

148



Original: 2294

4712 Smith Street
Harrisburg, PA 17109
Tel: 717-652-2663
Fax: 717-920-9428
www.yingsthomes.com

RECEIVED

2004 NOV 29 AM 11:39

INDEPENDENT REGULATORY
REVIEW COMMISSION

November 24, 2004

Forrest N. Troutman, II
General Counsel

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

**RE: Comments, Suggestions, or Objections to Proposed Final Form
Personal Care Home Regulation, 55 Pa. Code, Chapter 2600**

Dear Commission Members and Staff:

This letter contains comments to the proposed final-form regulation version of the Personal Care Home Regulations to be codified at 55 Pa. Code, Chapter 2600, which are made on behalf of Grayson View, Inc. and Grayson View Associates, L.P., Yingst family assisted living facility owners and operators of two facilities in Pennsylvania. These comments are presented to you after thorough review and discussion of the proposed regulations by and among the Administrators of our facilities, the corporate owners and officers, and the undersigned counsel. As we have stated before, we take serious the opportunity to provide these comments to you as part of the public comment period and it is our hope they are received accordingly.

Each of the comments set forth below are lodged at particular sections of the proposed regulations as indicated by section number. For clarification, the section numbers indicated below are the proposed section numbers used in the final-form regulations. The comments are listed in the order of appearance and not necessarily in any order of importance.

Page 6 – §2600.3 – Inspections and licenses.

Subsection (a) requires a home is subject to at least on unannounced inspect per year yet, there is no provision for a regularly scheduled annual inspection. Our concern is from a practical standpoint in that while an unannounced inspection is not the problem, we do not want that unannounced inspection to take the place of the regularly scheduled inspection. There is a significant amount of paperwork generated by the home in preparation for a regularly scheduled annual inspection which provides the Department with adequate records to achieve their stated goals and objectives for these inspections.

Generating these records is time consuming and some of which can only be generated by the Administrator. For example, personnel files contain some of the information to be generated, but other items and information kept in those files under normal practice is either not required to be disclosed to the Department or is prohibited from disclosure by other laws based on privacy concerns. In such circumstances, those types of information would be unavailable if the home's Administrator was not in the office on the day of the unannounced inspection. Therefore, it is suggested that a provision be added to allow for the continued practice of regularly scheduled inspections in addition to the unannounced inspections or, to allow for a defined period of time (e.g., 30 days) following an unannounced inspection within which the home would be required to supply the Department with the requested information. Further, and in such event, the home would be considered to be in compliance in the furnishing of requested records so long as it furnished them within that defined period of time (i.e., the failure to produce the required records at the time of the unannounced inspection would not be a violation).

§2600.4 – Definitions.

Page 8 – *Legal Entity*. The list of possible owners either needs to have language added to include other forms of ownership not listed—an "include, but not limited to" phrase—or simply add those other forms of ownership recognized in Pennsylvania (e.g., limited liability company, limited partnership, etc. The definition could be revised to read as follows: "A person, society, unincorporated association, corporation, limited liability company, partnership, limited partnership, governing authority, or other form of legal owner or entity responsible for the administration and operation of a personal care home."

Page 9 – *OTC*. The definition is incomplete. The addition at the end of the words "medication, drug, vitamin or supplement" is suggested. It is not clear that such products are included within the currently proposed definition of OTC or CAM and due to the inherent risk associated with improperly ingesting such products it is suggested that they warrant specific mention. Further, such clarification will assist the home in enforcing the provisions relating to medications. (see §2600.181, *et. seq.*).

Page 9 – *Protective services unit*. The phrase "who are older" should be deleted such that it reads "...investigate allegations of abuse of adults and assess the need..." since the term "adult" is already defined.

Page 11 – §2600.5 – Access.

We believe that subsection "c" should actually be "b".

Page 13 – §2600.16 – Reportable incidents and conditions.

It is suggested that subsection (a)(18) be expanded for clarity to read "A termination notice from a home's utility provider."

An occurrence appears in subsection (f) whereby the term "his" is used in connection with a resident's designated person. This is an example only and may appear elsewhere in the document. It is suggested that such use be replaced with more gender neutral terminology or phrasing (e.g., "...resident who could potentially be harmed or a resident's designated person...").

Page 17 – §2600.20 – Financial Management.

As a general proposition, we agree with the language found in subsection (b)(7), however, it is suggested such subsection be amended to allow a legal entity (where a natural person), an administrator, and staff persons of the home to be assigned power of attorney or guardianship of a resident or a resident's estate when the resident is a relative of such entity, administrator or staff persons. We recognize that with respect to a legal guardianship, other laws will determine whether such person is qualified to serve in such capacity, but the owner and employees of a home are encouraged to and desire to have their relatives receive care in the home where they are employed. We believe such desire is an expression of confidence in the level of care being offered at our facility.

§2600.25 – Resident-home contract.

Page 18 – The last sentence in subsection (a) requires the resident-home contract to be reviewed and "explained" to the resident and the resident's designee. The resident-home contract is a legal document with far-reaching legal implications. While it should be required that the administrator or a designee "review" such contract with the resident and the resident's designee, to require it to be "explained" could potentially be interpreted as requiring an act that is an unauthorized practice of law by a non-lawyer and may present liability issues for the legal entity. We recognize this is a question of degree and possibly of semantics, but it is our belief that requiring its "review" is sufficient to achieve the goal and the benefit of the added requirement to "explain" is outweighed by the risk.

Page 18 – It is not clear as written to what the qualifying statement in subsection (b) applies. The statement, "if the resident agrees", could be intended to apply only to the resident signing, or it could also apply to the resident's designated person. Obviously, the resident will sign (or make their mark if unable to sign), but the home is advised to also obtain a signature from a resident's designated person to protect the home from liability for disclosure of information with such designated person.

Page 23 – §2600.42 – Specific rights.

It is suggested that subsection (f)(2) regarding incoming mail be changed to read "Incoming mail may not be opened or read by staff persons unless requested by the resident or the resident's designated person."

Page 25 – §2600.44 – Complaint procedures.

It is suggested that use of the term "contraindicated" in subsections (e) and (f) should actually be "contradicted" instead.

Page 32 – §2600.64 – Administrator training and orientation.

As an example only, it is suggested that the way subsection (f) ends does not make clear who is supposed to keep the specified records. This type of ending is found in other sections throughout the proposed regulations and it may be more clear to simply add the words "on file" or "by the home" or "by the administrator" or other phrase to identify the responsible repository for these records.

§2600.81 – Physical accommodations and equipment.

Page 38 – It is believed the necessary "equipment" referenced in subsection (a) to be provided or arranged for by the home refers to that "equipment" that would be part of the physical structure as opposed to ambulatory aids listed in subsection (b), but it is not clear. It is suggested that a clarifying statement be added to subsection (a) such as "A home is not responsible to furnish ambulatory aids (*e.g.*, wheelchairs, walkers, etc.) to residents."

Page 38 – Likewise, it is unclear in subsection (b) that such "devices and other apparatus" listed are intended to refer only to those which have been provided by a home. While we have no intentions of supplying such devices, it is noted that some wheelchairs and other devices can be rather sophisticated and expensive. Clearly, the home has no desire to interfere with a resident's right to the device of their choice nor does the home have any expertise in maintaining such devices any more so that it does in prescribing medication. Therefore, it is suggested that a qualifying statement be added to this subsection (b) to both limit its application to only those such devices provided by a home and to clearly state that a home has no obligation to provide such devices.

Page 39 – §2600.91 – Emergency telephone numbers.

It is suggested that this requirement to post such emergency numbers be expressly limited to those telephones provided by a home. In our situation, some residents have personal phone lines installed in their bedrooms and past Department requests to post such numbers "on or by" resident-provided phones has been met with resistance and runs counter to a resident's right to privacy. Further, it is in the interest of the resident's safety to have them call the staff rather than 911 or another emergency number because a home has procedures in place which are designed to provide a more prompt response and immediate interim care to the resident until a qualified outside emergency responder could arrive.

§2600.101 – Resident bedrooms.

Page 41 – We believe that the qualifying language in subsection (j)(2) should be modified to require the home supply a chair for each resident instead of a chair that "meets the resident's needs." The qualifying language is too broad and will only lead to disputes when one resident claims to "need" a recliner-type chair with a built-in massager, a foot rest, or other such variation. A home should be able to furnish a standard chair or have the residents choose from a standard selection of chairs or arrange to bring in their own preferred chair.

Page 41 – We believe the mirror required in subsection (j)(6) should be qualified to allow the mirror in a bathroom that is within the resident's bedroom to satisfy this requirement.

Page 42 – It is suggested that the first "a" used in subsection (m) be replaced with "an" such that it reads "...not be used as an exit from or used... ."

Page 43 – §2600.104 – Dining room.

The language of subsection (d) requires adaptive eating equipment or utensils are to be available to the residents, if needed. It is suggested that such equipment or utensils are required to be made available by the home only if they are first provided by the resident. Therefore, such limiting or qualifying language is requested to be added to this subsection (d).

Page 45 – §2600.107 – Emergency preparedness.

It is our understanding that a municipality's emergency preparedness plan referred to in subsection (a) is no longer something which is available due to security concerns. It is suggested that either a qualifying phrase be added (*e.g.*, "if available") or that this subsection be deleted in its entirety.

Page 46 – §2600.108 – Firearms and weapons.

It is suggested that the second line of subsection (5) be modified to read "...there shall be written policies and procedures regarding the safety... ."

Page 46 – §2600.123 – Emergency evacuation.

For security concerns it is suggested that the requirement of subsection (b) to have the emergency procedures publicly posted in the home be amended to require such procedures be posted conspicuously only in areas accessible by staff instead of public view.

Page 48 – §2600.130 – Smoke detectors and fire alarms.

The requirement of subsection (f) to test all smoke detectors and fire alarms for operability presents an issue of cost for our facilities. Given the sophistication of our system such testing requires two qualified persons nearly a full day to complete and results in an approximate charge of between \$500 and \$600. A visual inspection of each device is all that is required to determine if it is operating and the system will automatically sound an alarm if one of the detectors fails the constant monitoring of the system. Therefore, it is suggested that this requirement be modified to address the scenario, such as ours, where the system itself automatically monitors the function of the system and all devices, and where such scenario exists, reduce that testing to annual instead of monthly.

Page 63 – §2600.226 – Mobility Criteria.

The word "assessed" in subsection (a) has an unusual break or space in it which should be modified.

Page 65 – §2600.228 – Notification of termination.

The first word "a" in subsection (h)(3) should be modified to "an" for grammatical reasons.

Page 65 – §2600.231 – Admission.

It is our belief that the first section under this Secured Dementia Care Units portion should actually be under §2600.229 because there is no section, reserved or otherwise, for §2600.229 or 2600.230. If correct, this would also mean that sections below this one should be appropriately renumbered, however, for purposes of the remaining comments, they will reference the numbering as proposed.

Page 67 – §2600.233 – Doors, locks and alarms.

It is believed that subsection (c) should actually be subsection (b) and that consequently, subsections (d) through (g) should be appropriately renumbered. Thus, the reference to subsection (b) in what is numbered subsection (e) (but should actually be subsection (d) instead) would be a proper and correct reference.

Page 74 – §2600.254 – Record access and security.

It is believed the word "policy" as used in subsection (b) should be modified to its plural form "policies" to match the plural use of the word "procedures".

Page 75 – §2600.263 – Appeals of penalty.

It is suggested that the language "and in accordance with §2600.263" be added to subsection (e) such that it reads "...to pay the penalty upon demand and in accordance with §2600.263, the failure to pay will..." which would recognize and distinguish this obligation to pay from the obligation to pay within 30 days stated in §2600.262(h), the previous section.

Page 77 – §2600.267 – Relocation of residents.

It is suggested that the phrase "The legal entity of" be added to the beginning of subsection (d)(2) such that it prohibits a legal entity from operating or holding an interest in a home during the stated 5 year revocation waiting period.

As you can see, most of the above comments are minor in nature especially when compared to the comments we offered at the last review. It is clear from the proposed final form regulations and the statutory authority that DPW has expended a great amount of effort and time in reaching this point. Clearly the goals of this enormous task are drawing closer to an end. Please consider the above comments in the intent and spirit in which they are offered.

Should you have any questions regarding the above comments, please feel free to call me directly at (717) 652-2663 or e-mail me at froutman@yingsthomes.com. Thank you in advance for your additional time and consideration of this important matter.

Sincerely,



Forrest N. Troutman, II, Esquire

c Hon. George T. Kenney, Jr., Chairman (Maj.)
House Health & Human Services Committee
Ryan Office Building, Room 108
Harrisburg, PA 17120-2020

Hon. Frank L. Oliver, Chairman (Min.)
House Health & Human Services Committee
34 East Wing
Harrisburg, PA 17120-2020

Hon. Harold F. Mowery, Jr., Chair (Maj.)
Senate Public Health & Welfare Committee
Senate Box 203031
Harrisburg, PA 17120-3031

Hon. Vincent J. Hughes, Chair (Min.)
Senate Public Health & Welfare Committee
Senate Box 203007
Harrisburg, PA 17120-3007

Pennsylvania Assisted Living Association (PALA)
Daneen E. Reese, Executive Director
536 Edella Road
Clarks Summit, PA 18411

Hon. Mark S. McNaughton
54B East Wing
Harrisburg, PA 17120-2020

Hon. Ronald S. Marsico
218 Ryan Office Building
Harrisburg, PA 17120-2020

Hon. Jeffrey E. Piccola
Senate Box 203015
Harrisburg, PA 17120-3015

Department of Public Welfare
David F. Kauffman
P.O. Box 2675
Harrisburg, PA 17105-2675

November 24, 2004

(53)

TO WHOM IT MAY CONCERN:

RECEIVED

2004 NOV 30 AM 10:35

INDEPENDENT REGULATORY
REVIEW COMMISSION

Due to recent legislation that you want to enact against Personal Care Homes and Group Homes, I'm writing you this letter. I am an individual who lives in and benefits from the type of facility that you want to change all the rules and regulations for. After this place would be forced to close, where do you want me to live? It would have to be out on the street, as I have no family that could keep me. Also, I don't have enough monthly income to be able to move into an apartment or room. You live single for a while, what does it cost? Rent in Lancaster County, about \$5,200 or better a year, and that is just for a room. This doesn't include cooking privileges or laundry services. Now in this situation, you have to eat out at least twice a day. At most restaurants, this will cost you at least \$10.00 a day. Now lets figure this up; Rent--\$5,200.00 + \$3,650.00 for food, so far we have spent \$8,850.00 and this doesn't include the money for co-payments on prescriptions, laundry, personal hygiene products so you aren't offensive to the people in the restaurants while you dine. If you get an apartment, you now have to worry about all the utilities, electric, telephone and maybe cable TV. Why a phone? Some of us are incapable of getting around unless we use specialized transportation. In most cities or boroughs, you need a phone to call these organizations to set up a ride and return transportation. These trips, most of them have a co-payment or you don't ride. Most of these people receive less than \$700.00 a month. This gives you \$8,400.00 a year. Even with \$800.00, this is \$9,600.00 a year. Now this figure will give you an additional \$2.00 per day towards all of the above-mentioned items. But wait a minute, this doesn't include food or cleaning products, if you live in an apartment. Forget about subsidized housing, in this county, the waiting list is so long it would take five years

or better to even be able to see a place. When we are outside looking for a place to curl up for the night, are you going to help me? I don't think so. You would be apt to call the police or sheriffs to come and escort me off your property, probably to the County Prison on a trespassing charge or harassment penalty. If it weren't for places like Personal Care Homes and Group Homes, who would take care of all the mentally challenged people and make sure they take their prescribed medications.

Now put yourself in the shoes of a homeless schizophrenic who is hungry and cold. What do you think he or she would do combat the situation? Probably go into a store and steal food. Spend the time wandering the malls in winter to get warm.

With your changes in the rules and regulations, you are forcing these people out on the street to fend for themselves or die! Yes, you would be signing a death warrant for most of them, but do you care? It means less money paid out for help programs and church organizations to help the homeless. What happens to this money? Do you line your capitalistic pockets with it and cover in your fancy homes in the "gated community" you live in, fearful you might meet one of us outside and we might panhandle you for some meager change to purchase a cup of coffee to ward off the winter chill. No, you probably would turn and walk the other way and try to avoid us like the plague or smallpox.

We live here like any normal human being and don't bother anyone on the outside for much of anything. Some of us even hold down small meaningless jobs so the upper echelon can collect federal dollars for helping the physically and/or mentally challenged. We have caring workers and staff members who see that we are taken care of and we all have the right medications. They also cook, clean and do our laundry so we are presentable to the public when they come around for the hoi-

idays or summer picnics and cookouts.

Now you tell us, do others feel the same way you feel? I don't suppose so. Just answer me a few questions;

Do you want a non-medicated paranoid-schizophrenic roaming your neighborhood with your children outside playing?

Do you want a lot of homeless women pregnant with "God knows whose" child growing inside her and she don't even know she's pregnant? What a way to bring new life into this world. Just another one for the already crippling welfare rolls to handle, right?

Do you want some dirty old men or woman sitting in the public square holding down a park bench or in your parks and playgrounds where your children and grandchildren play or swim?

These homes keep most of these people sane and calmed down so they aren't a threat to society or each other or themselves. Force legislation upon these homes that will put them way over budget and force them to close and you will have opened a whole new can of worms.

So when it comes time to vote on this proposal, think with your heart along with your mind, put yourself in our situation and try to imagine what life would be like on the outside, looking in. Do you enjoy your happy home and nice assets? We can't afford that kind of luxury, but our life is simple and we manage to roll along with the tide.

Probably in Lancaster County, you would displace approximately 500 to 900 individuals. Do you want them all wondering around the City of Lancaster and the major boroughs of this county? Pass this legislation and that is what you would do.

Please Reconsider!!

The Residents of Hershey Mill Home!

David T. Junt

~~Edward~~

Kelton L. Brown

Germe Helsenlichter

Harry H. Quinn

Jeffrey Barton

ROSALIE Schdettler

~~J.H. Hunt~~

Lewis R. Barre

Richard G. Guff

Bonnie Baxter

Tom G. Quaff

Gloria Hershey

Mary D. Daniels

Dorothy Spinella

Phad P. Miller
Melinda Sue Bleyer

Geraldine Areblawski

Margaret Shank

Mary E. Wattermyer
Richard Cooper
Kath Cooper

Richard P. Bletz

Kenneth P. Wiley

Raymond Emenheiser

Will F. Holz

Shawn Ladwig

Robert Kline

Robert Shindler

Joel Noer

Barry Shwartz

Esperanza Santiago

Earl Ant

GEORGE BERKET

Peter Bauer

A Personal Care Home provides a home atmosphere for people who need assistance with their daily needs. To force smaller homes to close by means of regulations is not fair to these people. If this were to happen they would be in large Corporate owned homes with a institution like atmosphere(if they can afford it)or return home which defeats the purpose of why we have Personal Care Homes in Pennsylvania. Someone who needs assistance with there daily need are much safer in Personal Care Homes that operate under the present regulations than being forced to return home and taking care of themselves.

Listed below are some of our main concerns but not all.

2600.64 Administrator training and orientation

Comment: These requirements for future administrators are too strict and in our opinion will hurt the industry as many people would not want to open a Personal Care Home.

2600.85 Sanitation.

(f) A home serving 9 or more residents that is not connected to a public sewer system there shall be a written sanitation approval for its sewage system by the sewage enforcement official of the municipality in which the home is located.

Comment: Our Personal Care Home and many others are located in a rural area that do not have a public sewer system. We have a septic system which is in good operating condition and was approved by the zoning board when we opened our home which was 19 years ago. If it were to be inspected now we may have to install a sand mound system which would cost on an average of \$12,000.00 to \$15,000.00. The DPW should not be concerned with this since this is enforced by the local authorities.

2600.101 Residents Bedrooms

(e) Ceiling height in each bedroom shall be an average of at least 7 feet.

Comment: We have an older building which the ceiling height on our second floor is 6feet 10 inches. We would have to close this floor and lose 8 beds which would drop our capacity from 20 beds to 12.

These are some of our concerns but not all the proposed changes in the regulations in our and many other owners of Personal Care Homes opinions are not necessary . Under the current regulations homes offer a safe and home style atmosphere. If these new regulations were to go through a Personal Care Home would have no choice but to provide a high cost institutional atmosphere for its residents.

I'm sure there are homes now operating that are a problem. Don't punish the good homes because of the bad homes have the DPW enforce the current regulations.

We have a 20 bed facility which has been in operation for 20 years. We are noted for giving a excellent care and a clean safe environment.

Thank You
Sam and Sandy

Adams

local authorities.

```
2600.64 Administrator training and orientation (uoi_i
{
  2600.85 Sanitation.
  2600.101 Residents Bedrooms
  qqi_SG; ; ;
}
```


IRRC

From: Craig Zendt [czendt@tricountyi.net]
Sent: Wednesday, November 24, 2004 11:00 AM
To: IRRC; DReeseatPALA@aol.com
Subject: PCH Comments

RECEIVED

2004 NOV 24 AM 11:12

INDEPENDENT REGULATORY
REVIEW COMMISSION

To whom it may concern,

In reading over the 2600 Final Form, I have, as most probably do, mixed feeling. There is no doubt that changes were/are necessary, however governing entities must beware of the proverbial rebound effect. Going from lack of or poor regulations to regulations that may be 'over reaction' is not helpful either.

The area of inspections is my first issue. While I have no problems with annual inspections, (I believe they are quite necessary), nor problems with unannounced inspections, (a facility should always be operating in the established manner), I do have a problem with the interpretations of the inspectors/surveyors. In creating more regulations/rules, it only creates the problem for more and varied interpretations of those regulations. Nothing is more frustrating to us than to have one surveyor tell us we are ok in a specific area, and then the following inspection, have a different surveyor tell us it is not acceptable and require us to change. There must be uniformity of interpretation among surveyors. It's almost like the old saying about the weather in Denmark, if you don't like the weather, give it a minute, it will change. And we have dealt with that among surveyors. We ask for consistency, so possibly the problem is not inspections but the manner in which they are conducted. Also, why must the surveyors come into our facilities, treating us like they know we are out of compliance, as if they know we are operating out of the guidelines and they must find it. I realize there are facilities that operate in such a manner, but not all of us do. Treat us with respect during our inspections. If there are no violations, then there are no violations, don't dig and dig, attempting to find anything. That is usually when the inconsistent interpretations come into play.

Second, staff training is and I know an issue. But to go from none to 24 or 12 is a huge issue. We are a 24 bed facility. Twenty-four hours of training per direct staff person would cost us in the area of \$2400.00 per year. Twelve hours would cost half of that. That is not including the cost of the person leading the training or if the administrator would become certified in leading such training. Unless things have recently changed, Home Care Registered Nurses only require 16 hours of training per year and these are the front line nurses going into homes acting as the eyes and ears of the physician. And so I would say twenty four hours of training for the administrator is also a bit too much. Especially if the administrator is an R.N. Not to be taken the wrong way, but it seems odd to have non-licensed people or even people with a lower level of education, leading training for those with more. So of a primary concern is the cost of this required training (it will be passed on to residents in the form of higher rates) while a secondary concern is the quality of such training.

In summation, we have no problem with adhering to regulations, many of the changes are helpful and will increase the quality of care and safety being provided, we do have a problem with over regulation. Instead of mandating changes that could be detrimental to quality facilities, why not impose tighter sanctions on those facilities that are sub-standard. Please do not go from one extreme to another.

Remember, the costs of any change in regulations (in private-pay facilities) will be passed onto the resident. Why impose those things onto folks with

'fixed incomes'? And for those facilities who cater to the SSI individuals, and do not have the opportunity to increase rates, the dollars will come from somewhere. Most likely those dollars will come out of areas that will affect the quality of care for the resident, i.e. activities, quality/quantity/variety of food, lower wages for staff (which irregardless of training, often brings in a lower quality of employee).

This e-mail has been verified Virus-Free and Spam-Free using:
Sieve Software in conjunction to ModusMail SP
Tri-County I-NET, Inc.
© 1997-2004 Tri-County I-NET, Inc. All rights reserved.

Original : 2294

IRRC

45

From: McLaughlin, Jen [McLaughlinJ@csgonline.org]
Sent: Tuesday, November 23, 2004 3:55 PM
To: IRRC
Subject: Personal Care Home Final Form Regulations

Independent Regulatory Review Commission

To whom it may concern;

My name is Jennifer McLaughlin and I live and work in Northumberland County. I have worked in the mental health system for the past 15 years. I have recently read the final form regulations, chapter 2600, which are up for your review and approval on November 30, 2004. I have serious concerns about how the final form regulations are going to impact the personal care home industry.

As I mention earlier I live and work in Northumberland County. We currently have 21 personal care homes in our county. Of these 21 homes at least 9 have 50% or more of their population are SSI recipients. Because of the excessive cost of these regulations I am very concerned that these facilities will not remain open. It is important to remember that many facilities have only a handful of SSI beds.

I was very distressed to see that a complete fiscal analysis was not completed by the Department. I'm not sure that the Department understands that SSI homes are struggling now to keep up with the basic cost of living not to mention the huge increases in liability, workers compensation and health insurance. I was appalled by what the Department considered fiscal relief for small homes. The concessions (grandfathering) they proposed will be of little help and the idea of low interest loans provides little comfort when these homes are currently just surviving financially.

The following are questions/concerns I have about specific regulation: 2600.3 a Annual unannounced inspections. There is required renewal paperwork and an application that is sent to homes before inspection so homes will have an idea of when inspection is coming. Also for a full annual inspection I would assume that the licenser would want/require the PCH administrator to be present. If the inspection is unannounced the administrator may not be there...vacation, sick, ect.. At one point in this regulation process it was discussed about having an announced annual inspection and at least 1 unannounced inspection. This makes much more sense that what is in the final form regulation.

2600.4 Definitions - Designee must be in writing. For a moderately sized facility where there are 2 people on per shift both (if 21 yrs old) would be responsible for that shift. To have it in writing seems over done. Also the designee on other shifts should not have complete access to all records or resident funds. This opens the door to misuse or mismanagement of funds and information.

2600.16 Reportable incidents - 13- med error - reading this it appears that all med errors must be reported to DPW but when you read the section as to what constitutes a med error it only talks about reporting the error to the physician, resident, and/or personal representative. If the department is expecting all med errors to be reported to them - this would be an excessive request. However if an error caused the resident to have an adverse reaction requiring medical care or treatment that should be reported.

2600.21 Offsite services - this makes the home responsible for what goes

on at day programming. If a resident chooses or for whatever legal reason is mandated to attend a day program the home can not and should not be responsible for the resident while they are there.

2600.42 Specific rights - j - how can a home be mandated to help people obtain clothing. If the person has no funds the way the regulation currently reads the home would still be obligated to provide clothing.

2600.53 - Qualification & Responsibilities of Administrator - j - How when hiring someone can you legally ask if they have any medical condition or drug or alcohol issue? Also what if person develops an issue after being on the job. Wouldn't they be eligible for a law suit if they lost their job due to a medical condition or disability?

2600.54 - Qualifications for Staff - same as above

2600.54 - Administrator staffing - According the way this is written administrators may not take a vacation or be sick for more than 20 hours a week. There is no allowance for a designee even if designee has qualifications, training, and administrator license.

2600.57 - Direct care staffing - a - Designee at home 24 hours a day. Direct care staff should not have access to resident finances or financial records or personnel records. However there should be a staff 21 years of age or older present at all times.

2600.64 - Training and competency based test not in existence. Will it be available in time for homes to be in compliance

2600.65 - d - training and competency based tests not in existence. Does not clearly state time frames that direct care staff must have and pass this test.

g Does list of mandatory training count toward 12 hours of annual training?

2600.105 - Laundry - in a larger facility (to people or more) it would be impossible to have laundry done and returned in 24 hours.

2600.130 - d - Interconnected smoke alarms for 9+ residents very costly to SSI homes

e - Signaling devise for hearing impaired - expensive and confusing. It states in the regulation that you must have a devise if the hearing impaired resident or staff cannot hear the alarm. So is this going only by diagnosis or by ability.

i - direct connect to 911 expensive - 1 estimate for a 10 bed facility over \$1000 to install does not include monthly fee.

k - very unclear - if I hold 1 fire drill at the beginning of the month and hire someone a week later I must hold another fire drill within 5 days of employment of that new staff yet it states I only need to hold 1 fire drill a month. So does that mean I can only hire staff around the time of my monthly fire drill?

2600.141 - 7 - contraindicated meds and side effects is info generally given by the pharmacy and does not need to be included on a physical form. This information is often pages long and must doctors will be unwilling if not unable to give this information.

8 - body positioning - why would this be on a physical for a PCH - if this level of care is needed the person should be considered for long term care.

Thank you for allowing my comments and concerns. Again I do have serious reservations about the ramification of the costs of these regulations.

Sincerely,

Jennifer McLaughlin
Program Director

Community Services Group
330 North Second Street
Sunbury, PA 17801

IRRC

Original: 2294

46

From: Faith Friendship Villa [faithfriendship@dejazzd.com]
Sent: Tuesday, November 23, 2004 9:26 PM
To: IRRC
Subject: PCH Regulations

To the Members of the Independent Regulatory Review Commission:

The following comments are provided regarding the recently published final-form regulation 55 Pa. Code Chapter 2600, Personal Care Homes. I submit these comments from two perspectives- one, as an Administrator of a 73 bed personal care home whose clientele predominantly suffers from mental illness, and is approximately 85% SSI, and secondly, as a taxpayer in the Commonwealth.

I do wish to acknowledge that the final form regulation is a significant improvement over the Chapter 2600 draft that was issued 2 years ago, and shows a number of areas where the Department of Public Welfare has made efforts the concerns of providers. However, I feel that there are still remaining issues that leave these proposed regulations unworkable, and ask that they not be approved in the current form. My concerns are as follows:

General Concerns:

Apart from issues with specific regulations, there are three general concerns related the approach and presumptions of these regulations:

1) Continued Bias Towards a Medical, not Residential, Model: A number of comments were made in regards to the original draft of these regulations that a medical, not residential, model was being proposed. Those comments do not seem to have been addressed in the response issued by DPW. There continues to be an emphasis towards a level of care that is higher than what many Personal Care Home residents need, and a level of qualifications of staff and documentation of services that is more than would be expected for a residential environment.

For example, terminology such as ADL/IADL's, and "Direct Care Staff" instead of "Personal Care Staff" are Nursing Home designations. Support Plans, Quality Management, "educating and informing" residents on the need for health care, and the shift from the current "assisting with self administration of medications" to the present "Medication Administration Training" and requiring homes to document the diagnosis/purpose of each prescribed medication likewise seem to be beyond a residential environment. Furthermore, many of these requirements will increase the Liability exposure of personal care homes- many of whom already can not afford insurance.

2) Inadequate Differentiation Between Personal Care and Assisted Living in the Long Term Care Continuum: It is recognized that Personal Care Homes have over time gotten into increasing levels of care that pushes the boundary of what they are intended to do in the State's Long Term Care Continuum. It has been my understand that part of the motivation for establishing a formal definition for Assisted Living Facilities was to create a level of care between that of Personal Care Homes and Nursing Homes. Yet I do not see how the current revision to the 2600 regulations significantly distinguishes Personal Care Homes from what has been suggested for Assisted Living.

3) Benefit to Cost: The Department simply has not demonstrated an appropriate benefit to cost

11/24/2004

analysis for these proposed regulations. In their response to previous comments Accomplishments and Benefits (page 2) are presented with no quantifying measure that any of the changes will have a direct, discernable benefit. Likewise, in the Fiscal Impact section of their response, costs to Personal Care Homes, and the general public, are grossly under-estimated. In regards to costs to Personal Care Home providers, no attempt is made in assess the need for additional manpower in order to comply with the new requirements. They state (on page 6 of their response) that "The benefit of providing effective administrative policies...outweighs the cost" without ever attempting to estimate the cost. This indicates a presumption that the changes must occur, regardless of expense. In addition, there are various areas (which will be specified in the following section) where costs are not acknowledged.

Furthermore, on page 7 of their response, they state that "there will be no costs to the general public or local government as a result of this final-form rulemaking." This simply is not true. DPW repeatedly states in their response that they will be developing model policies, procedures, and forms that can be offered to PCH's once the new requirements are in place. There will be a need to develop a standard for "DPW Approved" training for administrators and medication administration, and the certification of those trainers. There will also be the need to train all inspectors to the new regulations. All this will be done at the expense of the tax paying public, and remain undefined.

Specific Regulation Concerns- Costs To Providers

The following is a list of regulations that if adopted, will incur a cost to the PCH provider that was not identified by DPW. To the best of my ability, I have attempted to estimate what the annual cost would be.

Definitions Section, and 2600.57, Direct Care Staffing- Under the 2620 regulations, under "Personal Care Services (2620.31-40) a variety of services are listed, including those for Food Service. Thus Food Service personnel presently provide "personal care services." In the proposed regulations, the definition for Direct Care Staff is those who assist with ADL's/IADL's, and the definition of ADL's and IADL's do not include Food Service. Thus when establishing required daily Staffing hours, time spent on Food Service would no longer count towards meeting Personal Care hours. For our home, this would exclude one 8-hour shift (for our cook) per day, plus approximately 6 hours per day of other staff who assist with serving. Thus 14 hours per day of additional "Direct Care Staff" would need to be paid to meet the required number of PC hours. Conservatively estimating the total cost of a staff person at \$9.00 per hour, **this amount to \$126 per day, and \$45,990 per year of additional payroll costs.**

2600.20 Financial Management- The new regs increase the requirement to provide a written account of transactions from annually to quarterly (3 additional times). For our home, approximately 60 residents receive financial management services. To make a copy of each record, take it to the resident, and discuss as needed, is estimated to take 10 minutes per resident, or 10 manhours per quarter. Since financial management is typical an Administrative function, the cost of a manhour is estimated to be \$15. **Thus this requirement amounts to \$450 per year of payroll expense.**

2600.227 Development of the Support Plan- The cost analysis for the regulations gives no estimate for how long it will take the Home to develop a support plan for each resident, thus the impact on manpower is difficult to define. However, assuming a minimum of 2 hours per resident, and approximately 15 new residents per year, **amounts to \$450 of annual administrative expense.**

2600.58 Awake Staff Persons- 2620 requires that at least one staff person be awake during sleeping hours for homes of 16 or more residents. Thus a second Personal Care staff person who is required to be available for emergencies or emergent care issues could be scheduled, but be permitted to sleep. Since 2600 would require that all overnight staff remain awake, this "back-up" person would need to be

awake, and need to be paid more. Assuming an extra \$3 per hour for awake staff versus on-call sleeping staff, this would incur \$24 per day, or **\$8760 of additional annual payroll expense.**

2600.64 Administrator Training and Orientation- The annual training requirement has been increased from 6 to 24 hours. The Department has not taken into consideration the training course fee for these additional 18 hours. Assuming a fee of roughly \$20 per credit hour, **this results in at least \$360 of additional costs.** Also, since many homes rely upon the Administrator's time for PC hour requirements, 18 hours of additional administrator-designee time would need to be staffed annually, **at an additional cost of \$162.**

2600.65 Direct Care Staff Person Training and Orientation- A "Department-approved, Direct Care Training Course" with competency testing, is required of all new hires, however, it is unclear how long this special course will take. I am assuming it will be one day (8 hours) which will need to be paid for by the home (both the cost of the course, and the cost of the staff-person's time.) Assuming 5 new hires a year, and an assumed \$50 fee for the training, **that results in \$610 annually.**

In addition, the new regs call for 6 hours of offsite training per year for each direct care staff person. Again, assuming \$9 per hour for staff time, and a \$50 course fee, for the 14 direct care personnel of our home, **this annual training requirement will cost \$1456.**

2600.130 Smoke Detectors and Fire Alarms- Section F requires monthly smoke detector testing. This is a tremendous man-power requirement, especially in homes such as ours that use a commercial detector system, not general household detectors. Commercial detectors are not tested by simply holding in a button and hearing the alarm. They require one person to go to the detector, activate it with a magnet, while a second person stands by the panel and resets the alarm. For the 68 detectors in our home, the entire process takes about 4 hours, and is performed annually by a vendor (who does not see the need for more frequent testing), at a cost of about \$300 per complete test. If I were to instead use my staff (at \$9/hr) to now perform this testing monthly, I would need 2 people, 4 hours each per month, **for a total of payroll cost of at least \$792 annually.**

2600.190 Medication Administration Training- The time requirement for this training, and the course fee, have not been considered by the Department. This training must be completed every 2 years, thus for a steady state staff of 20, 10 requals, and an assumed 5 new hires per year, would need to be trained annually. Again, assuming a \$50 course fee, and a 8 hour training (at \$9 per hour staff time), **this amounts to \$1830 of new costs.**

2600.161 Nutritional Adequacy- Section B requires an alternative food, which will increase costs of preparation, and overall waste of food. Section C requires that additional portions of meals and beverages be made available. We opposed this requirement when it was originally proposed, and our comments were not addressed in the Department's response. If the Home is meeting the nutritional needs of residents, extra portions should not be mandated. Such a requirement is not only financially intolerable to Homes such as ours that are predominantly SSI, but unlimited food is not in the best interests of anyone- including PCH residents. While the cost of this proposed requirement is hard to quantify, we estimate at least a 20% increase in our food expenses if additional portions are required. **This amounts to approximately an additional \$10,000 per year in additional food expenses for our home.**

2600.187 Medication Records- While there is some merit to maintaining this type of information, it represents a new level of documentation. Current Med Admin Records provided by pharmacies do not include the information requested by the Department, thus it will take time to create, maintain and update these records, especially considering that any one resident may be on 5-10 medications. We

estimate an annual 2 hours per resident per year to maintain this one record, and with 70 steady state residents, and 15 new admissions annual, amounts to 170 manhours, or **\$1530 per year.**

The Total of the above items is \$72,390 of additional annual new expenses in order to comply with the 2600 regulations as written.

In addition, 2600 requires new, written procedures to be developed by the Home for Prevention, Reporting, Notification, Investigation, and Management of Reportable Incidents/Conditions (2600.16b), Quality Management Plan (2600.26), Complaints (2600.41d), Emergency Procedures (2600.107b), Fire Safety (2600.144c), and for the Safe Storage, Access, Security, Distribution, and Use of Medications (2600.185). While DPW can provide a template or model, they will still need to be customized for the specific Home. That DPW intends to work with stakeholders in developing model policies and procedures (pg 7 of DPW response, under Paperwork Requirements) doesn't negate the fact that Home providers will need to spend time in this development process.

These procedures will all require considerable manpower (perhaps a few weeks in total) to develop- manpower that is not part of daily staff requirements. Especially for smaller homes, their administrator will not be available for personal care hours during this time, and will need to pay other staff. **The establishment of these procedures will cost hundreds if not thousands of dollars to each home!**

It is recognized that some measure of uncertainty went into estimating these costs, due in large part to the fact that the Department has not recognized and defined the amount of additional time that Home providers and their staff will spend in complying, and what the costs of staffing are. Furthermore, there are various other, smaller, administrative increases under the 2600 regs, all of which will require additional staff time. ***Clearly, however, Home Providers will need to increase their staffing in order to comply with these regulations, and the fiscal impact of this reality has not been recognized by the Department.***

Specific Regulation Concerns- Costs to the General Public

As mentioned, for SSI Homes such as ours, absorbing these costs simply is not an option, and there is no way to pass them on to our residents. Thus for SSI homes to remain in operation, and provide an adequate number of beds statewide for the increasing number of low-income residents, the State will ultimately have no choice but to significantly increase the Boarding Home Supplement- at taxpayer expense.

Furthermore, as a result of these regulations, additional costs will be incurred by DPW- costs that are ultimately borne by the tax-paying general public:

- Development of Model Forms for Resident Assessments (2600.225) and Support Plans (2600.227) (Page 6 of DPW response, under Services)
- Development of Model Policies and Procedures (See page 6 of DPW response, under Administration)
- Development of Department Approved Training Programs for Administrators (2600.57), Department Approved Training Programs for Direct Care Staff (2600.58), Department Approved Medication Administration Training (2600.190)
- Certification of Training Institutions and Instructors (2600.67,68)
- Re-Training of Inspectors
- Possible need to hire additional inspectors in order to enforce a larger body of regulations

Any regulatory change incurs some type of transitional cost. For DPW to propose a larger and more

detailed body of regulations for Personal Care Homes, and then state that there will be no additional costs to the general public in order to implement and enforce them, is unrealistic, and ignore the cost of change.

Specific Regulation Concerns- Objections or Requested Clarifications

Definitions: IADL's- Does doing laundry on behalf of the resident include their bed linens? If not, this is another personal care service as defined by 2620.39 that does not carry over into 2600, and will therefore incur new costs to the provider to replace these PC hours.

2600.3 Inspections and Licenses- While I can accept the basis for unannounced inspections of the physical home and staffing levels, I am very concerned about the need to now have full resident records, and employee records in a place where they can be accessed by someone other than the Administrator. While presently the 2620 regs require an Administrator designee at all times, for privacy reason we have not taken this to mean that the designee has full access to all resident and employee records that are subject to inspection. It is not beneficial to have resident financial information or sensitive resident mental health histories in a place where someone other than management can see them, nor can we have employee personnel files and credentials viewed by non-management staff.

2600.16a(11)- Reportable Incidents. What does "emergency management agency" mean? Surely this doesn't mean that every time someone needs an ambulance trip (esp non-emergency), it needs to be reported? I submitted this comment earlier, but it was not addressed.

2600.20(a) Financial Management- Guardianship may not be the only situation where a resident shouldn't be managing his finances. What about if there is the need for a Social Security Rep-Payee, as documented by their physician?

2600.25(c)11 Resident-Home Contract- This section requires that a list of specific charges for food, shelter, and services be delineated. How can that be done for an SSI resident? Regardless of what our typical charges may be, they will not be able to pay them, as their overall fee is total income minus \$60. Likewise, it would be unjust to expect SSI homes to break-out a discounted cost for each service, especially if in the future we are required to offer a "menu" where they can pick and choose (ex, decide not to eat at the home, and receive a discount).

2600.42(b) Resident Rights- I understand the intent of the statement "or disciplined in any way." However, I am concerned how that could be interpreted. For example, when we presently have a resident who violates house rules or demonstrates behaviors that adversely impact the quality of life of other resident (remember, or home is largely mental health residents), we often will put them on probation rather than immediately evict. We see this as in their best interests to get this type of intermediary step, but could someone consider that "discipline?"

2600.53(a)(5) Qualifications and Responsibilities of Administrators- If someone with a HS Diploma and experience can pass the competency-based training, why should they be limited to an 8 bed home? This is overly restrictive.

2600.57(b) Direct Care Staffing- If the Department is going to require an assessment of each individual resident's personal care needs, why is a minimum of 1 hour per day required for mobile residents? If a resident's assessment determines that they only need half an hour, why must the home pay for staff that is not needed? In our home, we have a large number of relatively independent residents who just need someone to prepare meals for them, make sure they take their medications, and assist them occasionally with certain situations that may arise. Their daily need is minimal- no where near one hour per day.

2600.61 Substitute Personnel- When regularly scheduled staff are absent, substitute personnel should only be required as needed to meet PC hour requirements. If an “excess” person is scheduled, and calls off, why replace them?

2600.85 (d)& (e) Sanitation- It is impossible to have inside trash can covers that prevent the penetration of insects and still be usable! It is likewise impossible to have outside receptacles (which includes dumpsters) that prevent penetration by insects and rodents. They would need to be air-tight. Please simply state “covered receptacles.”

2600.103(j) Food Service- The contents and requirements of 7 Pa Code Chapter 46 Subchapter D are not easily discernable for a personal care environment, but they seem to require processes that are more than what is customary for a residential home. Does a standard mechanical dishwasher comply with this Code?

2600.105(g) Laundry- Will daily lint removal need to be documented?

2600.132(k) Fire Drills- Is it really necessary to require a fire drill every time you hire someone? With all the new requirements for training the person, to also expect the Administrator to remember to hold a special fire drill for the person seems a bit much, especially if weather conditions are adverse during those 5 days.

2600.142(b) Assistance With Health Care- It is not the job of a residential care provider to “educate and inform” residents why they should not refuse health care. That is between them and their physician.

2600.161 Nutritional Adequacy- It should be stated that a resident has the right to refuse dietary restrictions, and that in such cases the Home is permitted to honor their wishes.

2600.162(b) Meals- Providing a replacement meal in all cases where a resident “misses a meal” is not reasonable. A PCH simply can not maintain an all-hours serving time according to whenever a resident chooses to eat. This requirement should still state that food be provided when they unavoidably miss a meal, or miss a meal due to no fault of their own. DPW’s response (pg 78) on this issue is inadequate- especially since they cite examples which would be considered unavoidably missing a meal.

2600.162 Meals- Section C states that menus shall be followed but then section E refers to changes to the menus being documented. The “shall be followed” should be deleted.

2600.182 Medication Administration- By officially changing the responsibility of Staff to administer meds, all responsibility has been taken off the resident, and put on the Home. This presents a tremendous increase in the Liability Exposure of the Home, which does not appear to have been recognized.

2600.190 Medication Administration Training- I am very concerned about the expectations that could potentially be a part of this training, and the real possibility that effective, competent caregivers will lose their jobs because they are being asked to know information they really do not need. While someone should be trained before giving injections, and possibly eye/ear/nose treatments, how much training does a person realistically need to pick up a bottle of pills, or a blister card of pills, read the label, and do what the label says? If there are concerns about side effects, or other precautions, these should remain the responsibility of physicians and pharmacists to identify when a medication is prescribed. As far as trying to prevent med errors where a resident is given the wrong pills, additional training will do little to solve this problem. This type of med error is usually the result of poor system of controlling meds by the home’s management, or the result of the person giving the pills becoming

inattentive or distracted.

2600.202(4) Prohibitions- This sections is not clear. Does this mean that a home can not seek medical intervention in such cases? If so, what is the home to do with residents who have "acute or episodic aggressive behavior?" Let them hurt someone? Kick them out? Since a PCH can not prescribe meds, I don't understand this prohibition, especially since it then states that physician ordered drugs are not considered chemical restraints.

2600.228(a) Notification of Termination- If a resident desires to move, it should not be the Home's responsibility to assess whether other housing options meets the resident's needs. It is up to the resident, and the new housing, to determine whether needs will be met. This requirement seems to put the Home in the role of a Guardian or Social Service agency.

2600.228(d) Notification of Termination- Discharges prior to 30 days should not just be for the well-being of the resident, but also others in the home.

2600.261 Classification of Violations- Due to the serious impact violations can have on a Home, and its ability to continue providing services, this section must be expanded to give more detail and criteria, including examples. This is necessary to avoid the subjectivity that results in classifying violations. For example, it has been suggested by some that any medication error be considered a Class 1. However, many med errors do not present a substantial probability of harm. Furthermore, regardless of how well trained people are, mistakes will happen to the best of us. A home should not be threatened with closure simply because people are not perfect and make mistakes. Rather, the systems that are in place to minimize errors, and the home's response to an error, are a much better indicator of whether the Home should be operating.

2600.267(e) Relocation of Residents- The requirement that a home with a Class 1 violation on two occasions be closed is too rigid, especially since the classification of specific violations is not delineated in regulations, and subject to interpretation by inspectors. While Class 1's are serious, some option other than prompt Home closure should be permitted at DPW discretion.

2600.269 Ban on Admissions- This requirement is too vague as to how the home becomes eligible to admit again. Likewise, as with the above requirement, I am concerned about the subjectivity of Class 1 violations, and would ask for DPW discretion in making exceptions.

I do feel that DPW has made significant progress in this version. Some of its contents- especially those dealing with the qualification of administrators through greater initial training and competency-based testing, will go a long way to improving the quality of PCH's. However, on the whole, I feel that these regulations still contain areas that need to be reconsidered to preserve the character of personal care home living, at a reasonable expense.

The abuses that have occurred in a minority of PCH's are not reflective of the industry as a whole, nor were most enabled by deficiencies in 2620. While there are areas of weakness in 2620, problems in our PCH's are ultimately due to a failure to comply with existing regulations, and failure to enforce existing penalties. Creating more regulations will not automatically solve the problem. In fact, it will largely make operating far more difficult for those who truly seek to comply. Thus I request that the final-form regulation 55 Pa. Code Chapter 2600 for Personal Care Homes not be approved. Thank-you for your consideration of my comments.

Sincerely,

Steve Dietch

11/24/2004

Steve Dietch
Administrator, Faith Friendship Villa of Mountville

11/24/2004

(51)

Adams Personal Care Home

115 Old National Pike
Brownsville, Pa 15417

RECEIVED

Phone 724-785-5258

2004 NOV 29 AM 11:38

November 23, 2004

INDEPENDENT REGULATORY
REVIEW COMMISSION

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

We are contacting you about the final-form regulation, 55 Pa. Code Chapter 2600, Personal Care Homes. If these changes are approved by you, us and many other Personal Care Homes would be forced to out of business. The cost of changing the structure of the building, alarm systems, communication systems, sewage systems for our home alone would be at least if not more \$18,000.00. This does not include the annual costs of staff training, inspections, and paper work. To be in compliance with all the new paper work and documentation we and other homes would have to hire a person just to take care of all of this which we cannot afford. All of our residents are private pay who most have a fixed income. It would be impossible for us to raise their rates to cover these extra costs.

A Personal Care Home provides a home atmosphere for people who need assistance with their daily needs. To force smaller homes to close by means of regulations is not fair to these people. If this were to happen they would be in large Corporate owned homes with a institution like atmosphere(if they can afford it)or return home which defeats the purpose of why we have Personal Care Homes in Pennsylvania. Someone who needs assistance with there daily need are much safer in Personal Care Homes that operate under the present regulations than being forced to return home and taking care of themselves.

Listed below are some of our main concerns but not all.

2600.64 Administrator training and orientation

Comment: These requirements for future administrators are too strict and in our opinion will hurt the industry as many people would not want to open a Personal Care Home.

2600.85 Sanitation.

(f) A home serving 9 or more residents that is not connected to a public sewer system there shall be a written sanitation approval for its sewage system by the sewage enforcement official of the municipality in which the home is located.

Comment: Our Personal Care Home and many others are located in a rural area that do not have a public sewer system. We have a septic system which is in good operating condition and was approved by the zoning board when we opened our home which was 19 years ago. If it were to be inspected now we may have to install a sand mound system which would cost on an average of \$12,000.00 to \$15,000.00. The DPW should not be concerned with this since this is enforced by the local authorities.

2600.101 Residents Bedrooms

(e) Ceiling height in each bedroom shall be an average of at least 7 feet.

Comment: We have an older building which the ceiling height on our second floor is 6feet 10 inches. We would have to close this floor and lose 8 beds which would drop our capacity from 20 beds to 12.

These are some of our concerns but not all. The proposed changes in the regulations in our and many other owners of Personal Care Homes opinions are not necessary. Under the current regulations homes offer a safe and home style atmosphere. If these new regulations were to go through a Personal Care Home would have no choice but to provide a high cost institutional atmosphere for its residents.

I'm sure there are homes now operating that are a problem. Don't punish the good homes because of the bad homes. Have the DPW enforce the current regulations.

We have a 20 bed facility which has been in operation for 20 years. We are noted for giving a excellent care and a clean safe environment.

Thank You
Sam and Sandy Adams

40

**WALT YOUNG, NHA, PCA
ADMINISTRATOR
CUMBERLAND CROSSING
9350 BABCOCK BLVD.
PITTSBURGH, PA 15237
412-635-0798**

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

November 22, 2004

Re: New Personal Care Regulations

As a member of the Dept. of Public Welfare's Personal Care Advisory Committee, I feel that I need to share with you SOME of the reasons why I voted to reject (the committee voted to reject the new regulations 15-3) the new Personal Care Regulations. I feel that IRRC needs to reject these regulations also.

The Department of Public Welfare did not provide a cost impact study with the new regulations. This was promised by the Dept. for 18 months. The few notes on the cost of items are ridiculously understated.

The way the regulations stand, they are discriminatory against the residents of the poor, the small, the SSI, and the rural homes.

The following concerns are just a "short list" of reasons to reject the new personal care regulations:

The amount of new paper work is stifling! In order to produce this paper work, direct care staff members will be pulled off the floor. The personal care residents will receive **less care!** Most of the new paper work is patterned after the paper work required in a skilled nursing home. Personal care residents are not as sick as skilled nursing residents, hence most of the new documentation required in the new regulations is unnecessary.

The Dept. mentions in the Statutory Authority that the providers must buy a fire alarm warning system for the hearing impaired. They suggest strobe lights and vibrating beds. The Dept.'s cost estimate is \$170 per bed. My electronic consultant states that the cost for the control panel will cost over \$20,000 plus the installation, and per bed hardware. My last facility suffered a sever fire from a resident smoking in bed and the staff (because they were well trained) did an exemplary job in safely evacuating the residents, even the hearing impaired residents **WITH OUT** vibrating beds.

The new regulations require that the facility hold a fire drill within 5 working days of hiring of a new employee, but not require more that 1 fire drill a month. **How does this work? Does the provider only start new employees when they have a fire drill or does the facility subject our residents to multiple fire drills? Each time we conduct a fire alarm, we place our residents in jeopardy. This was never discussed in any drafts of the proposed regulations.**

The Dept. chose December 1st, 2004 as the grandfathering date for administrators and direct care staff. The decision of the Dept. to pick this date creates a vacuum for the hiring on new staff and new administrators as the training curriculum has not been developed. I am an instructor of Personal Care Administrator Training at Community College of Allegheny County and our assistant dean says that it will take approximately 6 months to develop the new curriculum and receive approval from the Commonwealth. This arbitrary date of December 1st for the grandfathering of direct care staff and new administrators will place every facility out of compliance until the new training is available.

How long will it take the Dept. to develop the "train the trainer" program so that we may move forward and meet the new regulations? The Dept. did not give a time line for the approval of this certification program. I suggest that given the work load of the Dept., it will be a challenge for the Dept. to quickly develop the resources and program to meet this requirement.

The maximum temperature for resident's hot water will be reduced from 130 degrees to 120 degrees. This does not sound like much, but it will cost a facility approximately \$500 per set of water mixing valves. The installation

of hot water booster tanks and heating units to make sure the residents farthest from the hot water tanks receive hot water, can cost as much as \$1500.

2600.102 will require that grab bars, hand rails, or assist bars around the toilets and bath areas. This can cost \$30 to over \$100 per bar. There will be additional expense if the studs in the bathrooms cannot support the new bars plus the labor expense of installation.

Act 185 **requires** the personal care provider to discharge a personal care resident when their needs exceed the purpose and abilities of the personal care home. The new regulations **severely restrict** the facilities ability to discharge a resident whose needs have changed. **The new regulations supersede the legislation.**

2600.161 d requires the home to meet special dietary requirements of the residents such as grinding food, mechanical soft diet, puree foods, or thickened liquids. Most facilities do not have the professional staff to safely handle some of these requirements. In the best interest and **safety** of the resident, the facility must be able to discharge a resident to a facility that can meet this need.

2600.185 c states that any changes in physician orders **must be in writing.** Operationally this is ridiculous as the nursing board allows nurses to take verbal orders over the phone for the sake of expediency and the well being of the resident. How can we care for a resident if the medication lasix needs to be increased immediately for a congestive heart failure resident or reduce the coumidin medications due to lab results and the physician is not near a fax machine and won't be over a weekend? **This is another example of the poor craftsmanship of these regulations.**

These are just a few of the reasons that I am **strongly** urging the Independent Regulatory Review Commission to **reject** the 2600 Personal Care Regulations. Everyone has a responsibility to see that the care of the personal care residents of the Commonwealth is the best it can be—these regulations will negatively impact the well being of our residents.

2600 Personal Care Regulations
Walt Young, NHA, PCA

Page 4

I volunteer my services, as I did in 1990, to help write new regulations that will benefit ALL of the personal care residents of the Commonwealth.

New personal care regulations are needed, but they must be practical, affordable, and ensure the best in care with out making our residents lose their homes.

Sincerely,

Walt Young, NHA, PCA

Original: 2294

IRRC

From: walt young [theump1@yahoo.com]

Sent: Tuesday, November 23, 2004 9:59 AM

To: IRRC; Alan Rosenbloom; Tom Stevenson; KATE PHILLIPS; PAT MCNAMARA; MATT HARVEY

Please review my letter that is attached to this e-mail. My e-mail is theump1@yahoo.com
Thank you for your attention to this important matter.

Walt Young

Do you Yahoo!?
Meet the all-new My Yahoo! – Try it today!

11/23/2004

Original: 2294

IRRC

From: Flynn, Tracey [TFLYNN@mail.montcopa.org]
Sent: Monday, November 22, 2004 3:57 PM
To: IRRC
Subject: FW: PCH Regulation

-----Original Message-----

From: Flynn, Tracey
Sent: Monday, November 22, 2004 3:47 PM
To: 'www.IRRC@irrc.state.pa.us'
Subject: PCH Regulation

Dear Commission,

I would like to request the commission not accept the proposed personal Care home regulations as presented. I feel that the cost of the proposed regulations will be a great burden on many providers. There is no current subsidy in the state of Pennsylvania to help fund personal care homes. Due to this lack of subsidy it will force providers to pass the cost on to the consumers. We are all aware of the rising costs to this population already. Please keep this in mind during your review of the regulations.

I do have issue with the following areas in the proposed regulations:

2600.41

(l) A resident has the right to furnish his room, purchase, receive use and retain personal clothing and possessions. **I would like to see the PCH able to have an option to provide furnishings for the room. If residents furnish a room it could be a fire hazard if furniture is not fire protected. There is also the chance that furniture brought into the PCH could be infested. The PCH would also need to find storage for current furnishings.**

(x) A resident has the right to repayment by the home if the home fails to safeguard a resident's money or property. **Repayment should only be if the home is found to be at fault. If a resident fails to lock up his valuables or loss occurs the home should not be forced to repay.**

2600.53

(i) Be free from a medical condition, including drug or alcohol addiction that would limit direct staff persons from providing necessary personal care services with reasonable skill and safety. **This could possible be discriminatory**

2600.64

(6) An administrator will have at least 24 hours of annual training relating to job duties. **I think 24 hours of training yearly is excessive. NHA's in the state are only required to train 24 hours in 2 years. I think 12 hours a year is sufficient training for PCH administrator. The time away from the PCH could be very hard for many PCH administrators as well as the cost of 24 hours of training annually.**

2600.65

Will nursing assistants who are on the registry in PA be grandfathered in?

2600.132

(k) A fire drill shall be held within 5 days of employment of a new staff member. In no event should a home be required to hold a fire drill more than one fire drill a month. **I think it is reasonable to require fire safety and training as well as evacuation instruction to all new employs during the first 5 days however to expect coordination of a fire drill within 5 days of all new hires will be very difficult for the PCH.**

11/23/2004

2600.141

(7) Medication regimen, contraindicated medications, medication side effects and the ability to self-administer medications. **I think it would become very timely and non-cost effective to list medication side effects on this form. The current PDR should be sufficient reason to reconsider this one.**

2600.186

(c) Changes in medications may only be made in writing by the prescriber, or in the case of an emergency, an alternate prescriber. The resident's medication record shall be updated as soon as the home receives written notice of the change. **This is eliminating telephone verbal orders which are in the scope of the nurse practice act.**

2600.190

I would like to see it stated that nurses are able to pass medications without the mentioned training.

Thank you for taking these comments into consideration.

Sincerely,

Tracey Flynn, PCHA

Montgomery County Assisted Living Services

"Confidentiality Notice: This e-mail, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, forwarding or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message."

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure, forwarding or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

(50)

**WALT YOUNG, NHA, PCA
ADMINISTRATOR
CUMBERLAND CROSSING
9350 BABCOCK BLVD.
PITTSBURGH, PA 15237
412-635-0798**

RECEIVED
2004 NOV 29 AM 11:38
INDEPENDENT REGULATORY
REVIEW COMMISSION

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

November 22, 2004

Re: New Personal Care Regulations

As a member of the Dept. of Public Welfare's Personal Care Advisory Committee, I feel that I need to share with you SOME of the reasons why I voted to reject (the committee voted to reject the new regulations 15-3) the new Personal Care Regulations. I feel that IRRC needs to reject these regulations also.

The Department of Public Welfare did not provide a cost impact study with the new regulations. This was promised by the Dept. for 18 months. The few notes on the cost of items are ridiculously understated.

The way the regulations stand, they are discriminatory against the residents of the poor, the small, the SSI, and the rural homes.

The following concerns are just a "short list" of reasons to reject the new personal care regulations:

The amount of new paper work is stifling! In order to produce this paper work, direct care staff members will be pulled off the floor. The personal care residents will receive **less care!** Most of the new paper work is patterned after the paper work required in a skilled nursing home. Personal care residents are not as sick as skilled nursing residents, hence most of the new documentation required in the new regulations is unnecessary.

The Dept. mentions in the Statutory Authority that the providers must buy a fire alarm warning system for the hearing impaired. They suggest strobe lights and vibrating beds. The Dept.'s cost estimate is \$170 per bed. My electronic consultant states that the cost for the control panel will cost over \$20,000 plus the installation, and per bed hardware. My last facility suffered a sever fire from a resident smoking in bed and the staff (because they were well trained) did an exemplary job in safely evacuating the residents, even the hearing impaired residents **WITH OUT** vibrating beds.

The new regulations require that the facility hold a fire drill within 5 working days of hiring of a new employee, but not require more that 1 fire drill a month. **How does this work? Does the provider only start new employees when they have a fire drill or does the facility subject our residents to multiple fire drills? Each time we conduct a fire alarm, we place our residents in jeopardy. This was never discussed in any drafts of the proposed regulations.**

The Dept. chose December 1st, 2004 as the grandfathering date for administrators and direct care staff. The decision of the Dept. to pick this date creates a vacuum for the hiring on new staff and new administrators as the training curriculum has not been developed. I am an instructor of Personal Care Administrator Training at Community College of Allegheny County and our assistant dean says that it will take approximately 6 months to develop the new curriculum and receive approval from the Commonwealth. This arbitrary date of December 1st for the grandfathering of direct care staff and new administrators will place every facility out of compliance until the new training is available.

How long will it take the Dept. to develop the "train the trainer" program so that we may move forward and meet the new regulations? The Dept. did not give a time line for the approval of this certification program. I suggest that given the work load of the Dept., it will be a challenge for the Dept. to quickly develop the resources and program to meet this requirement.

The maximum temperature for resident's hot water will be reduced from 130 degrees to 120 degrees. This does not sound like much, but it will cost a facility approximately \$500 per set of water mixing valves. The installation

of hot water booster tanks and heating units to make sure the residents farthest from the hot water tanks receive hot water, can cost as much as \$1500.

2600.102 will require that grab bars, hand rails, or assist bars around the toilets and bath areas. This can cost \$30 to over \$100 per bar. There will be additional expense if the studs in the bathrooms cannot support the new bars plus the labor expense of installation.

Act 185 **requires** the personal care provider to discharge a personal care resident when their needs exceed the purpose and abilities of the personal care home. The new regulations **severely restrict** the facilities ability to discharge a resident whose needs have changed. **The new regulations supersede the legislation.**

2600.161 d requires the home to meet special dietary requirements of the residents such as grinding food, mechanical soft diet, puree foods, or thickened liquids. Most facilities do not have the professional staff to safely handle some of these requirements. In the best interest and **safety** of the resident, the facility must be able to discharge a resident to a facility that can meet this need.

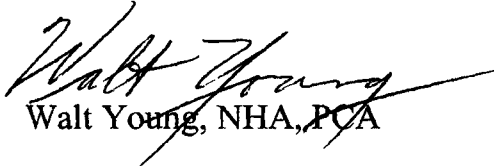
2600.185 c states that any changes in physician orders **must be in writing.** Operationally this is ridiculous as the nursing board allows nurses to take verbal orders over the phone for the sake of expediency and the well being of the resident. How can we care for a resident if the medication lasix needs to be increased immediately for a congestive heart failure resident or reduce the coumidin medications due to lab results and the physician is not near a fax machine and won't be over a weekend? **This is another example of the poor craftsmanship of these regulations.**

These are just a few of the reasons that I am **strongly** urging the Independent Regulatory Review Commission to **reject** the 2600 Personal Care Regulations. Everyone has a responsibility to see that the care of the personal care residents of the Commonwealth is the best it can be—these regulations will negatively impact the well being of our residents.

I volunteer my services, as I did in 1990, to help write new regulations that will benefit ALL of the personal care residents of the Commonwealth.

New personal care regulations are needed, but they must be practical, affordable, and ensure the best in care with out making our residents lose their homes.

Sincerely,


Walt Young, NHA, PCA

Original: 2294

(49)

McCrea Homes
P.O.Box 82
Fenelton, Pa. 16034

RECEIVED
2004 NOV 29 AM 11:38
INDEPENDENT REGULATORY
REVIEW COMMISSION

November 22, 2004

Independent Regulatory Review Commission,

I am writing to you in reference to the new proposed regulations for personal care/assisted living homes. Have you done a cost study on the financial impact to our industry? If you did then surely you would realize that you would put many of us out of business. I along with many others take care of the poor residents that are on SSI or their income is equivalent to the SSI.

You will experience a great overflow of elderly, frail, mentally ill and mentally retarded people on the streets of Pennsylvania. I know that Pennsylvania has a very high population of elderly residents. So many other states offer so much more financial support to their facilities than Pennsylvania does, why?

I have been in this business for over 25 years. Prior to that I helped my mother in law part time with her boarding home. I have seen many changes during that time. Some good, some not so good. The main points I would like to make are as follows:

1. Many times I feel you are comparing us to the nursing home industry and making regulations that are comparable to or in some cases exceed the regulations for nursing homes and hospitals. **WE ARE NOT NURSING HOMES OR HOSPITALS !**
2. The Administrator training, staff training , and additional policies, procedures and plans will be too costly. There has been a need for years for more money to operate our facilities in order to get and maintain good dependable employees. **WE NEED MORE MONEY TO OPERATE !**
3. The \$60.00 monthly spending money for the residents is not adequate .On several occasions I have purchased needed clothing and other items for a resident rather than see them without. **RESIDENTS NEED MORE MONEY !**
4. Existing homes should be grand fathered under new building requirements
5. 24 HOUR ACCESS TO RECORDS-NOT REASONABLE ,SAFE OR MAY BE LEGAL ISSUES INVOLVED

LOW ESTIMATED COSTS FOR MY PERSONAL CARE HOME

- | | |
|--|----------------------|
| 1. Employee (present) training per year
staff and administrators | \$ 12,000 -\$ 15,000 |
| 2. Amount of increase for social security,
unemployment,workers comp,gl and pl insurances | ???????????????????? |
| 3. Training for staff turnover (which is very high in this industry) | \$10,000 |
| 4. Extra plans,polices,procedures and paperwork | \$ 7,000-\$8,000 |

IRRC

32

From: Sister Diane Smith [DianeSmith@marianmanor.com]
Sent: Sunday, November 21, 2004 2:48 PM
To: IRRC
Subject: Personal Care Home regulations

Dear members of the Commission:

I am the administrator of a 154 bed long term care facility and 32 bed personal care home. We, the Sisters of the Holy Spirit, have built, owned and operated Marian Manor for nearly fifty years. I am quite concerned about the proposed regulations and urge you not to pass the regulations as current stated. There are too many unanswered questions and their enactment would be burdensome for many of us providers.

During the past year Marian Manor gave \$235,000 in subsidized care to 14 of our 32 residents. Only a few qualify for SSI, but \$30 a day does not begin to meet the cost of care daily. Many of the others have incomes too high for SSI, but far below our costs. The average of \$60.00 per day in 1999 (PANPHA PCH Cost Study, June 1999) Marian Manor cannot continue to fund this shortfall.

The additional expenses of increasing staff training, the time and staff required for assessment and care planning, and fire alarm requirements and other building upgrades are not manageable. Government is not offering any assistance in funding for these improvements.

If Marian Manor would be driven to close our doors, where will these older citizens go? Average age is 88 years. They need daily supervision in a protected environment. Many of them are in early stages of dementia.

It is clear these regulations were hastily drafted in order to meet the deadline of November 4, which was the last day of DPW's two-year window to publish the regulation as final. Examples of inconsistencies caused by the rush include:

- * Two different timeframes for completing a support plan are included within the regulation. Which one do we use?
- * Every facility must hold a fire drill within five (5) days of a new employee starting. However, they also are required to hold no more than one fire drill a month. How do they fulfill the 5 day requirement without exceeding the one-a-month requirement? Is it the Department's intent to continually disrupt the lives of our residents, some of whom would be harmed by continued home "evacuations" during drills?
- * Facilities are required in Act 185 (PCH Statute) to discharge those residents who need the care "in or of a nursing home," yet under these regulations, they no longer have the authority to discharge a resident without physician or government intervention.

I urge each of you to vote these regulations down and send them back to DPW. I pray that the Holy Spirit guide you in all decisions which affect our elder citizens.

Sister Diane Smith, NHA
Administrator
Marian Manor Corporation
2695 Winchester Drive
Pittsburgh, PA 15220-4099
412-563-6866

CONFIDENTIALITY NOTICE: This email, and any files transmitted with it, may contain confidential and/or privileged information intended solely for the use of the individual to whom it is addressed. If you are not the intended

recipient, you are notified that disclosing, copying, or distributing any of the contents of this information is strictly prohibited. Please notify the sender immediately by reply e-mail if you have received this e-mail in error and delete this e-mail from your system.

Original: 2294

ATTENTION !!

ALL SENATOR'S & REPRESENTATIVE'S

WE NEED A CONCURRENT RESOLUTION FOR TITLE:55 CHAPTER 2600 FOR PCH'S.

**WE CANNOT AFFORD THE COST OF
ALL THE CHANGES, DUE TO THE
NUMBER OF SSI RESIDENTS THAT
WE SERVE ACROSS THE STATE.
WE NEED MORE MONEY TO CARE
FOR THEM AS WELL AS MONEY
FOR THE CHANGES.
PLEASE DONOT MAKE ALL PCH'S
PAY FOR THE LESS THAN 1% BAD
HOMES. GIVE DPW MORE
INSPECTOR'S TO DO THERE JOB.**

RECEIVED
2004 NOV 19 PM 2:17
LEGISLATIVE REGULATOR
REVIEW COMMISSION

38

**WE ARE NOT NURSING HOMES, WE
DONOT RECEIVE FUNDING LIKE A
NURSING HOMES, WE OBJECT TO
THE MEDICAL MODEL & THE
REGULATIONS.**

SINCERELY,

AD
RICHARD E. DETAR DC
CAROL ANN DENALE MSN RN *CA*

*When will our residents
go when 75% of PCN's
will need to close due
to the new regulations!!
STOP!!
2600*



FOR SALE BY OWNER

322-324 N. Pennsylvania Ave.

Greensburg, PA 15601

Elegant 60 year old brick home.

PERSONAL CARE HOME

Twelve bedrooms, 4.5 baths.

Situated within walking distance of the city of Greensburg

**NO LONGER ABLE TO CARE FOR THE RESIDENTS DUE TO THE COSTS
OF THE NEW REGULATIONS BY OUR GOVERNMENT IN HARRISBURG !**

Call for an appointment.

(724) 837-1410

Love our Home!!!



SAVE OUR JOBS ! WE
GIVE "QUALITY" CARE
TO OUR RESIDENTS !

ROSEWOOD MANOR PCH
 GREENSBURG, PA 15601

STOP BILL 2600 TODAY !!!

STAFF:

Melanie Carrington LPN
 Connie Hill
 Alina Luce
 Christa Hull RN

Andrea Chernusky
 Roberta S. Palomera
 Mary Doughty
 Queen Bonard