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STROKE PREVENTION TASK FORCE

November 25, 2002

Hon. Feather O. Houstoun  
Secretary of Public Welfare  
Room 333  
Health & Welfare Building  
Harrisburg, PA 17105

Re: Department of Public Welfare (DPW)  
Proposed Regulation 14-475:  
Personal Care Homes

Dear Secretary Houstoun:

I submit the following comments and objections in my capacity as the Minority Chair of the Senate Public Health & Welfare Committee. The department has received hundreds of comments on this proposed regulation and I will not repeat the many problems that have already been outlined. Rather, I will limit my comments to four areas of concern, all relating to the department's failure to comply with the mandates of state statutory law. Specifically, I believe that the department has violated the provisions of §211 of the Public Welfare Code, 62 P. S. 211, in a number of regards.

The General Assembly added §211, entitled " State Plan for Regulating and Licensing Personal Care Boarding Homes", to the Public Welfare Code in Act 105 of 1980. The section was amended in Act 185 of 1988. It provides the basic framework that the General Assembly expects the department to follow in regulating personal care homes. Further, as is noted in the preamble, it is one of the sources of the department's authority to promulgate this regulation.

The first mandate placed on the department, by §211(b)(1) is to "[d]istinguish between personal care homes serving less than eight persons and personal care homes serving more than eight persons". The department has not complied with this mandate. Given the great division in

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the industry between large and small homes, the department needs to redraft these regulations and meet this mandate.

In §211(d)(5), the General Assembly has called for a "cost analysis of the entire plan and of all regulations that will be proposed pursuant to the plan". While I admit that I do not know the added cost of the proposed regulation, #14-475, it is quite clear that whoever estimated \$680 per year also does not know the cost.

In §211(d)(6), the department was instructed to report the number of personnel needed to inspect personal care homes and monitor and enforce rules and regulations. Given the spotty history of the department in both inspecting homes and enforcing regulations, it is critical that the department provide a reasonable answer to the question of how many licensing personnel are needed.

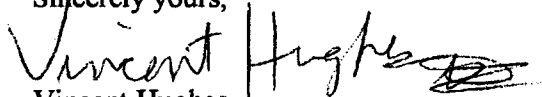
My final remarks are about the department's decision to repeal the present regulations that require annual inspections. First, it is clear that the state of the department's oversight of this industry does not justify any relaxation from the annual requirement for inspections. Rather, it is the right time to finally implement a policy of annual unannounced inspections to protect the more than 53,00 Pennsylvanians who "choose" personal care homes. I am quite aware that the Public Welfare Code permits the department to establish a schedule of less than annual inspections. That requirement, coincidentally, is found in §211(l) of the Public Welfare Code. However, that schedule can only be implemented "in accordance with a plan", *Id.* The proposed regulations, at §2600.11(b) also note the necessity for a plan. I can find no plan in regulation #14-475. Further, I find no plan that explains the less than annual schedule or that justifies a changeover to it. While I strongly oppose any inspection schedule that is less than annual, the department must, at a minimum, establish a plan before it can even propose such a change. The department has not done so in #14-475.

This regulation should be reconsidered.

Given the volume of public comments, and given the concerns that we have with these proposed regulations, I suggest that agency staff, IRRC staff and committee staff meet to discuss appropriate changes to your proposal.

Thank you for your time and consideration.

Sincerely yours,



Vincent Hughes  
Minority Chair

Public Health & Welfare Committee

cc: Sen. Harold F. Mowery, Jr., Majority Chair, Public Health & Welfare Committee  
John R. McGinley, Jr., Esq., Chair, Independent Regulatory Review Commission