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(24)

House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

January 27, 2005

The Honorable Estelle B. Richman
Secretary of Public Welfare
333 Health and Welfare Building
Harrisburg, Pennsylvania 17120

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Secretary Richman:

On November 4, 2004 the Department of Public Welfare submitted regulation #14-475 relating to Personal Care Homes, 55 Pa. Code Chapter 2600, to the Independent Regulatory Review Commission and the legislative committees for review. Since that time we have been attentive to the concerns and issues of the many interested parties. We have met with Department staff on three occasions to consider the concerns and issues and develop compromises that balance the health and safety protections of the personal care home residents with the costs and business interests of the homes.

Based on our discussions with interested parties and the Department we recommend that the Department toll the time for review of this regulation to consider the following revisions:

Annex

§ 2600.5(a)(4) (relating to access) – Cite the applicable Federal statutes rather than Pennsylvania Protection and Advocacy specifically.

§ 2600.5(b)(subsection identification as corrected) – Add clarification that a resident or resident’s designated person may decline the services of a community service or community legal service program.

§ 2600.16(a)(13) (relating to reportable incidents and conditions) – Clarify that only errors in the administration of a prescription medication must be reported in order to be consistent with §2600.188.

§ 2600.16(c) – Clarify “immediately” to mean within 24 hours.

§ 2600.18(b) (relating to applicable health and safety laws) – Eliminate list of applicable laws and regulations.

§ 2600.25(c)(11) (relating to resident-home contract) - Delete the last sentence requiring an amendment of the contract each time an amendment is made to the resident’s assessment and the support plan.

§ 2600.27(a) (relating to supplemental security income (SSI) recipients) – Clarify that a home may choose to admit a resident eligible for SSI.

§ 2600.42(w) (relating to specific rights) – Add “if any” to clarify “external procedures”.

§ 2600.42(x) – Revise to clarify that the resident has the right to a system to safeguard the resident’s money and property.

§ 2600.42(y) – Clarify the requirement for the choice of health care providers.

§ 2600.54(a)(2) (relating to qualifications for direct care staff persons) - Add an option to qualify a certified nurse aide as a direct care staff person.

§ 2600.54(c) – Revise to clarify that this applies only to a volunteer who performs ADLs.

§ 2600.63(a) (relating to first aid, CPR and obstructed airway training) - Revise to require additional trained staff persons in larger homes.

§ 2600.63(d) – Clarify that this does not apply if there is a do not resuscitate order.

§ 2600.65(f)(2) (relating to direct care staff person training and orientation) – Clarify that direct care staff persons must be trained to meet the resident’s needs as described in the various assessment and planning documents, as opposed to the completion of the documents.

§ 2600.68 (relating to instructor approval) – Clarify that the requirement for instructor approval applies to administrator training and not to direct care staff training.

§ 2600.98(c) (relating to indoor activity space) - Delete the specification that the television must be in the largest room.

§ 2600.101(c) (relating to resident bedrooms) – Add a grandfathering provision for existing bedrooms serving residents with mobility needs.

§ 2600.101(f) – Remove the requirement that windows be “operable”.

§ 2600.103(a) – Revise to permit the use of a service kitchen in another building if there is a kitchen area with a refrigerator, cooking equipment, sink and food storage space in the home itself.

§ 2600.228(h)(3) (relating to notification of termination) – Clarify that the home makes the initial discharge decision; if the resident/designated person disagrees, an appropriate assessment agency or the resident’s physician shall be consulted to determine the resident’s level of care.

§ 2600.228(h)(5) (relating to notification of termination) – Delete the language “or to cooperate with efforts to obtain public funding” in response to concerns that when a private pay resident’s funds are exhausted the home is not required to continue to serve the resident.

§ 2600.269(a)(2) (relating to ban on admissions) – Revise to provide the authority, but not the mandate, for the Department to issue a ban on admissions for a repeated Class II violation.

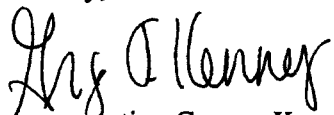
Preamble

Order (d) – Add a delayed implementation of 6 months from the effective date of the final regulation for § 2600.65(d)(1) and (2) (relating to direct care staff person training and orientation) and 18 months from the effective date of the final regulation for § 2600.130(e) (relating to smoke detectors and fire alarms).

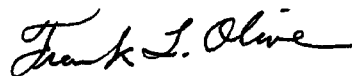
In addition to the above recommendations we understand that the Independent Regulatory Review Commission is recommending tolling of the review period relating to some technical issues.

We look forward to continuing to work with the Department during the regulatory review process for this final-form regulation.

Sincerely,



Representative George Kenney, Chairman
Health and Human Services Committee



Representative Frank Oliver, Minority Chairman
Health and Human Services Committee

cc: The Honorable Jake Corman, Chairman Senate Public Health and Welfare Committee
Mr. Robert Nyce, Director, Independent Regulatory Review Commission
Mr. Alan Cohn, Director, Office of Legislative Affairs, Department of Public Welfare