Public Welfare's final-form personal care home regulations. The Department of Aging's Office of the State Long Term Care Ombudsman, works with the Department of Public Welfare to assure that personal care homes are safe, comfortable, and homelike in the continuum of long term living options. Our Department assesses potential residents through the OPTIONS Program, serves as an advocate for personal care home residents, and fulfills a Protective Services role in allegations of abuse or neglect of older residents of personal care homes.

It is from this perspective, that I offer the Department's support for adoption of the Department of Public Welfare's final-form personal care home regulations, as most recently amended through the tolling process. The assessment and support plan provisions of the final form regulations will assure that each older Pennsylvanian is served, based on his/her individualized needs and wishes. Increased training and qualification requirements for administrators and staff will improve the ability of personal care homes to serve their residents. Residents' rights and protections are expanded to assure that they receive the services they need, that they are free from retaliation, and receive information on their rights and responsibilities in a language they understand. Two more important additions are the notice of termination and discharge, which specifies the legal basis for the termination, and the establishment of an appeal process. Lastly, the provisions to improve fire safety will help protect against the potential for injury and loss of life.

I urge the Standing Committees and the Commissioners of the Independent Regulatory Review Commission to support the final-form personal care home regulations as amended through the tolling process. Thank you for your due consideration.

Sincerely,

Nora Dowd Eisenhower
Secretary

Original: 2294

(87)

IRRC

From: mmdownes@alltel.net
Sent: Tuesday, February 15, 2005 9:58 AM
To: IRRC
Subject: nursing home regulations

To whom it may concern. I am writing this to encourage the committe to consider dissolution of chaper 2600 for personal care homes. I am writing this letter because not only do I know individuals that own small family run personal care homes that will be put out of business but I have an elderly family member that I feel will be impacted by this. These regulations will make it virtually impossible for the small homes to remain open while taking SSI patients. My mother in law would be one of those patients. When the time comes that she is unable to stay in her own home we want her to go to a small facility where she is part of a family, not a number. It is unfair to not only the home owners but the clients to pass regulations that are unreasonable. Please re-evaluate chapter 2600 and keep in mind that one of your family members could be adversly affected by this resolution. Thank you for your time. Sincerely, Margaret M. Down
es

Orignal: 2294

WATKINS CONCEPTS COMPANY

"BRING ORDER OUT OF CHAOS SINCE 1978"
1000 Rimrock Rd., Lusby, MD 20657
PA Tel Number 610-360-6609

Consultants to Management at LIZA'S HOUSE
1357 Blue Mtn Dr., Danielsville, PA 20657
TEL:(610) 760-1970 FAX: (610) 760-8868 www.lizashouse.com

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A

X

To: The Independent Regulatory Review Commission (IRRC)
33 Market Street, 14th Floor
Harrisburg, PA 17101
Fax: (717) 783-2664
Voice: (717) 783-5417

Subject: FINAL-FORM RULEMAKING, CHAPTER 2600
COMMENTS, OBSERVATIONS, CONCLUSIONS AND RECOMMENDATIONS
dtd. DECEMBER, 2004
ADDENDUM dtd. JANUARY 8, 2005

FEBRUARY 14, 2005

Pages: [19]

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BOTTOM LINE

The most important stakeholder in this whole scenario has been, is and remains the dependent elderly. This stakeholder has been least represented, has had minimum impact, yet is most affected by this final-form rulemaking. Who is looking out for these dependent elderly?

One unchallanged point of agreement is that the dependent elderly need, want and deserve an affordable, safe, humane, comfortable and supportive residential setting in which to live.

This final-form rulemaking and Regulation Impact Study deflects attention away from the main concern of the primary stakeholder, COST.

Any rulemaking must meet the test of reasonableness. This final-form rulemaking fails the reasonable test. Some examples:

- **This final-form rulemaking is cost prohibitive.**
  - **The cost impact of the Department's recommended solution to overcome the prohibition of providers receiving oral orders from a prescriber, that is to have an RN on duty, is overwhelming. This solution increases the annual payroll of small and medium homes by $180,000.00, or $15,000.00 per month.**
  - **The cost (additional debt) to upgrade a C-III Category building to meet UCC compliance due to final-form rulemaking mandated provisions is in the range of $250,000.00, not the $5,000.00 estimated by the Department. In the upgrade process, one or more rentable rooms may be lost, reducing the income earning potential of the current C-III Category building.**
  - **The magnitude cost projection for a 30 bed facility, a small facility, yields a probable actual monthly cost increase range per resident of $ 600.00 to $ 2,400.00. ** Note: This does not include any additional debt service requirements for those homes that must incur additional debt to meet UCC compliance.**
- **The final-form rulemaking uses 9 residents as the break point for large and small facilities.**
  - **This distinction is unbelievable. Any facility with 1 and 1/2 employees, grossing less than $100,000.00 per year is not a large facility.**
  - **A facility with 4 residents and 1 care giver must maintain more than 125 written policies and procedures to comply with this final-form rulemaking.**

The highest probability of predictable outcome of approving this final-form rulemaking is a disaster scenario. This final-form rulemaking probably will put the 20-

40% of current lower income (10,000 to 20,000) residents out of their home, due to closings. Who knows where the less affluent displaced residents can go?

If the Department does not have a contingency plan addressing where displaced residents can go or how they can survive, this final-form rulemaking must be disapproved.

Failure to anticipate this situation and have a contingency plan to address this predictable problem is a glaring deficiency in the Department's awareness and appreciation of the impact this final-form rulemaking will have on Pennsylvania's dependent elderly.

An objective assessment comparing the provisions of 2620 and the final-form rulemaking shows 2620 is far superior to this final-form rulemaking.

Recommendation: "DE OPPRESSO LIBER". DISAPPROVE CHAPTER 2600 FINAL-FORM RULEMAKING.

EXECUTIVE OVERVIEW

A review of the Regulation Impact Study leads to the following observations and conclusions.

This final-form rulemaking ignores the concerns of the primary stakeholders, the resident and their families. When you ask these stakeholders what their primary concern is, they overwhelming reply costs. Other concerns of residents and their families are location, home-like non-institutional environment, safety and supervision.

The Department had no cost estimate when they filed the final-form rulemaking on November 4, 2004. The Regulation Impact Study lacks the necessary cost component to make the study meaningful.

No cost impact questions were contained in the questionnaire used in the Department's Regulation Impact Study The study deflects attention away from the The principal concern of the primary stakeholder group, COST

This final-form rulemaking is cost prohibitive.

- The cost impact of a single item, the Department's recommended solution to overcome the prohibition of providers receiving oral orders from a prescriber. That is to have an RN on duty, is overwhelming.
    - **This solution increases the annual payroll of small and medium homes**

by $180,000.00, or $15,000.00 per month.

- **The monthly impact per occupied bed is devastating. If a home has 10 occupied beds - the average cost increase per bed is $1,500.00; 20 beds - $750.00, 30 beds - $500.00, 60 beds - $250.00.**

- **This Department solution is ill-conceived, unrealistic and demonstrates the insensitivity to cost impact in the final-form rulemaking.**

- The magnitude cost projection for a 30 bed facility, a small facility, shows a monthly operating cost increase per resident of $ 1,195.00. This equates to **a probable actual monthly cost increase range per resident of $ 600.00 to $ 2,400.00. ** Note: This does not include any additional debt service requirements for those homes that must incur additional debt to meet UCC compliance.** Theimpact of these additional debt items will be greater on small homes than on larger homes.

In my many years of consulting and management experience, I have never seen an impact study, at any level of management, in any organization, without a cost component. **An impact study is not relevant without the critical cost component.**

A problem in developing this final-form rulemaking, is the perception gap of different stakeholders.

- Stakeholders removed from the day to day impact of caring for dependent elderly envision the ideal situation and espouse grand theories.

- Stakeholders working where the rubber meets the road face the realities of regulatory impact and requirements to make it work, to include the actual costs in terms of dollars and sources of funding those dollars.

The most important stakeholder in this whole scenario has been, is and remains the dependent elderly. Who is looking out for these dependent elderly?

- **Not this final-form rulemaking!**

- Approving this final-form rulemaking is like closing the barn door after the horses are already out. Any subsequent action is after the fact and too late. We must live with the undesirable consequences.

- Unfortunately, the impact of approving this final-form rulemaking, will be devastating to the health, safety and well-being of this under-represented and oft ignored principal stakeholder, the dependent elderly.

- It will change the basic nature of the personal care home industry from a residential, social environment model to a medical institution model.

- Added costs and compliance requirements could force most small and medium size personal care homes to become insolvent and out of the market place.

- **This final-form rulemaking will probably remove most dependent elderly from their local community environment. The very environment that provides the encouragement and assistance they need to develop and maintain maximum independence and self-determination. The dependent elderly will probably be forced into large, rigidly structured, quasi-medical environment institutions. This the very scenario personal care homes were mandated to prevent.**

- **This final-form rulemaking could deny personal care home services, namely a safe, humane, comfortable and supportive residential setting for dependent adults who require assistance beyond the basic necessities of food and shelter but who do not need hospitalization or skilled or intermediate nursing care, to all but the most affluent of the dependent elderly.**

Nothing presented in the DPW tolling or Regulation Impact Study alters the findings or conclusions found in my comments and observations report, dated December 2004.

The mitigating information found in the impact study supports my December 2004 comments of proportionally greater negative impact on the small homes.

The points the Department agreed to toll were insignificant and unimpressive. Tolling points with any significance were rejected, out of hand by the Department. Does this action show an open and inclusive attitude?

The pessimistic assessment contained in my December 2004, observations and comments report remains unchanged. The highest probability of predictable outcome of approving this final-form rulemaking is a disaster scenario. This final-form rulemaking:

- Presents a clear and immediate threat to the health, safety and well-being of the less affluent dependent elderly in Pennsylvania.

- Imposes an unacceptable fiscal burden on personal care home residents. The impact of which will probably result in:

    - Closing most small homes. The providers can not bear the increased

financial burden. Their residents can not afford the additional costs.

- Making placement of SSI recipients almost impossible.
- Putting the 20-40% of current lower income (10,000 to 20,000) residents out of their home, due to closings.
- Who knows where the less affluent displaced residents can go?
    - **If the Department does not have a contingency plan addressing where displaced residents can go or how they can survive, this final-form rulemaking must be disapproved.**
    - **Failure to anticipate this situation and have a contingency plan to address this predictable problem is a glaring deficiency in the Department's awareness and appreciation of the impact this final-form rulemaking will have on Pennsylvania's dependent elderly.**

Recommendation: "DE OPPRESSO LIBER". DISAPPROVE CHAPTER 2600 FINAL-FORM RULEMAKING.

DISCUSSIONS

The Regulation Impact Study is filled with biased and misleading calculations.

- Eager statisticians and pollsters can amass biased data in their efforts to support preconceived goals. This happens in the process of determining inclusion-exclusion criteria and how individual questions are worded..
- The Regulation Impact Study results are further biased to support desired outcomes by applying calculations selectively. In some calculations, only the sample data set is used. In other calculations, the total data set is used.
- The Regulation Impact Study gathered data focuses only on how homes may or may not be impacted by UCC compliance, deflecting attention away from the main stakeholder's primary concern, COST.
- The Regulation Impact Study deflects attention away from the tough questions concerning cost impact. This was, is and remains the over riding concern of the primary stakeholders, the resident and their family. Sample useful questions would be:

- How much additional cost per resident can you (the provider) absorb in your current monthly operating budget?
- How many of your residents are existing on only SSI funding?
- How many of your residents can afford to pay increased monthly costs in the amount of ( ) $100.00, ( ) $300.00, ( ) $500.00, ( ) $750.00, ( ) $1,000.00, ( ) Greater than $ 1,000.00?
- What accommodations can be made for people who can not afford the cost increase?
- What will happen to the residents that can not afford to pay the higher monthly fees?

Page 4, paragraph 1, of the Regulation Impact Study, concerns Administrator Staffing. The Department listed several training options to meet the on site administrator staffing requirement. All were offered without regard to cost impact data or funding.

- The Department does acknowledge that most homes effected by this change in requirement are small homes. The cost impact on the small homes represents a significantly higher percentage of annual income than in does to a large home.
- The final-form rulemaking uses 9 residents as the break point for large and small facilities.
  - This distinction is unbelievable. Any facility with 1 and 1/2 employees, grossing less than $100,000.00 per year is not a large facility.
  - A facility with 4 residents and 1 care giver must maintain more than 125 written policies and procedures to comply with this final-form rulemaking.
  - This break point of 9 residents is an arbitrary and artificial break point specified by safety and construction codes. It is not a realistic or true reflection of the actual operating distinction in the eyes of the providers, residents or resident families of large and small facilities.
  - The Personal Care Home Advisory Committee, Large vs. Small Work Group could not agree on a finite number of beds for a break point. No provider considered a 35 resident facility a large facility. No provider considered a 200 resident facility a small facility.
  - A large and a small facility is a reflection of management systems and controls needed to operate the facility in compliance with the regulations

while respecting the concerns of the residents and their families.

- Given only large and small options, a span of control projection shows the transition point from small to large home management systems and controls, under the known provisions of 2620, falls in the range of 70 to 100 residents. It is impossible to make a similar span of control projection with the fuzzy logic and unknown requirements of this final-form rulemaking.

- The cost factor to send another person through the administrator training program remains un-addressed.

Page 4, paragraph 2, of the Regulation Impact Study, concerns staff training.

- Although the annual training for the administrator, is addressed, there is no valid cost data provided to access the impact on a home

- The Department provided different options of how the Administrator can meet the 24 hours of mandated annual training. Unfortunately, several training sources listed do not satisfy the final-form regulation requirement that all training must be provided by Department approved and certified instructors to be considered valid training

- The Department does acknowledge that most homes effected by this change in requirements are small homes. The cost impact on small homes represents a significantly higher percentage of annual income than in a large home.

- When commenting on the training requirements for staff, the Department ignored the prohibitive costs of the initial training required in this final-form rulemaking.

  - When speaking with a Department representative on February 7, 2005, I was asked how I could generate a magnitude cost estimate on this training as the requirements have not yet been developed.

  - **That is my point.** How can you approve a concept before you know what is involved and what the costs will be. To approve a general concept without any idea of the scope, content and resources required, to include costs, is irresponsible. I have never seen this approach to any program change approved in my many years of consulting and management experience

  - There are numerous training topics listed in paragraphs 2600.65, (a) and (c) and elsewhere in the final-form rulemaking.

  - Paragraph. 2600.65. Direct staff care person training and orientation, (d).

(Page 32), states "Direct care staff persons ..... may not provide unsupervised ADL services until completion of the following." Many mandated training topics listed in this requirement, are far more advanced, complex and expansive, then the skills needed to assist with a resident's ADLs. These training topics include:

- Safe management techniques.
- Care of residents with dementia, mental illness. cognitive impairments and other mental disabilities.
- The normal aging-cognitive, psychological and functional abilities of individuals who are older.
- Implementation of the initial assessment, annual assessment and support plan.
- Nutrition, food handling and sanitation.
- Recreation, socialization, community resources, social services and activities in the community.
- Gerontology.
- Care and needs of residents with special emphasis on the residents being served in the home.
- Safety management and hazard techniques.
- The requirements of this chapter (The Department wants 100 training hours on this topic alone for administrators.)
- Infection control.
- Care of individuals with mobility needs, such as prevention of decubitus ulcers, incontinence, malnutrition and dehydration, if applicable to the residents served by the home.

- **I have difficulty seeing where any of these topics will improve a new hire staff's ability to properly assist with ADLs.**

- The scope and nature of required supervision is undefined in this final form rulemaking and must be assumed to be full time, direct supervision.

- These mandated training areas require comprehensive training. A five minute training snippet will not provide any acceptable level of knowledge or competency for direct care staff in any of these training areas.. **Any training treated frivolously diminishes all training.**

- See my December 2004 Comments and Observations report, starting on page 18, for additional comments.

- Training areas required for personal care home staff greatly exceed those required for a CNA. The CNA ADL skills set make up only about 35% of a universal caregiver's skill sets.

  - If it takes 75 hours formal training, by law, as I was informed by a Department representative, to become a CNA, a logical extension would be to extend the time required for a universal caregiver's training to 225 hours. This is significantly higher than the 160 hours I used in my magnitude cost projection in the December 2004 comments and observations report.

  - This universal care giver training requirement is more extensive and requires considerable more training hours than required for the CNA certificate.

  - In fact, the training hours requirement for a universal caregiver is more hours than required for than an administrator's certificate.

  - **What is wrong with this picture?**

Page 5, paragraph 1, of the Regulation Impact Study, concerns Physical Site.

- The Impact Study is inconsistent in its use of data. Some times the comments are limited to the sample data set. Other times comments and calculations are extended over the entire industry data set.

- As noted in my December 2004 comments and observations report, the financial impact of Physical Site alterations will be greatest on the small providers. This is the sector of the industry least able to afford additional costs. This is the same sector that houses the highest percent of low income residents.

- Current personal care homes built under the L&I Classification of C-II will probably already be in pretty close compliance with UCC requirements. Homes licensed under the old C-III Classification, 8 or less residents, or that have a dual C-III & C-II certifications, will be devastated by meeting UCC requirements.

- In 1995 I asked our Architect for a ball park estimate cost to upgrade our C-III wing to bring it up to C-II compliance. He estimated somewhere between $60,000.00 and $75,000.00, and that is without a sprinkler system. At that time, new construction costs were about $65.00 per square foot. The last new construction cost estimates I got, two years ago, were in the range of $110.00 to $125.00 a square foot, again without a sprinkler system. The cost, in current dollars, to upgrade our C-III wing to UCC standards is probably in the range of $150,000.00 to $175,000.00. Add a sprinkler system, without community water, available would add significantly to the cost, raising the total cost to greater than $200,000.00. By the time you include professional fees, appraisals, closing costs, points, etc., **we are looking in the neighborhood of a quarter of a million dollars additional debt, not the $5,000.00 estimated by the Department. The Department's concept of cost impact does not reflect reality.**

- When I spoke with fire safety inspectors in December 2004, I was informed we would have to install a sprinkler system if we made "substantial changes" to the wing. We do not have a community water system servicing our area. Installing a sprinkler system will be a very expensive undertaking, to include sufficient well water supply, storage tanks, pressure pumps , emergency generator, and the sprinkler system throughout the wing. I have been informed by an architect that the alternative, a dry sprinkler system, is usually more expensive to install and maintain than a water based system.

A comprehensive Regulation Impact Study, to include cost sensitivity and impact information, as noted above, would have been useful base information for the Department and committees to have to work with in the development of this rulemaking. The purpose for which this impact study was done, to justify approval of the final-form rulemaking, is inadequate.

Many major final-form rulemaking provisions were ignored in this Regulation Impact Study.

Unannounced inspections are no big deal for large homes. Large homes have sufficient layers of management on site to handle the increased work load of the unannounced inspection. Large homes also have clerks to maintain records and reports current at all times. However, in small and medium size personal care homes, with management involved in hands-on caregiving activities, and administrative record updates from source data documents being done at night or on weekends, unannounced annual scope inspections are unrealistic and unacceptable.

- Unannounced inspections, limited to daily operations, are reasonable.

- A designee, such as the overnight staff care giver or shift leader, may be fully qualified to oversee the daily operations of the home but not have total access to the confidential resident, staff, or facility records that the administrator maintains.

- Immediate total access to records can not be guaranteed. The administrator and or fully qualified designee have other tasks and duties to do in order to run and maintain the facility. They may not be on site or immediately available for an unannounced inspection.

- The totality of the current annual inspection process, if unannounced, is an undue burden on the administrator or designee in the small or medium size home. There is insufficient staff scheduled on a daily basis to handle both resident care and services needed and the additional time requirements imposed by the annual inspection process. This is an economic reality.

- In small and medium facilities, extra staff hours are scheduled on the day of the announced annual inspection. This permits the administrator or designee to devote their time to the inspection. If the inspector shows up, unannounced, while the administrator or designee is functioning as a universal care giver, there is no way that either care and service to the residents or the ability to participate in the inspection process would not be unsatisfactory. Either condition is unacceptable.

    - Information compiled in advance for the current annual inspection requirements would not be immediately available for the inspector on his arrival. Time to pull the information from base source documents and prepare these reports would extend the inspection time and have an adverse impact on the efficiency of both the inspector and the home.

    - The additional requirements of all the policies, procedures, forms and plans that must be inspected / audited, required by the final-form rule making, and the demands put on the administrator's time, would devastate services provided in the home if there was no notification to prepare and schedule additional coverage staff hours.

These idealistic requirements sound good on paper but show a lack of knowledge, experience and understanding of the inspection process and realities of running small and medium size facilities. Compliance with these paragraphs would be detrimental to the health, safety and well-being of the residents. This is unacceptable. See the discussion in my December 2004 comments and observations report, page 34 for additional discussion.

Prohibition of receiving oral orders from a prescriber in an emergency situation. **This prohibition in the final-form rulemaking presents a clear threat to the health, safety and well-being of personal care home residents. Paragraph 2600.186. Prescription**

medications. (c). (Page 59) states, "Changes in medication may only be made in writing by the prescriber, or in-case of an emergency, an alternate provider. ..... ."

- This paragraph was inserted in the final-form rulemaking by the department without review or public comment.
- There was no critical analysis, or consideration of the adverse, life threatening impact this paragraph will have on residents receiving care and services.
- **This paragraph is an irresponsible and life threatening change in the final-form rulemaking. Paragraph. 2600.186.(c) is unacceptable. Providers and residents must retain the ability to accept and respond to prescriber's verbal orders. Written orders can be obtained later, when the prescriber gets to their office**
- **Paragraph. 2600.186.(c), in and of itself, should result in disapproval.**

Under the provisions of 2620, we currently take oral orders from prescribers and it has worked very well.

- We do get written orders later when the prescriber has access to a FAX. On routine orders, we always get a written order before executing the instructions. **There must be a test or reasonableness to all laws and rulemaking.**
- If a person is in insulin shock, a life threatening condition, and the resident is due for an insulin injection, what do you do.?
    - Give the insulin injection and risk possible death to the resident?
    - Do not give the insulin injection and receive a Class I violation citation, for not complying with the prescribers medication orders?
    - Call an ambulance to send the resident to the ER? The resident could die waiting for the EMT to arrive. CPR will not save this resident's life.
    - Do what we currently do under the provisions of 2620.
        - Call the Doctor and accept his oral order to hold the insulin and give a stated amount of sugar substance.
        - Then, take the resident's glucose after a specified time, and call the doctor and receive further instructions from the prescriber.
        - Receive follow up written orders from the prescriber when he has

access to a FAX? By taking this logical and morally responsible course of action, you get a class I violation citation under this final-form rulemaking for taking a verbal order and possibly saving a life. **Where is the test of reasonableness in this final-form rulemaking?**

- The answer provided by the Department representative on February 7, 2005 was to have an RN take the verbal order from the prescriber. This is a cost prohibitive solution for small or medium personal care homes.
    - Even if an RN is on call and receives the oral order from the prescriber, the personal care home staff still can not take the oral order from the on call RN. The RN must be on site to transcribe the order so the staff can implement that order under the provisions of this final-form rulemaking.
    - This solution requires having an RN on duty 7 X 24 X 365. An unbearable cost for small personal care homes. I doubt that even all large personal care homes have an RN on site 7 X 24 X 365.
    - To have an RN on duty 7 X 24 X 365 takes personal care home payroll costs into competition with hospitals and nursing homes for skilled professionals. The difference in payroll costs for a universal care giver and an RN is in the range of $45,000.00 per year. We would need 4 RN's on staff to provide 7 X 24 X 365 coverage to receive oral orders.
- The cost impact of this Department recommended solution to overcome the prohibition of providers receiving oral orders from a prescriber is to have an RN on duty, is overwhelming.
    - **This solution increases the annual payroll of small and medium homes by $180,000.00, or $15,000.00 per month.**
    - **The monthly impact per occupied bed is devastating. If a home has 10 occupied beds - the average cost increase per bed is $1,500.00; 20 beds - $750.00, 30 beds - $500.00, 60 beds - $250.00.**
    - **This solution is ill-conceived, unrealistic and demonstrates the insensitivity to cost impact in the final-form rulemaking.**
- See the discussion in my December 2004 comments and observations report starting on page 10 for a more comprehensive discussion.

The avalanche of mandated policies and procedures that must be developed and maintained in the personal care home in the final-form rulemaking is unrealistic and inappropriate.

- Few small personal care homes have professional managers with graduate degrees to comply with this requirement.
- Documented policies and procedures are a function of management systems and controls. These requirements differ in large and small organizations of all enterprise sectors.
- IBM uses a much more extensive set of policies, procedures and controls than those used by Phil's Computer repair shop.
    - Appropriate management systems, controls, methods and procedures evolve to sustain an organization throughout it's growth and longevity.
        - If management systems are too elaborate, the overhead costs will sink the organization. In this case, small and medium size personnel care homes.
        - If the controls are inadequate, the organization flounders and fails. In this case, large or multiple location chain facilities.
    - 30 years of consulting project management experience with management systems, procedures and training consulting, gives me the expertise to estimate the minimum number of policies and procedures required in the final-form rulemaking fuzzy logic general specifications. A cursory review of the specifications in this final-form rule making, yields a magnitude estimate of 125 procedures and forms required for the hypothetical average personal care home.
    - Refer to my December 2004 comments and observations starting on page 14 for additional discussion points.
- In conversations with a Department Representative on February 7 concerning the requirements of Quality Management, the Department appears to be unaware of the difference in Quality Management and Quality Control. They are two totally different management concepts and practices.

When discussing the magnitude cost projection concept with the Department Representative on February 7, 2005, I was told "Your concept is flawed because there is to great a difference in the various personal care homes. The fallacy of your magnitude

cost projection is that it is not house specific."

- **My point exactly, No one can make a reasonable estimate or projection based on absolute unknowns and constantly changing requirements.** See my December 2004 comments and observations report starting on page 13.

- The Department representative has a copy of my comments and observations where I discuss the basis for a magnitude cost projection. Does the Department choose:

  - Not to read and understand the basis of the magnitude cost projection?

  - To reject or ignore this valuable analytical tool in their considerations?

- The magnitude cost projection concept is simply to determine if significant costs are or are not involved. It is not a detailed cost estimate.

- **I revised my magnitude cost projection from my December 2004, Comments and Observations report, to include the costs of the Department recommended RN solution to take oral orders in the Personal Care Home.**

THE REVISED MAGNITUDE COST IMPACT ON A SMALL FACILITY WITH A $720,000.00 ANNUAL INCOME (30 RESIDENTS, $2,000.00 PER MONTH AVERAGE PCH FEES) IS DEVASTATING.

Paragraph Cost Factor	Fixed Cost	Annual Cost
2600.25 Resident-home contract.	6,250.00	
2600.26. Quality management. (a).	171,600.00	5,200.00
2600.53. Staff titles and qualifications for administrators,		12,500.00
2600.54. Staff titles and qualifications for direct care staff, (a). (2)		49,920.00
2600.64. Administrator training and orientation,	6,800.00	3,450.00
2600.65. Direct staff care person training and orientation, (d)		102,600.00
2600.65. Direct staff care person training and orientation. (e)		3,660.00
2600.66. Staff Training Plan, (b). (3)		8,640.00
2600.130. Smoke detectors and fire alarms. (e).	45,100.00	
*2600.186 Prescription medications. (c).		180,000.00
2600.227. Development of the support plan,		14,040.00
TOTAL HYPOTHETICAL HOME.	229,750.00	430,010.00
ANNUAL COST INCREASE AS % OF ANNUAL INCOME;		59.72%
PER RESIDENT: MONTHLY $1,195.00	ANNUAL:	$14,334.00
PER RESIDENT FIXED INVESTMENT COST:	$ 6,155.00	

MAGNITUDE PROJECTED COST IMPACT ON 1,700 LICENSED PERSONAL CARE HOMES

FIXED $ 390,575.00 ANNUAL: $ 731,017,000.00

**** Note: This does not include any additional debt service requirements for those homes that must incur additional debt to meet UCC compliance.**

Final Form Rulemaking magnitude cost projections show major costs are involved.

- The impact both in terms of dollars and percent of annual income will be greater on smaller homes than on larger homes.
- This cost magnitude is prohibitive, yielding a probable actual cost increase range per resident of $ 600.00 to $ 2,400.00, per month. .
- **The magnitude costs projected shows the final-form rulemaking is cost prohibitive and dictate disapproval on an up or down vote.**
- To make a detailed cost impact projection of our facility would require clarification and details on the many concepts and fuzzy logic requirements in the final-form regulation. **No one can make a reasonable estimate or projection based on absolute unknowns and constantly changing requirements.**
- This final-form rulemaking lacks clarity and detail. It does not adequately consider the needs and concerns of the primary stakeholder, the dependent elderly, namely cost.

Emergency planning was not addressed. I know this is a dragon on the horizon, but the Department must provide guidance and input for the homes to comply. The boiler plate requirements in the final-form rulemaking shows a lack of understanding and coordination in this vital sector, see my December 2004 comments and observations report starting on page 31 for more detailed discussions on this topic.

Any stakeholder may or may not like the present 2620 Regulation. This is true for all rulemaking. There are parts of 2620 that could be updated to reflect current knowledge, experience and conditions, but 2620 remains an adequate working regulation..

- **One unchallanged fact is the dependent elderly need, want and deserve an affordable, safe, humane, comfortable and supportive residential setting in which to live.**
- **2620 has provided sufficient oversight for most facilities to provide quality care to dependent elderly, throughout Pennsylvania.**

CONCLUSIONS:

The most important stakeholder in this whole scenario has been, is and remains the dependent elderly. This stakeholder has been least represented, has had minimum impact, yet is most affected by this final-form rulemaking. Who is looking out for these dependent elderly?

One unchallanged point of agreement is that the dependent elderly need, want and deserve an affordable, safe, humane, comfortable and supportive residential setting in which to live.

Any rulemaking must meet the test of reasonableness. This final-form rulemaking fails the reasonable test.

This final-form rulemaking and Regulation Impact Study do not address the main concern of the primary stakeholder, COST.

This final-form rulemaking is cost prohibitive.

The highest probability of predictable outcome of approving this final-form rulemaking is a disaster scenario. This final-form rulemaking probably will put the 20-40% of current lower income (10,000 to 20,000) residents out of their home, due to closings. Who knows where the less affluent displaced residents can go?

If the Department does not have a contingency plan addressing where displaced residents can go or how they can survive, this final-form rulemaking must be disapproved.

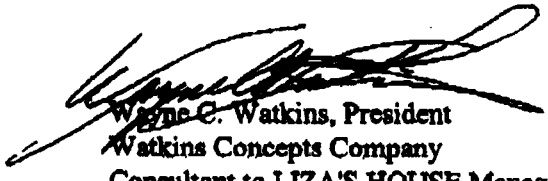
Failure to anticipate this situation and have a contingency plan to address this predictable problem is a glaring deficiency in the Department's awareness and appreciation of the impact this final-form rulemaking will have on Pennsylvania's dependent elderly.

An objective assessment comparing the provisions of 2620 and the final-form rulemaking shows 2620 is far superior to this final-form rulemaking.

RECOMMENDATION

"DE OPPRESSO LIBER". DISAPPROVE CHAPTER 2600 FINAL-FORM RULEMAKING.

I remain willing to and desirous of meeting with IRRC, the Department, and Legislative Committee representatives to discuss this final-form rulemaking. I can be reached at the LIZA'S HOUSE phone numbers, above, or by my cell number, to schedule a meeting time.



Wayne C. Watkins, President
Watkins Concepts Company
Consultant to LIZA'S HOUSE Management
610-360-6690

Original: 2294

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NEW STANTON
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Fax 724-755-0615

LAKESIDE
Lakefront Resort Community
724-755-1070
Adjacent New Stanton

Easy Living
ESTATES AND MANAGEMENT CORPORATION
PERSONAL CARE & ASSISTED LIVING

Date: 2-17-05

To: IRRC **Company:** _____

Fax # 717-783-2664

From: Shuee

Company: Easy Living Estates

Fax# Corporate 724-755-0615 Ligonier 724-593-7720
Somerset 814-445-2999 New Stanton 724-755-0615

This concerns Personal Care Home Regulation 14-475 DPW

Please forward to appropriate persons

Shuee

Number of pages including Cover page 10

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FEB-17-2005 THU 03:36 PM EASY LIVING ESTATES N. S. P. 01

THIS IS A GREAT CONCERN!
PLEASE FORWARD IT TO THE ATTORNEY GENERAL
& FIRST DEPUTY FOR ACTION
AT THE FOLLOWING ADDRESSES:

Attorney General Thomas Corbett, Jr.
Pennsylvania Office of Attorney General
Strawberry Square
Harrisburg, Pa 17120

First Deputy William H. Ryan, Jr.
Pennsylvania Office of Attorney General
Strawberry Square
Harrisburg, PA 17120

A Report About An Unlawful Conspiracy to Defraud Wrongdoing - Illegal Behavior

I was deceived!

We were told that many PCH's are dangerous to the Health and Welfare of their residents. I took it seriously since I only know my three facilities. Therefore, for two years (from 2002), I was on three of the five (6*) DPW workgroups, to try remedy other's shortcomings.
I never missed a day.
I tried to improve Regulation 2600 for the common good.

Whatever the workgroups agreed on, how to sensibly lower cost, almost never became part of the 2600 revision in spite of them being chaired by the DPW. Ultimately, we in the workgroups voted down 2600 in favor of 2620 (the existing regulations) including the Chair. In the end, we found 2620 the less intrusive, less expensive and better overall regulation.

When the workgroups finished their work and presented it to the Personal Care Home Advisory Committee, the Advisory Committee made a motion to vote down 2600 in favor of 2620 and asked the Chair to convey this decision to the Independent Regulatory Review Committee (IRRC). The motion was carried. You must realize this Committee has to have a majority of consumer and advocates, according to their by-laws, not providers.

THIS IS WHERE THIS REGULATION SHOULD HAVE ENDED

IN A WASTEBASKET, 

UNDER THE AUSPICIOUS OF DEMOCRATIC PRINCIPLES.

It took me this long to understand how 2600 has "nine lives." (I apologize for my failure.)

The final form 2600 it is not a revision to improve existing regulation or it's cost but its premise is a moneymaking fraud for the enrichment of the Nursing Home Industry. Regulation 2600 serves no purpose for the interest of the elderly, NONE!

It will add 3.8 billion in additional monies to the current yearly expenses which the 43,000 private pay elderly now pay (or the State or the Federal Government will pay as a waiver program).

This is what I did not understand, nor did my PCH administrator colleagues. That is why we worked on the Regulation so diligently until we realized this was not in the interest of the elderly.

This Regulation has nothing to do with improving the health and safety of the elderly who are in personal care homes. The only purpose of this Regulation is to **significantly increase the daily** cost to the elderly and to create parity between the cost of a PCH and the cost of a Nursing Home.

HOW?

By making parity among regulation requirements for both types of facilities.

WHY?

At a State-wide meeting of Personal Care Home Administrators in Carlisle, DPW Secretary Estelle Richman, cited a study that determined that 40 % – 60 % of the nursing home patients could be taken care of in PCH's for about ¼ of the cost.

The governor set his mind to lowering the nursing home cost, by reversing the flow.

No business, no nursing home can survive this drastic loss of business (40% to 60 %.)

If the regulations of the PCH's are made as stringent as for Nursing Homes, then the Personal Care Home's cost will be similar to that of Nursing Homes.

Then in reality instead of moving the 40% to 60% out of the nursing homes, you just declare a portion of the Nursing Home as a PCH without major income loss.

This is the aim of Regulation 2600.

Let me tell you how to achieve this fraud...

In 2000, the Medical Assistance Advisory Committee asked the Pennsylvania Health Law Project to undertake a study of the conditions in PCH's. No one asked why even though no funding for PCH's comes from this Committee. If it can be proved that conditions in PCH's are terrible and this idea can be sold, then new expensive regulations can be enacted. The Medical Assistance Advisory Committee has currently nothing to do with the PCH industry, only with Medicare, Medicaid and consequently with Nursing Homes. PCH's do not get any assistance now, yet they will when the price goes up because the waiver program will then be available to the PCH industry.

Let me describe briefly how the Pennsylvania Health Law Project accomplished this fraud. The DPW never before tabulated and published the results of yearly mandatory inspections. It was easy to "Cook the Books" and sell the idea that the PCH's provide inferior care - it is a sentimental argument without proof of innocence.

The first time the DPW published the inspection results was in 2004, therefore, it was easy to falsely condemn the industry, in 2000 - 2002. The 2004 published statistics did not back up the conclusion, that PCH's are the "Black Hole of Care." (White Paper)

In the Chart on the next page you will see that ...

In the first quarter, there were **five (5) Class I** violations* -- 4 out of 5 of these were under the heading of Building as the temperature of the water was either not hot enough or too hot. In the second quarter there was **one (1) Class I** violation (about civil rights.) There were no published results for the remainder of 2004. The DPW chose not to publish the 3rd and 4th quarter inspection results.

* Class I violations are the serious violations defined as life threatening! For example: operating within a building, which has no Labor and Industry approval.

fidential

PCH Violation Report

Calendar Year 2004 Quarter 1 (January + February + March) Report

Tony Norwood, Human Services Program Specialist

CLASS I VIOLATIONS			
Inspection Month	**Number of Class I Violations**	**Regulation Heading**	**Subsection**
January 04	2	Both: 2620.51 Building	Both: (a) The home shall have an adequate supply of hot and cold water piped to each wash basin, bathtub, shower, kitchen sink, dishwasher and laundry equipment. Hot water accessible to residents may not exceed 130 ° F at the outlets.
February 04	2	2620.51 Building and 2620.54 Housekeeping & Maintenance	2620.51 Building (b) : The heat in rooms used by residents shall be maintained at a temperature of at least 70 ° F. 2620.54 Housekeeping & Maintenance (f) :The home shall be made safe by the elimination of, or protection from, domestic hazards, such as slipping rugs, cleaning fluids, firearms, medication and other hazardous objects or materials
March 04	1	2620.51 Building	(a) The home shall have an adequate supply of hot and cold water piped to each wash basin, bathtub, shower, kitchen sink, dishwasher and laundry equipment. Hot water accessible to residents may not exceed 130 ° F at the outlets.

PCH Violation Report
April through June 2004 (Second Quarter)

Class I Violations			
Inspection Month	# of Class I Violations	Regulation Heading	Subsection
June-04	1	2620.51 Resident Rights	The resident has the right to be free from abuse.

A Class I violations could affect licensing. Only Class I violations can, but are not required to be followed up with provisional license; however, provisional licenses can be appealed. The current percent of uncontestable provisional licenses is less than 35/1000 of a percent.

How much better can you get?

Class II or Class III violations are a minor violation without an appeal process (in a democracy)!

What is the purpose of the new Regulation?

Therefore, the so-claimed 98 provisional license for the same period of 2000 represent an extreme exaggeration of the severity of the violations fraud. See the "White Paper" published by the Pennsylvania Health Law Project. The publishing of horrifying newspaper articles from other industries' failures masked as PCH's for a period of 24 years is also a fraud.

What I am saying is: to portray PCH's as the "Black Hole of Care" and "Dumping Grounds of the Long-Term Care Market," just to help Nursing Homes survive without competing and to guarantee that PCH's will become part of the Federal Medicare, Medicaid, Waiver Program, is deceitful.

If in the best case scenario, they can rig it that the Federal Government will pay the 3.8 billion that is still my money and your money, taxpayer's money. It would make more fiscal sense to achieve financial Federal help for the lesser cost of a PCH than the higher cost of Nursing Home.

To lie, to ruin the reputation of an Industry of 1,688 facilities when the current statistics prove that the additional restrictions are unwarranted, unjustifiable, and beyond the pale, is ***unscrupulous***. There will not be an improvement in the quality of care as there is not a justifiable need, so only an increase in the price.

This story that I am reporting to you constitutes a criminal conspiracy, between the DPW and their secret workgroup (*this is the 6th workgroup which membership was never solicited, their meetings closed and findings and deliberations never published.)

Personal Care Home Licensure and Enforcement Reform by the Licensing and Legislative Subcommittee of the DPW PCH Advisory Committee

Pam Walz, Chair	Elderly Law Project, Community Legal Services
William Gannon	DPW - OSP
Patsy Taylor-Moore	DPW – OSP – PCH Division
Ann Torregrossa	Pennsylvania Health Law Project
Alissa Halperin	Pennsylvania Health Law Project
Christine Klejbuk	PANPHA
Lynn Fosnight	PALA
Beth Greenberg	PANPHA
Dale Laninga	Intra-Governmental Council on Long Term Care
Clarence Smith	CERCA
Pat McNamara	PHCA/CALM
Cindy Boyne	State Ombudsman

Note: Clarence Smith who is a PCH provider was not invited to any of the meetings.
Beth Greenberg showed up at the last meeting and was thrown out, she was told she was not welcome; this was the only meeting she knew about.
All others are from DPW, Advocacy, and Organizations who represent nursing homes.

When someone leaked to the providers that there was a meeting they, the providers, made plans to attend. The meeting was then cancelled later it was reported to the providers that there was no need for any providers to attend because they were not in on it in the beginning and they were not welcome. It was secret to the extent that it was never mentioned that there were **six, not five,** workgroups. The sixth workgroup consists of members of the DPW, government, law, and all providers who are non-profit and who have nursing homes. Uninformed about PCH's but not impartial authorities.

PLEASE HELP INVESTIGATE IT AND/OR FORWARD THIS TO THE PROPER AUTHORITIES IF YOU ARE NOT THE ONE!
THAT IS HOW YOU CAN SERVE THE ELDERLY AND THE TAXPAYER'S INTEREST!

My suggestions to Improve This Situation:

- File suit against all conspirators, regardless of where it leads.
- Levy a Fine - to recuperate the cost to the public of Regulation 2600.
- Rescind the monopoly of existing nursing homes to the market making it open to competition.
- Require that there no longer be any certificate of Needs.
- Open the available Federal Providers numbers, so anybody can open new Nursing Home Facilities.
- Let Nursing Homes compete on a free market as Personal Care Homes do, it will stabilize a fair pricing.
    - Competition will lower the cost and private pay will define equitable cost since the consumers vote with their feet, and/or with their pocketbook. Quality will improve naturally in the Nursing Home as is evidenced in Personal Care Homes.

- Let nursing home providers simplify their own regulations, instead of dictating them.
    - Note: Do not think nursing home regulation is a fair norm. It is over exaggerated since the providers interest was opposite of taxpayers, since Medicare and Medicaid paid 8% cost plus above monthly charges. This is how the norms evolved, the more it cost - better it paid, this was the system until the end of the nineteen nineties. Not much has changed with them, there is no need to compete and it is prohibited for new facilities to enter the market.

- **Please Kill Regulation 2600 For Good!**
- Give me a table across from Patsy Taylor-Moore for 6 months and we will write a modification of Regulation 2620 that will be Hailed!, this will fulfill the need of having at least two persons at DPW who know PCH's and the aged, and the process of aging. I need no thank you or remuneration.

Respectfully,

Istvan "Steve" Upor
724-755-1070

86

Original: 2294

Residential and Assisted Living Featuring:

- Private Rooms
- Apartments with Kitchens
- Wall to wall carpeting
- Complimentary laundry facilities
- Elevators
- Individual heating and A/C controls
- Private, off-street parking
- Personal mailboxes
- Numerous Common Areas, including:
  - Two Sunrooms
  - Outdoor Terrace
  - Two spacious porches
  - Three dining rooms
  - Formal living room
- Casual lounge with pool table
- Beauty and barber shop on-site
- Social and Recreational Programs Daily
- Computer Room
- Exercise Room
- Storage Area
- Craft and Ceramic Studio
- Internet Access
- Well stocked libraries
- Three Meals Served Daily
- Housekeeping and Linen Service
- Registered Nurse On Call 24-7
- Remote Call Bell System
- State of the art fire safety system
- Residence and building maintenance
- Snow removal and lawn care
- 24 Hour Staffing
- Scheduled Local Transportation

THE Hickman

400 North Walnut Street
West Chester PA 19382
Phone: 484-760-6413
Fax: 610-696-1627
E-Mail: ksipple@thehickman.org

2005 FEB 14 PM 4:22

FAX

To/Company Name: IRRC

Attention: John Jewett

Fax Number: 717-783-2664

From: Krys Sipple

RE: DPW final form reg. respons

Number of Pages (including cover sheet): 9

Notes:

86

Original: 2294

THE Hickman

400 North Walnut Street
West Chester, PA 19380-2487

February 11, 2005

2005 FEB 14 PM 4:22

RECEIVED

Honorable Estelle Richman
Commonwealth of Pennsylvania
Department of Public Welfare
Room 333, Health and Welfare Building
Harrisburg, PA 17105

Dear Ms. Richman:

Residents and staff of The Hickman, a not-for-profit, Quaker-sponsored licensed Personal Care Home located in West Chester, Pennsylvania, have received and reviewed the changes made by DPW to the final form regulations for personal care, dated 2/7/2005. **We remain deeply concerned that the regulations, even after the changes, will present unfair burdens to older Pennsylvanians who live in personal care homes.** Enclosed with this letter is a copy of the detailed comments we sent to you on 1/17/2005, outlining our specific concerns.

In reviewing the proposed regulations, we had identified a number of areas where the changes will mean substantial costs to providers, which ultimately will mean higher costs for the residents. Cost was not addressed at all in the final form regulations as changed. **Of the five larger issues we mentioned in our comments – cost, volunteer training, frequent contract change, verbal doctor's orders, and posting door code in a dementia unit - only one issue was addressed with changes.** Even the one change that was made – that in emergency situations, verbal orders may be taken by a nurse only – places an unrealistic staffing burden on homes.

Of the 42 other issues identified in our comments of 1/17/2005, only 6 were addressed and changed. The final form regulations lean towards the creation of a medical model of care. Consumers have told us that they prefer the social, residential model provided by Personal Care Homes. Focusing on a medical model of care imposes unnecessary costs on providers and confuses the long term care consumer by making Personal Care Homes look very similar to skilled nursing facilities. This program was never intended to be all things to all people. In addition, the proposed regulations make no attempt to define Assisted Living or to distinguish between Assisted Living and Personal Care, further confusing the consumer.

In September of 1996, the Pennsylvania Department of Aging compiled statistical information on persons aged 65 and older living alone, correlated to their income bracket. This data reveals that 80% of all persons in that category have an annual income of under

$20,000, or $54.79 per day. Therefore, under the former set of regulations, a minimum of 80% of all individuals living alone aged 65 and older were unable to private pay from current income to live in a Personal Care Home. Considering the additional costs which would be incurred since 1996 and by the new final form regulations, an even greater percentage of Pennsylvania elderly will not be able to afford a PCH.

The final form regulations do not take into account the under-funding of personal care residents unable to private pay. Cost analysis from 1996 showed us that the average PCH costs were at that time $60.00 per day. Currently, PCH's receive approximately $29.00 per day for those qualified for SSI. Without additional funding, and with additional costs, it will be increasingly impossible to care for the indigent citizens of Pennsylvania.

While we recognize and support the need for regulations in order to protect Pennsylvania elderly living in Personal Care Homes, the increased costs incurred by these final form regulations will make it increasingly difficult to care for all but the elderly who are better off financially. As you review our concerns and suggestions, we hope that you will take into consideration the overwhelming numbers of low-income elderly living in the Commonwealth. **Given the lack of responsiveness to our concerns, the residents and staff of The Hickman strongly recommend the denial of these regulations.**

Sincerely,

John Schwab
Director

Suggested modifications to:

DPW's November 2004 Proposed Regulations

Personal Care Homes

Submitted by: *The Hickman*, a Personal Care Home with 70 Residents

THE BIG ISSUES:

1. **Cost:**
   a. **One-time cost**: in 2004 at The Hickman, a PCH for 70+ residents, the cost of installing a visible fire alarm system was **$138,000**, or 5.5% of its annual budget.
   p. 48, §2600.130, **Smoke detectors and fire alarms,** (e): The cost associated with installing a fire alarm system for the hearing impaired may be impossible for a small home serving a large percentage of SSI residents.

   b. **Continuing costs** (estimated) that would affect The Hickman:
   $17,000. Quality management.
   p. 20, §2600.26, **Quality management: Omit**: "(2) Complaint procedures" and "(3) Staff person training." **Reason**: These are already covered elsewhere. **Instead:** Do not require that the whole thing be done at once. Have home address one area of concern at a time until it is well developed. Then address another area, etc. Done this way, it can be handled by current staff rather than requiring the hiring of an additional person.

   6,000. Training administrator.
   p. 29, §2600.64, **Administrator training and orientation,** (a), (2): 100-hours is too long for a training course.
   p. 31, §2600.64, **Administrator training and orientation,** (c), line 1: **Replace**: "24 hours" **with**: " 12 hours". **Reason:** 12 hours is a sufficient doubling of the former 6 hours.

   20,000. Staff training & orientation.
   p. 32 ff, §2600.65, **Direct care staff person training and orientation.**
   40,000. Assessment & support plans.
   p. 62, §2600.225, **Initial and annual assessment**, (c), (1), **After** "Annually" **Insert**: "on the anniversary date or within ten days before or 1 thereafter." Unless our proposed definition of "Annually" for page 4 has been accepted.
   p. 63-64, §227, **Development of the support plan.**
   $83,000. Total annual expenditures to comply with the regulations, or 3.3% of our annual budget. These labor-intensive costs in a PCH will, by their nature, increase over time, faster than the cost-of living index. Such costs may put smaller homes out of business.

2. **Volunteer training:**

p. 10, §2600.4, **Definitions,** *Volunteer*, line 2: **Delete** "direct care". **Reason**: To provide direct care requires that the person to be fully trained in direct care, which is unnecessary and undesirable for a volunteer.

p. 27, §2600.54, **Qualifications for direct care staff persons**: **Delete** (c). **Reason**: It is unnecessary and undesirable for a volunteer to be fully trained in direct care.

p. 33, §2600.65, **Direct care staff person training and orientation,** (a), line 3 and (b), line 2: **Delete**: "and volunteers". **Reason**: Homes will have difficulty getting volunteers if they have to go through the full training of direct care staff people.

p. 35, §2600.65, **Direct care staff person training and orientation,** (g), line 2: **Delete**: "and volunteers". **Reason**: Volunteers should not be treated as direct care staff or homes will have difficulty getting volunteers

Volunteers are an important and inexpensive part of running a PCH. If full training in direct care were required of volunteers, none would apply. Volunteers who perform ADL and IADL services should have the same training for those services as direct care staff. And volunteers performing non-direct care services also need to be trained in those services. In general, volunteers performing any direct care service are operating under the direction of direct care staff.

3. **Frequent contract change:**

p. 19, §2600.25, **Resident-home contract** (c), (11), lines 4-6: **Delete**: "Services listed in the resident's assessment and support plan shall be added to the resident-home contract upon completion of the resident assessment and support plan". **Reason**: Frequent changes in the contract is an unnecessary, time-consuming and costly operation.

p. 42, §2600.102, **Bathrooms,** (g), lines 4-5: **Delete**: "in the resident-home contract". **Reason**: Prices change too often, requiring frequent re-writing of the contract. If charges are made via purchase in an in-home "store," the prices for items should be posted in the "store."

It is costly and inefficient to add to the contract changes in either services or costs that can occur at any time.

4. **Verbal doctors' orders:**

p. 58, §2600.186, **Prescriptions and medications**. **Following** the end of (c), **Insert**: "Under special circumstances, such as late nights, weekends or holidays, verbal change orders are acceptable until the prescribing physician can get to a fax machine." **Reason**: For instance, when a physician orders by phone a doubling or a discontinuing of a medication, it should be applied immediately for the resident's health, not deferred until he/she can deliver it in writing.

5. **Posting door code in a dementia unit:**

p. 67, §2600.233, **Doors, locks and alarms,** (d) [or new (c)], lines 2 & 3: **Omit**: ", directions for their operation shall be conspicuously posted near the device" **Reason**: Even Alzheimer's patients can read those directions and exit inappropriately. This might risk the life of a wandering resident.

These are our costs, but nowhere have we seen an analysis of the **direct costs to DPW!**

OTHER ISSUES:

Page 6, §2600.4, **Definitions**: Add after definition of *Agent:* **Insert**: "*Annually* -- On the anniversary date or within ten days before or thereafter." **Reason**: DPW requires medical exams annually, meaning **just before or on** the anniversary date, but some medical insurance companies define an annual exam as **just after or on** the anniversary date.

p. 7, §2600.4, **Definitions,** *Dementia:* **Delete** "memory loss ... learning ability, judgment." **Reason:** These lacks are too common among many people, including you and me.

p. 9, §2600.4, **Definitions,** *Neglect*: **Delete**: "well-being". **Reason:** The term is too vague.

p. 9, §2600.4, **Definitions**, **Add** a new definition: before the definition of "Referral Agent" **Insert**: "Provider--The PCH."

p. 10. §2600.4, **Definitions**, *Resident with mobility needs*: As defined, this term means simply "immobile resident," the preferred term. **Reason**: A resident can have a need in connection with mobility without being an immobile resident. For instance, a resident who uses a walker to discourage falling can be quite able to exit a building in an emergency without assistance and hence is not *immobile* though he/she is an *resident with mobile needs.*

Therefore, every reference throughout the document to ***a resident who has mobility needs*** should be changed to ***immobile resident***; specifically, p. 28, §2600.57, (c), line 2; p. 63, §2600.226, (c), lines 2 & 3; p. 70, §2600.238, line 4; **and any other place not detected.**

p. 11, §2600.11, **General Requirements,** (c): Before "renewal" **insert** "annual". **Reason:** This will indicate the required frequency of renewals.

p. 14. §2600.17, **Confidentiality of records. Add** the following as those who should have access to resident records: administrator, director of nursing, business manager, direct care staff, resident's physician(s) and agents of the Department of Aging.

p. 17, §2600.22, **Admission**:: Either **Delete**: (4) entirely *or* at the end **Insert**: "for those residents requiring assistance with 4 or more ADLs."

p. 23, §2600.42, **Specific Rights** (m), lines 2 and 3: **Delete**: "and the resident's support plan". **Reason**: If the support plan requires the resident to be accompanied, for instance, the deleted part makes no sense.

p. 24, §2600.42, **Specific Rights** (x), lines 2 & 3: **Delete**: "if the home fails to safeguard a resident's money or property". **Insert**: "only if it is proven that a loss of money or property was caused by a member of the home's staff:" **Reason**: The uncorrected statement would make the home liable to reimburse a resident merely on that resident's statement of a loss.

p. 25, §2600.44, **Complaint procedures**, (e), lines 1 & 2: Delete: "a status report shall be provided by the home to the complainant." **After**: "written complaint" **Insert**: "a verbal status report shall be provided by the home to the complainant to be followed within 7 days with a written status report."
p. 26, §2600.53, **Qualifications and responsibilities of administrators**. After (a) (4) insert: "(5) A mature person whose life experience demonstrates competence." Then renumber the present (a) (5) as (a) (6).

(c) line 3: **Delete** "health". **Reason**: A PCH is a residential and social community, not a health oriented one.

p.26, §2600.54, **Qualifications for direct care staff persons**, (a), (2): **Add** at the end: "or is a person of proven competency." **Reason**: By requiring a high school diploma or GED without the above addition aggravates the severe shortage of direct care staff in PA. Many competent foreign born or religiously affiliated, such as Amish or Mennonite, may not own a diploma or GED.

p.27, §2600.54, **Qualifications for direct care staff persons**. In (d), **Delete**: "receiving personal care services", since a *resident* is automatically such.

p. 28, §2600.56, **Administrator staffing**. Training away from the home combined with other required absences and possibly vacation time might lead to compliance failure in an occasional week.

p. 28, §2600.58, **Awake staff persons**, (a), line 1: **After**: "staff persons" **Insert**: "on duty". **Reason**: Otherwise *all* staff persons must be awake at all times.

p. 31, §2600.64, **Administrator training and orientation**, (c), line 1: **Delete**: "24 hours". **Insert**: "12 hours". **Reason**: Doubling the present 6 hours to 12 hours is fully adequate.

p. 36, §2600.67, **Training institution registration** (title) **Delete**: "Training institution registration". **Insert**: "Institutions eligible to train administrators". **Reason**: The deleted title fails to indicate that §67 refers exclusively to institutions that may train *administrators*.

p. 37, §2600.68, **Instructor approval**, (title): **Delete**: "Instructor approval". **Insert**: "Instructors eligible to train staff other than the administrator". **Reason**: The proposed new title more accurately describes the content of §68.

p. 38, §2600.85, **Sanitation, Delete**: (d). **Reasons**: Residents will drop trash on the floor rather than lift the lid of a covered receptacle. Further, a kitchen staff person who lifts a lid automatically has a dirty hand that has to be washed. There are no large trash containers with a foot lever to open the lid and if there were, such a container would not be rodent safe.

p. 39, §2600.89, **Water**: (c) line 3, (d) line 1 and (d) line 4: in each case, after "maximum" **insert**: "safe". **Reason**: A "maximum contaminant level" can be any huge amount; here the concern is for a "maximum ***safe*** contaminant level".

p. 39, §2600.91, **Emergency telephone numbers**, line 1: **Delete**: "hospital". Line 2 & 3: **Delete**: "and personal care home complaint hotline". **Reason**: The deleted items are not emergency numbers.
p. 40, §2600.98, **Indoor activity space**, (c), lines 5 and 6: **Delete** the last sentence. **Reason**: Each home should have the freedom to place the television set in the most appropriate living room or lounge area.

p. 41, §2600.101, **Resident bedrooms**, (j), (1), line 1: "**Delete**: "and fire retardant mattress" and the three underlined lines. **Reasons**: It is ridiculous to ask each entering resident who owns a comfortable mattress in good repair to go to the expense of buying a fire retardant mattress. **Add:** "In a non-smoking PCH there is no need for a fire retardant mattress."

p. 42, §2600.102, **Bathrooms,** Might it be more appropriate to re***title*** this section as "Bathrooms used by more than one resident" or "Common Bathrooms"?

p. 42, §2600.102, **Bathrooms, Delete** (i). **Reason**: Soap dispensers are appropriate only for common bathrooms.

p. 44, §2600.104, **Dining Room**, after (e) (2) **Insert**: "(3) Allow bag meals when appropriate and when approved by staff and residents; such as Sunday supper, supper on Thanksgiving Day, etc.

p. 49, §2600.132, **Fire drills** (d): **Delete** the last sentence. **Reason**: If, for example, a staff person happens to be the president of the local fire company, there is no logical reason for excluding him as a safety expert.
(k), line 1: **Replace**: "5 days" **with**: "30 days" and **Delete** the last sentence. **Reason**: "Within 5 days of employment" is too restrictive.

p. 55, §2600.181, **Self-administration, Following** the end of (d): **Insert**: "Alternatively, medications kept in a resident's locked room are adequately protected."

p. 59, §2600.188, **Medication errors**: In general, the listed medication errors are too broad. Errors that are essentially inconsequential, such as aspirin instead of Tylenol, need not be reported.
(b), line 2: **Delete** the period at the end. **Add**: "only if the error is likely to cause an unfavorable reaction."

p. 61, §2600.223, **Description of services**, (b): This is a cumbersome requirement. Creating still another written procedure is time-consuming, costly to the provider and thus to the residents.

p. 63, §2600.225, **Initial and annual assessment**, (d), line 1: **After**: "resident's physician" **Insert**: "or PCH".

p. 64, §2600.228, **Notification of termination**, (b), line 8: **After**: "certified by a physician" **Insert**: "or the PCH".

p. 65, §2600.228, **Notification of termination**, (h), (7): After "home rules." **Insert**: "If the resident's conduct is absolutely incompatible with the provider's standards and unacceptable to both residents and provider."

p. 67, §2600.233, **Doors, locks and alarms**, (a), lines 5-6: **Delete**: "Department of Labor and Industry, Department of Health or", **Reasons**: Department Labor and Industry is required only at the time of installation. Department of Health is inappropriate in a PCH which is a residential and social home, not a health-related one.

p. 67, §2600.233, **Doors, locks and alarms**, subsection (b) seems to be missing. If so, subsections
(c) – (g) should be relabeled (b) -- (f).

p. 68, §2600.234, **Resident care**, (a), line one: **Change**: "72 hours" (both times) **To**: "7 days". **Reason**: 72 hours is insufficient time to complete so complicated a support plan as that needed for a dementia resident.

p. 70, §2600.238, **Staffing**, line 3: The closing square bracket after "necessary" lacks an opening bracket after **[Additional staffing]**, suggesting that the first two and a half lines are meant to be deleted, especially since those lines and the subsequent underlined lines both deal with mobility.

p. 71, §2600.239, (c), (13), line 2: **Delete**: "Department of Labor and Industry, the Department of Health or", **Reasons**: Department of Labor and Industry is required only at the time of installation. Department of Health is inappropriate in a PCH which is a residential and social home, not a health-related one.

p. 74, §2600.261, **Classification of violations**, (a): After (3) **Insert**: "(4) Class IV, Class IV violations are so minor as to not deserve a penalty."

p. 74, §2600.262, **Penalties**, (a): After "chapter" **Insert:** "except Class IV."

p. 75, §2600.262, **Penalties**, (e) After "$5 per" on line 1 and "$15 per" on line 2, **Insert**: "affected".

p. 77, §2600.269, **Ban on admissisons**, (a), line 1: **Replace**: "will" **with**: "may". **Reason**: Flexibility is appropriate, depending on the circumstances.

Allowing only six months transition to the new regulations is too short a time, particularly at this time of year when most PCHs are just starting a new budget year. **Twelve months transition** is very much preferred to allow the inevitable increases in costs to be worked into a forthcoming year's budget.

We have a general concern for residents of homes that close, whether for violations or for financial inability to meet the demands of the new regulations. Where do these residents go? If they are moved to a distant PCH that has room for them, their low-income families cannot afford to travel to visit them.

84

Original: 2294

THE Hickman

400 North Walnut Street
West Chester, PA 19380-2487

February 11, 2005

Honorable Estelle Richman
Commonwealth of Pennsylvania
Department of Public Welfare
Room 333, Health and Welfare Building
Harrisburg, PA 17105

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John Schwab
Director