

Original: 2294

REVIEW COMMISSION

#14-475 (259)

SAME Commenter as #37, 38, 90, 91, 136, 137, 165
166, 252, 253

W.C.P.C.H.A.A.
P.O. Box 73
Chestnut, PA.
15624

October 31, 2002

Teleta Nevius, Director of OLRM
Department of Public Welfare
Room 316, Health and Welfare Building
P.O. Box 2675
Harrisburg, PA. 17120

Dear Teleta Nevius,

This will be one of several memos which you will receive from the Westmoreland County Administrators Association. We will be sending our concensus viewpoint on Chapter 2600 by November 4. I would like to submit comment on just one important issue today.

W.C.P.C.H.A.A. would like to discuss:

2600.16 Reportable incidents

The specified types of reportable incidents has expanded from 7 to 18. Our discussion involves (3) & (9)

(3) states: "A serious physical bodily injury, trauma, or medication error requiring treatment at a hospital or medical facility."

"physical bodily" are redundant adjectives.

Are you aware of how many residents are sent out to be checked?

OUR SUGGESTION: to use the verbage from 2620.63 (2) which clearly states "A serious injury which requires hospitalization."

(9) states: "Any physical assault by or against a resident"

How practical is this in a dementia unit???

Again are you aware of how often this happens on a daily basis?

The other issue with this section is with the numerous reports that are mandated. Refer to (c) (d) and (e); which specify 3 separate reports; immediate, preliminary, and final. Excessive paperwork!!

Also it states THE HOME... via the administrator

OUR SUGGESTION: to use exact verbage from 2620.63 (a) and (b).

An immediate telephone call to notify the Dept. followed by a final report within 5 days from the administrator or designee is quite sufficient. The other two written reports simply take away from our residents' care.

The final issue with this is (f) which refers to 2600.243 (b).

There is NO 2600.243 (b)!!

And further more incident reports are NEVER kept on a resident or a patients chart. A narrative is made but the incident report is NOT part of the individual's file. Check with a hospital or nursing home!!

To cross reference to 2600.242 Content of records (b) (6)

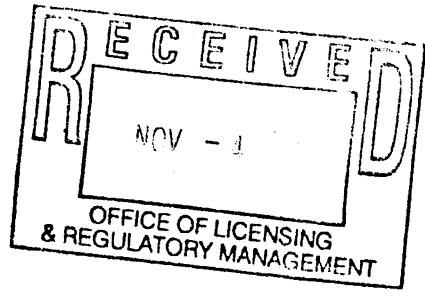
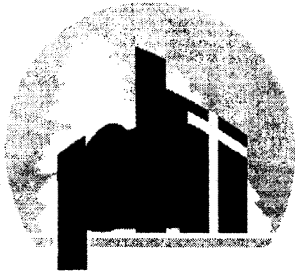
This needs to be deleted. We advise that you seek legal counsel as to the fact that lawyers would advise against this practice...at least business lawyers would. Verify this point before you put the PCH in a delicate suit-situation.

Sincerely yours,

Rosewood Manor PCH
Richard E. Helter } Administrator
Paul Ann... }

14-475 (455)

Original: 2294



Department of Public Welfare
Ms. Teleta Nevius, Director
Office of Licensing and Regulatory Management
Health and Welfare Building, Room 316
P.O. Box 2675
Harrisburg, PA 17120

October 31, 2002

Dear Ms. Nevius,

As a provider of personal care, as well as a full range of services for older adults in Pennsylvania, I respectfully submit comments on the proposed rulemaking in respect to Department of Public Welfare 55 PA. CODE CHS 2600 AND 2620.

While we acknowledge the effort that went into developing these recommendations, as well as the original intent, we are concerned with the significant costs associated with several of the regulations, as well as the amount of staff time that is taken away from direct resident care.

Most of the facilities within our company provide services to 21-50 residents. Based on these proposed regulations, the average home would incur a *minimum* of \$17,000 in additional expense without taking into account additional staff time related to unclear regulatory language regarding transportation staffing requirements, additional paperwork and increased dementia training. These minimum additional costs could result in several actions including increased rates to consumers, decreases in services provided in facilities and will most likely result in less time being spent with residents due to additional paperwork requirements.

I ask that you consider the ramifications of these regulations as they relate to the current state of nursing homes and the resulting reduction in care time in those facilities due to increased regulation and paperwork. The success of personal care in Pennsylvania will rest on operators' ability to maintain a quality relationship with residents without regulations that detract from our ability to care for residents.

Attached, please find comments related to specific sections of the proposed rulemaking for your review. Should you have any questions, please feel free to contact me at 717-737-9700.

Sincerely,

Diane Burfeindt, NHA, MBA
Corporate Director, Assisted Living

Comments regarding proposed rulemaking in respect to Department of Public Welfare 55 PA. CODE CHS 2600 AND 2620

2600.42 Specific rights

(u) There is no allowing of discharge from the facility due to other circumstances than those specific areas listed. In some circumstances there are residents who are disruptive to the residents due to personality and/or behaviors and contribute to a decreased quality of life for all residents. In these limited circumstances and with proper notice, administrators should continue to have the flexibility of determining who is appropriate to reside in the home for the good of all of the residents.

(x) Need to clarify what funds are to be reimbursed. Often, residents will complain that someone has taken money or clothes from their room due to their dementia. With almost 50% of residents in personal care homes having some level of dementia, the occurrences of these accusations is quite common and, upon investigation, mostly unfounded and easily correctable. If this regulation was clarified to specify it is in regard to those funds being managed by the facility, then it is acceptable.

2600.57 Administrator training and orientation

(b) The requirement for additional administrator training will significantly increase the cost to the home without the intended increase in quality. Based on a typical size home of ours, the per-occurrence increase in orientation costs will be approximately \$3200 with an additional \$1700 in annual costs due to the increase in annual education hours. Again, the training requirements equal those of NHAs who have more complex, acute residents with very different needs.

Would like to have clarification on who can provide the competency-based internship. If there is a licensed designee in the facility that the new administrator will be working in, can the internship be done in that facility?

(g) Need to provide clarification of what is meant by "employed as a personal care home administrator" prior to the effective date of the regulations. In many companies, including our own, supervisors of personal care home administrators have their NHA license and the personal care home exemption so that they can provide appropriate supervision and backup in the event of the absence of the personal care home administrator. This needs to be considered in the regulation as meeting the requirement to remain a licensed administrator.

2600.59 Staff training plan

2600.60 Individual staff training plan

These regulations will not significantly enhance the quality of services provided to residents because it is merely an increase in paperwork. If facilities are providing the content of the training specified in the final regulation, they will be increasing the skills of the staff without going through unnecessary paperwork that will detract from time spent on resident care.

2600.58 Staff training and orientation

The Department proposes that annual training for all staff is 24 hours which is intended to enhance the health and safety of residents. While continuing education is a requirement for good quality care, the number of hours required is cost prohibitive and unnecessary. Skilled nursing regulations require half of this amount for a population that is significantly more frail and medically complex. While the content of the training is generally acceptable, this can be accomplished in much fewer hours. For a typical facility in our organization, the cost of this additional training would be \$15,000 per year for existing staff. With most of our facilities running with tight budgets and nonexistent excess revenue, this additional expense would most likely result in the reduction in services to our residents and the inability to continue providing charitable care at the current levels.

(g)(6) In relation to the requirement of volunteer training, it is not acceptable for volunteers to be trained on personnel policies of the facility as they are not employees of the facility. This needs to be removed from requirements of volunteer training.

(g)(1) Many municipalities cannot secure training by a fire expert because of the unwillingness of the locale to submit themselves to additional liability. In this case, the definition of a fire safety expert needs to be defined so that alternatives to government employees can be used without being cost-prohibitive.

2600.132 Fire drills

(d) It is not realistic to assign a timeframe of 2.5 minutes to the evacuation of a personal care home due to the condition of the residents and the time of day the drill may be done. It is also not realistic to expect a fire safety expert who is not an employee of the facility to provide documentation and recommendations on fire safety due to their liability concerns.

2600.161 Nutritional adequacy

(g) Not reasonable to offer beverages every 2 hours because of ability of residents to make choices for themselves and be afforded some measure of privacy. This is a skilled nursing regulation that is not appropriate for personal care residents who would see it as an erosion of their independence. Availability of drinking water at all times is appropriate to meet the needs of the residents.

2600.171 Transportation

(a) (1) It is unclear how the staffing requirements of 1-2 hours per day per resident relates to the provision of staff when transporting residents. If a resident is away on a bus trip for 2 hours, this could be construed as the provision of their allotment of care time for the day. This regulation is not clear on what staffing is required for transporting any number of residents and should be at the discretion of the administrator based on the care needs of the resident.

(a)(5) Because a driver does not need to provide medications, write support plans, give baths, etc., it is unreasonable to require this person to participate in the direct care staff training. Basic annual education is a sufficient amount of training to meet the needs of the residents while driving. It would cost an additional \$300 for our average facility to meet the direct care staff training requirements. Provision of staff in addition to the driver is currently provided on an as-needed basis as required by resident need. If a minimum of one additional person is required per trip, this would be extremely cost-prohibitive due to the need to backfill at the facility to meet staffing needs. Due to the large number of residents needing transportation, this could easily result in the addition of one staff member to the facility for a cost of \$17,000 per year.

2600.184 Accountability of medications and controlled substances

(a)(1) Personal care homes do not administer medications, nor is there any way to document the receipt of medications if the resident self-administers.

(a)(2) Not clear how this regulation applies to PCHs since they are only assisting residents with medications, not administering. Not able to investigate for those residents who self-administer.

2600.185 Use of medications

(c) This regulation implies that any staff member can take a verbal order from a physician for a change in medication. This should only apply as it relates to current nursing practice and regulation.

2600.186 Medication records

(d) Residents in personal care homes have been able to make decisions regarding their medication in the past and should continue being able to do so without having to notify the physician every time they do not wish to take particular medications. For instance, one of our facilities has a resident who occasionally does not take their Colace every day because their bowels have already moved twice in one day. There are also residents who chose not to take their sleeping pills on occasion because they are already tired. Physician notification of every occurrence would result in increased staff time and would not necessarily contribute to enhanced quality.

2600.187 Medication errors

Since this regulation relates only to those residents who self-administer, there is no reasonable expectation that the facility will be aware of all instances when a resident provides him/herself with the improper medication. Since staff do not administer medications and only assist, there are no medication errors to track other than those voluntarily disclosed by the resident.

2600.225 Initial assessment and the annual assessment

(b)(2)(7)(8) Since neither the administrator nor the designee is required to have a nursing license, it is not reasonable to require these individuals to perform medical, medication or psychological assessment. These areas are appropriately addressed in the physician exam and screening.

(d)(4) Need to clarify what is acceptable as an update to the tool for a hospital discharge since there may be changes in only one area of the resident's health status and would create additional unnecessary paperwork to re-do the entire assessment.

2600.237 Staff training on dementia

It is assumed that this additional training is in addition to the 24 hours of training required by direct care staff. With the current proposed standard of training being cost prohibitive, this additional dementia training makes it even more prohibitive and will decrease both the amount of time spent with residents as well as the amount of services available due to the increasing staff education expenses.

Original: 2294

#14-475 (458)



PENNSYLVANIA
ASSISTED LIVING
ASSOCIATION

536 Edella Road
Clarks Summit, PA 18411

(570) 586-4292
Fax (570) 586-4024
www.pala.org

October 31, 2002

Ms. Teleta Nevius, Director
Office of Licensing and Regulatory Management
Department of Public Welfare
316 Health and Welfare Building
P.O. Box 2675
Harrisburg, PA 17120

Dear Ms. Nevius:

Pennsylvania Assisted Living Association (PALA) commends the efforts of your office in drafting the proposed CH 2600 Personal Care Home Regulations, however we would like to take this opportunity to voice several serious reservations concerning specific provisions and requirements which we believe will impact not only the providers of service statewide, but, more important the 60,000 plus seniors who reside in these communities.

PALA and our National Affiliate - The Assisted Living Federation of America (ALFA) are acutely aware that we represent a profession entrusted with the responsibility of caring for seniors in the Commonwealth. We recognize and accept the responsibility that the profession will, and should be held accountable to the highest standards of quality in the provision of these services. Consequently, we support state regulatory systems designed to foster such accountability.

While the Department has proposed new regulations, it is equally critical, however, to identify the characteristics that distinguishes personal care/assisted living from other long term care options. Personal Care/Assisted Living is consumer-directed care. There is a need to develop a balance that assures quality while adhering to a customer-choice concept. Consumer-driven care sets assisted living apart from other long term care alternatives.

PALA and ALFA believe that this balance between the need to assure quality while allowing for "customer choice" should be included in the implementation of the regulatory system. One approach may be to concentrate on the standards that function independently of the processes of "how" the care is actually provided. These are standards that all professionals must adhere to within any regulatory system. The two constants are service outcomes and customer satisfaction.

For example: The "how" of food service is less important than the fact that the food be both nutritious and appealing. The "how" of resident assessment is less important than the fact that it provide the foundation for an adequate plan of care and that the customer feels a part of the process. The "how" of medication management is less important than the avoidance of drug errors. It is not the "how" of care - e.g. the process that is important; it is the result - e.g. the outcome. Each process chosen by the regulatory system is one less choice made available to the customer.

STATE AFFILIATE OF



As you are aware, the residents in Personal Care Homes do not have the complexity of needs or the severity of illnesses that one would find in a nursing home and we question why Personal Care Homes should be held to higher standards than nursing homes. In addition, there are requirements that we agree with, and there are also areas that in our opinion, require modification.

Specifically, these regulations require modification:

2600.53 Staff Titles and Qualifications for Administrators

Comment: We support enhanced Administrator Training – 60 hours classroom and 80 hours “on the job” training for new administrators with competency based training. Agree with higher education requirements although no consideration has been given to job experience. Possibly a competency test similar to NHA allowance.

2600.57 Administrator Training and Orientation

Comment: 24 hours of annual training should be reduced to 12 hours. Reason – A certified Registered Nurse requires 15 hours yearly to maintain certification. A Nursing Home Administrator is required to maintain 24 hours of continuing education yearly.

2600.60 Individual Staff Training Plan

Comment: Agree with the proposed staff training regulation provided that the training be in conjunction with supervised “on the job” training and that the “direct care staff” be defined as those who directly assist residents with personal care services and tasks of daily living.

2600.101 Resident Bedrooms

Comment: Modify. Allow for any current waivers regarding conditions of a room that are currently approved by the Department to be grandfathered in.

2600.132 Fire Drills

Comment: Modify. Eliminate the requirement for 2 ½ minute resident evacuation and require that each home follow and perform fire drills as recommended and approved by their local fire authority.

2600.161 Nutrition Adequacy

Comment: Modify. Change to “Other beverages shall be made available in a common area during waking hours.” Remove from Regulation the necessity to “offer at least every two hours”

2600.181 Self-Administration Medication

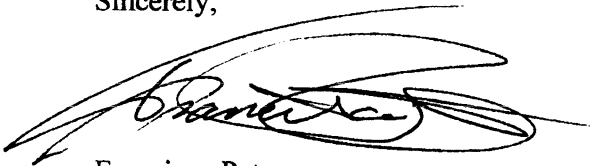
Comment: Modify. The proposed regulation prohibits trained personal care attendants from assisting residents with medication administration. We are committed to the development of a state-approved medication training program that would be offered in-house, that would certify unlicensed personnel to administer medications.

2600.226 Development of a Support Plan

Comment: Modify. Services should be offered to the resident as documented in the Initial Assessment and reassessed annually or as deemed necessary contingent upon a change in the resident's medical condition.

These recommendations identify only a fraction of our concerns with the proposed regulations. We hope these comments will serve as a vehicle for the Department of Public Welfare, Independent Regulatory Review Commission and the Standing Committees in the House and Senate for consideration in establishing regulations which will maximize the well-being, health, safety and welfare of each resident in a personal care/assisted living residence within the Commonwealth of Pennsylvania. On behalf of Pennsylvania Assisted Living Association and our membership, I thank you in advance for your consideration.

Sincerely,



Francisco Peters
President

Cc: The Honorable Mark S. Schweiker
Senator Hal Mowery, Chairman - Public Health and Welfare Committee
Senator Timothy Murphy
Representative George Kenney, Jr., Chairman - Aging and Older Adults Services Committee
Representative Frank Oliver
Feather O. Houston, Secretary, PA Department of Public Welfare
Independent Regulatory Review Commission
Mrs. Beverly Doherty
Mrs. Kathleen Gerrity
Ms. Patsy Taylor-Moore
Interested Parties

Original: 2294

14-475 (294)
"SAME commenter as #6,8,
12,23,92,93,163 + 167"
W.C.P.C.H.A.A.
P.O.Box 73
Crabtree, PA.
15624

RECEIVED
NOV - 1 PA 2:59
WESTMORELAND COUNTY
REVIEW COMMISSION

October 31, 2002

Teleta Nevius, Director of OLRM
Department of Public Welfare
Room 316, Health and Welfare Building
P.O.Box 2675
Harrisburg, PA. 17120

Dear Teleta Nevius,

This will be one of several memos which you will receive from the Westmoreland County Administrators Association. We will be sending our concensus viewpoint on Chapter 2600 by November 4. I would like to submit comment on just one important issue today.

W.C.P.C.H.A.A. would like to discuss:

2600.20 Resident funds.

(a) IF the home assumes the responsibility of maintaining a resident's financial resources....

We prefer the verbage from 2620.35 which states "if assistance with financial management is provided, the administrator shall..."

We do not like the wording with maintaining as usually the resources would dwindle over time, or as the nursing homes would say they would "spin down". We could not reasonable take the responsibility to maintain.

(b) Again as stated above.

(1) "There shall be documentation of counseling sessions, concerning the use of funds and property, if requested by the resident."

This is not within the realm of most administrators. The resident would need to hire a professional CPA or financial adviser for this service. This does not belong here.

(4) The resident shall be given funds requested within 24 hours if available, and immediately if the request is for \$10 or less. This service shall be offered on a daily basis.

We take alot of issue with this. First of all, most funds are usually kept in the bank, so access to them would be during banking hours. secondly, the money that is kept on the premises would NOT be available 24 hrs....only during the business hours of the administrator. Staff would NOT be allowed to obtain a resident's money!!!

Thirdly, that would force homes to keep alot of money on hand... the larger the home, the more money would need to be kept on hand... This creates an unsafe situation...possible might even set the PCH up for a robbery! We OBJECT.

(9) "The home shall give the resident an annual written account...." WHY is more documentation and paperwork necessary when there is already a financial record on file????

(10) signed receipts may not always be possible to obtain. And this section needs to add the verbage from 2620.35 of "This

2600.20 Resident funds. continued.

(10)shall be done within 30 working days after the resident's death."

(12)Upon discharge or transfer of the resident, the administrator shall immediately return....to the resident.

WE take issue with this also...with two words transfer and immediately. The word transfer needs to be deleted as you certainly would NOT send the residents funds with him on a transfer to the hospital!! The funds would probable not arrive at the hospital bedside, and then the administrator would have to replace it according to Resident Rights.

Funds should be issued upon discharge and within 30 days.

There needs to be common sense throughout all aspects of regulations. The residents do need to be protected, we all agree with that. However the PCH also needs to be protected.

This section could set the home up for many problems. A regulation needs to protect all parties involved!!!

We resent the lack of respect.

Sincerely yours,

Elgin Panichelle

Elgin Panichelle
WCPCHAA

14-475 (001)

October 31, 2002

Teleta Nevius, Director
Department of Public Welfare
Room 316 Health & Welfare Building
P. O. Box 2675
Harrisburg, PA 17120

RECEIVED
REVIEW COMMISSION
NOV 6 11 32 21

Dear Teleta Nevius:

My uncle lives in a personal care home, which accepts SSI as full payment. He has no assets and very little family. The staff at the home take excellent care of Jerry, but I'm very concerned about the new regulations which have been proposed.

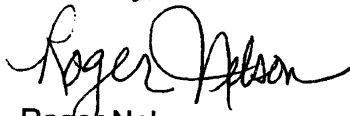
As I understand it, you have said there will be no cost to actually enacting these regulations, but I see major issues in the few areas I am familiar with.

Because of the increased training requirement, the requirement for an RN or LPN to pass meds, the provision for free local phone calls, and the support plans, there will be increased costs. It is irresponsible for you to say otherwise.

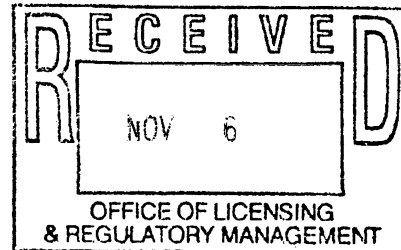
And why is it that the owners and managers of the personal care homes were not a part of the group actually writing the regulations? If my uncle's facility should have to close when and if these regulations are enacted, where should he go then? What arrangements are being made for the 10,000 + SSI residents in this state?

Please respond.

Sincerely,



Roger Nelson
3703 Gun Club Road
Murrysville, PA15668



Original: 2294

14-475 (690)

October 31, 2002

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

RECEIVED
NOV - 5 AM 9:18
INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Independent Regulatory Review Commission:

On October 5, 2002, the PA Department of Public Welfare published proposed Personal Care Home Regulations, 55 Pa. Code Chapter 2600 in the Pennsylvania Bulletin for public review and comment. As such, the purpose of this correspondence is to submit written comments that hopefully you will find helpful during this formal regulatory review process.

As a member of the Department of Public Welfare Personal Care Home Advisory Committee, I commend the Department for the time and effort committed to drafting the proposed regulations. In particular, the following Department representatives: Deputy Secretary William Gannon; Director - Bureau of Home and Community Based Services, Beverly Doherty; and Director - Office of Licensing and Regulatory Management, Teleta Nevius, have demonstrated patience and professionalism as they listened to and led a diverse statewide stakeholder group through the drafting of these regulations.

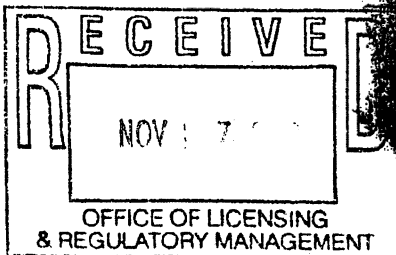
It is imperative that the current regulations, 55 Pa. Code Chapter 2620 Personal Care Home Regulations be revised and enhanced to ensure that the elderly and disabled men and women who require the services of a personal care home are cared for with dignity and respect. It is just as important that the regulations afford the Department personnel overseeing personal care homes the tools and means necessary to protect the health, welfare and safety of those in need of personal care home services.

The current 2620 Personal Care Home Regulations are 20 years old and have not been updated in over a decade. Considering that 77,000 of the 101,000 persons residing in regulated residential settings are in personal care facilities, the Department of Public Welfare has elected to undertake revising the personal care home regulations as a "priority." In a June 22, 2001 letter, the Department noted that the "changing character of (personal care home) residents and the proliferation of Personal Care Home licensees doing business as Assisted Living" led the Department to recognize the importance of regulation revision. In addition, at that same time the Department announced that they would be considering changes in internal licensing practices while revising the 2620 regulations.

I have attempted to be thorough in my comments by providing data in order validate the changes and enhancements proposed for incorporation into the new 2600 regulations. Thank you in advance for reviewing these comments. I am available should you have any questions and can be reached at (570) 558-3203 or teo@theadvocacyalliance.org. In addition, I would like to receive a notice of the final form regulations when available, so that I may remain involved in this important public policy process.

Respectfully,

Teresa Osborne
Teresa Osborne



**Comments to the Proposed Personal Care Home Regulation
55 Pa. Code Chapter 2600
as published in the Pennsylvania Bulletin on October 5, 2002**

During the past two years, consumers, providers, provider associations, consumer advocates, consumer advocacy organizations and agencies, and representatives from various state departments have met, discussed and provided comments to several drafts of the new 2600 regulations. The Department of Public Welfare, herein referred to as the Department, is to be commended on its efforts to solicit input and feedback from stakeholders across the Commonwealth in order to draft the new 2600 Personal Care Home Regulations.

Effects:

Private Sector – General Public

In drafting the proposed rulemaking, the Department advises that that they gave "careful consideration to the effect the regulations will have on the cost of providing or receiving services." The Department indicates that "there will be no costs to the general public as a result of this proposed rulemaking." It is my contention that this expectation is not accurate.

Public Sector – Commonwealth

In drafting the proposed rulemaking, the Department advised that they anticipate that this proposed rulemaking will have no impact on State revenues. In their explanation, the Department indicates that personal care home residents who meet eligibility requirements can use government funds to pay to live in a personal care home. The Department then cited the numbers of low-income residents in the commonwealth who receive monthly SSI payments and commented that these residents are also eligible to receive a supplement to their monthly SSI check. The supplement was increased in fiscal year 2001-2002 by 20% (or \$15 million state dollars).

What the Department neglected to point out was that over 20% of residents in personal care homes statewide are SSI recipients or have incomes equal to SSI recipients, who are low income, elderly and persons with disabilities. Pennsylvania's State Supplement to SSI began in 1976 as a public funding source for individuals in Domiciliary Care Homes and was expanded in fiscal year 1982-83 to serve as a funding source for personal care home residents. The resident uses their monthly federal SSI check and their monthly state supplement check to pay the personal care facility. In 1999, the personal care home supplement amounted to \$774.30 (\$500 federal and \$334.30 state monies). Currently, the supplement amounts to \$925.30 (\$525 federal and \$394.30 state monies). In addition, the SSI resident also receives a personal needs allowance, which since its inception, remains woefully inadequate. In 1983, the personal needs allowance was \$25.00 and was raised to \$30.00 in 1990. In 1993, the personal needs allowance was increased to \$60.00. Although the supplement increased in 2001-2002, the personal needs allowance for the resident did not.

Consumer advocates worked very hard to encourage the legislature to increase the SSI supplement, which truly benefits the provider, and to increase the personal needs allowance in order to benefit the resident. Unfortunately, while the SSI supplement increased, the personal

needs allowance did not. Only the personal care home providers benefited from the increase, not the residents. SSI residents are permitted to retain \$2.00 per day for all of their personal needs. Why is this important? Because although personal care homes provide food, sheets, towels, and laundry services for SSI residents, they do not provide many of the basic items one might need. So, the SSI resident relies on \$2.00 a day/\$60 a month to pay for things such as a haircut, new shoes, a candy bar, Christmas gifts, and birthday presents. In order to enhance the standards by which we care for the elderly and disabled adults by drafting new regulations for personal care homes, the Department of Public Welfare must also anticipate and acknowledge that State dollars will be needed. Already, many personal care home providers have stated during public meetings that they have no problem with implementing new regulations because the increased costs they anticipate will be passed on to the resident

Below are my section-by-section comments to the Proposed 2600 Personal Care Home regulations as published in the Pennsylvania Bulletin on October 5, 2002. The regulation section being commented on is referred to in the left hand side of the page and the reason for concern and/or recommended change is specified to the right. Proposed language for consideration/incorporation into the new Chapter 2600 regulations appears as a bold font so that it is distinguished from the comments.

<u>Regulation</u>	<u>Reason for Concern and/or Recommended Change</u>
2600.1	<p>This section identifies the <u>Purpose</u>. The language from 2620.1 – Introduction must be retained and needs to be reinserted to the new Purpose in 2600.1. It sets the tone for the full intent of the regulations. Therefore, please add the following sentences to 2600.1: Unnecessary institutionalization will be prevented and individuals who might otherwise be required to stay in institutions will be able to live in a Personal Care Home in the community. Personal Care Home licensees are encouraged to use the placement services of local agencies (i.e., area agency on aging) in assessing resident needs so that necessary services and the appropriate level of care may be identified and promptly secured.</p> <p>The Department is commended for replacing “aging, blind and disabled” with “dependent adults”.</p>
2600.3	<p>2600.3 (a) pertaining to <u>Inspections</u> needs to be clarified. The frequency of inspections must be included in this section. Suggested change: An authorized agent of the Department will conduct onsite inspections of the personal care home at least yearly or at the discretion of the Department. Please note that additional comments regarding the frequency of inspections occurs in 2600.11.</p>
2600.4	<p><u>Definition of ADL – Activities of Daily Living</u> – The Department is commended for adding this to the regulations and ensuring that it mirrors that of</p>

the PA Department of Aging (PDA). This Office of Licensing and Regulatory Management was introduced as a cross-systems licensing project and needs to consistently implement definitions that are common across systems.

Definition of Abuse – Some additional language is needed to clarify the definition of Abuse. The need to keep the cross-systems concept in mind in the definitions of abuse is very important and the Department must carefully reflect such by deferring to the Older Adult Protective Services Act (10225.103(e)) each time abuse allegations are made and investigations are needed. Suggested definition:

(iv) Exploitation refers to an act or course of conduct by an owner, administrator, ancillary staff person, direct care staff person or another person against the resident or the residents resources without the informed consent of the resident or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the resident.

Definition of Ancillary Staff – Needs to be expanded. Suggestion: **Employees whose responsibilities do not include providing personal care services or direct care services but does include cooking, cleaning, and other non-hands on care services required in the personal care home.**

Definition of Complaint – Need to clarify *to whom* the written or verbal complaint must be submitted. Suggested definition: **A written or verbal criticism, dispute, or objection presented to the Department, its regional field office, or to the PDA Ombudsman by the resident or designee regarding the care, operations or management policies of the personal care home.**

Definition of Designee – Needs to be clarified as this is a co-mingled definition from the currently used 2620 personal care home regulations and is very confusing. Throughout 2600, (i.e., 2600.143) the word designee is used to refer three different persons: (1) a representative of the administrator; (2) a representative of the resident; and (3) a representative of the Department all of which leads to the confusion. Suggested definitions:

Designated Person – **An individual chosen by the resident to be notified in case of an emergency, termination of service, home closure or other situations as indicated by the resident.**

Designee – The person appointed, assigned, or authorized by the Personal Care Home Administrator to act in the administrator's absence.

Definition of Emergency Medical Plan – Need to add some clarifying language to this definition:

A written plan that identifies how the resident will receive immediate and direct access to emergency medical care and treatment.

Definition of Financial Management – Need to be consistent with personal care home services being provided. Suggestion:

A personal care service provided when the personal care home owner or administrator assumes the responsibility of maintaining a resident's financial resources or serves a representative payee for the resident.

Definition of Long Term Care Ombudsman – While PA Department of Aging regulations define the role of the ombudsman in accordance with federal statutes, it is important to clarify in the new 2600 regulations that the services of the Ombudsman are available to personal care home residents regardless of age. Suggested change in language: **Change "older individuals" in the first sentence to: "adults who are consumers of long term care services, including personal care home services."**

Definition of Neglect – Please clarify this definition. While it is vital that we remember to implement definitions across systems, the 2nd sentence of the definition proposed is the responsibility of the protective service investigator to determine during the investigation under the Older Adult Protective Services Act. A resident consenting to the provision of protective services has no bearing on the personal care home regulations. Suggested definition:
The failure of the personal care home owner, administrator, or staff to provide personal care services essential to avoid a clear and serious threat to the resident's physical or mental health, and neglect as defined in 18 Pa. C.S.A. 101 and the Older Adult Protective Services Act.

Definition of Personal Care Services – Need to be consistent with what constitutes personal care services. Consumers of such services need to understand exactly what services the provider is responsible for and what is not considered a personal care service. Therefore, it is essential that Activities of Daily Living and Instrumental Activities of Daily Living (which are both defined in the new 2600 regulations) be a part of this definition. Suggested definition:
Assistance given or supervision of a resident in need of help with one or more activities of daily living, instrumental activities of daily living, and medication management.

2600.5

Access Requirements – This section needs to be strengthened so that its intent is clear to the providers and the residents. In part (a), the wording at the end of the sentence reads: ...“inspect or examine the residents.” It is not clear if the inspector is supposed to examine the resident (i.e., an actual person) or the residence (i.e., the personal care home). If the intent of this regulation was to allow the inspector the opportunity to “examine” a resident, I recommend that this wording be changed as the only person who should “examine” any resident is a medical doctor, not a Department inspector. To keep this wording is disrespectful to the resident and should be changed to “inspect or examine the home.” In part (b - 1) of this section, this section needs to be expanded so that its intent is clear. Suggested wording of (b-1): **Agents of the Department and/or other State agencies, including agents of the PA Department of Aging, and other appropriate legal entities, including the Pennsylvania Protection and Advocacy Agency.** Note: Pennsylvania Protection and Advocacy has federal statutory authority to investigate complaints regarding conditions in residential settings where persons with disabilities reside.

Currently, our state's Older Adult Protective Services Act only authorizes the local area agencies on aging to investigate allegations of abuse and neglect for an adult 60 years of age and older. If a resident in a personal care home is age 18 to age 59, and there is an allegation of abuse or neglect requiring an investigation, there is no single entity responsible to investigate the situation. The Commonwealth's rapidly growing elderly population, combined with initiatives of the PA Office of Mental Health and Substance Abuse to downsize state mental health facilities, and the PA Office of Mental Retardation's Transformation Project focusing on community inclusion, have all increased the demand for residential facilities with supportive services. The changing profile of the personal care home resident necessitates that all appropriate entities be allowed to enter and inspect every licensed personal care home and that such entities be allowed to meet, speak with, and if necessary, interview every personal care home resident. Therefore, until our state legislature delegates the responsibility of investigating allegations of abuse, neglect, exploitation, and abandonment to the PA Department of Aging for all elderly and care dependent adults, the Pennsylvania Protection and Advocacy Agency must be identified as an appropriate legal entity. Additionally, if (b-2) remains in the new regulations, a suggested change is: **Representatives of the Department of Aging, including Older Adult Protective Service Investigators and representatives of the long term care Ombudsman Program.**

2600.11

This section on **Procedural Requirements for Licensure** is totally unacceptable. The Department is responsible to conduct timely announced annual or semi-annual license renewal inspections, and now at a time when oversight of our Commonwealth's approximately 1800 personal care homes is so needed, the Department actually proposes to lessen their responsibility by

inspecting all homes at least once every three years. Not one of the previous drafts of the proposed 2600 regulations suggested staggering inspections over a three-year period. The entire second sentence in this section must be deleted. **Homes need to be inspected at least annually, and at the discretion of the Department, more frequently is necessary. Homes must be inspected, at a minimum annually, and inspection visits can be unannounced.** Both Auditor General Robert P. Casey, Jr.'s Report on Personal Care Home Licensing in 2001 and recommendations made by the Personal Care Home Advisory Committee in January 2002 acknowledged that the Department has completed licensure and renewal inspections in a timely fashion. Both reports also encouraged the Department to consider enhancing its policies in this area. Instead, the Department has proposed to scale back its inspection of personal care homes, which is inappropriate and irresponsible. The Department must embrace the fact that their mission is not simply to issue licenses to personal care homes, but must understand that their duty also includes protecting the health, safety, and welfare of the elderly and disabled men and women who reside in a personal care home.

2600.14 (b) needs to include penalties for those providers who do not notify the Department.

2600.15 **Abuse Reporting** – The Department is to be commended for enhancing the abuse reporting section in the proposed regulations. However additional language could benefit the enhancement. Suggested language change to (a): **Employees of the personal care home shall immediately report suspected abuse of a resident served in the home in accordance with the Older Adult Protective Services Act relating to Reporting Abuse (35 P.S. – 10225.302 and 10225.701), which includes voluntary reports and mandatory reporting and 6 Pa Code 15. 21 – 15. 27, relating to suspected abuse.** (b) needs a time frame put in to identify how long the provider has to submit a plan of supervision to the personal care home regional field office. Also, this section should reference and model the Older Adult Protective Services Act (15.56 – Restrictions on Employees which outlines the responsibilities of the facility should an employee be the alleged perpetrator or the target of an investigation.

2600.16 The Department needs to be commended on the enhancements to this section on **Reportable Incidents**. Several language clarifications are suggested to the following:
2600.16 (8) Food poisoning of a resident or residents.

2600.16 (13) A complaint or allegation of resident abuse, the referral of an allegation of resident abuse to the PA Department of Aging, local area agency on aging, law enforcement, or the Long Term Care Ombudsman for investigation or the results of any investigation conducted by the personal care home of possible resident abuse.

2600.16 (17) This Reportable Incident refers the reader to 2600.51, which discusses resident abuse and criminal background checks. Section 2600.51, references the Older Adult Protective Services Act. **The reference number is not correct, whereby 10225.5102 should be 10225.502.**

2600.16 (b) Need to add language at the end of this sentence that reflects that the written policies and procedures on the prevention, reporting, notification, investigation, and management of reportable incidents is in accordance with applicable state laws, including the Older Adult Protective Services Act. In addition, the Department needs to clarify the responsibility of the personal care home provider to "investigate" an allegation of a reportable incident, especially an allegation of abuse. Personal care homes do not have experience or expertise in these types of investigations and would need to rely on the Department for technical assistance on how to perform this function.

2600.16 (c) The word "designee" needs to be defined and/or clarified. The definition section of the regulations does not address/explain who the "designee of the Department" would be. In addition, the "manner designated by the Department" for reporting incidents must be defined right now within the regulations. Is the provider going to be responsible to call, write, fax, or email the Regional Office? What about reports that occur on a holiday or during a weekend? Considering that the regulations were drafted as part of a cross systems licensing project, additional collaboration on the regulations should take place between the Department and the PA Department of Aging, which already has in place the manner and method of reporting for facilities when resident abuse is suspected. Similarly, DPW's Office of Mental Retardation has a policy and procedure for reporting and investigating unusual incidents and allegations of abuse. It would behoove the Department to implement Letters of Understanding and/or Memorandums of Understanding across systems and within their own department so that efforts do not have to be duplicated and the bottom line focuses on providing quality services while protecting the health, welfare, and safety of the residents who live in licensed personal care homes.

2600.16 (d) The time frame must be clarified. "5" days is too long. **The time to report to the field office should be within 24 hours of the incident.** And protocols would need to be put in place for reporting incidents that occur on the weekend and on holidays. However, this time frame remains, the days need to

specified as five working/business days or consecutive days. The expectations of the Department must be clear.

2600.16 (e) The time frame for conducting and completing an investigation must be determined and defined in this regulation. The PA Department of Aging allows 20 days for Protective Service Investigators to conduct an investigation of an older adult who may be the victim of abuse. The Office of Mental Retardation allows a provider 30 days for a consumer receiving mental retardation services (regardless of age) to conduct an investigation. As a cross-systems licensing project, the Department must be clear in their intent so that the personal care home providers have full knowledge of their responsibilities in order to protect the consumers they serve. Training and technical assistance must also be made available to the personal care home providers who will need to have working knowledge of how to conduct an investigation of an unusual incident or an allegation of abuse.

NOTE: In 1998, the Personal Care Home Task Force of the Pennsylvania Departments of Public Welfare, Health and Aging issued a report, "Personal Care Home Task Force Final Report". In this Final Report, the Task Force strongly recommended that the Department of Public Welfare has "an implicit responsibility to advocate for personal care home residents, to ensure they receive quality care. No other level of government will fill these needs statewide".

2600.17

Language needs to be consistent throughout the regulations. This section on **Confidentiality** needs to mirror section 2600.5 on Access. Suggested addition for clarification and consistency: **Resident records shall be confidential, and, except in the event of an emergency or during the course of an abuse investigation, may not be open to anyone other than the resident, the resident's designated person (i.e., Power of Attorney, family, or guardian), if any, agents of the Department and other State agencies, including agents of the PA Department of Aging Protective Services, Ombudsman, or OPTIONS for the determination of an appropriate level of care, and the Pennsylvania Protection and Advocacy.**

2600.18

This section on **Applicable Health and Safety Laws** must be clarified. Personal Care Homes are expected to be in full compliance with all applicable Federal, State, and local statutes, ordinances, and regulations prior to a license being issued by the Department. The home is then expected to remain in compliance. Suggested change: **A personal care home shall be in compliance with all applicable Federal, State, and local statutes, ordinances, and regulations. Particular attention will be paid to those statutes, ordinances, and regulations regarding fire and panic, public health, civil rights, neglect of a**

care dependent person, and older adult protective services. Failure for a personal care home to comply with any of the aforementioned or any other applicable law will amount to a violation of this section.

2600.19

This section on **Waivers** is not clear and needs to be concise so that personal care home providers understand the following: (1) the home will disclose to potential residents and current residents all pending and/or approved waivers for the facility; (2) the resident will have the right to appeal the waiver; (3) the Department will ensure that waivers are time limited and not indefinite; (4) the regulation will specify who at the Department has the right to grant a waiver. Is it the Regional Office, the Deputy Secretary or the Secretary? Or will the Department rely on Labor and Industry to determine the appropriateness of a certain Waivers? **All of this needs to be incorporated into the Waiver Section.**

Comment/Concerns regarding this section: Until 1991, the majority of the waivers granted by the Department were for structural deficiencies, not involving residents' rights. Since then, however, waivers have increasingly been used to obtain permission to have a secured unit, which waived the right for residents to be free from restraints. According to a March 2000 report submitted to the Department by the "Personal Care Home Advisory Board Subcommittee on Licensing and Legislation Looking at Secured Unit Waivers", in 1994, when the Department conducted its first waiver review, there were 24 personal care homes with waivers approved by the Department. By January 2000, this number soared to 145 personal care homes with approved waivers to secure units, floors or homes. By June 2001, 194 personal care homes were granted waivers by the Department.

To obtain a waiver currently, the personal care home has to submit a request to the Department. There is no opportunity for the public or the residents to comment on the appropriateness of the waiver requested and there is no process for those who oppose the waiver to express their opinion or concern. After granting a waiver, the Department periodically reviews waivers to "determine whether acceptable conditions exist for renewal of the waiver" and can revoke the waiver if the conditions of the waiver are not being met by the personal care home. A 1999 review by the Pennsylvania Health Law Project on licensure and enforcement activities of the Department found "numerous violations of waiver conditions, but never a resulting revocation of the waiver." In other situations, Department records and news articles from across the Commonwealth revealed apparent situations where facilities should have obtained waivers for secured units to prevent wandering of persons with dementia and did not. In addition, situations were discovered where residents with dementia were not properly supervised and wandered into situations that placed the resident at risk or caused their death.

For instance, in Scranton, an 84 year old male resident was found lying outside the personal care home where he lived, clad only in underwear, at about 4:30am. The temperature at the time was 3 degrees. The personal care home was found not to be negligent in this case because facilities are not required to have an alarm on the door that would alert caregivers that someone has left the building. Despite the fact that the facility was caring for residents with dementia, the home did not have a waiver. However, several years earlier this home did apply for a waiver in order to operate a secured unit. The Department denied the home's request, and yet, the home was caring for a resident with dementia, who probably would not have wandered out in the freezing cold and died if he had been placed into a more appropriate facility.

2600.19 (a) – needs to clarify to whom the personal care home must submit the waiver request to. Suggestion language: **A licensed personal care home may submit a written request to the Secretary of the Department of Public Welfare for a waiver of a specific requirement contained in this chapter. The waiver request shall be on a form prescribed by the Department. The Secretary of the Department may grant a waiver of a specific section of this chapter if the following.....**

2600.19 (c) – Consistency is needed as to where and to whom the written requests for a waiver and where comments regarding the waiver request are to be sent.

2600.19 (d) – Language suggestion for clarity and consistency: **A personal care home seeking a waiver shall submit a written request for a waiver to the Secretary of the Department. A waiver granted by the Department shall be in writing, also be part of the home's permanent record and shall be displayed in a public area of the home for review by visitors to and residents of the home.**

Regulation	Reason for Concern and/or Recommended Change
2600.20	This section on Resident Funds needs to be renamed and language needs to be enhanced so that the regulations are consistent in what is required of a personal care home which assumes responsibility for the resident's finances. As an advocate, I am personally opposed to a personal care home administrator serving as representative payee for a resident. I believe it is a conflict of interest and have frequently investigated situations whereby an administrator easily accessed the resident's finances for his/her own personal gain. However, it has been brought to my attention from my peers and co-workers who work and/or live in some of the rural parts of the Commonwealth, that finding an agency willing to provide financial management services is very difficult and often not available.

As such, additional language is needed to ensure that the resident's rights and financial assets are best protected should a facility assist with financial management.

Suggested change: **2600.20 needs to be called Financial Management rather than Resident Funds.** The Definition section (2600.4) of the regulations defines what is meant by Financial Management and does not define what is meant by Resident Funds. Also, 2600.26 on Resident Home Contracts refers to Financial Management. Since financial management is a personal care service, we must be consistent throughout the regulations and rename this section appropriately.

Additional changes:

2600.20 (a) – Add language: If the personal care home administrator assumes the responsibility of *maintaining, assisting, or supervising* the financial resources for a resident, the following records shall be maintained for each resident:

2600.20 (a-1) – Add language: A separate record of *each resident's* financial resources, including the dates, amounts of deposits, amounts of withdrawals and the current balance.

2600.20 (a-2) – Add that *withdrawals* must also be documented with *dated* written receipts.

2600.20 (b-1) – What is meant by there shall be documentation of "counseling sessions" ? This needs to be defined.

2600.20 (b-2) – Need to clarify the language: The home may not prohibit the resident's right to manage *his/her* own finances.

2600.20 (b-5) – Need to add that written receipts must be *dated*.

2600.20 (b-8) – More detail is needed. Considering that changes made to the guardianship laws encourage guardianship appointments to be limited when possible rather than plenary, it is imperative that we specify that guardianships are appointed by the Court, while powers of attorney are assigned by the resident. Suggested change: The owners of the home, its administrators and employees are prohibited from being assigned power of attorney or appointed guardian of person or guardian of estate of a resident.

COMMENT: We need to consider adding an 8a after the above in order to clarify the role of the representative payee should the administrator assume this role. Residents must understand that Representative Payee is an appointment by the Social Security Administration after an application for this financial assistance is made to the Social Security Office. The regulations must clarify that if a personal care home is appointed as Representative Payee for a resident, then no fee can

be charged by the facility for this service. The resident and, if appropriate his/her designated person must be notified of what Representative Payee means and what service will be provided by the appointee. Also, the regulations must clearly state that having a Representative Payee cannot be a condition of admission to the facility. I have witnessed on many occasions administrators forcing a potential resident to apply for the appointment of a representative payee so that that the facility becomes the payee and ensures that the first bill paid is the monthly rent to the facility. In addition, residents for whom the home serves as representative payee often do not receive their personal needs allowance or only receive a portion of the \$60.00 allowed to them.

2600.20 (b-9) – need to change the “his” in the second sentence to “his/her” = The home shall provide the resident the opportunity to review his/her own financial record upon request during normal working hours.

2600.20 (b-10) – Time frames need to be put into this section that are consistent with 2600.26 pertaining to the resident home contract.

Comment/concern: A study conducted by the Pennsylvania Health Law Project revealed that many residents of personal care homes require financial management assistance because they are confused or cognitively impaired and unable to manage their money on their own. Department inspection reports, however, revealed that some facilities were cited year after year for failing to comply with the regulations and yet these facilities continued to ignore the fiscal requirements because they were not fined or closed. Specifically, a facility administrator in Mathers, PA was cited from 1984 to 1997 for not having financial records for residents whose money he was managing. Plans of correction were completed by the administrator, but were never implemented. The facility was never fined. Unless the Department enforces penalties against homes that are out of compliance with the regulations and do not implement Department approved plans of correction, what incentive does the home have to actually comply.

2600.24

This section on **Tasks of Daily Living** must be consistent with the definition provided in 2600.4 of Instrumental Activities of Daily Living. The Department is to be commended for incorporating the definition of instrumental activities of daily living that is consistent with the definition used by the PA Department of Aging.

Suggested language: A home shall provide residents with assistance with Instrumental Activities of Daily Living as indicated in his/her assessment and support plan, including one or more of the following:
(1) Using or securing transportation; (2) Shopping; (3) Making and keeping appointments; (4) Financial management; (5) Using a telephone; (6) Care of personal possessions; (7) Doing personal laundry; (8) Participating in social and leisure activities; (9) Securing health care services; (10)

Ambulation and care of prosthetic devices; and (11) Medication Management

2600.25

This section on Personal hygiene should be renamed and be called: **Personal Care Services** as that is what is defined in section 2600.4. The regulations do not define personal hygiene and we need to be consistent in our use of language and in definitions for services that are to be provided. The Department is commended for including a definition for Activities of Daily Living that is consistent with the definition used by the PA Department of Aging.

Personal care homes exist to provide its residents with certain basic necessities such as food and shelter. In addition to these basic necessities, personal care homes must provide each resident with all of the personal care services needed by the resident services listed in the regulations. Therefore, it is imperative that the regulations are concise and consistent in their definition of services to be provided. Personal care home residents are dependent on the staff of the facility for all of the services needed for their well-being.

Suggested language: **A personal care home shall provide residents with assistance with activities of daily living as indicated in his/her assessment and support plan, including one or more of the following: (1) Bathing; (2) Dressing and undressing; (3) Grooming; (4) Eating; (5) Transferring in and out of bed; (6) Toileting; (7) Bladder Management; (8) Bowel Management; (9) Shaving; and (10) Nail Care.**

2600.26

This section on the Resident Home Contract needs some sections to be further clarified so that the resident and provider understand clearly what is expected of them.

2600.26(1) – “Payor” is not defined in 2600.4. There is thus confusion as to what the difference is between the payer and the designee. Suggested change: The contract shall be signed by the administrator or designee and the resident or the resident’s Power of Attorney, Guardian of Person and/or Guardian of Estate, and if appropriate the resident’s designated person if different from the above responsible parties. If the individual responsible to ensure that the resident’s rent is paid (i.e., a bank or trust officer) is identified, all efforts shall be made to have the contract signed by them as well.

2600.26 (1-iv) – Add language to clarify: The party responsible for payment if not the resident.

2600.26 (1-vii) – Needs to be clarified as this wording is confusing. Also, financial management services must be consistent throughout the regulations,

including sections 2600.35, 2600.26 and 2600.20. Suggested change: **Whether the personal care home is providing assistance with financial arrangements.**

2600.26 (1-x) – Additional language needs to be added considering that the resident may be dependent upon a Power of Attorney, Guardian of Person, or Guardian of Estate, or other responsible party to assist with decision making and/or to assist with financial management. If this is the case, the responsible person must also receive notification that the resident has been notified of a change in the contract. Suggestion: **A statement that the resident or his/her Power of Attorney, guardian of person, guardian of estate, or other designated person, if applicable, will be provided at least 30 days advance written notice of the home's intent to change the contract.**

2600.26 (3) – It should first be noted that after (3) there is a (b), (c), and (d), but there is no (a). The lettering is incorrect and should be fixed so that (3 b) is (3 a), (3 c) is (3 b), and (3 d) is (3 c). Also, the new (3 b) language needs to be enhanced so that the regulations are consistent. Suggestion: **A copy of the signed admission contract shall be given to the resident, and his/her Power of Attorney, Guardian of Estate, Guardian of Person, and party responsible for payment, if applicable.**

2600.27

This section on Quality Management needs to be taken out from the regulations. Although I am an advocate for quality and quality management, assessment and outcomes, "Quality Management" does not belong in regulatory form and language.

2600.28

This section on Supplemental Security Income (SSI), in particular, (e) must be reviewed again by the Department and the legislature. SSI recipients represent a vulnerable population on a very fixed, low income. Personal Care Homes must provide food, sheets, towels, and laundry services for SSI individuals, they do not provide many of the basic items one might need. For instance, a haircut, buying new shoes, or a sweater, are all difficult for a SSI resident to do with only \$2.00 a day or \$60 dollars a month, which is the current personal needs allowance for a SSI recipient. On numerous occasions, the Department has uncovered situations leading to the personal care facilities being cited for taking their residents personal needs money, leaving the resident without a cent and no money to buy shoes or clothing. However, a study performed by the Pennsylvania Health Law Project found no evidence that these situations were reported to the PA Department of Aging or one of its local area agencies on aging so that the case be investigated. In addition, this section needs to be consistent with 2600.42(j) which lists the need for the personal care home to ensure the resident receives assistance with obtaining clean, seasonal clothing that is age and gender appropriate. Regulations need to be consistent.

2600.41

This section on **Notification of rights and complaint procedures** must be consistent in language and intent. The complaint process must include the resident's right to file a complaint with the Department. Suggested changes: **2600.41(a) – Upon admission, each resident and, if applicable, the resident's Power of Attorney, Guardian of Person and/or Estate, and designated person, if applicable, shall be informed of the resident rights and the right to file a complaint with the Personal Care Home, Department, or Ombudsman without fear of retaliation, or the fear of threats of retaliation of the home or its staff against the person making the complaint. Retaliation includes discharge or transfer from the home.**

2600.41 (b) – Must be consistent in language. Suggested addition is that the information be communicated to the resident and if applicable the resident's Power of Attorney, Guardian of Person and/or Estate, and designated person, if applicable.

2600.41 (c) – Must be consistent in language. Suggested addition is that a copy of the resident's rights must be given to the resident and if applicable the resident's Power of Attorney, Guardian of Person and/or Estate, and designated person, if applicable.

2600.41 (d) – Must be consistent in language. Suggested addition is that the statement of acknowledgement must be given to the resident and if applicable the resident's Power of Attorney, Guardian of Person and/or Estate, and designated person, if applicable.

2600.41 (e) – Must be consistent in language. Suggested addition is that the resident and if applicable the resident's Power of Attorney, Guardian of Person and/or Estate, and designated person, if applicable be informed of how to file a complaint with the Department, the home, or the Ombudsman.

2600.41 (g) – Must be consistent in language. Suggested addition is that home inform the resident and if applicable the resident's Power of Attorney, Guardian of Person and/or Estate, and designated person, if applicable of the outcome of a complaint.

2600.41 (i) – Information pertaining to the Governor's Action Center Toll Free Line must be deleted as this number is not functioning and the toll free number to the PA Department of Aging be posted so the Protective Services can be contacted.

2600.42

This section on Specific Rights has some areas that need clarifying language so that the intent is not confusing or misinterpreted. The Department is to be commended for their enhancements to the specific rights for each personal care home resident.

Suggested changes:

2600.42 (i) – A resident shall receive assistance from the personal care home in accessing medical, behavioral health, rehabilitation services, and dental treatment in order to protect the resident's health, welfare, and safety.

2600.42 (j) – A resident shall receive assistance from the personal care home in obtaining clean, seasonal clothing that is age and gender appropriate.

2600.42 (k) – A resident, and upon his/her request, the resident's designated person, Power of Attorney, or Guardian of Person and/or Estate, shall have the right to access, review, and request modifications to the resident's support plan or resident record.

2600.42 (u) – This item is totally unacceptable. The regulations must be consistent in their intent. This section must also be consistent with 2600.228 regarding Notification of Termination. This section is very discriminatory against the resident. Too frequently the provider is allowed to abandon a resident in a hospital setting without giving prior notice of termination. Personal Care Homes often refuse to take a resident back after the resident has successfully been treated in an inpatient psych setting. As written (2) and (3) need to identify the responsibilities of the provider should a higher level of care be needed or if the resident needs behavioral health services. In addition (3), as written, is not a decision for the home to render. Currently, the Mental Health Act sets the criteria to be followed when determining if and when a person is considered a danger to him/herself or others and this decision is made by either a psychiatrist or mental health delegate, not a provider or the Department. The suggestion is to either delete this item or substitute the language as follows: **A resident shall have the right to remain in the personal care home, as long as it is operating with a license, except in the circumstances of: (1) Nonpayment of monthly rent for two consecutive months followed by a documented effort to obtain payment; (2) Higher level of care needs that are addressed in the resident's support plan with appropriate referrals being made to the local area agency on aging, who along with the Department will assist with alternative placement options; (3) The resident is determined by a psychiatrist or mental health delegate to be a danger to him/herself and is referred for immediate inpatient psychiatric treatment. If the resident meets any of these criteria, the home shall be required to serve the resident or his/her designated person with a 30 day discharge notice. It must be clear that the home is not the entity responsible to determine if a resident is a danger to him/herself or others. It is**

just as important that homes not be allowed to abuse or misuse the mental health act and the potential need for inpatient or outpatient psychiatric treatment as a reason for immediate discharge. For the Department to allow this to happen is a violation of the resident's right to be treated with dignity and respect.

- 2600.51 This section on **Resident Abuse and criminal history checks** has an error in it, whereas the reference to the Older Adult Protective Services Act is incorrect. The wrong reference is 10225.5102 and should be 10225.502.
- 2600.52 This section on **Staff hiring, retention and utilization** has an error in it, whereas the reference to the Older Adult Protective Services Act is incorrect. The wrong reference is 10225.5102 and should be 10225.502.
- 2600.53 This Department is to be commended for incorporating many of the suggestions made by the stakeholder groups in this section on **Administrator qualifications**.
- 2600.56 This section on **Staffing** has area that needs clarification:
2600.56(e) should be deleted and no shared staff is to be permitted on any campus settings.
- 2600.57 This section on **Administrator Training** has some areas that need clarification and/or language changes.
2600.57 (a) – Once again, the word **designee** is used to refer to a designee of the Department. This form of “desingee” has not been defined in the regulations. The Department must clarify who this “designee” is and what their responsibilities are with regard to training of administrative staff and carrying out competency tests.
2600.57 (c) – Training on the **Older Adult Protective Services Act** must be included in the list of training topics for the first 60 hours. Considering that administrators, owners, and employees of personal care homes are mandatory reporters combined with the fact that Neglect of a Care Dependent Person statues directly relate to the protection of personal care home residents, it is prudent and appropriate that training on this topic be provided prior to an administrator serving in that capacity.
2600.57 (1-iv) – **Marketing** training does not belong on competency based training for administrators. How owners, operators and administrators of facilities market their facility has nothing to do with the quality of the care provided to the residents. Nor should the Department be taking the time to offer training on marketing.

2600.57 (2-iv) Maintenance needs to be clarified. Maintenance of what? And what does maintenance have to do with staff supervision, budgeting, financial record keeping and training? This should be deleted unless the intent is made clear.

2600.57 (2-v) Safety – needs to be clarified. Safety of what? Resident safety? Staff safety? Either explain or expunge.

2600.91 This section on **Emergency Telephone Numbers** needs to be clarified. Suggestion: **Emergency telephone numbers shall be posted on or by each telephone with an outside line in the home. 911 is suffice, however in areas without 911 service, the numbers for the nearest police, fire, ambulance and hospital shall be used.**

2600.104 (e) in this section needs to be deleted. This personal care home is just that, the resident's home. Some "homes" are small facilities where animals are commonly in the living room, dining room, bedroom, etc. and do not interfere with the sanitary conditions of the facility. This provision should also be deleted in **2600.103(I)**.

2600.145 This section on **Supervised Care** needs to be expanded. The second sentence directs that a referral to the appropriate assessment agency is to be made if a resident's needs are beyond those available in the personal care home. However, this requirement must identify what the assessment agency is responsible for and what the Department and the provider are then responsible for based on the results of the assessment agency. For instance, the assessment agency can determine the most appropriate level of care based on the resident's needs.

Comment: The PA Departments of Health, Welfare and Aging have been working very hard at ensuring that long term care services be understood as a continuum of care with home and community based services being the ideal. Older adults and persons with disabilities are offered services that enable them to remain in their homes and communities instead of going into an institution. Personal care residents consider the facility to be their "home" and more and more facilities are designed to be "homelike". Waiver services for persons should be allowed and offered to persons residing in personal care homes. A resident should be allowed to "age in place" and if a resident is clinically appropriate for nursing home placement and financially eligible for medical assistance, it would be less costly to supplement the services in the personal care home than to place the resident in a nursing home. Waiver services can easily supplement, not replace, the services offered and available through the

personal care home and must be considered as an alternative to nursing home placement when appropriate.

2600.181

Medications – The Department must reconsider its stance on not utilizing the Department Medication Training Program that is currently used by the Office of Mental Retardation. Considering that the Office of Licensing and Regulatory Management is a cross-systems licensing project, it would behoove the Department to implement already existing and successful programs when appropriate to the benefit of those served by the Department. Comments made by the Department when discussing implementing the Office of Mental Retardation's medication training program focused on the fact that the Department is going to update that training and therefore they did not want to use it. The argument is that since the program, although in need of some minor updates, is already successful, it should be replicated as a starting point for the personal care homes.

2600.201

Safe Management Techniques needs to be taken out of the regulations. These areas are covered in the Administrator and Staff Training sections and are not appropriate to be in regulatory language.


Note: Any questions or concerns regarding the comments contained within the 19 pages of this document can be referred to Teresa Osborne at teo@theadvocacyalliance.org or (570) 558-3203.

FROM : Luther_Park_____

PHONE NO. : 215 659 1461

Oct. 31 2002 04:28PM P1

Original: 2294

LUTHER PARK 

#14-475 (300)

FAX

Gloria Dei Farms

*3455 Davisville Road
Hatboro, PA 19040*

**To: Ms. Teleta Nevdis, Director
Office of Licensing and Regulatory Management
Commonwealth of Pennsylvania
Department of Public Welfare**

Fax #: 1-717-705-6955

From: Charla Holt, Administrator

Fax#: 215-659-1461

Phone: 215-659-3900

Date: October 31, 2002

RE: Proposed Regulations

Number of Pages including Cover Sheet: Four

CONFIDENTIAL NOTICE:

This communication is intended for the sole use of the individual to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this communication is not the intended recipient or the employee or agent for delivering the communication to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication may be strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone call, and return the communication at the address above via the United States Postal Service. Thank you.

Letter concerning proposed regulations.

LUTHER PARK

October 23, 2002

Ms. Teleta Nevdis, Director
Office of Licensing & Regulatory Management
Commonwealth of Pennsylvania
Department of Public Welfare
P.O. Box 2676
Harrisburg, PA 17105-2675

Dear Ms. Nevdis:

We have recently received a copy of the proposed regulations for Personal Care, Chapter 2600, replacing Chapter 2620 of Title 55.

We find the following areas very costly and egregious to future operations:

- Staffing ratios

Proposed Chapter 2600.56 - The published R.A.F. comments on the proposed new legislation saying that there are few additional costs "an estimated \$680" is a blatant misrepresentation or it is a complete error. The proposed regulations seem higher or equal to a skilled application. The additional staffing requirements alone will create a tremendous financial hardship for all Personal Care homes. The current staffing market pool is next to zero. How will we recruit and hire additional quality staff? It is a monumental challenge to staff adequately now.

The resident of moderate to modest means will have increased difficulty entering or staying in Assisted Living centers. The new proposed supportive hours required would add additional costs, in excess of \$109, 000. This cost would have to be passed on to the resident.

To move from the residential model to a more medical model will make the costs prohibitive and the smaller homes, which are providing a viable service will be forced to close. This will leave a large population needing housing. The County and State budgets will be taxed even further then they are already.

Proposed Regulations regarding ratios should remain on a sliding scale as currently required so that those homes, which have immobile residents, will be held to a higher standard. These are already in place (Chapter 2620.74(c-g)).

- **Therapeutic Diets**

Proposed Chapter 2600.161(f) For the State to impose the diet regime on Assisted Living Communities is contrary to the Resident Rights and the residential model where the resident should have the freedom to make informed dietary choices.

The cost for additional professional labor and a dietician will be absorbant, estimated at \$55, 000 annually and thus inevitably impact the resident cost.

- **Support Plan**

Proposed Chapter 2600.225 and 2600.226 - The existing resident assessment tools provided by D.P.W. are adequate to meet the psychosocial needs of our residents. We cannot afford nor do we need social workers and psychological consultants on staff. We are able to provide good services with the tools provided and with the County Social Services personnel available to us. Added paperwork requirements only detract from the patient care delivery system.

- **First Aid**

Proposed Chapter 2600, Section 58(f)(i) - It will cause undue financial hardships, an additional \$4,300 per year to train all direct care workers in First Aid. Proposed regulations provide for an in-house nurse 24/7. It is unnecessary to train every direct care worker.

- **Smoke Alarms**

Proposed Chapter 2600:130 - Fire safety is a top priority at all facilities. We suggest a sliding scale here as well. For facilities that have state of the art hardwired smoke, heat and sprinkler systems the current Safety Inspection Regulations (Chapter 2620:55) and the N.F.P.A. Regulations are strong and combined are more than adequate for the safe operation of any facility for aged across the board.

The cost for additional labor to check each smoke detector monthly would be \$1400 annually.

In closing, the changes will price the aged segment of the population needing Assisted Living services out of the market place and profoundly limit the public's choices.

Our annual estimated \$163,000 additional costs per year are as follows:

- **Staffing - increased costs in excess of \$109,000**
 - **Therapeutic diets - \$55,000**
 - **First Aid - \$4300 (every two years)**
 - **Smoke Alarm testing - \$1400**
-

On going estimated total cost - \$163,000.00

Thank you, in advance, for your consideration.
Sincerely,

Charla Holt

**Charla Holt, N.H.A.
Administrator**

CH/pam

**cc: Rep. George T. Kenney
Rep. Robert Godshall**

Dear Telexa Nevius:

14-475 (384) OCT. 31, 2002

Original: 2294

We recently attended an informational meeting on the new proposed rules & regulations for Personal Care and Assisted Living Homes in Pennsylvania. Please reconsider what is being asked of these establishments. We have been using these facilities for the past 5 yrs., for the care and well being of our parents and other family members. You have no doubt heard a lot of personal stories and I'm not going to tell you any of ours. What we would like to ask of you is to truly realize the difference between Personal Care Homes and Nursing Care Facilities! Guidelines need to be reviewed and updated periodically and then enforced to ensure proper care is given, but the residents in these Personal Care Homes must be able to live in an environment as close to their previous independent home life as possible.

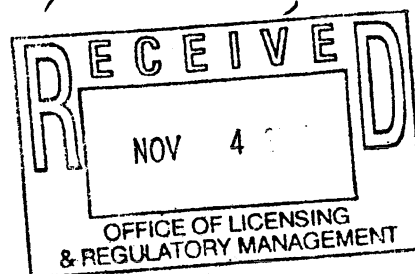
Please meet with the owners and administrators of the Personal Care Homes in Pennsylvania and consider with an open mind the changes they are proposing. I'm sure new rules and regulations can be agreed upon that will be fair to all parties!

Thank you for the opportunity to communicate with you and hopefully your office and the NAPCHAA will act swiftly and fairly for the well-being of all needy residents, now and in the future.

Sincerely;
Edward T. Ludwick
Garnet M. Ludwick

CC To:

Independent Reg. Rev. Comm.
Harold F. Mowery, Jr.
George T. Kinney, Jr.,



Edward T & Garnet M Ludwick
RR 5 Box 389-B
Kittanning PA 16201-8319

Original: 2294

14-475
346

October 31, 2002

10/31/02 8:55

REGULATORY
REVIEW COMMISSION

Department of Public Welfare
Office of Licensing and Regulatory Management
Teleta Nevius, Director
Room 316 Health and Welfare Building
P.O.Box 2675
Harrisburg, PA. 17120

To Whom It May Concern:

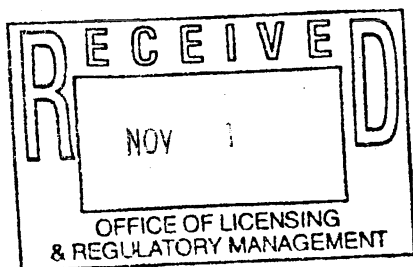
I am writing to you as a concerned daughter of a 90 year old woman in an assisted living facility. Recently we have been informed of impending new regulations. Many of these regulations seem too extreme and unfair to the smaller facility already giving adequate care at reasonable rates. Furthermore, people on Social Security Income will be priced completely out of the system. Somehow, that seems like discrimination to me!!

I ask you, where is it going to stop. Older people should be able to enjoy their last days here on earth without being forced out of a nursing home because of their low income.

For the above reasons I implore you not to approve these extreme regulations as they will do more harm than good to many members of the senior community.

Yours truly,

Betty J. Funkle

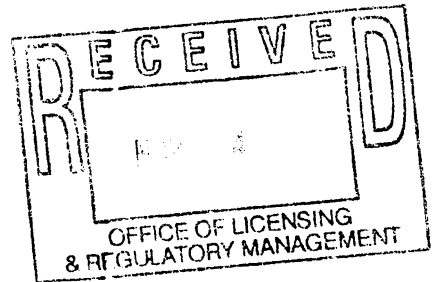


Original: 2294

14-475(450)

OCT 31, 2002

TELETA NEVIUS, DIRECTOR
DEPARTMENT OF PUBLIC WELFARE
ROOM 316 HEALTH & WELFARE BUILDING
P O BOX 2675
HARRISBURG PA. 17120



DEAR TELETA NEVIUS,

I AM WRITING IN BEHALF OF MY FAMILY. WE HAVE A 94 YEAR OLD MOTHER LIVING IN HONGVIEW PERSONAL CARE HOME. OUR MOTHER DOES NOT NEED TO BE IN A NURSING HOME. SHE JUST NEEDS HELP BATHING, HAVING HER MEDICATIONS ADMINISTERED AND MEALS PREPARED. WE HAVE VISITED OUR MOTHER AT ALL TIMES OF THE DAY. WE HAVE NEVER HAD TO COMPLAIN ABOUT HER CARE. SHE SEEMS VERY CONTENT. IF SHE ISN'T FEELING WELL THEY CALL US IMMEDIATELY, AND A DOCTOR IS CALLED IF NECESSARY.

OUR MOTHER DOESN'T QUALIFY FOR A NURSING HOME AND CERTAINLY CAN'T AFFORD TO BE IN ONE. SHE GETS SOCIAL SECURITY AND A SMALL S.S.I.

SUPPLEMENT. NONE OF THE ISSUES YOU ARE INTENT ON PASSING ARE A CONCERN IN MY MOTHERS PERSONAL CARE HOME. BESIDES I HAVE READ IN THE NEWSPAPER THE REGULATIONS ALREADY ON THE BOOKS ARE NOT ENFORCED.

THE MOST APPALING ISSUE BROUGHT TO OUR
ATTENTION AT A RECENT MEETING WAS THE AMOUNT
A PRISONER IN THE COMMONWEALTH OF PENNSYLVANIA
GETS PER DAY COMPARED TO THE AMOUNT OUR
SENIOR CITIZENS ARE PAID.

PLEASE THINK ABOUT THESE ISSUES CAREFULLY
AND DECIDE IF YOU WOULD WANT A SENIOR FAMILY
MEMBER OF YOURS TO BE PLACED IN THIS POSITION.

SINCERELY

Eleanor Hyatt
RD # 4 Box 2428
MT. PLEASANT PA. 15666

14-475 (L89)

October 31, 2002

Teleta Nevius, Director
Department of Public Welfare
Room 316 Health & Welfare Building
P. O. Box 2675
Harrisburg, PA 17120

Dear Teleta Nevius:

I am the Director of Environmental Services for an Assisted Living facility.

I am amazed that you have written new regulations for the industry without the continuing input of the people who work with the everyday. This is just not smart. Who knows more about the actual problems and issues of the everyday operation of personal care homes.

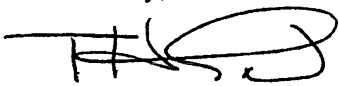
Why did you not visit homes and ask about the problems before the process ever started? We are aware of the actual problems which need changed, but no one has asked our opinion.

To require 40 hours training before a staff person begins the job is ridiculous. Many times, staff walks off after a few short hours on the job once they realize exactly what is require of them. Think of the lost income.

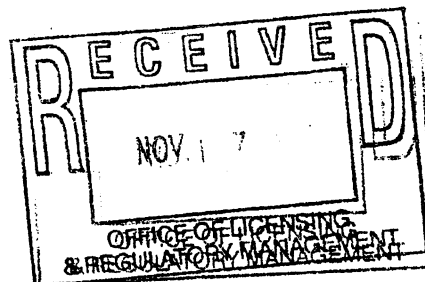
And to actually state that there is no cost to implement the new regulations is irresponsible.

Please respond.

Sincerely,



Tom Huhn
451 College Park Drive
Monroeville, PA 15146



14-475 (407)

RECEIVED
NOV 7 2002
REVIEW COMMISSION

October 31, 2002

Ms. Teleta Nevius, Director
Department of Public Welfare
Room 316 Health & Welfare Building
PO Box 2675
Harrisburg, PA 16120

Dear Ms. Nevius:

I am writing to you because as a registered voter in Pennsylvania I feel the need to address some concerns regarding health care regulations being drafted for our local personal care facilities. I know all too well what these facilities do to provide a secure, safe and controlled environment for our elderly.

My mother was in Erdley's Sunnyside Personal Care Home, Kittanning PA in 1996 and received a wonderful, loving place to live out her remaining years. Both my sister & I knew she was in an environment where she could get the help she needed for the things she no longer could do for herself such as cooking meals, bathing as well as some assistance getting in and out of a chair.

My sister's mother-in-law is now a resident of Erdleys. My brother-in-law as well as his brother and sisters have been most pleased with the outstanding care their mother has received as well as knowing that all of her needs are met.

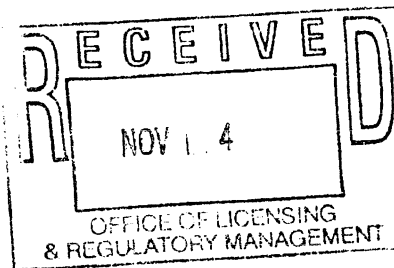
The majority of the residents at Erdley's as well as the other 36 personal care homes in Armstrong County are middle-class people that have worked hard all their lives for their families and now need a little more help. With the proposed regulations these individuals are forced to endure a \$1000 to \$1500 monthly increase! Many of these individuals will not be able to meet these requirements! What then?? If my mother were living today she most definitely would be in the same position.

In addition, the regulations are possibly forcing the homes out of business due to the financial increases to staff an LPN or a Registered Nurse 24 hours a day to administer medications, to increase staff per resident as well as an increase in paperwork. Olivia Erdley has voiced her concerns about these changes and is in jeopardy of losing her home! No information was given her or the other 35 other homes prior to the proposed regulations. Don't you think the people running the homes are entitled to a say in changes to their business since they run it on a daily basis?

Please take into consideration the thousands of individuals that will be affected should these changes occur. I urge you to re-evaluate these proposed regulations. Let the administrators and families voice their concerns, for the elderly can't speak for themselves.

Sincerely,

MaryAnn August



14-475 (254)

Original: 2294

F A X

TO: Teleta Nevius
FAX NO: 717-705-6955

SUBJECT: Proposed Personal Care Home Regulations DATE: October 31, 2002

My 92-year-old mother who has dementia has been a resident of a wonderful personal care home for 2 ½ years. My husband and I chose this facility not only because it was highly recommended to us by the family of another resident, but also because we knew that Mother would be more comfortable in its small, "homey" setting rather than in a large, institutional setting such as a nursing home.

This personal care home has operated very efficiently for years under the current state regulations; and we as a family have been extremely happy and satisfied with the excellent and personalized overall care my mother has always received.

Now we have learned that the proposed changes to the regulations governing how Pennsylvania personal care homes operate are moving closer to being adopted. Unfortunately, some of those proposed changes are so unreasonable and would cost so much extra money in personal care homes' operating expenses that it would raise residents' rates to unaffordable levels and cause some personal care homes to actually go out of business. What a shame it would be for many personal care home residents to be forced to leave the personalized care and the "homey" setting that they prefer and to perhaps be totally unable to find another care facility that they can afford, since Pennsylvania nursing home fees are already prohibitive!

My husband and I urge you to give serious thought and personal consideration to how totally unreasonable some of the proposed regulation changes are. If these proposed changes were to affect an elderly loved one of yours and the resulting costs of the changes were to prohibit him or her from living in the safe, caring, "homey" setting of a personal care home, how would you feel? Please do not allow these revised regulations to be adopted.

Sincerely,
Carole and Theodore Gerwing

210 Rustic Drive
North Huntingdon, PA 15642

NOV 1 2002 10:15 AM
FAX
10/31/2002 10:15 AM
10/31/2002 10:15 AM

14-475 (568)

Original: 2294

Dear Ms. Nevius,

October 31, 2002

REGULATORY COMMISSION
2600 - 00
REGULATORY COMMISSION

The Department of Welfare's ongoing and inactive consultation and involvements with providers, provider associations, residents, family members and advocacy organizations evidently have fallen on deaf ears. The Department through its actions obviously holds no value to the comments that were received.

If prime is the Commonwealth initiative to make state government more customer centered, cost efficient, compliant and if the goal of the regulatory consolidation is to improve services and protections to consumers by focusing providers efforts on compliance with fundamental health and safety regulations one must go to Webster to find out the proper meaning of the words being used.

#1. Improve services and protection.

IMPROVE-to make or become better to increase something's productivity or value.

TO MAKE OR BECOME BETTER, NO!

INCREASE PRODUCTIVITY, DEFINITELY THROUGH PAPERWORK AND INCREASED COSTS WHICH LEAD TO DECREASED HOMES DUE TO THE FACT OF INABILITY TO RECOVER INCREASED COSTS.

#2 FUNDAMENTAL-Basic or essential, of major significance.

AS THE CURRENT 2600 REGULATIONS NOW ARE, NOT INTRICATE SUCH AS THE PROPOSED 2600 REGULATIONS APPEAR.

Under the significant provisions starting with reportable incidents, 2600.16 – 2600.264 our operations will incur an additional \$127,272.00 annually, \$10,606.00 monthly, \$353.00 daily, providing we operate at current levels.

This cost DID NOT take into consideration unemployment figures, state and federal taxes or workers compensation, etc. This theory is taking in consideration for additional staffing for and during training, training itself, additional required training, LPN or paramedic (least expense) for medications and an additional staff person for the extravagant amount of paperwork that will be involved.

As for the effect the new regulations will have as to cost on the private sector:

1. Mandatory costs for all personal care homes(A)-(D)
2. Optional or possible costs for all personal care homes (A)-(E).
3. Individual choice to assume cost(A)-(C).

Appear to be extremely valid, but, where does the Departments own Regulatory analysis form get off stating the only cost to these regulations will be \$680.00 (page 3 #17) unless of course they mean daily!!

Under General Public, it states there will be no costs to the general public as a result of this proposed rule making. If this, were not in black and white from the PA Bulletin, Doc. No. 02-1769 page 6 of 18, I would think this was a joke. In our home 66% of our residents are SSI residents, and 34% is private pay, out of the 34%, one-half of the residents will be able to afford these new rates that we as providers will have to impose. I will be able to cut staff, thereby decreasing state and federal taxes, workers comp., and insurances with a small increase in unemployment compensation paid out, thereby giving 30 day notices to 83% of residents to relocate elsewhere. Of that 83%, 66% are supplemented by the state with no families capable of providing care to them which leads us to the general public, public sector, and local government.

The Department has stated there will be no costs to the general public and the proposed regulations will have no impact on state revenues. Personal care home residents who meet eligibility requirements can use government funds to pay to live in a personal care home. (Page 6 of 18). Page (2 of 18) states also that the proposed regulations will not impact local government. HOW ABSURD!! See what homes even accept what the state pays. You will find a very small minority. If these regulations pass, how can a home operate on \$29.31 per day (that is what it receives from SSI residents) or \$29.97 per day (an SSI resident with SS) with an increase of \$353.00 per day increased cost. As I stated before, this is what my increase would be. I have been told that cost would be much higher, but I can only speak for myself.

Where will these residents be able to go? A nursing facility for \$4,000.00 a month? A state institution? All these cost money, and a substantial increase at that! Who would be responsible?? THE STATE!! Granted, some may return to a family, but very few, and not for long. That is why they are in a personal care home. If none of the above apply then only unlicensed bootleg facilities remain, and the streets.

My wife and I love our residents, but we must be prepared to do whatever it is to survive. The aforementioned scenario will be a must if these new regulations pass. I have been told by a state representative that I am interpreting these wrongly and have unjust fears. I have read and reread the proposed regulations, I only pray that you do the same and become knowledgeable of what is in these regulations. I will be sending copies of this letter to my representatives.

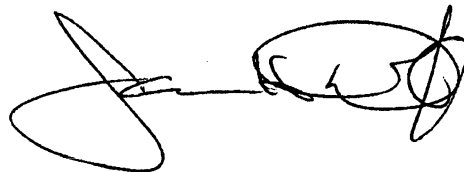
Feather Houston has let it be known that there will be no hearings scheduled, on these proposed regulations. She has also stated there would be no cost to the general public due to these regulations. Teletia Nevius stated what good suggestions were given at the meetings, yet never acted on one of them in the proposed new regulations. How then can you attempt to even work with or have any trust in people such as this?

The meetings I attended with the Department of Welfare were ineffectual and vain. That is the reason my letter will be going not only to the Department, but also to numerous others who may have some influence to bring attention to this nonsensical matter. I've always been taught

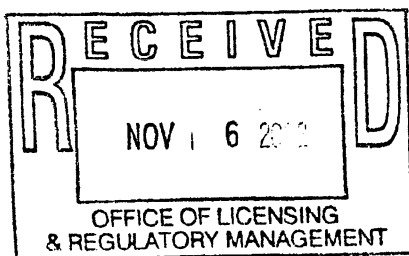
"If it's working, DON'T fix it!" If your car gets a flat, do you fix the flat tire, or fix and replace all four? If your horn and/or wipers don't work on your vehicle, do you replace the engine or even buy a new vehicle? Maybe this is how the Department operates. Maybe these questions appear brainless, but can you see the correlation to the proposed 2,600 regulations? In closing, I only ask that you carefully peruse the proposed regulations, do your math, assess, and you will discover the tremendous impact both financially and economically that it will have on the public sector, private sector, state and local governments.

If current residents are not being served well in a few homes then relocate them to a skilled or intermediate facility. If it's the home that is noncompliant, SHUT IT DOWN. Current regulations already provide for this. In numerous circulations around the state, newspapers have already printed about these new regulations. Until they are improved, the department of welfare has decided to enforce some old ones. (Ex. Butler Eagle Friday October 14, 2002) If old ones cannot or were not enforced, how much more difficult will the new ones be to enforce. Not only us as providers, but, the enforcing department both public and private sectors, state local or federal government, shall and will be effected. Paper work, training, and most of all relocation of human beings forced to find an environment in which to live. The MAJORITY of personal care homes are run well, and serve a much needed purpose for all involved. Please do not over-regulate these homes into extinction because of a very few, we are talking about human beings needing some help with daily living requirements whom are referred to as residents, not patients who require skilled services such as in a nursing facility or hospital.

Sincerely,



James H. Duff
1061 Mercer Rd.
Beaver Falls, Pa. 15010
(724) 846-8922



Original: 2294



14-475
296

2002-10-31 PM 2:59

REVENUE COMMISSION

Senate of Pennsylvania

Senator Sean Logan

45th Senatorial District

Ivanhoe Professional Building
117 Fox Plan Road
Suite 107
Monroeville, PA 15146
(412) 380-2242
Fax: (412) 380-2249

FAX TRANSMISSION COVER SHEET

Date: October 31, 2002
To: Ellen Gentry
Fax: 717-705-6955
Subject: Changes to Personal Care Regulations
Sender: Mary Jane Marsh
Legislative Assistant

YOU SHOULD RECEIVE 12 PAGE(S), INCLUDING THIS COVER SHEET. IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL (412) 380-2242.

To - Ellen Gentry 717-705-0388
Licensing and Policy Specialist
Commonwealth of Pennsylvania
Department of Public Welfare - Room 623
Office of Licensing and Regulatory Management
P.O. Box 2675
Harrisburg, Pa - 17105-2675

From - Lou Ann and Mark Mc Donel - BLAKE BRENNEMAN
109 Huntingdon Dr. 4175 IVANHOE DR. #702
Pittsburgh, Pa - 15235 Monroeville, Pa - 15146
412-247-1810 412-373-6909

Subject - Proposed Rulemaking
Dept. of Public Welfare
(55 Pa. Code chs. 2600 & 2620)
Personal Care Homes

10/31/02

Dear Ellen Gentry;

We have received a copy of the latest proposed rulemaking for Personal Care Homes in Pennsylvania. This publication triggered a 30 day public comment period from Oct. 4, 2002 to November 4, 2002.

We have some comments we would like to make relative to the latest (10-4-02) proposed document.

FIRST — Last spring, between Feb. 15, 2002 and March 14, 2002, we submitted a total of 14 comments / suggestions to your Department.

10/31/02

Our main concerns were:

- 1.- The present Code 55 on the Oct. 4, 2002 revisions of chapter 2600 Personal Care Homes (assisted living homes) does not spell out clear enough the care and services required by Residents with Alzheimer's versus those that have their mental faculties.

The fact that Alzheimer's Residents have lost their memory indicates the need for more care and attention than a person who has not lost his/her mental ability. There is a big difference in the staffing required for Residents with Alzheimer's.

10/31/02

even in a secured unit.

The paragraph (1) under 2600.4 referring to the definition of Immobile needs a few of the weasel words removed. Those words are "without the continual and full assistance of other persons"

The definition of "weasel word" is a word used in order to evade or retreat from a direct or forthright statement or position.

That implies some person or nurse would have to be with the Resident 24 hours a day before you could classify a Resident as Immobile.

Without the above phrase the definition is clear and understandable.

2.- Medications — what staff level would obtain more intense training and responsibility for dispensing medications?

Certainly, the responsibility for passing medications should be elevated to a higher staff level.

3.- Staffing — To make sure the staffing ratios selected takes into ACCOUNT — — —

immobile Residents and Residents with (Alzheimer's) (who should be classified as immobile).

Proper level of staffing is the key to having an efficient and successful operation

4.- Caregivers — Should be at least 18 yrs of age

- be a high school graduate - have a good command of Basic English. Also to have more intensive extensive training before being able to be classified a Caregiver.

5.- Annual Inspections - Presently an Annual Inspection is performed, however the provider is given at least seven days advance notice. This gives the provider a great advantage and opportunity to Peak their performance in all operation aspects for a short period of time. The performance after the inspection, for the rest of the year can and usually deteriorates. As a result the Residents do not obtain the

quality of care and service they pay for and the
Performance the ON-SITE INSPECTION Report indicates.
A surprise inspection would keep the assisted
living home or provider on their toes all year long.

Of the above 5 items we feel the new
proposal (dated Oct 4, 2002) did acknowledge our
comments concerning!

1. Tougher rules regarding the
dispensing of medications.
2. - Caregivers should be older and have
a High School education
3. Immobile Residents - There IS

some light at the end of the tunnel because
 #2600.238 on staffing states "Residents of
 secured units are considered to be Mentally
 Immobile. We believe this statement should
 be added to 8600.56(A) A staffing."

The Pittsburgh Post-Gazette said,
 in an article by Gary Rotstein on Oct 21, 2002 there
 could be sweeping changes in the proposed
 rules governing Personal Care Homes. However, if you
 read between the lines, it implies terrific
 pressure by the Large Corporations, the small homes
 with 4-5 Residents and Personal Care Home
 Associations across Pennsylvania — not to

make any changes to the present regulations formulated around 1980.

What really surprised us about the new regulations (Oct 24, 2002) was

1.- The new proposed regulations do not mandate increased staffing levels. They are saying keep the same levels adopted in 1980. The key to a smooth efficient and successful operations is to have the proper staffing levels.

2. The shocker was:

Presently state inspectors pay an announced visit to homes on an

annual basis. We said in our comments last spring there should be annual inspections but they should be unannounced.

The proposed regulation (Oct 4-2002) says only that all homes will be inspected at least once every three years, with 75% of them being visited within a two year period.

In our opinion, if the 3 year inspection proposal and no mandate for increased staffing are approved, these two provisions will cancel out all the other good proposals suggested.

We agree that it is time to make some significant changes in the rules and regulations covering Personal Care Homes. It is apparent much time and effort have gone into the project thus far.

We are pleased we are able to participate in this project. We trust you review the comments contained in this letter and possibly include several of our suggestions in the new proposal.

Sincerely,
Blake Bannerman
Lou Ann + Mark McDonel

cc - Senator Sean Logan
Gary Rotstein - Pittsburgh Post-Gazette

10/31/02

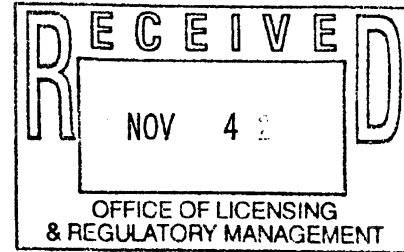
Original: 2294

14-475(385)

October 31, 2002

TELETYPE UNIT
NOV -7 AM 11:15
REVIEW SUBMISSION

Teleta Nevius, Director
Office of Licensing and Regulatory Management
Department of Public Welfare
Room 316 Health & Welfare Building
PO Box 2675
Harrisburg, PA 17120



Ms. Nevius,

I am writing to request that you reconsider your changes on the regulations for personal care homes in Pennsylvania. My mother has been a resident at Grey's Personal Care Home, Kittanning, PA for over eight years. I am not capable nor have the training to provide the care for her in my home that she receives in the personal care home. I am employed full time therefore I can not provide her 24 hour care that she receives at the personal care home. It is a piece of mind to me to know that she is receiving excellent care and she is very content. If these new regulations go into effect this will cause Grey's to close their personal care home putting my mother and many other residents out on the street. My mother will be devastated if she has to be moved out of Grey's Personal Care Home, which I fear could cause her additional medical problems due to the devastation. Apparently you have never had a loved one that has required this type of care because then you would understand how ridiculous these regulations really are.

The state's idea of relocating these residents to large facilities is not better. When it comes to a person needing assisted living larger is not better. You will be taking them away from their community and their familiar surroundings. The smaller setting is better because the residents and staff become family and it would not be that way in a larger facility. I have found that in a large facility you become a number and don't have a sense of belonging. That sense of belonging is very important to everyone, but especially someone that is in a personal care home. Many of the residents in a personal care home have no family other than their fellow residents and staff. The majority of people that require assisted living don't adapt well to change and the change of them having to be relocated could cost lives.

I would like to know your justification why you are choosing to put personal care home residents on the streets. It isn't fair to these residents because it is no fault of their own that they require assisted living. It agitates me as a taxpayer that we continue to spend millions of dollars on supporting criminals especially murderers. If you are requiring the new regulations for the personal care homes then provide the funding. How can you justify allocating a SSI recipient \$29.25 per day versus allocating \$67.00 per day for a criminal?

A personal care resident doesn't require the medical care to justify having a 24-hour registered nursing staff on board. These people need assistance with their daily living that they are not capable of doing on their own. A personal care resident doesn't require the medical care that a nursing home resident needs. The hospitals and nursing homes across Pennsylvania are having difficulty filling their staffing needs due to a shortage of registered nurses. How do you plan on staffing the personal care homes with registered nurses with the shortage? How can you justify making tougher regulations on personal care homes versus the regulations with hospitals and nursing homes? How can you justify changing the personal care home regulation manual from 44 pages to 154 pages, when the state has failed to abide by the 44-page regulation manual?

Personal care homes were started when the state determined it was not cost efficient to keep the elderly, mentally retarded and disabled people at the state hospitals. If you pass the new regulations for personal care homes you will be forcing these Pennsylvania citizens on the streets. Where do you plan to place these residents once they are forced out of their personal care homes, since the state hospitals are no longer an option? The majority of the personal care home residents don't qualify to be in a nursing home because they don't meet the medical needs that a nursing home patient requires.

I would greatly appreciate if you would reconsider your decision and abolish the new regulations. I believe there is only a small percentage of personal care homes in Pennsylvania that don't meet the standards, so please focus on making them meet the required standards. Please realize that you are trying to fix something that isn't broken and the devastation that it will cause by mandating the new regulations.

Sincerely,



Tammy Croyle

Cc: Independent Regulatory Review Commission
Harold F Mowery, Jr, Chairman
George T Kinney, Jr, Chairman



Original: 2294

CAUM MEMORIAL HOME

Diakon Lutheran Social Ministries

14-475
322

RECEIVED
NOV -4 PM 3:34
REGULATORY
REVIEW COMMISSION

October 31, 2002

Department of Public Welfare
Teleta Nevius
Room 316 - Office of Licensing and Regulatory Management
Health and Welfare Building
POBox 2675
Harrisburg, PA 17120

Dear Ms. Nevius,

On behalf of Diakon Lutheran Social Ministries, please find attached comments for the Personal Care Home Proposed Regulations.

A task force from Diakon was established to review the proposed regulations and provide in-pur into this important document.

Sincerely yours,

Jolynn Carl, Chair/PCH Proposed Regulations-Task Force
Director of Residential Services

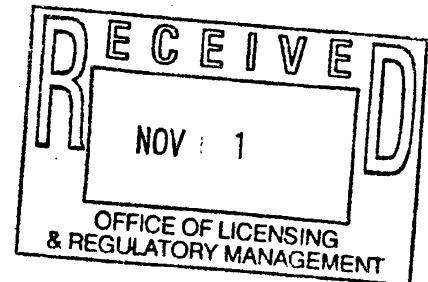
Cc: Katie Mahanna, Admission Coordinator
Buehrle/Breidegam/The Lutheran Home at Topton
Theresa Englemann, Exec. Director/The Lutheran Home at Topton
Debby Reid, Executive Director/Manatawny Manor
Jeraldine Kohut, Director of Residential Services, Luther Ridge
Chris Klejbuk, PANPHA
Garry Hennis, Vice President Retirement and Health Care Services

1711 Hampden Boulevard
Reading, PA 19604

Phone 484.338.2100

Fax 484.338.2108

www.diakon.org



2600.60. INDIVIDUAL STAFF TRAINING PLAN

A written individual staff training plan for each employee, appropriate to that employee's skill level, shall be developed annually with input from both the employee and the employee's supervisor. The individual training plan shall identify the subject areas and potential resources for training which meet the requirements for the employee's position and which relate to the employee's skill level and interest.

COMMENT: All staff need to be trained to meet minimally the requirements of their job Description. All other training will be as required in 2600.58

RECOMMENDATION: All staff will attend required inservice training sessions as developed by the personal care home.

2600.105. LAUNDRY

(g) To reduce the risks of fire hazards, the home shall ensure all lint is removed from all clothes.

COMMENT: Is the intent that lint shall be removed from all clothes or from the clothes dryer.

RECOMMENDATION: Lint shall be removed from all dryers after each use.

2600.161. NUTRITION ADEQUACEY.

(g) Drinking water shall be available to the residents at all times. Other beverages shall be available and offered to the resident at least every two hours.

COMMENT: Offering residents drinking water or other beverages every two hours is inappropriate in a personal care home setting.

RECOMMENDATION: Drinking water and other beverages are available for residents Twenty-four hours daily as requested.

2600.181. SELF-ADMINISTRATION.

A home shall provide residents with assistance, as needed, with medication prescribed for the resident's self-administration. The assistance includes helping the residents to remember the schedule for taking the medication; storing the medication in a secure place and offering the resident the medication at prescribed times.

COMMENT: The regulation does not reflect who can provide the assistance, as needed, for the residents self-administration nor type of training required. Competency based training module not noted in regulation.

RECOMMENDATION: A state approved competency based training program for all direct care staff who provide residents with assistance, as needed, with medication prescribed for the residents self-administration.

2600.54. STAFF TITLES AND QUALIFICATIONS FOR DIRECT CARE STAFF

- (1) Be 18 years or Older
- (2) Have a high school diploma or GED
- (3) Be of good moral character
- (4) Be free from medical condition, including drug or alcohol addiction that would limit the direct care staff from providing necessary personal care services with reasonable skill and safety.

COMMENT: Regarding point: (1) In the proposed regulations, volunteers are considered "direct care staff". We would not have the ability to have high-school age volunteers due to the 18 years or older criteria. Including younger volunteers enhances programming and encourages intergenerational interaction that would not exist with this regulation in effect.

RECOMMENDATION: Direct care staff shall be 16 years of age or older. Regarding point (2) recommend to drop GED or High School Diploma. This should be considered "preferred" but not required.

2600.56 STAFFING

- (b) If a resident's support plan indicates that the resident's personal care service needs exceed the minimum staffing levels in subsection (a), the personal care home shall provide a sufficient number of trained direct care staff to provide the necessary level of care required by the resident's support plan. If a home cannot meet a resident's needs, the resident shall be referred to a local assessment agency or agent under 2600.225 (e) relating to initial assessment and the annual assessment).

COMMENT: needs more clarity

RECOMMENDATION: More specific regulation needed in regards to clarity of assessment tool.

2600.58. STAFF TRAINING AND ORIENTATION

- (a) Prior to working with residents, all staff including temporary staff, part-time staff and volunteers shall have an orientation that includes the following....(extensive listing follows)

COMMENT: Although training for all staff is important, extensive training of volunteers in the same manner is not reasonable. We will have no volunteers if this regulation is in effect.

SUGGESTION: Depending on the "volunteer" job responsibility, training should be the responsibility of the facility director utilizing volunteer job descriptions.

- (c) Training direct care staff hired after _____. (The blank refers to the effective date of adoption of this proposal.) shall include a demonstration of job duties, followed by guided practice, then proven competency before newly-hired direct care staff may provide unsupervised direct care in any particular area. Prior to direct contact with residents, all direct care staff shall successfully complete and pass the following competency-based training including the following specific job duties and responsibilities:

COMMENT: According to this regulation, agency staff and volunteers would be considered direct care staff and fall under this training requirement. Agency staff could not be utilized. Volunteers would not volunteer for the required training.

RECOMMENDATION: A provision needs to be made for agency staff usage. Do not include volunteers under direct care staff.

- (e) Direct care home staff shall have at least 24 hours of annual training relating to their job duties. Staff orientation shall be included in the 24 hours of training for the first year of employment. On the job training for direct care staff may count for 12 out of the 24 training hours required annually.

COMMENTS: 24 hours is excessive and cost of training will be high.

RECOMMENDATION: A minimum of 12 hours of annual training is recommended for direct care staff.

2600.57 ADMINISTRATOR TRAINING AND ORIENTATION

- (a) Prior to initial employment at a personal care home, an administrator shall successfully complete an orientation program approved by the Department and administered by the Department or its approved designee.

COMMENTS: It would be difficult for most people to complete an orientation program prior to being employed.

RECOMMENDATION: "as an administrator" should be added after "Prior to initial employment as an administrator....."

- (b) Prior to licensure of a personal care home, the legal entity shall appoint an administrator who has successfully completed an passed a Department approved competency-based training that includes 60 hours of Department approved competency-based training, and has successfully completed and passed 80 hours of competency-based internship in a licensed home under the supervision of a Department-trained administrator.

COMMENT/SUGGESTION: Regulation needs clarification of "competency-based training".

- (e) An administrator shall have at least 24 hours of annual training relating to the job duties, which includes the following:....(a list follows)

COMMENTS: More clarity needed as to what exactly must be included in the total hours of annual training.

RECOMMENDATIONS: An administrator shall have at least 12 hours of annual training relating to the job duties, which includes the following:The recommendation would also include excess training time to be carried over to the following year.

2600.4 DEFINITIONS

Direct Care Staff

- (i) A person who assists residents with activities of daily living, provides services or is otherwise responsible for the health, safety and welfare of residents.

COMMENT: This definition is too broad and will encompass nearly every staff member of a personal care home. For example, the maintenance staff that shovels the sidewalks is responsible for the health and safety of the residents.

- (ii) "The term includes full and part time employees, temporary employees and volunteers"

COMMENT: The inclusion of volunteers in this definition is unreasonable due to the proposed training from direct care staff. The inclusion of volunteers in the direct care staff would cause facilities to lose volunteers who visit homes to do activities, etc.

SUGGESTION: Volunteers that act as direct care staff should to be addressed separately from volunteers who visit occasionally to assist with special events, etc.

2600.27 QUALITY MANAGEMENT

- (a) The personal care home shall establish and implement quality assessment and management plans.
- (b) At minimum, the following shall be addressed in the plan review:
- (1) Incident reports
 - (2) Complaint procedures
 - (3) Staff training
 - (4) Monitoring licensing data and plans of correction, if applicable
 - (5) Resident or family councils or both

COMMENT: Clarification is needed on (b-2) in regards to complaint procedure. If this is interpreted to mean documentation of every complaint of every magnitude it would create an enormous amount of paperwork and consume a substantial amount of time.

2600.42 SPECIFIC RIGHTS

- (i) A resident shall receive assistance in accessing medical, behavioral health, rehabilitation services and dental treatment.

COMMENT: Clarification is needed as to what measures are considered "assistance in accessing ... treatment". If this is interpreted to mean financial assistance this could have a substantial negative financial impact on the facility.

SUGGESTION: Keep current regulation (2630.33) which states "PCH shall provide residents with assistance with ... securing transportation... making and keeping appointments."

- (j) A resident shall receive assistance in attaining clean, seasonal clothing that is age and gender appropriate.

COMMENT: Clarification is needed as to what measures are considered "assistance in attaining". If this is interpreted to mean financial assistance this could have a substantial negative financial impact on the facility. In addition, this regulation impedes upon the residents right to wear what they want.

SUGGESTION: Remove this regulation

- (x) A resident shall have the right to immediate payment by the personal care home to the resident's money stolen or mismanaged by the home's staff.

COMMENT: The PCH should not necessarily be responsible for repayment of moneys stolen by staff. This regulation does not take into account the judiciary system.

SUGGESTION: This regulation should be removed.

- (z) A resident shall have the right to be free from excessive medication.

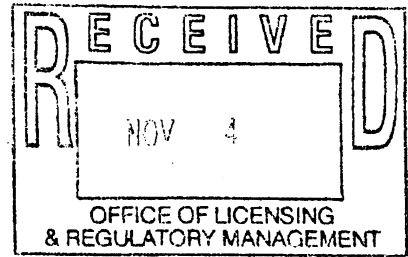
COMMENT: Clarification would be needed as what is what is considered excessive medication additionally, this issue that is more between a doctor and resident than the PCH and the resident. Clarification on who decides on "excessive" medication needs to be more clear. Such a regulation would also need to address the ramifications involved is removing a resident from medication would make them no longer appropriate for the PCH.

SUGGESTION: This regulation should be removed.

Original: 2294

14-475 (402)

NOV -7 2002
OFFICE OF LICENSING
& REGULATORY
REVIEW COMMISSION



Thursday, October 31, 2002

Department of Public Welfare
Office of Licensing and Regulatory Management
Teleta Nevius, Director
Room 316 Health and Welfare Building
PO Box 2675
Harrisburg, PA 17120

Dear Ms. Nevius:

I am writing to you regarding our concerns with certain proposed new regulations for personal care homes. My brothers and I are writing on behalf of our father, Mr. John W. Griffith who resides at Green Hills Manor, a Personal Care Facility in Reading, PA. We are writing to you out of our personal concerns and at the request of Barbara Seymour, the Administrator at Green Hills Manor.

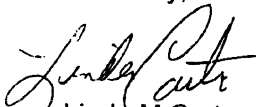
We, my brothers and I, are college-educated and we have a broad base of knowledge as well as a great deal of commonsense. I am also a Registered Nurse. We certainly do understand the intent and purpose of the proposed regulations to be the enhancement of the care and the environment of the residents in these facilities.

It is, however, a major concern that these proposed regulations will result in significant expense for many facilities that will result in substantially higher fees for residents. Our father is not in a position to afford an increase above current levels. Please understand that our father does have some limited resources but they are being steadily depleted each month as his fees exceed his SSI and pension.

The time is visible when his resources will be exhausted and we ask you, where will our father live then? Many facilities are no longer able to house SSI patients because of the ever-increasing burdens of regulatory compliance. We are very concerned about the well-being and welfare of our father. Because of many employment and other life obligations, we would be unable to accommodate our father in our homes.

We are asking that you please more fully consider the impact that these proposed regulations will have and the financial burdens that will inevitably result if they are enacted. No doubt that some time is necessary to do this additional review but it will be time very well invested in the lives of thousands of residents and their families. Thank-you for your consideration.

Sincerely,


Linda M Carter


Randy L. Griffith


Gary J. Griffith

Original: 2294

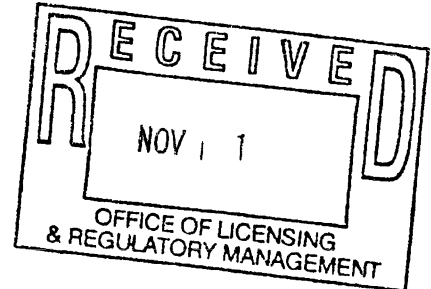
14-475
341

October 31, 2002

2002 NOV -4 PM 3:35

REGULATORY
REVIEW COMMISSION

Department of Public Welfare
Office of Licensing and Regulatory Management
Teleta Nevius, Director
Room 316 Health and Welfare Building
P.O.Box 2675
Harrisburg, PA. 17120



To Whom It May Concern:

I am writing to you as a concerned grand-daughter of a 90 year old woman in an assisted living facility. Recently we have been informed of impending new regulations. Many of these regulations seem too extreme and unfair to the smaller facility already giving adequate care at reasonable rates. Furthermore, people on Social Security Income will be priced completely out of the system. Somehow, that seems like discrimination to me!!

I ask you, where is it going to stop. Older people should be able to enjoy their last days here on earth without being forced out of a nursing home because of their low income.

For the above reasons I implore you not to approve these extreme regulations as they will do more harm than good to many members of the senior community.

Yours truly,

Diane Billig

14-475 (400)

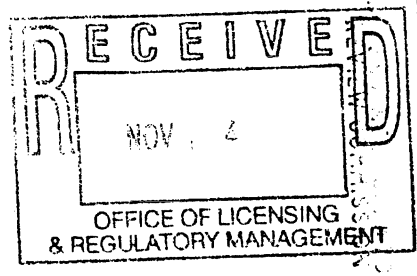
Original: 2294



3001 Lititz Pike • P.O. Box 5093 • Lancaster, PA 17606-5093 • (717) 569-2657 • FAX (717) 581-4400

October 31, 2002

DEPARTMENT OF PUBLIC WELFARE
Office of Licensing and Regulatory Management
Teleta Nevius, Director
Room 316 Health and Welfare Building
P.O. Box 2675
Harrisburg, PA 17120



Dear Ms. Nevius,

We have had the opportunity to study in detail the proposed Chapter 2600 Personal Care Regulations (hereinafter, "Regulations"). On behalf of the residents and staff of Brethren Village, I offer the following comments and recommendations with respect to the Regulations.

By way of background, Brethren Village is a 105 year old not-for-profit continuing care retirement community ("CCRC") located in Lancaster County, Pennsylvania. We provide loving care for more than 800 seniors of all income levels. As a CCRC, we provide all levels of care, namely residential or independent living, nursing care, as well as assisted living/personal care. We currently have 75 residents residing in our personal care area. We also provide low income housing through a HUD underwritten apartment building located on our campus.

Many of our residents do not have the resources to pay for the full cost of their care. Nevertheless, it is our mission and privilege to provide care for these seniors through our benevolent care program, made possible through the generous annual giving of many individuals and organizations. It is in the context of our commitment to provide excellent, home-like care to our residents that I offer the following comments.

Section 2600.54 of the Regulations establishes a minimum education requirement of a high school diploma or GED for direct care staff. It has been our experience in this increasingly challenging world of staffing, that requiring a high school diploma or GED for direct care staff in personal care does not ensure that residents receive loving quality care. In fact, establishing such a requirement will cause our facility to pass over some potentially wonderful staff. We would of course support the need for direct care staff to successfully complete the required training and orientation that is specific to personal care and their role as caregivers. However, we would recommend the elimination of the requirement of a high school diploma or GED for direct care staff – *except for those direct care staff who seek to become qualified as medication technicians*. We recognize that those who aspire to this heightened level of responsibility need to demonstrate a higher level of established education. For general personal care aides, however, we can find no documentable linkage between possessing a high school diploma or GED and the quality of care received by personal care residents. We further believe that the Department of Welfare is also unable to cite such direct correlations.

Section 2600.57 of the Regulations requires 24 hours of annual training for Personal Care Administrators. While we believe that enhanced continuing educational requirements for Administrators is warranted, we also believe that the amount of hours required is excessive. It is

noteworthy that Nursing Home Administrators in the Commonwealth of Pennsylvania are required to obtain 24 hours of training for every 2 years of service. Our experience as a committed provider of quality care is that continuing education IS important, but the imposition of a 400% increase in the number of annual hours required (increasing from 6 hours per year to 24 hours per year) imposes a substantial time and financial burden upon our facility. Again we believe there is no documentable correlation between this extreme requirement and the overall quality of care for our residents – which is the primary goal of all that we do. We would support a requirement of no more than 12 hours per year – which would be consistent with the requirements for Nursing Home Administrators in the Commonwealth.

Section 2600.58 of the Regulations imposes an even more dramatic increase in continuing education upon the direct care staff. There are currently no requirements for continuing education for direct care staff. The Regulations require 24 hours of continuing education annually for each direct care staff member. We are strongly supportive of requiring ongoing education for direct care staff. However, we would propose that the Regulations be modified as follows.

The Regulations allow for ½ (12 hours) of the 24-hour requirements to be obtained “on the job.” This presumably allows for the staff to receive training without the need for scheduling and compensating additional direct care staff while other direct care staff is receiving continuing education. However, for the other 12 hours of required training, in addition to paying the direct care staff for the hours that they are off of the job receiving training, we will be required to schedule and compensate additional direct care staff to cover for the off-site staff. Many of these replacements will be paid overtime as they will be working additional hours beyond their normal scheduled hours. Accordingly, we would urge that the Regulations be modified to require up to 12 hours per year of continuing education – consistent with our request for Administrator training above. In the event the Department elects not to reduce the number of hours required from 24 to 12 annually, we would request that all of the required hours be permitted to be obtained “on the job” in order to reduce the significant financial impact of providing this level of continuing education for all of our direct care staff.

Finally, **Section 2600.226** mandates the creation of a Support Plan for all of our 75 residents. We believe that any facility that is striving to provide excellent care for its seniors needs to focus upon the specific needs of each resident in their care. We also know that we are very aware of and responsive to the unique needs of each of our residents on a daily basis. However, the mandating of a formal support plan as described in Section 2600.226 is contrary to the very nature and intent of the preferred social model of personal care. This is particularly true in light of the definition of personal care as set forth in the Regulations – which provides for assistance with activities of daily living and “instrumental” activities of daily living – and is expressly structured and funded with this model of care in mind.

Specifically, Pennsylvania currently reimburses personal care homes less than \$30 per day (minus a \$60 per month personal needs allowance per resident) for our providing care for low income residents receiving SSI. For that daily reimbursement, we are required to provide a room, three meals per day, personal laundry service, toiletries, a menu of organized activities, and 1 or 2 hours of direct care staff assistance and assistance with other instrumental activities of

daily living as needed. This rate of reimbursement is already lower than the daily rate of the cheapest motel in Lancaster County (which rate does not include meals, laundry, activities or 1 or 2 hours of direct care).

We have estimated that the ADDITIONAL cost of a formalized Support Plan for our 75 residents as required under the Regulations will be \$104,000 annually. We believe that this is a conservative estimate, as it includes only a conservative estimate of our staff time for complying with the requirements of this section for each resident. If the intent of this requirement is enhanced care for our seniors, it is fundamentally counterproductive from a legislative perspective to impose a significant, intensive requirement (in addition to the many other new requirements imposed established in the Regulations) which will measurably increase the cost of caring for our residents without ANY accompanying increase in the already grossly inadequate daily reimbursement rate for Pennsylvania SSI recipients.

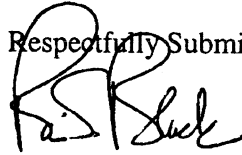
Faced with this regulatory mandate, we, along with many other quality facilities, will have little alternative but to reduce services or staff time in those areas that are NOT mandated by the Regulations in order to "comply" with these additional regulations. Of course, we will do everything in our power to prevent this from happening in our facility – as the residents are our number one focus. Nevertheless, we know that we cannot comply with all of the requirements set forth in the Regulations without reducing other areas of service to our residents or significantly increasing the fees to our residents who can afford to pay for the services they receive. It is really that simple.

In closing, we appreciate the opportunity to offer comments and recommendations on these Regulations. It should be noted that there are other areas of the Regulations which are more stringent than any benefit to be derived from imposing them. However, we have elected to focus on those key areas which we believe are the most directly impacting upon the quality of care that our residents will receive. We indeed recognize that there are opportunities to enhance the quality of care that our seniors receive by addressing some specific areas of documented concern in personal care in Pennsylvania. However, we are firmly convinced that the broad-based imposition of these Regulations – many of which resemble regulations established for health care – will not in any way make life better for our residents. Rather, it will cause us and other excellent, caring organizations to focus the limited resources that we do have on technical compliance with regulations rather than creating the most home-like, caring environment for our residents.

Merely increasing the scope and intensity of regulations without documented correlation to improved quality of life for the residents affected is like waxing a car; it makes the outside "shine," but it does not make the car run any better. We believe the focus should be on a finely-tuned, smooth-running engine and the critical areas that need to be maintained to keep the engine serving us well for today and for many years to come – rather than mandating a daily coat of wax on the paint job. We have seen the results of this type of stringent, "one size fits all" regulation of facilities in health care regulation in Pennsylvania – and we believe there is something far better to be accomplished in personal care in Pennsylvania. We would welcome the further opportunity to be a constructive part of this shaping process.

Should you have any questions, or desire any additional information, please contact me at (717) 581-4228 or at brianb@bv.org. Thank you for your consideration.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "B.S. Black". The signature is written in a cursive style with a large, stylized initial "B".

Brian S. Black
Vice-President Resident Support &
Resource Development

cc: Gary Clouser, CEO
Susan Paul, AL Administrator

October 31, 2002

Commonwealth of Pennsylvania
Department of Public Welfare
Office of Licensing and Regulatory Management
Teleta Nevius, Director
P.O. Box 2675
Harrisburg, PA 17105-2675

RE: Proposed New Regulations for the Personal Care Home Industry

Dear Ms. Nevius:

I have learned that the new proposed regulations for personal care homes will place undue hardships on this industry and its consumers. This additional oversight will cause major increases for already taxed personal care home operators and place additional financial burdens to residents' family members who ultimately support this industry's existence.

If these regulations are approved as they are now proposed, I may not be able to pay the increased costs that my mother's personal care home will pass on to me. Specifically, I am concerned with the following proposed sections of the regulations.

- 2600.19: Waivers: How many family visitors need to be supported by bathrooms?
- 2600.26: Costs based on outcome of support plan (I won't know what will be charged for up to 15 days).
- 2600.58: Staff Training and Orientation, 2600.59: Staff Training Plan and 260060 Individual Staff Training: With staff turnover, it will be harder to hire people. This won't provide better care and may hurt the overall staffing since remaining employees will have to work overtime to cover for those who quit on short notice.
- 2600.58: Annual Staff Training: Why 24 hours when hospitals only require 12 hours?
- 2600.181: Self Administration: Must there be a professional to put a pill in someone's mouth?

If you don't delete these regulations, or change them in favor of the care givers and families, you will be damaging the effectiveness of care for millions of residents who have no other place to go. I'm appealing to your sense of duty, as a public servant, to relieve this regulatory pressure on an industry and the public it serves. Your decisions now may ultimately affect one of your own family members in the future. Or perhaps, even yourself, someday.

Sincerely,


A. Karlyn Bell

14-475 (481)

Theodora Beatty
Box 394 C
R.R.# 5
Kittanning, Pa. 16201
Armstrong
Home Phone 724 548 8049

Original: 2294

October 31, 2002

Teleta Nevius, Director
Office of Licensing and Regulatory Management
Department of Public Welfare
Room 316 Health & Welfare Building
P.O.Box 2675
Harrisburg Pa 17120

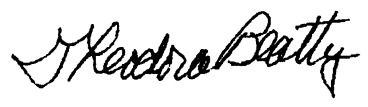
Dear Director,

I am writing concerning the proposed changes in the regulations governing personal care homes. For the last ten years I have the sole care-giver of my aged mother. As you probably know, caregivers receive no help from the government. Finally, last year I found a wonderful personal care home just minutes away from my home. My mother, who has just turned ninety, has been wonderfully taken care of there. The staff is warm and caring and the atmosphere is homelike. Mom is happy socially and I finally have some semblance of a life. And best of all, WE CAN AFFORD IT. Mom gets limited Social Security and I am retired, so cost is an important factor in getting her quality care we can afford.

The new regulations would subject personal care homes to standards that are stricter than hospitals or nursing homes yet the mandates provide no funding for the increased costs. This seems ludicrous to me when the existing regulations have not even been enforced. WHY ADD MORE THAT WOULD BE COST PROHIBITIVE?

These new regulations would limit our choice to have a small, home-like setting that is PERSONAL. Also one that we can afford. If the care home my mother is in has to comply with these new regulations the cost per patient would almost double and I would have to care for my mother at home. This would be a hardship on her and me. She would not have social contacts with people her age, a large area where she can walk safely in all weather, a large staff that is available 24 hours a day. I would not be able to leave her alone in our home nor could I take her with me even to the grocery store.

PLEASE DO NOT TAKE AWAY THE ONLY SOLUTION THAT GIVE QUALITY OF LIFE TO SO MANY SENIORS for both my mom and I are seniors.
I STRONGLY URGE YOU TO DO WHAT YOU CAN TO DO AWAY WITH THE PROPOSED NEW REGULATIONS CONCERNING PERSONAL CARE HOMES!



Theodora Beatty

cc:Harold F. Mowery, Jr.
George T. Kinney, Jr
Independent Regulatory Review Commission



#14-475 (9)

Dear teleton,

I am writing on behalf of the residents of the assisted living facilities. I think the new proposed regulations on the senior citizens are way out of line. I realize they are meant to better things at the homes. But the people at Green hills manor where my sister lives are quite satisfied with the way things are going at present. If these regulations become law it will be disastrous for the people on Social Security with no other income. Where will all the people that will be affected go? I know these are people that do complain that things are not right but you have this in all situations. From my observations I think the people that run these places do the best they can for the people. I can't imagine what will happen to me in a few years if this goes through. I'll be out in the street. I am using up the money I had saved for my future living arrangements to supplement my sister. I have to pay her health insurance and other bills she has paid every month. My money is dwindling fast. Now I'm confronted with this where will it all end. The only thing I have to look forward to is death. I certainly hope for all the senior citizens that these regulations do not become law.



I am 71 years old myself. I don't feel like this is a free country anymore
 (over)

not when you have to fear what will become law next.
that will upset any plans you have for your senior
years. what will you do with all the baby boomers.
a lot of them are not in good health already.
they take more medicine for their age group than
any generation has in the past. they do not really
save money either. ~~for~~ our terrible economy is
dragging down their 401K?

This is no time to rock the boat.

Stop the world I want to get off.

Sincerely
Eleanor Bagenstose



Eleanor J. Bagenstose
638 N 5th St.
Hamburg, PA 19526-1004



October 16, 2002

Mrs. Eleanor Bagenstose
638 N. 5th St.
Hamburg, PA 19526

Mrs. Bagenstose:

I am writing to you to give you information on new regulations that are proposed for personal care homes, and to ask for your help.

In February 1996 there was an Executive Order issued by the Governor regarding regulations of state agencies. There were specific General Requirements listed including the following:

1. Cost of regulations shall not outweigh the benefits.
2. Regulations shall address a compelling public interest.
3. Where viable non-regulatory alternatives exist, they shall be preferred over regulations.
4. (Whereas, burdensome regulations have placed undue restrictions on the regulated community and have hampered Pennsylvania's ability to compete effectively with other states...) Regulations shall not hamper Pennsylvania's ability to compete effectively with other states.

In an attempt to comply with the Executive Order, the Office of Licensing and Regulatory Management of the Department of Public Welfare began the process of reviewing regulations for community-based long-term residential care services in the Fall of 1999. In April 2001 an informal draft of new regulations was issued that contradicted almost every item in the General Requirements of the Executive Order. The Licensing and Regulatory Management office received comments from over 950 individuals with the majority of comments from the Personal Care Home industry.

In March 2002 another informal draft was issued with very few changes from the first draft. Again, the Office of Licensing and Regulatory Management received comments from over 500 individuals. There were a few changes made with some items taken out and others added, and on October 5, 2002 the regulations were published as Proposed Rulemaking in the Commonwealth's official gazette, the *Pennsylvania Bulletin*. They were also sent to the Independent Regulatory Review Commission and to the appropriate legislative committees. After publication in the *Pennsylvania Bulletin* there is a 30-day public comment period during which time the Office of Licensing and Regulatory Management is required to consider and respond to every comment received.

At the end of the 30-day comment period, the Department of Public Welfare prepares a final-form regulation. This can take anywhere from a few weeks to a maximum of two years. The final-form regulation is submitted to various legislative committees for approval or disapproval. If it is disapproved and the Governor signs the disapproval, the regulation is permanently barred. However, if it is approved, the agency may proceed with Final Publication in the *Pennsylvania Bulletin* and the regulation becomes law.

"Adding Life to Living"

10 Tranquility Lane ■ Reading, PA 19607 ■ 610-775-1451 ■ FAX: 610-775-8150

We have some major concerns with the proposed regulations. Not only do they fail to meet the intent of the Executive Order; they contradict it on almost every point. The regulations have increased from the 46 regulations we now have to 127 regulations in the proposal. The cost associated with implementing the proposed regulations will be prohibitive. It is impossible to accurately estimate cost because the regulations have multiple ramifications, but the cost will at least be doubled or tripled. Some regulations that will significantly increase our costs are as follows:

1. Excessive record keeping requirements.
2. Four times the annual training that is now required for administrators.
3. Competency-based orientation for new staff that will at least triple the current cost.
4. Development and implementation of new policies and procedures and a quality assurance program.
5. Increased staffing based on an assessment of care required by residents.
6. An additional 24 hours of annual training for direct care staff, including the person providing transportation. Also the development, implementation, and maintenance of an overall staff training plan and individual staff training plans. These regulations along with the increased requirements for initial orientation would require us to hire a full-time person to manage our training program. In addition, the costs for individuals to conduct the classes and the staff time to attend the required training would be significant.
7. Individualized contracts for each resident rather than our current Department of Public Welfare approved contract, which was developed after years of research.
8. Development, implementation, and maintenance of support plans for each resident.
9. Additional space requirements for residents with wheelchairs, walkers, and special equipment in their bedrooms.
10. Additional equipment needs from fire retardant mattresses with plastic covers to a generator in case of a power outage. The lowest estimate we have received for a generator is \$45,000.

I have listed only a few of the regulations that will significantly increase cost. If these regulations are passed there are a lot of personal care homes that will be forced out of business. Many of the regulations are institutional and have been extracted from health care regulations, including mental health treatment center regulations. These regulations will change the current purpose of the personal care home from preventing unnecessary institutionalization to making personal care homes institutions. Personal care homes receive no financial support from the budget of community-based residential services. The personal care homes that stay in business will be forced to increase rates significantly. The money received currently for SSI residents covers less than half of the cost to care for a resident in a personal care home. With any increase in cost it will be impossible for homes to keep residents on SSI.