

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 and 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.

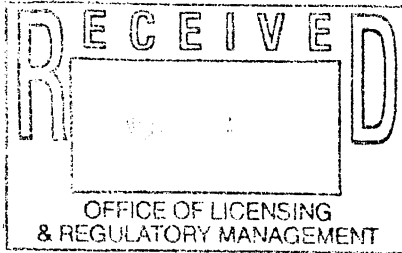
COMMENT: The PCH should not necessarily be responsible for repayment of moneys stolen by staff. This regulation does not take into account the judiciary system.

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.



14-475 (446)

NOV 1 2002
HARRISBURG PA
INDEPENDENT REGULATORY REVIEW COMMISSION

407 Laurelwood Drive
Douglassville PA 19518
1 November 2002

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

Robert Nyce, Executive Director
Independent Regulatory Review Commission
333 Market Street
Harrisburg PA 17101

SUBJECT: New Regulations Pertaining to Personal Care Homes

To Whom It May Concern,

The proposed regulations in the new Chapter 2600 are ridiculous. Aside from increasing the number of regulations from 46 to 127 they contradict the intent of the Executive Order (February 1996) pertaining to General Requirements.

The regulations do not increase personal care for the residents, they only increase the rates personal care homes will be forced to charge to implement and maintain these regulations.

It appears these new regulations are parallel with health care institutions and nursing homes and are not written for personal care homes only. Personal care homes are still trying to accommodate SSI residents and in some homes SSI only covers half the cost for a resident. Many homes will have to discontinue the acceptance of SSI residents.

This whole proposed regulation for personal care homes is an administrative nightmare, it has no substance, will not increase the level of care and will only add a herculean administrative overload which will be costly to the homes and residents.

We need personal care homes now more then ever, let us not put them out of business. Think of the senior citizen and their families.

Sincerely,

Lawrence G. Kline
Joan E. Kline

LAWRENCE G. KLINE
JOAN E. KLINE

Copy to: Michael O'Pake, Senator
Dennis Leh, Legislature

Nov. 1, 2002

14-475 (469)

To Teleta Nevins, Director;

I am writing to you as a concerned daughter of a 90-year old woman in an assisted living facility in Reading, Pa. Recently we have been informed of impending new regulations. Many of these regulations seem extreme and unfair to the smaller facility already giving adequate care at reasonable rates. Furthermore, people on A.S.I. will be priced completely out of the system.

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.

Sincerely

Ruth R. Himmelsteyer

Dear Teleta *Norris* Director

I'm writing to you on behalf of my entire family and many other residential-care consumers regarding the proposed changes to the regulations governing the operation of personal care and assisted living facilities.

These homes serve as an intermediate step between independent living and nursing homes for our loved ones, who aren't critically ill, but whose physical and mental health has begun to decline. The current regulations provide residents with a caring and controlled environment. Assistance and supervision is provided by trained and loving staff members.

Enforce current regulations for homes in violation; correct their deficiencies. Allow the many good homes to continue providing care and services to our maturing loved ones. Keep personal care/assisted living facilities an affordable option and don't limit the locations and choices available.

We desperately need this intermediate level of care for our seniors. The proposed changes are being pushed to approval quickly without adequate resident, family, and provider feedback.

The proposed regulations are excessive and ultimately costly in the following areas:

1. Administration of medication by licensed staff if resident incapable of self-administration.
2. Mandatory continuing education hours (24 hours per year) for staff and administrators.
3. Drastically expanded and medically-oriented paperwork.
4. Required (unsafe) facility evacuations in 2-1/2 minutes for fire drills and increasing sleeping hours fire drills to twice yearly.
5. Over-regulation but fewer home inspections.
6. Physical building accommodations and requirements.

Please streamline the proposed changes and the associated costs with compassion and sound reasoning. Keep these homes affordable, abundant, and residential. Assure a safe, comfortable, and supportive setting for our family members and loved ones.

11-1-02

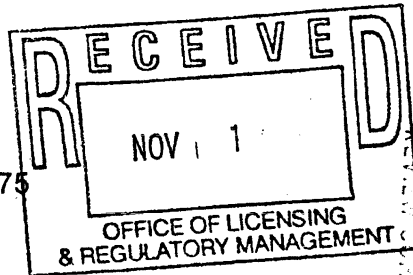
The codes are a very important part in caring for the elderly & making the nursing home especially, Assisted Living a comfortable & pleasant place for the residents. Also in assisting with ADLS.

Sincerely,
Quita J. Kelsey
 Certified Nurse Aide
 1 Cove N H Park
 Ruffsdale, PA 15679
 724-696-5439

#14-475 (309)

Original: 2294

Teleta Nevius
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
P O BOX 2675
HARRISBURG PENNSYLVANIA 17105-2675



Dear Mrs. Nevius,

The following are comments on the draft of the proposed chapter 2600 Personal Care Regulations.

2600.4 Definitions : Restraint

(ii) Last line "As long as the device can easily be removed by the resident" should be removed.

Reason: The person may need to be in the PCH because they are unable to remove a brace or similar device by themselves.

S.P. Support Plan

Last line " and when the care, service or treatment will be provided, and by whom". Remove or change.

Reason: These can be interpreted very precisely. There is no way to tell how soon the visiting nurse can get in to assess the person, decide what treatments are needed and who specifically will meet which need. This timing is beyond our control.

2600.26 Resident – Home Contract

(a) (l) (viii) designated as a smoking or non-smoking home. Very good. Thank You.

(2) Senior Citizen Rebate

Last Line "there may be no charge for filling out this paperwork" – remove or change.

Reason: This paperwork can be very time consuming, If a family member is unable to do this, a reasonable fee should be allowed. i.e., \$10.00 an hour or a percentage of the money involved.

(3) Rescind Contract for up to 72 hours

Please return to current regulation.

Reason: With elderly people, it can take anywhere from one week to a month for them to "settle in" because of Transfer Shock. Some families want the leverage to say "Mom, we've paid for the month, we can't get the money back. Just stay the month and then you can leave if you want to." 95% of the time, they are happy as clams in a week or two. 72 hours is too short a time, they may still be confused or frightened by these changes in their life.

2600.29 Refunds.

(d) Next to last line "When the room is vacated and within 30 days of death. Changes to "within 30 days of when the room is vacated."

Reason: Some families drag their heels about cleaning out the room. They own the belongings. The room can't be occupied until the belongings are claimed. There's not enough storage room to keep unclaimed items.

2600.42 Specific Rights

(u) add (4) Non Compliance with home rules and regulations

Reason: A person should be allowed to be discharged if they do not comply with home rules such as non-smoking or mutual respect or regulations such as participation in monthly fire drills or at least weekly bathing.

2600.54 Staff titles and qualifications

(2) A High School Diploma or GED: Should be removed.

Reason: Personally, I prefer this, but there are some instances when, because of the individual's life experiences, I have found some persons who have been excellent even without formal High School education.

(x) Stolen funds

Needs clarification. "...by the personal care home to REIMBURSE resident's money stolen or mismanaged....."

(z) Excessive Medication

Should not be in regulations.

Reason: Only a doctor can determine the number of medications or the dosage of the medication that is appropriate for a person.

2600.57 Administrator Training and Orientation

(e) 24 hours of annual training. Reduce this to 12 hours.

Reason: A certified registered nurse needs only 15 hours yearly to maintain her certification. A nursing home administrator needs only 24 hours yearly following the initial education. A person knows which area they are proficient in and which area they are lacking in. Two 6-hour days should be plenty to keep them up to date.

(1) CPR and First Aid. Exempting medical professionals from annual first aid training honors their basic education and daily performances. Thank You.

2600.58 Staff Training and Orientation

(c) (12) Safety Management and Prevention. What does this mean? Not defined under definitions. This is very ambiguous. Does it mean safety management and safety prevention? What is safety management? What is to be prevented?

(c) (13) Use of Medication. Purposes and Side Effects. Remove this portion.
Reason: It's not possible to teach all this before the person is allowed to work with residents. Resident medications change on a daily basis. Nurses take a pharmacology course for a whole year and never stop learning about new medications. Likewise for doctors.

The use of universal precautions – Leave this in.
Reason: very important information.

(e) Hours of Training.

24 hours of training for direct care staff initially is reasonable. Add "half of which shall be done with residents under direct supervision."

Reason: Many people taking this kind of position learn best by demonstration and return demonstration in the actual setting. Everything can't be learned before exposure to residents.

24 hours ANNUALLY is excessive. Eight hours is plenty.

Reason: 24 hours is equal to that required for a nursing home administrator. 24 hours is ½ a week for each person, each year. There's no way a PCH can have enough staff to cover these absences for training, let alone the cost involved. All of this training can be done well, in house, with manuals that cover all the topics. I know, I have them.

(f) (1) First Aid and CPR Training.

This should not be included in the list of items the person needs training in BEFORE being exposed to residents.

Reason: One person certified in CPR and First Aid must be present in the PCH, 24 hours a day already. It's not necessary for the second person to be immediately trained. In rural areas, it is very difficult to set up CPR and First Aid Classes. Yes, they need to learn, but within a reasonable amount of time following employment, not before. See previous regulations on the topic.

(g) (7) (viii) Alternatives and Techniques to IDENTIFY depression.

Change word IDENTIFY to MANAGE.

Reason: Identifying depression comes under the physician and nurse practice acts. This is diagnosing. PCH staff need education in MANAGING depression.

2600.60 Individual Staff Training Plan.

Remove. Reason: This is way too detailed. It seems very similar to a special needs child's Individual Educational Plan in school. Replace this with: the staff training topics shall be recorded on the STAFF TRAINING PLAN form (supplied by the district DPW office).

2600.82 Poisons (c)

keeping them lockedunless residents can use or avoid them safely.....

Very good

2600.85 Sanitation

(d) Trash in kitchens and bathrooms.

Please use the words "common use" before "bathrooms"

Reason: Having covered trash containers in kitchens and bathrooms that are used by many individuals makes sense, but covered receptacles should not be required in the resident's own bathroom or bedroom. This is Their Home. Are all of your wastebaskets covered at home? Besides, the facility must be kept rodent and insect free. See section 2600.85 (b) so there's no need for covered receptacles in individual bathrooms.

2600.91 Emergency Phone Numbers

"Phone numbers of hospitals, police, fire department, ambulance, poison control and PCH hot line "posted" on or by each telephone with an outside line." This one is over kill. Reason: Each of our resident rooms has an outside line plus the office facility lines and a line in the dining room and in the activity room for resident use. Every staff person knows that these numbers are easily accessible as listed in the front of the Emergency Preparedness Manual. See section 2600.107. The personal care home hot line number is posted on a large poster "in a conspicuous place" for residents, see regulation 2600.31 (1). 911 or it's equivalent is all that is needed on each phone. If other assistance is needed, the County Communications Center can connect this person's call to all emergency related numbers. If a person is alert enough to have their own personal phone they would be able to access the hot line or 911 without posting it in their room.

2600.94 Landing and Stairs

(b) non-skid surfaces. Remove the word "walkways:

Reason: Many homes have exterior walkways in gardens or to parking areas. These are paved or cement or gravel. " Interior stairs, exterior steps and ramps: are sufficient.

2600.99 Recreational Space

The word GLIDERS. Remove.

Reason: Gliders are very unstable pieces of exterior furniture. We had one and residents never used it. The words BENCHES OR CHAIRS would be more appropriately be placed between the words "including" and "books"

2600.101 Resident Rooms

(k) (l)."Solid foundation". Insert the words "or box spring"

Reason: Beds requiring solid foundations and fire retardant mattresses equate hospital metal frame beds.

Fire Retardant Mattresses. Add "in homes when smoking is allowed".

Reason: These are not needed in a smoke free environment. Most bedroom fires begin with smoking in bed. If you don't allow smoking, you don't need fire retardant mattresses.

(k) (2) Plastic Covered Mattress.

Add: and needed or requested by the resident.

Reason: Plastic covers are usually only needed when a person may be incontinent. They may be too hot for some people who don't absolutely need them. It should be a resident's need or choice.

2600.103 Kitchen Areas

(a) Please insert "metal or wire shelves after "cabinets"

Reason: Coated heavy duty wire shelving is a lot easier to keep clean than cabinets.

2600.105 Laundry

(h) last word "cloths". Surely this is a TYPO., The word should be "dryers"

2600.130 Smoke Detectors and Fire Alarms

(e) ALL smoke detectors and fire alarms – change the words "all" to "a portion of".

Reason: It will be very costly to retrofit all of the fire alarm systems with strobe lights and could put many small homes out of business. The new win of our building is already so equipped. All hearing impaired persons can be placed in the portion of a building so equipped. This is not needed, especially in a single story home.

2600.132 Fire Drills

(h) evacuate to meeting place outside building..... during EACH fire drill."

Add "except during inclement weather"

Reason: In homes not having fire safe areas, residents must go outside. This is a serious threat to their health and safety especially in winter months and or during a nighttime drill. Gathering at the exit is sufficient during the winter months.

2600.141 (a) (7) Resident health exam and medical care.

Remove: "Contraindicated medications and medication side effects".

Reason: Doctors don't even know all the contraindications or side effects of all medications. The pharmacist who fills the resident prescriptions automatically takes care of this precaution. His computer flags any medications with interactions.

(9)Health status with REQUIRED WRITTEN CONSENT.

What does this mean? Please clarify.

2600.143 Emergency Medical Plan

(C) (3) an emergency staffing plan. Remove.

Reason: It has no correlation to what you do when a person becomes ill or injured. It belongs in the "Emergency Preparedness Manual" that all PCH's are supposed to have from a different regulatory agency.

(a) Power of Attorney.

Good. This forces reluctant individuals to name someone, which will eventually be needed in any event.

(11) personal advanced directives. Thank you very much for adding this.

2600.161(g) Nutritional Adequacy.

An excellent provision. However, at the end of the last sentence, please add, "during waking hours" because you don't want to wake people every two hours during the night.

2600.171 Transportation

(a) (4) Remove it.

Reason: Not allowing a resident to drive a vehicle with another resident inside is taking away another choice of a resident. There are many residents who have cars and are perfectly capable of driving their spouse or friend who is also a resident. Residents who are perfectly capable of making choices of driving or riding with another resident should have that choice.

(5) Staff member transporting residents. Complete.....new hire direct care staff training. This is excessive training for someone JUST transporting people.

Reason: They do not need the following staff training and orientation (a) (1) (c) (8) (10) (13) (e) (f) (3) (5) (7) (VIII) as it stands (g) (1) (2).

2600.183 Labeling of Medications

(b) Sample Medications –THANK YOU SO MUCH for including "Sample Medication"

Reason: Trying out a few pills before filling a costly prescription that may not agree with a resident is very helpful to all of us.

2600.186 Medication Records

(b) (2) and (3) will increase the cost of medications to the residents.

(d) "If a resident refused to take a medication". Please add "or nurse" after physician in the second line. If a nurse is in charge of a home, she/he will know if it is necessary to contact the physician immediately concerning this particular medication or if the notification to the doctor can be postponed until the doctors' next office hours. Who wants to call a doctor on Sunday morning for something like a refused vitamin? However, if the medication were very serious, like Coumadin, a blood thinner, the nurse would know to call the doctor immediately.

2600.225 Initial Assessment and the Annual Assessment

(b)(8) Psychological assessment.

Add "if the attending physician deems necessary"

Reason: Not everyone needs one. Does this mean each resident has to see a psychologist? Who pays for this? Please clarify. Psychological assessments only need to be redone if there is a change in behavior – not necessarily on an annual basis.

(d)(1) 30 days before or after anniversary date. Very helpful. Thank You.

2600.241 Mobility Standards

(b) last word "immediately". Return to previous regulation wording or at least "within 7 days"

Reason: A week gives family and PCH time to make proper arrangements. If the wording is left "as is". It will lead to residents being "dumped" in hospital emergency rooms.

2600.252 Content of Records

(a) (2) description of resident is very helpful

(b) (a) (3) current photo is very helpful

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Linda C. Harding".

Linda Harding RNC
Co Owner, Twin Cedars Assisted Living Center
Certified Gerontology Nurse
Certified Diabetes Educator

Original: 2294



#14-475

359

ESTATES AND MANAGEMENT CORPORATION

PERSONAL CARE & ASSISTED LIVING

CORPORATE OFFICE

One Corporate Drive
Hunker, PA 15639
724-755-1070
Fax 724-755-1072

Date: 11/1/02

To: Teleta News Company: APW / OLM

Fax # 717-705-6955

From: Margie Zelenak

Company: Easy Living Estates

SOMERSET

138 East Main Street
Somerset, PA 15501
814-445-9718
Fax 814-445-2999

Fax# Corporate 724-755-1072 Ligonier 724-593-7720
Somerset 814-445-2999 New Stanton 724-755-0615

LIGONIER

R.D. #4, Box 107
Ligonier, PA 15658
724-593-7720
Fax 724-593-7720

NEW STANTON

One Easy Living Drive
Hunker, PA 15639
724-925-1159
Fax 724-755-0615

LAKE SIDE

Lakefront Resort
Community
724-755-1070
Adjacent New Stanton

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Number of pages including Cover page 4



ESTATES AND MANAGEMENT CORPORATION

PERSONAL CARE & ASSISTED LIVING

October 31, 2002

CORPORATE OFFICE

One Corporate Drive
Hunkler, PA 15639
724-755-1070
Fax 724-755-1072

SOMERSET

138 East Main Street
Somerset, PA 15501
814-445-9718
Fax 814-445-2999

LIGONIER

R.D. #4, Box 107
Ligonier, PA 15658
724-593-7720
Fax 724-593-7720

NEW STANTON

One Easy Living Drive
Hunkler, PA 15639
724-925-1159
Fax 724-755-0615

LAKESIDE

Laketront Resort
Community
724-755-1070
Adjacent New Stanton

Teleta Nevius, Director of OLM
Department of Public Welfare
Room 316 Health and Welfare Building
PO Box 2675
Harrisburg, Pa 17120

Dear Teleta:

After working so many months on the subcommittees and with you personally on the new regulation 2600, I was shocked to see the results. The regulations that were published in the Pa Bulletin reflect little of our work and discussions.

Why? I ask myself that question. Why did I give of my time to help develop this regulation, when there was no intention of including any suggestions or comments?

You and Ellen repeated in many of our meetings: "It is not our intention to put any Personal Care Home out of business". This will not be the case if these regulations are implemented.

These regulations will infringe on the rights of the residents to choose a Personal Care Home. 2600 will change the concept of the profession from a Social model to a Medical model.

The advocates have been pushing their points for the resident rights. They will be taking away their right to choose. They will impose a cost increase on the residents to implement these regulations. Most will not be able to afford these increases. Where will the advocates be then, when they have no place to live? Who will accept a SSI resident? Where will these residents live?

Why these regulations won't work:

- Cost increase to residents
- Increase in Paperwork means less care for the residents
- More regulations with less inspection
- No grand fathering of the buildings for PCH

Cost Increase:**Self-Administration**

The revision did take out the requirement for an RN but instead added the requirement in 2600.181e. Most people would not be able to do this even with all of their mental faculties.

Staff Training

We had discussed the 16 hours of shadowing for the staff training. The regulations still include training before direct care staff can touch a resident. This will be costly to train for 40 hours before they can work with a resident. They need to have hands on to see if this job is for them.

Policy & Procedures

In the regulatory analysis, it is stated the cost would be \$14.00. This maybe the cost to print them but what about the time involved to develop them. How will these manuals insure better care for the residents? Is it reasonable to ask a small home to develop these for 8 residents.

Documentation requirements

Most homes would have to hire an employee just to keep up with the daily documentations. How does this improve the health, safety and welfare of the residents?

Less Inspections

With all of these new regulations were is the logic in having less inspections.

Buildings

There is no grandfathering of buildings in 2600. What will happen to the homes that can't meet these new standards?

In closing, let me re-emphasis, these regulations are not what the Personal Care Home profession needs to survive and provide for the health, welfare and safety of the residents. Send them back. Let us revisit the 2620 regulations and make changes as needed to them.

As you saw from your meeting throughout the state, there are many good homes. We care for our residents and welcome the opportunity to make some changes to 2620. I feel we have not been heard.

THE REGULATIONS AS PROPOSED MUST BE STOPPED.
Personal Care Homes want to remain a social model not become a medical model. Let the residents have a choice, 2600 will take away that choice.

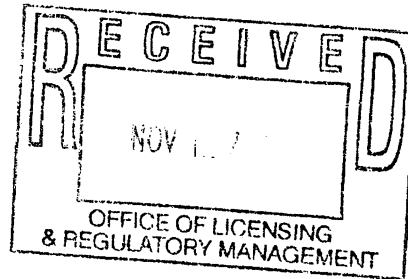
Sincerely,

A handwritten signature in cursive script that reads "Margie Zelenak".

Margie Zelenak
Assistant Administrator

14-475 (676)

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



November 1, 2002

Dear Teleta Nevius:

I am writing to you as a concerned family member. My mother was always a very healthy and capable person until a few years ago when she got osteoporosis and arthritis in her knees. After my father passed away in 1976, my mother bought a mobile home and put it on my sister's property. Mother continued to live there for several years and was very happy helping to cook meals when my sister worked.

To make a long story short, my sister got breast cancer in 1985 and my mother helped her through this ordeal and my sister recovered. Then the cancer metastasized into bone cancer around 1994 and again my mother was nearby to help my sister; however, in 1996, my sister passed away.

While my sister was alive, she and her husband were able to check on mother daily to see if she needed anything and mother was able to help out with them as needed. After my sister passed away, my brother, two sisters and I worried that mother wasn't eating properly and was forgetting to take her medicine on time. We discussed things with her and decided to move her into my brother's Assisted Living Home where she would be given nutritious meals and someone would be there to make sure she took her medicine in a timely fashion.

I do not live in the same town as my mother and I teach school and am unable to take care of her. My two sisters work at the Assisted Living Home, as well as other family members and it is great for my mother. Mother does not need Nursing Home care because she is able to get around and has a sharp mind. If she were to be placed in such a facility, I fear that she would fail quickly. Because of this, I am asking that you please rethink the new regulations that are proposed for Personal Care Homes and Assisted Living Homes and do not pass them. Families cannot afford to pay any more than they now pay for their loved ones care. I implore you to please cut the excessive regulations and do force my mother and so many others to move. My mother is now 90 years old and very happy and content where she is living. Please do not pass these senseless regulations. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Lorraine Finlan".

Lorraine Finlan

NOV 12 2002
NEW JERSEY
LICENSING COMMISSION

Original: 2294



ESTATES AND MANAGEMENT CORPORATION

PERSONAL CARE & ASSISTED LIVING

14-475 (464)
"Same commenter
as #4,463
and 464"

**CORPORATE
OFFICE**

One Corporate Drive
Hunker, PA 15639
724-755-1070
Fax 724-755-1072

SOMERSET

138 East Main Street
Somerset, PA 15501
814-445-9718
Fax 814-445-2999

LIGONIER

R.D. #4, Box 107
Ligonier, PA 15658
724-593-7720
Fax 724-593-7720

NEW STANTON

One Easy Living Drive
Hunker, PA 15639
724-925-1159
Fax 724-755-0615

LAKESIDE

Lakefront Resort
Community
724-755-1070
Adjacent New Stanton

November 1, 2002

Dear DPW Personal Care Home Advisory Committee:

A spontaneous meeting on of provider Organization's happened on October 23, 2002 at my facility in Somerset. I was asked to host this meeting and I obliged to happily.

For providers who are so diverse to get together and speak with a unified voice is unheard of. The common threat and dislike of 2600 is so genuine that East (Philadelphia) traveled to West (Somerset).

The common goal for what we signed under is: To Kill Regulation 2600 and Revise 2620 as is needed. We all elected Matt Harvey to speak for and to present our concerns at the October 24, 2002 Advisory Committee Meeting. Harvey Everett the Chairperson has denied this opportunity. In the interest of Democracy, I provide to you this information!

Sincerely,

Istvan Upor

CC: Teleta Nevius, DPW / OLM
Mary Lou Harris, IRRRC
Harold F. Mowfey, Senate Chairman Health & Welfare Committee
George T. Kirner, House Chairman Health & Human Services Committee

Telete News Director

Office of Licensing
Dept. of Public Welfare
Room 316
P.O. Box 2675
Harrisburg, Pa 17120

Original: 2294

Nov. 1, 2002

14475 (537)

NOV - 7 11:50
REVIEW COMMISSION

Dear Director:

I am writing with great concern with regard to the Proposed changes to the regulations for Assisted Living & Personal Care Homes.

My 90 year old Mother is in an Assisted Living Home and I might add very contented. She is getting Three meals and a snack every day. Before she was placed I would check to see what did you eat today, 1/2 can Kidney Beans for lunch, Then what did you have for dinner The other half of the Kidney beans.

She definitely doesn't qualify for nursing home care. Why are you trying to move her out?

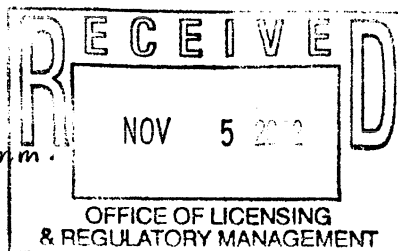
I work and so do my brother & sisters. We purchased the needed items for her. Please do not take what she has found to be a good home with loving staff she feels very comfortable with them.

I have been reviewing the proposed changes to the 2600 regulations. This one-size fits all approach will devastate the small Personal Care Homes. Please take more time and don't try to make a name for yourselves at the expense of the small (like home) Personal Care & Assisted Living Home

It will add increased cost that will have to be passed onto the resident who already stretched at this time

Thank you so much for the opportunity to communicate with your offices and the NAPCHAA. I feel you will put yourself on the line on behalf of my mother and all the other residents.

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



Sincerely
Dale Brudger
Grace Brudger

14-475

357

Original: 2294

<p>5120 Memorial Boulevard Tobyhanna, PA 18466 Phone (570) 894-5180 * Fax (570) 894-5183</p>	<p>Darlak Properties</p>
--	---------------------------------

DATE: November 1, 2002

TO: Beverly Doherty, Director of Bureau of Home and Community-Based Services
Office of Social Programs

Teleta Nevius, Director of Office of Licensing and Regulatory Management

FAX: (717) 705-6955

PAGES INCLUDING COVER: 2

FROM: Jeff Rosen, Executive Director of Development and Operations for Darlak Properties... Owners and Operators of Nanticoke Villa Personal Care Center

RE: Comments to the Proposed Personal care Homes Regulations of 10/05/02 -- 55 PA Code Chapter 2600

• **Please Note:** The following pages are confidential and intended for the addressee. If any part of this fax is not legible please call the above telephone number for a new transmittal.

Dear Ladies and Gentlemen

As per instructed via your circular I am providing comments to the proposed regulations on the attached sheet.

Thank you for your time and attention.

Jeff Rosen
Executive Director

NOV 05 2002 14:42
14-475-357

WRITTEN COMMENTS REGARDING REGULATIONS

Regulation Number	Section Title	Relevant Part of Reg. Reads...	Comment / Suggestion
2600.54	Staff Titles	Direct Care staff shall have the qualifications of a High School Diploma or GED.	1. Current High School and GED curriculum do not provide the skill nor compassion training required to be a qualified quality Care Giver, 2. Currently a high percentage of quality Care Givers in Personal Care Homes do not have High School Diplomas or GEDs and should a regulation such as this be retroactive, staffing would be significantly and adversely effected for an extended period jeopardizing the viability of Home Care facilities, and 3. Further, a requirement of these degrees would reduce the available quality workforce willing and able to provide QUALITY CARE causing personal care facilities and cause the pricing structure of Personal Care facilities to be out of Residents' resource range.
2600.57	Admin. Training	An Administrator shall have at least 24 hours of Annual Training relating to Job Duties.	To expand the current training requirements will 1. Take the administrator away from oversight of daily duties, 2. Will be a significant expense due to: enrollment into a qualified Training Program, compensation for the administrator's time during the training as well as travel, meals, and potential overnight accommodations.
2600.58	Training & Orientation	... use of medication, purpose and side effects of medication.	1. Within a Personal Care facility residents' must be capable of self-administering medication. 2. Any and all medication must be prescribed by the residents' physician. 3. Staff assigned the responsibility of oversight of medication are trained to secure and to distribute residents' medication as prescribed by their respective Physician as well as monitor and immediately report any adverse reactions to the respective residents' Physicians for instruction. Should the Physician not be available Emergency Service are immediately contacted.
2600.58	Training	Direct Care staff shall have at least 24 hours of annual training related to their job.	The immediate implementation of additional quantity of training hours will cause an immediate financially adverse effect in regards to: 1. The additional staff required to provide resident care during training, 2. The compensation of staff being trained, and 3. Any cost related to the multiple number of training opportunities required to ensure all direct care staff receive the required quantity of training hours.

NANTICOKE VILLA PERSONAL CARE HOME

COMMENTS BY: Jeff Rosen, Exec. Director Darlak Properties (Owner and Operator) November 1, 2002

14-475 (598)



THE COUNTY OF CHESTER



COMMISSIONERS:
Karen L. Martynick, Chairman
Colin A. Hanrahan
Andrew E. Dinniman

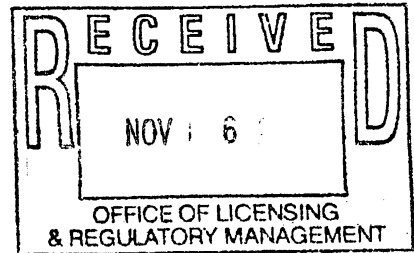
DEPARTMENT OF MENTAL HEALTH/
MENTAL RETARDATION
601 Westtown Road, Suite 340
P.O. Box 2747
West Chester, PA 19380-0990
610-344-6265
FAX: 610-344-5997

REGULATORY
REVIEW COMMISSION

THOMASINA H. BOUKNIGHT
Administrator

November 1, 2002

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



Dear Director Nevius:

The Chester County Department of MH/MR has assembled a small work group to look at the problem of complaints about Personal Care Boarding Homes (PCBH) in our county. Members of this work group have been very concerned with the vague nature of the regulations and with the poor oversight that seems to be evident. We are primarily concerned with the quality of life issues for individuals who are consumers of mental health services or individuals with a developmental delay.

The proposed regulations need to be further enhanced or changed. Our work group has made comments about the following proposed changes. We respectfully submit these changes during the allowed comment period:

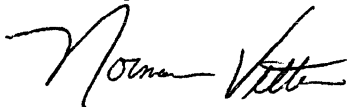
- 2600.11 **Licensure.** This section needs to include unannounced licensure visits and relicensing every nine to fifteen months.
- 2600.15 **Abuse.** Employees suspected of abuse should be removed immediately, and reinstated pending the outcome of an independent investigation.
- 2600.16 **Reportable incidents.** This regulation should include each home having a policy for investigating complaints and reporting complaints to the licensure entity on a regular basis.
- 2600.20 **Resident Funds.** If the home accepts responsibility for these funds they must be accountable to the consumer or his/her guardian with a quarterly financial report and receipts to support expenditures.

- 2600.27 **Quality Management.** Every PCBH operator must have a way to track incidents, complaints, all deaths, staff training and program enhancements as a method to show how the program is going to maintain safety and quality. All problem areas need to have a plan of correction and a documented method for improvement.
- 2600.41 & 42 **Resident Rights.** Every resident must sign the rights and a copy of the rights should be posted in the home. Any complaint or incident must be investigated within ten days (10 days) of receipt. There should be a review process for any resident who is served an eviction notice against their will. All notification of eviction must give at least 30 days written notice. There needs to be adequate notice of any policy or house rule changes. All changes must be notified in writing and posted at least 30 days prior to taking effect. All resident accounts are to be made whole if any funds are improperly mismanaged or stolen by staff or management of the facility. Once a complaint is filed, an eviction notice is not allowed or permitted until after the resolution of the complaint has been in effect for 30 days.
- 2600.226 **Development of a Support Plan.** This is vital to the quality of life for any individual residing in the community. This plan needs to be developed along with the resident's family or personal support system, including mental health or mental retardation professionals working with the resident. We suggest that a "circle of support" model be incorporated for every resident. This should also be updated at least annually.

Furthermore, The Chester County PCBH workgroup supports the recommended changes and comments that the Mental Health Association of Pa. has drafted. Overall, we want respect, dignity and good quality of life for individuals residing at PCBHs. The regulations and policies need to be in place for the protection of the residents, ensuring their health and safety. Currently, it seems that the regulations are vague enough to make the operation of the homes more convenient for unscrupulous operators and owners. It is difficult to legislate every aspect of a person's living environment, but we are concerned about promoting a positive quality of life for the resident. We hope that the proposed changes will make this happen.

Thank you.

Sincerely,



Norman Vetter
Mental Health Director

NV/lr

cc: PCBH Committee

Original: 2294

Country Comfort



Country Comfort Assisted Living
RR 1 Box 27
New Columbia, PA 17856
570-568-1090 fax: 570-568-1095

14-475
372

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

November 1, 2002

To the Department of Public Welfare of Licensing and Regulatory Management,

I am an administrator and co-owner of a 20-bed personal care facility and am writing to you concerning the new regulations that have been created for personal care facilities. Our facility has all private rooms and we currently have twelve SSI residents and eight residents who pay \$45 or less a day. Currently we employ one administrator, one co-administrator, 2 full time personal care staff, and 5 part-time personal care staff none of which I can pay any benefits. My oldest resident is 97 and doing very well. She has been with us since we opened in 1997.

We are a small facility but we give excellent care as our inspector, AAA, residents and their families will tell you. Our facility has been described as being homey, cozy, and caring. There has not been one resident who has wanted to leave after staying with us for 30 days. We have a very limited budget but have managed to create a very well run, warm, caring home for our elder citizens. All this could change overnight if the new proposed regulations are passed.

It is my opinion that you are trying to take a social environment and create a medical environment. This is an injustice to our elderly. It also seems to me you want more professional people to reduce errors but we are constantly catching professional people's errors. This past week we had two doctors whom made errors on medication dosage when writing new scripts. We also had the pharmacy fill a prescription with the wrong dosage. This type of thing is not out of the norm. No matter how many highly educated professionals you require people still make mistakes and it doesn't always take another highly educated person to catch them. It takes people who like their jobs and the people they care for.

I hope you will seriously consider changing these regulations. Otherwise we will have no other choice but to tell families and residents that we will have to close our facility due to the high cost of insurance and the high costs you have imposed on us. Perhaps you would like to explain all of this to our residents. What has happened to protecting their rights? I think the public should know how government control has again closed small businesses, created more unemployment, and abused the elderly by forcing a safe,

healthy, caring home to close. In addition, where are the SSI residents to go? There are not a lot of places that will take these low-income residents. I beg you to read carefully and hear what we as administrators are telling you.

The following regulations we feel need to be changed or clarified:

CLARIFY

1. 2600.32 J

Clarify assistance in attaining clean, seasonal clothing. Does this mean we need to purchase clothing for those who have no money? How are we to handle those residents who are not having a problem with the clothes they have but we think are not seasonal?

2. 2600.33 K

Clarify "request modification to the resident's record". Does this mean medications, support plans, finances, whatever they decide they want changed?

3. 2600.33 L

Clarify "right to purchase, receive, and use personal property." Does this mean they can purchase a horse or motorcycle and we need to accommodate them? Does this mean they can receive a cat as a gift and we need to accommodate it although our contract does not allow pets?

4. 2600.33 Z

Clarify "excessive medication". How can we be accused of giving excessive medication if we are following doctor's orders?

5. 2600.56 C

Clarify "an average of at least 20 hours a week". Does average mean weekly, monthly, yearly?

6. 2600.56 M

Clarify "if he (why not she?) is scheduled to provide direct care services". Does this mean that an administrator needs to schedule himself or herself on the work schedule in order for personal care hours to be counted? I do endless amounts to personal care in my 8,10, or 12-hour days without being scheduled or keeping track of it. If a staff or resident need me, it is part of the job all the time.

7. 2600.99

Clarify "gliders".

8. 2600.224 B

Clarify. Does this mean that if we cannot meet the needs of an applicant, we need to notify AAA?

9. 2600.228 H 3

Clarify. Does this mean that every time we discharge or transfer a resident because they need a higher level of care, we need to contact our PCH regional field licensing office? I would think this would be very time consuming for them. What is the purpose? We need to report this information when we have inspections.

PROBLEMS

1. 2600.20 B 4

This service is to be offered on a daily basis. My co-administrator and I work Monday through Friday and are on call alternate weekends. Residents and their families know this without any problems. I do not nor do I want to give my staff person access to residents' funds. This creates any unnecessary risk for money to be stolen. The residents can receive their funds during office hours or choose to take care of their own funds.

2. 2600.33 U

This regulation states nothing about violation of contract. Does this mean we cannot ask a resident to leave if they violate the contract?

3. 2600.33 X

We encourage residents not to keep values in their rooms and we have them sign a release of responsibility form releasing us of responsibility if something is missing from their room. None of our residents or families have had a problem with this. How am I to know how much money some of our dementia residents have in their room or if they missed placed it (like threw it in the trash or down the toilet)?

4. 2600.53 A

How can I afford to pay someone with these qualifications? I and my co-administrator are currently receiving less than \$25,000 a year. (Both of us do have degrees.) How many people with these qualifications do you think will be will to work for that amount of money? Also do you think because they have a degree that they will be better administrators? You just need to love your job.

Solution: Let people who want to be administrators take the training, do the internship, and pass a test.

5. 2600.57 B

You have increased the training hours from 40 to 60 and the are requiring 80 hours of intership. This is very costly considering the cost of classes and time. This could deter people from even trying.

Solution: Reduce intership hours and give a test on the 60 hours of training.

6. 2600.57 E

24 hours of annual training for administrators - This will create a real hardship trying to find credited hours that can fit into my budget. Most training cost \$100 or more for 4 or 5 credit hours. That could cost me \$600 or more a year for my training.

Solution: Reduce annual training to 10 hours.

7. 2600.58 E

24 hours of annual training for direct care staff - we cannot afford to send 8 staff people outside for 12 hours of training. This could cost us \$2400 or more for training programs not to mention having to pay for the hours and mileage while they are at training. Also I need to pay for someone to cover the shift or shifts.

Solution: Reduce hours to 12 hours, 6 in-house and 6 out.

8. 2600.85 D

Covered trash receptacles in the bathrooms - Many of our residents would get confused on how to work the trash receptacles or just frustrated and throw the incontinence pads or trash on the floor or flush down the toilet. This would create a whole new problem and expense. We empty trash once daily and sometime more depending on soiled or wet incontinence pads.

Solution: Covered trash reseptacles in kitchen only.

9. 2600.102 A

One flushing toilet for six people - I think this regulation is degrading and insensitive to the needs of the elderly. I know if we had only four bathrooms in our facility, we would be spending a considerable amount of time cleaning up messes.

Solution: One flushing toilet for every 2 or less users.

10. 2600.107 4

Three days supply of drinking water - Where and how do you suggest we store 3 days of drinking water? Also what about water to flush toilets and bath?

Solution: Provision for this should be covered in the disaster plan.

11. 2600.107 5

Three days supply of resident medications - We have a system of a 2-week med exchange. The pharmacy brings us the new medications the day before we run out. Also some residents' families supply their meds and do not bring them until the day before or the day we need them.

Solution: Provisions for this should be covered in the disaster plan.

12. 2600.130 E

Equip smoke detectors and fire alarms for hearing impaired - What happens at night when the hearing impaired resident is sleeping? WE have smoke detectors in every room as well as in the hall. This would be a very expensive cost.

Solution: I have placed signs that read " FIRE!!! GET OUT!" in strategic locations so staff can use them
for fire drills.

13. 2600.141 A 7

Medication side effects - We cant' get the doctors to complete the current MA51 properly now. There is no way that they are going to include the side effects for every medication.

14. 2600.161 G

"other beverages offered to the residents every 2 hours" - Does this mean sleeping hours as well? We have a water mug in every residents room and they receive fresh water every morning and evening as well as when requested. We also pass other beverages in the mid-morning, with 8pm medications, and at meal times. I think every 2 hours is extreme.

Solution: Offer 2 other times beside meals.

15. 2600.182 G

Antiseptic and external use medications stored separately from oral and injectable meds - Does this mean that cough medicine and Tums must be stored in a separate area away from triple antibiotic ointment? If this is the case, we will need an additional room to store medications as required.

16. 2600.186 B 2

Possible side effects - If we need to keep the possible side effects of every medication in the med records of each resident, we will need a bookcase just for the medication records. This seems to be a waste of space and paper since it will be duplicating information.

Solution: Have a notebook arranged in alphabetic order of medication information sheets on all medications in use.

17. 2600.186 D

Medication refusals reported to the physicians by the end of the shift. Some doctors turn their fax machines off at the end of their office hours and would not appreciate receiving a page telling them that a resident has refused their medication.

Solution: Fax or call information to the doctor the next day that the doctor has hours.

18. Definition of immobile residents is too broad. All of our dementia residents could possibly fall into the category. Keep the existing definition as is.

19. Definition of restraint includes a chemical device. All our PRN medications such as ativan and risperdal could fall under this category but they were prescribed by a doctor for the purpose of controlling aggressive behavior. Therefore chemical restraint should be excluded from this definition.

20. Paper management is going to be overwhelming. You want written policies on:
- a. prevention, reporting, notification, investigation, and management of reportable incidents
 - b. job descriptions
 - c. management plans
 - d. staff-training plans
 - e. individual staff-training plans
 - f. resident appeal policy
 - g. emergency procedures
 - h. support plans
 - i. emergency medical plan
 - j. driver transportation info

We will have to hire extra staff in order to keep up with the extra paperwork not to mention the extra load put on our inspectors.

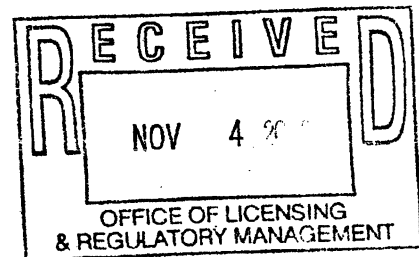
Thank you for your time and consideration.

Sincerely,

Melanie A. Trate

Melanie Trate, Co-Administrator
cc: Rep. George Kenney, Jr.
Rep. Frank Oliver

Sen. Hal Mowery
Sen. Timothy Murphy





14-475
3660

Law Center North Central
3638 North Broad Street, Philadelphia, PA 19140
Phone: 215-227-2400
Web Address: www.clsphila.org

FAX TRANSMITTAL COVER SHEET

FAX NUMBER: 215-227-6486

DATE: ~~11/2/02~~ 11-3-02

TOTAL NUMBER OF PAGES 47 (INCLUDING THIS COVER SHEET)

TO: Teleta Nevius, Director

ORGANIZATION: DPW Office of Licensing and Regulatory Management

FAX NUMBER: (717) 705-6955

FROM: Pamela Walz

DIRECT DIAL: (215) 227-2400 X 2431

CASE NAME: PCH regulations - COMMENTS

FILE NO.: _____

MESSAGE: To be followed by hard copy

Please call the direct dial number above if there are any problems with this transmission. The information contained in this fax transmittal is legally privileged and confidential and intended only for the use of the individual or organization named above. If you receive this message but are not the intended recipient, please destroy the fax transmittal and notify the sender at the above direct dial number. Thank you for your cooperation.

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OPERATOR _____

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Law Center North Central
3638 North Broad Street, Philadelphia, PA 19140
Phone: 215.227.2400, Fax: 215.227.2435
Web Address: www.clsphila.org

November 1, 2002

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

Dear Ms. Nevius:

I am pleased to submit comments on the proposed new 55 Pa. Code Chapter 2600, revising the existing personal care home licensing regulations. The Elderly Law Project (ELP) is a unit of Community Legal Services, Inc. which provides legal assistance to low-income elderly people. Many of our clients reside in personal care homes or are at risk of requiring personal care services because of physical disability, dementia or mental illness. I also serve on and am currently the vice-chair of the Department's Personal Care Home Advisory Committee. These comments are submitted on behalf of our individual clients as well as our organizational client Action Alliance of Senior Citizens of Greater Philadelphia, a non-profit organization whose purpose is to improve the well-being of the elderly by uniting senior citizens into a strong coalition to advocate for their rights and interests.

The proposed regulations represent a significant and long-needed improvement from the current PCH regulations at 55 Pa. Code Chapter 2620. We applaud the lengthy and open public process which the Department has undertaken to obtain input and seek consensus from stakeholders on their content during nearly the past two years. During this time period, the Department has gathered input from individual providers, provider trade groups and organizations, consumers, consumer advocates and other stakeholders at numerous meetings.

Since the beginning of 2001, OLRM staff have attended nearly every one of the Personal Care Home Advisory Committee's (PCHAC) meetings to advise the committee concerning the draft regulations and to take input from the group. The membership of the PCHAC includes the major provider organizations and a number of individual PCH providers, as well as consumers and advocates. PCHAC meetings are heavily attended by PCH providers and interested provider organizations who are not formally members of the committee but who actively participated in providing input to OLRM staff during the meetings. The PCHAC created several subcommittees which met as workgroups to develop recommendations on various aspects of the proposed regulations, including licensing and enforcement, staffing levels and training, waivers, assessment tools, and medications. These workgroups were open to non-PCHAC members, a number of whom participated, as did the major provider organizations and other provider members of the PCHAC. OLRM and/or OSP staff attended the workgroup meetings, and many areas of consensus reached by providers and advocates at these meetings have been incorporated into the proposed regulations. Meetings at which public input has been provided include the following:

- May 2001 – OLRM held a 3-day stakeholders session in Lancaster on the first draft of proposed regulations.
- October 11, 2001 - OLRM staff attended DPW Personal Care Home Advisory Committee (PCHAC) meeting to discuss proposed regulations
- November 28, 2001 – PCHAC Workgroup on Licensing and Enforcement – at Pennsylvania Health Care Association (PHCA)
- December 14, 2001 – PCHAC Workgroup on Licensing and Enforcement – at Dept of Aging
- January 8, 2002 – PCHAC Workgroup on Licensing and Enforcement – at Dept of Aging
- January 10, 2002 – OLRM staff attended PCHAC meeting to discuss proposed regulations
- March 14, 2002 – OLRM staff attended PCHAC meeting to discuss proposed regulations
- March 27, 2002 – PCHAC Workgroup on Staffing, Workgroup on Waivers - at PHCA
- March 28, 2002 – PCHAC Workgroup on Assessment – at PHCA
- April 11, 2002 – PCHAC Workgroups on Staffing and Assessment – at Country Meadows PCH
- May 29, 2002 – PCHAC Workgroup on Staffing, Workgroup on Assessment – at PHCA
- June 13, 2002 – OLRM Staff attended PCHAC meeting to discuss proposed regulations
- June 13, 2002 – PCHAC Workgroup on Assessment – at Dept of Aging
- August 22, 2002 – PCHAC Workgroup on Assessment – at Pennsylvania Association of Non-Profit Homes for the Aging (PANPHA)
- August 29, 2002 – PCHAC Workgroup on Staffing and Medications – at Dept of Aging
- September 5, 2002 – OLRM staff PCHAC attended meeting to discuss proposed regulations
- September 5, 2002 – PCHAC Workgroup on Assessment – at Dept of Aging

In addition to the above meetings, we are aware that OLRM staff made numerous visits to PCHs across the Commonwealth and met with many provider groups around the state, hearing concerns and receiving suggestions on the proposed regulations.

There have also been public comment periods for three previous drafts of proposed regulations. The first was the May 2001 draft released just prior to the meeting in Lancaster. Public Comments were accepted for months following this release. The second draft was released in January 2002. Public Comments were accepted on this draft for at least 2 months. The third was the March 2002 "PREVIEW" of the proposed regulations. Public comments were accepted on this draft until at least August 2002.

The Need for Improvement to the Regulations

The personal care home licensure system has been the subject of considerable public scrutiny over the past several years. In October 2001, the Pennsylvania Auditor General issued a scathing report concerning the Department's licensure and inspection of these facilities. (<http://www.auditorgen.state.pa.us/Department/Press/PCH-PR.html>) In February 2002, the

Pennsylvania Health Law Project provided the Department with an advance copy of its White Paper entitled "A Report On Pennsylvania's Personal Care Homes And Assisted Living Residences: Licensure Violations And The Department Of Public Welfare's Enforcement Efforts For Personal Care Homes And Assisted Living Residences With Less Than Full Licenses - A Call For Reform That Has Been Unheard For Over Twenty Years". The White Paper set forth PHLP's findings from its investigation into the conditions in personal care homes across the Commonwealth (based on a review of the Department's own public files) and into the Department's licensure and enforcement actions in response to those conditions. (The White Paper, which was publicly released on October 25, 2002, can be located at www.phlp.org).

Personal care homes house some of the Commonwealth's most vulnerable citizens. Many are severely physically disabled individuals or frail elderly people (many suffering from dementia). A large proportion have mental health diagnoses; others are mentally retarded. Over the years, the acuity level in PCHs has markedly increased, especially as assisted living residences (ALRs) have entered the market, catering to seniors who have significant health problems but do not want to enter nursing homes.

The public scrutiny of personal care homes has revealed a twofold problem. First, the regulations are wholly inadequate to ensure the health and safety of the resident population. Under the current regulations, PCH staff need only be 16 years old and can work for six months before receiving any training on their job responsibilities. PCH administrators need only have a high school diploma or GED and attend 40 hours of training to run a facility. It is therefore unsurprising that PHLP's White Paper documented numerous instances of medication errors and failure to provide appropriate personal care services in these facilities. Second, the regulations are not enforced. The Department has refused to enforce the regulations adequately, as documented by the Auditor General's report. A system-wide transformation of attitude is needed within the Department to recognize the importance of taking residents' health and safety seriously.

Major Areas which Should Be Retained or Revised

The proposed regulations contain a number of provisions which will greatly improve the health, safety and quality of life for personal care home residents. **We strongly urge that all of them be retained in the final version of the regulations. These include:**

- **the enhancement of staff and administrator qualification and training requirements,**
- **the requirement that PCHs develop individualized assessments and support plans,**
- **tying staffing levels to the assessed needs of a facility's residents, and**
- **affording residents the right not to be evicted from their PCHs except in certain specified circumstances and to appeal evictions.**

Other areas of the proposed regulations require revisions and improvement. First, despite the recent controversy about the Department's lax enforcement of PCHs, the proposed regulations inexplicably reduce the frequency of inspections from annually to every three years. This is

completely unacceptable and inadequate. Moreover, inspections must be **unannounced**, in order to afford the Department a true picture of the facility's day to day functioning.

The lack of any changes or improvements whatsoever to the licensing and enforcement provisions (aside from reducing frequency of inspections) is also extremely disappointing. Since the Auditor General's scathing 2001 report, the Department has received extensive input from stakeholders concerning the changes which are needed to the licensing and enforcement system. The Department's PCH Advisory Committee formed a subcommittee in November 2001 to make recommendations concerning improvements which could be implemented in the Department's licensing and enforcement of PCHs under the current statutory scheme. After extensive work, the subcommittee produced recommendations which were then adopted unanimously by the full PCHAC and forwarded to the Secretary.

These recommendations, a copy of which is attached, urged the Department to: begin classifying violations and imposing fines (which the Department had refused for years to do, in violation of state statute and its own regulations), shorten the process for appealing adverse licensing actions (which currently often takes as long as six years, during which the facility can continue to operate and accept new residents no matter how bad the conditions in the facility), halt its practice of renewing licenses of facilities which are not in compliance with licensing standards, and improve its response to resident complaints. Both the Deputy Secretary of the Office of Social Programs and the then-Personal Care Division Director were present and participated in the subcommittee's work which produced these recommendations, and providers were well-represented on both the subcommittee and the full PCHAC which unanimously urged the Secretary to adopt these improvements. These recommendations, which would vastly improve the Department's licensing and enforcement practices, should be incorporated into the final version of the regulations.

Finally, the creation of a resident's right not to be discharged from a PCH except in certain specified circumstances and to appeal an involuntary discharge is a very important advance, as residents can currently be evicted for any reason or no reason. As a result, PCH residents are extremely reluctant to make complaints or to exercise their rights, for fear of being evicted. However, the new provisions need to be fleshed out significantly. As the proposed regulations are written, the resident appears to have only the right to appeal her discharge to the facility. This will not protect residents from retaliatory or unreasonable evictions; a facility which is inclined to evict a resident for exercising her right to file a complaint or on another unreasonable grounds is patently unlikely to afford a fair hearing when the resident appeals. Instead, residents must have the right to appeal **to the Department** through the fair hearing process. In addition, residents must be afforded the right to remain in the facility pending the outcome of their appeal.

Comments on Specific Provisions of Proposed Chapter 2600:

2600.3 – Inspections and licenses or certificates of compliance

It is very disturbing that the Department has eliminated the requirement of the prior draft of 2600.3 that inspections take place annually. **More, not less, oversight is desperately needed in order to improve conditions in PCHs and protect the vulnerable residents who live there.** It is absolutely essential that facilities be inspected

annually and that such inspections be unannounced. Conditions can change rapidly in a facility as the result of administration or staff changes; three years is far too long between inspections. An annual inspection requirement must be reinserted here and at 2600.11. Moreover, announcing inspections in advance allows a facility to clean up and present a picture which bears no resemblance to its usual conditions. Inspections must be unannounced to allow inspectors to determine whether the facility is in compliance on a day to day basis, not just on one day of the year when it has been spruced up to prepare for the inspection.

We suggest that 2600.3 and 2600.11 be consolidated. Additionally, the Department must add some valuable enforcement language here to improve the poor enforcement process and to be responsive to the enforcement recommendations **unanimously supported by the Department's Personal Care Home Advisory Committee**. The new 2600.3 should read:

- (a) "An authorized agent of the Department shall conduct an **unannounced** on-site inspection of a personal care home at least annually"
- (b) "A certificate of compliance shall be issued to the legal entity by the Department if, after an inspection by an authorized agent of the Department, it is determined that **the personal care home is in full compliance with all requirements and that the requirements for a certificate of compliance are met.**
- (c) **In addition to the annual inspection, the department shall inspect as often as required by 62 P.S. 211(I) and more often as necessary.**
- (d) **Where a violation is found, submission of and compliance with an acceptable plan of correction followed by actual verified correction of violations shall be required to achieve full compliance for licensure purposes. To be accepted by the department, a plan of correction must clearly articulate the facility's understanding of the reason for the violation, the specific means by which the violation will be corrected, and measures to ensure that the violation will not recur.**
- (e) **An applicant for a license for a new facility shall, if in full compliance with all regulatory requirements that can be met prior to admitting residents, receive a "New Facility Full License". An applicant that is found to have violations shall not be issued a new facility license until the facility is in full compliance.**
- (f) **All homes shall have adequate fiscal resources to pay utilities, staff, insurance, taxes, etc. prior to licensure.**
- (g) **All homes shall have an adequate amount of liability insurance or bond to cover negligence and theft.**

2600.4 – Definitions

Abuse – Add another item (vii) Sexual contact between staff and residents.

Ancillary staff: definition should be more specific as to the types of services which ancillary staff may provide (e.g., cooking, cleaning, etc.) in order to distinguish from direct care staff, which is defined as a person who "... provides services or is otherwise responsible for the

health, safety and welfare of the residents." It is not clear how the services which might be provided by direct care staff would differ from those provided by ancillary staff.

Need better definition for financial management. Add after first sentence: **"Includes taking responsibility for or assisting with paying bills, budgeting, maintaining accurate records of income and disbursements, safekeeping funds, making funds available to resident upon request, and for SSI recipients, preserving eligibility for SSI."**

Instrumental Activities of Daily Living definition has omitted several of the IADLS that exist in the current regulations at 2620.33. These should be included. Subsection (iii) should be changed to "Securing and using transportation" and the following should be added:

- (vi) **Making and keeping appointments**
- (vii) **Securing health care**
- (viii) **Correspondence**
- (ix) **Care of personal possessions**

The Long Term Care Ombudsman definition is erroneous. LTC Ombudsmen serve all residents regardless of age. Thus, the language must be changed as follows: "complaints made by or on behalf of ~~elder individuals~~ **residents**"

The definition of manual restraint in this section is different from the definition of the same term in 2600.202(a)(5) (and also from the definition of "restraint" later in the definition section). The latter definitions include devices which restrict function, as well as movement; this should be added here.

The Neglect definition needs to be revised to fit the PCH context. The "caretaker" in this context is the PCH, which is responsible for providing adequate housing, furnishings, and access to medical care to its residents and should absolutely not be excused from a finding of neglect based on its inability to properly provide services. Thus, the second sentence of the definition should be deleted.

Add to the Restraints definition that mechanical restraints include **"lap trays when not being used for meal service."** The definition of chemical restraint is different from the definition of that term in 2600.202(a)(4). Both provisions should be edited to provide that a drug prescribed by a physician for the purpose of treating "a *specific diagnosed* psychiatric condition" will not be considered a chemical restraint. The definition should also state that medications administered in excessive doses, for excessive duration of time or without adequate indication for their use constitute chemical restraints.

SP—Support plan – Change the "or"s to "and"s. These items must be inclusive and not an option to pick one.

Throughout the proposed regulations, numerous different terms are used to describe surrogates or family members who may serve as contact persons or decision-makers for residents. These terms include: emergency contact person, family member, designee, designated person, legal representative, and advocate. Several of these terms are not defined and should be. Some of the terms seem to be used interchangeably for the same purpose,

which is confusing. Where the terms are intended to have the same meaning, one term should be chosen and utilized throughout the regulations.

The following terms were not defined but need to be:

1. Applicant
2. Designated Person – This term, from the current regulations, seems to have been collapsed in with "designee", which formerly just referred to the administrator's designee. Using the same term for both is confusing. "Designated person" should be retained as the term for a resident's contact person and "designee" should be used for the Administrator's designee.
3. Home – all throughout the regulations the term "home" is used without any clarity that "home" means "licensed personal care home"
4. Licensee
5. PCH Operator
6. Personal Care Staff

2600.5 – Access requirements.

With regard to 2600.5 Access requirements:

Subsection (a) should be revised to clarify that access must be granted to the Department at any time and without notice.

Subsection (b) must be amended to include Protection and Advocacy. Pennsylvania Protection and Advocacy (PP&A) has federal statutory authority to investigate any complaints about conditions in residential settings where persons with disabilities reside. By law, PP&A staff must be afforded access to people, facilities, and records in those facilities.

Additionally, it is not clear what the purpose in subsection (c) is of spelling out permissible purposes for a visit. If this language is retained, it must include the purpose of assisting residents in exercising their rights under the law. Local MH/MR authorities should also be provided access to PCHs in order to assess and serve persons with mental health/mental retardation.

2600.11 – Procedural Requirements for Licensure or Approval of Homes.

Given the vulnerable, isolated population residing in PCHs and their dependency on the PCH for many of their needs, it is imperative that onsite inspections of PCHs occur at least annually. As written, 2600.11(b) is absolutely unacceptable. To require inspections to take place **only** once every 3 years entirely contravenes the goal of the regulations, to ensure health, safety, and welfare, and the goal of inspection, to ensure compliance with regulations. As a matter of policy, all personal care homes must be inspected for licensure compliance through annual unannounced inspections. Where a personal care home has demonstrated full compliance with all regulations for three consecutive annual licensure inspections, abbreviated or inferential inspections may be acceptable. However, there should not be any year in which a facility does not receive a complete compliance inspection until it has consistently demonstrated a pattern of good practice. We suggested consolidation of this section with 2600.3 and provided suggested language above.

2600.14 – Fire Safety Approval

Language needs to be added to (b) stating what actions the department will take to ensure the safety of residents if and when it is notified that fire safety approval has been withdrawn or restricted. Additionally, the timeframe in (c) - 30 days – is too long.

Because buildings can deteriorate over time and fire safety standards are improved upon over time, fire safety approvals need to be renewed on a regular basis. Thus, we suggest that you add as (f):

“Fire safety approvals must be renewed at least once every 3 years.”

The department also needs to articulate a standard for the fire safety expert to use in granting approval. This should be obtained from the Department of Labor and Industry and articulated here.

2600.16 - Reportable Incidents

It is imperative that a requirement be added to this provision that the Department investigate reportable incidents to ensure that residents are not at risk and to determine the facts in order to take enforcement action against the facility if warranted. Additionally, family members or legal representatives must be notified of Reportable Incidents and the personal care home must be required to swiftly provide family members or legal representatives with this notice.

It should not be left to the discretion of the facility to determine whether deaths are suspicious. There is a **glaring** conflict of interest in asking facilities to determine whether a death is due to abuse, neglect, malnutrition, etc.. when there may be unpleasant regulatory consequences if the death must be reported. As a result, it is essential that the department require the home to report **ALL** deaths. The report can be on a one page standard fax or e-mail-able form so that the department can review the death and cause of death for anything suspicious. Thus we urge that the language of 2600.16(a) be changed as follows:

(a)(1) A death of a resident **and the cause as placed on the death certificate, including whether** due to accident, abuse, neglect, homicide, suicide, malnutrition, dehydration, or other unusual circumstances.”

(5) **Elopement of a resident from a secured unit or -----**

(12) A condition that results in an unscheduled **evacuation**, closure of the home ..

(13) **“An observed situation or a complaint of resident abuse or neglect, or suspected abuse or neglect, referral of a complaint of resident abuse or neglect to a local authority for an investigation of the results of any investigation conducted by the personal care home of possible resident abuse or neglect.**

(15) A situation in where there are no staff **or inadequate staff** to supervise or **provide care in** the home.

(20) **Lawsuits filed against a legal entity, administrator, or staff person by a present or former resident**

(21) **Any sexual contact between staff and residents.**

- (22) Any injury of unknown origin.**
- (23) Any refusal to eat or drink for 48 hours.**

Subsections (b) and (e) contemplate that the facility must investigate the reportable incident, but the regulation does not specifically state this and should be edited to do so.

Additionally, the initial unusual incident reporting must be done by immediate technology tools only, such as phone, fax, or e-mail.

Thus, we suggest that 2600.16(c) be revised as follows: (c) The home shall immediately report to **24 hour hotline, by phone, fax, or e-mail ...** We also suggest that 2600.16(g) should be added and should state: **(g) The home shall inform the family members or legal representatives by phone of residents of the occurrence of an unusual incident affecting their single resident or of an unusual incident affecting all residents. This shall be done within 24 hours of the occurrence.**

The cross-reference in subsection (f) to 2600.243(b) is incorrect; there is no subsection (b).

2600.17 – Confidentiality

This provision should be revised to state that resident records must be made available to Pennsylvania Protection and Advocacy as well as others with legal authority to review them.

2600.18 Applicable health and safety laws

This section should be revised to make clear that PCHs are expected to be in compliance before a license will be granted as well as throughout licensure. Thus this section should read:

"A personal care home shall be in compliance with all applicable Federal, State, and local statutes, ordinances, and regulations, especially those statutes or regulations pertaining to fire and panic, public health, civil rights, and protective services prior to and throughout licensure. Failure to be in compliance with any other applicable law will constitute a violation of this section."

2600.19 – Waivers

We are pleased to see the addition of notice and opportunity for comment by residents. However, the family and public must also be notified of waiver requests through publication in the PA Bulletin (as they are currently for waiver requests by long term care facilities).

The proposed waiver section is still problematic in that it lacks: 1) disclosure to persons applying for admission to a PCH of any approved or pending waivers for their facility, 2) consumer rights to appeal a waiver, and 3) clarification of who at DPW has the authority to grant a waiver. These all must be inserted. A standard form needs to be developed that includes a place to state the particular item that is to be waived, the alternate method, etc.

Additionally, the waiver section must state that **waivers can only be granted in exceptional circumstances and that the burden falls on the PCH to demonstrate and reasonable and appropriate basis for being granted an exception to the regulations.** The **Waiver and Grandfathering Workgroup, a subcommittee of the DPW Personal Care Home Advisory Committee,** was in agreement about adding these elements.

Section 2600.19 should be revised as follows:

(a) "The home may submit a written request for a waiver on a form prescribed by the Department, and the **Division Chief of the Department** may grant a waiver of a specific section of this chapter if **the home reasonably justifies to the department the need for a waiver, which may be found if** the following conditions exist:

- (1) The waiver poses no jeopardy to the **health, safety or well-being of any of the residents of the home**
- (2) There is an **equivalent or better alternative method for meeting the intent of the regulation** ~~for providing an equivalent level of health, safety, and well-being protection of the residents of the home~~
- (3) Residents will benefits from the waiver of the requirement.

(b) "The scope, definitions, applicability, residents rights, **personal care service requirements, complaint rights or procedures, notice requirements to residents or family, contract requirements or reporting requirements** under this chapter **or any other state regulation or statute** shall not be waived."

(f) "Waivers are subject to **annual** periodic review by the Department to determine whether acceptable conditions exist for renewal of the waiver."

2600.20 – Resident Funds

2600.20(a) is applicable where "the home assumes the responsibility for maintaining a resident's financial resources." Is this the same as providing financial management? If so, the term financial management should be used for clarity's sake.

2600.20(a)(1): This needs to include a requirement that the home keep receipts for any purchases made on the consumer's behalf. ELP has represented numerous clients whose records claim that funds were withdrawn to make purchases but who never received any receipts or goods to go with the records. The first sentence should be edited as follows: "(1) A separate record of **each resident's** financial resources, including the dates of **transactions**, amounts of deposits, amounts of withdrawals, **receipts for all expenditures**, and the current balance.

The first sentence of 2600.20(a)(2) should be edited as follows: "Deposits, **withdrawals**, and expenditures shall be documented with **dated** written receipts."

2600.20(a)(4): The words "if available" should be deleted. Any funds which the facility is holding for the resident must be available to be given to the resident, upon request, within 24 hours.

2600.20(a)(5) should be edited to require the home to obtain a **dated** written receipt from the resident for cash disbursements.

2600.20 (a)(9) should be edited to provide that a resident may consent to the review of his financial records by his designated person or other third party.

2600.20 (b)(10)-(12): There are some crossovers and inconsistencies between this section and 2600.29. Our comments relate to the timeframes in which funds and refunds must be returned to residents. **The language in these sections is unclear, inconsistent, and, thus, problematic.** The primary cause of the problem is the use of "discharge or termination" and "termination of service" as triggers for certain actions. This is problematic because "discharge and termination" are processes and not dates certain, and it is not clear what "termination of service" means. Thus, if the language in (11) means that within 30 days of written notice of discharge or termination, the resident shall receive an itemized written account of funds, etc... this is less objectionable than if the Department means that within 30 days of the actual date of departure resulting from a discharge or termination process.

Instead of the confusing usage of these terms as triggers, the required actions should be triggered by the residents' actual date of departure. How soon after the date of departure the PCH should be required to provide the residents funds and accounting will differ based on whether the departure was unexpected or planned with 30 days written notice. The regulations have not accounted for voluntary closures, Departmental closures or emergency evacuation of a PCH.

In all circumstances, funds and accountings must be provided to residents far sooner than 30 days from date of departure. In most circumstances, the money is needed to bury the former resident or pay a new provider, etc. Requiring the facility to return a resident's own money swiftly doesn't prevent the facility from collecting or billing for unpaid services. Additionally, a provision must be added to require any funds held by a facility to be returned to a resident upon the facility's being shut down by the Department.

Thus, in 2600.20(b)(10), where the resident dies, the facility should have 48 hours.

In 2600.20(b)(12) the resident's funds that are being held by the home must be returned to the resident with a full accounting of funds **"on or before the day of departure"** not "immediately [which is not defined] upon discharge or termination". This needs to apply when the resident has given notice of moving out, when the resident is being discharged involuntarily, when the home is being closed by the owner, and when the Department is relocating the all residents due to a licensure action. Only when there is an emergency or unanticipated departure or relocation should the home be allowed a little more time to return the clients funds. Thus, the language should be revised as follows:

(12) "Upon discharge or transfer of the resident, **whether due to the termination of services by the home, the voluntary closure of the home, the decision of the resident to leave the home where the resident has provided appropriate advance notice, or licensure action of the Department to relocate the resident,** the administrator shall immediately return the resident's funds being managed or being stored by the home to the resident **on or before the day of departure.**"

2600.20(b)(13) should be added to state that where the resident's departure is unanticipated or an emergency departure due to change in condition or emergency relocation by a state agency, the home has 48 hours to return the resident's funds.

There can be an obvious conflict in a PCH administrator also taking on the duties of a representative payee. However, there may be circumstances in which no one else is available to be representative payee. An administrator should only be permitted to serve as representative payee if the resident, family, and legal representative are given a standardized disclosure form provided by the department that explains what being representative payee entails, that others (Mental Health Associations, ARCs) are available to do it for free, that it is voluntary, that they can terminate the rep payee relationship at any time, and how to terminate the relationship. This section must also include a provision that having the administrator be rep payee cannot be a condition for admission.

There needs to be a provision included that requires **"the return of funds to be by cash or a valid check, failure to issue a valid check will be a violation of this chapter and interest will accrue in the amount of 1% per day from the date the until funds are available at the bank from which the resident can obtain her monies and a valid check has been reissued."**

A provision should be added prohibiting the owners of a facility, its administrators or employees from borrowing funds from residents, as this kind of financial exploitation has occurred.

Lastly, 2600.20(6) has an error. It prohibits commingling of the residents "personal need allowance" and the PCH funds. This should prohibit commingling of the residents "personal funds" and the PCH funds.

2600.23 – Personnel Management

(1) This timeframe for maintaining records is inadequate in light of legal rights of residents. While, generally, a resident has 2 years to sue for a tort, he/she has 7 years to sue for breach of contract. This section should be revised to make the minimum 7 years and the maximum 8 years.

Also for (1), the PCH should not only be required to keep records of who is/was scheduled to work but who actually showed up to work so that what staff members and what amount of staffing was really available is recorded.

2600.24 Tasks of Daily Living

Subsection (9) should be edited to include the obligation to assist residents in obtaining needed medications.

2600.25 Personal Hygiene

A common sign of substandard care in a PCH is that residents have long, dirty nails. Assistance with clipping nails on fingers and toes should be added to the list of personal hygiene items with which consumers shall be provided assistance.

2600.26 – Resident/home Contract

The Resident/home contract needs to have more clarity. The contract should be a standard contract used for all residents (thus, each home can have its own contract but, the contract should not differ in form from resident to resident). This language is in the current regulations but has not been carried over. The section should be revised as follows:

2600.26 (a): "Prior to .. The administrator or his designee is responsible for completing this contract **with the resident and the resident's designated person, if one exists. The administrator or his designee shall, prior to signature, review and explain the contract's contents to the resident and the designated person, if any, in a language or mode of communication which the resident and designated person can understand.** The contract shall be signed by the administrator or his designee **with authority to act on behalf of the home** ... At a minimum, the contract shall specify and include the following in accordance with all requirements of this chapter:"

2600.26(a)(2): This language is unclear. The purpose appears to be to require a list of the facility's prices for each service or item. This is a very important consumer protection which should be included. A common problem with PCH contracts is that different residents are charged different amounts for their care, with the price apparently determined by how much income the resident has and with no breakdown in the contract of how much the resident is paying for what services. For example, a resident with \$1500 monthly income will be charged \$1440 (his total income minus the \$60 personal needs allowance) for the same set of services and type of room as a resident whose income is \$900 and who is charged \$840 monthly. In order to clarify this provision, the language should be revised as follows:

~~"The actual amount of allowable resident~~ charges for each service or item **offered by the home.** The actual amount of the periodic – for example, monthly – charge for food shelter, services and **any additional charges that will be charged to the resident. In addition, the contract shall specify** ~~and~~ how, when, and by whom payment is to be made.

2600.26(a)(3): Language needs to be clarified. "An explanation of the annual screening, medical evaluation, and support plan requirements and procedures **along with the procedures which** shall be followed if either the screening or the medical evaluation indicates the need for another and more appropriate level of care."

2600.26(a)(4): It is unclear whether "the party responsible for payment" is intended to mean a third party (probably a family member) who will send a monthly payments from the resident's resources or an individual who is personally guaranteeing payment for the resident's care from that individual's own resources. Vague language concerning such "third party guarantees" is a serious and common consumer problem in long term care admissions contracts. Often, a family member signs the admission contract believing that he or she is

agreeing only to facilitate payment from the resident's own resources, but later finds that the facility intends to hold him or her personally liable for the resident's care. Both the regulations and contracts need to make explicit any obligations being assumed by third parties pursuant to a contract. If "The party responsible for payment" is intended to mean a person who will facilitate payment from the resident's own resources, this should be spelled out, both in 2600.26(a)(4) and in the contract. Moreover, additional language should be added to 2600.26(a)(4) stating:

" If a third party agrees to accept personal liability for payment to the facility, his he must sign a separate written document agreeing to be personally responsible or liable for the payments to the home."

2600.26(a)(6) should be edited to add "The conditions under which refunds will be made... upon a resident's death **or voluntary departure from the facility.**"

2600.26(a)(11) should be edited as follows: "A list of personal care services **that will be provided to meet the resident's needs as identified in the assessment and in the manner articulated in the support plan including** and their costs ~~to be provided to the resident based on the outcome of the resident's support plan.~~ **A copy of the current support plan must be attached.**"

In 2600.26(a)(13), the provision on residents' rights (2600.32) should be referenced, as well as 2600.31. This subsection should also be edited to require that the actual list of resident's rights, as it appears in these regulations, should be provided rather than "written information" on resident's rights, as long term care facilities have been known to provide edited, watered-down versions of resident's rights in their admissions documents.

2600.26(a)(15): The PCH should only be permitted to keep a pro-rata share of its half of the rent-rebate check if the resident did not live in the residence the entire year for which the application is submitted. The prohibition on a facility's keeping more than one-half of a resident's rent rebate check should also be affirmatively stated as a requirement in a separate provision, as well as being a prohibited term in resident contracts. Additionally, there must be a requirement that the PCH provide the resident with her share within 3 business days of receipt of the check from the state. Facilities' failure to provide residents with their half of the rent rebate check or very long delays in doing so have been a huge and extremely common problem in personal care homes.

2600.29 – Refunds OF PREPAID RENT

Similar to our comments to 2600.20, our comments relate to the timeframes in which funds and refunds must be returned to residents. The language in these sections needs to be clearer as to exactly when a resident gets his refund. The timeframes allowed in this section are too long.

How soon after the date of departure the PCH should be required to provide the resident with a refund will differ based on the circumstances surrounding the departure. The regulations do not provide for voluntary closures or Department closures of facilities (whether emergency or not). Since the beginning of this year, there have been at least five voluntary

closures, mostly of very large facilities, which affected hundreds of residents. In addition, there have been at least seven closures by the Department and/or local authorities in the past year, again affecting hundreds of residents. Several of these closures occurred on an emergency basis. In the aftermath of the relocations of residents of these facilities, residents frequently had difficulty obtaining refunds of prepaid rent. Some waited long periods of time while others were given checks which bounced. These circumstances must be addressed by the regulations. In all circumstances, refunds must be provided to residents far sooner than 30 days from date of departure. In most circumstances the money is needed to pay a new provider, etc.

Thus, in 2600.29(a):

"If, after the home gives notice of discharge or transfer in accordance with 2600.26 (.), notifies the department of a decision to voluntarily close, is closed by the department through licensure action, or if the resident is relocated subject to an emergency relocation, and the resident moves out of the home before the 30 days are over any notice period is over, the home shall give the resident a refund equal to the previously paid charges for rent and personal care services for the remainder of the 30-day time period pre-paid time period starting at the date of departure from the home. If the home had notice of the date the resident would be departing, the refund shall be issued within 30 days of discharge on the date of departure from the home. If the home had no notice of the date of departure from the home, the refund shall be paid to the consumer within 48 hours of the time of departure. The resident's personal needs allowance account shall be refunded within one week of discharge or transfer on the date of departure from the home."

2600.29(b) is problematic and confusing in that it cross-references 2600.26, which does not address notice requirements for voluntary departures. In the current regulations, the almost identical 55 Pa.Code 2620.28(b) cross-references 55 Pa. Code 2620.26(c), which permits an administrator to require a 30 day prior written notice from a resident who chooses to leave the facility. Without this cross-reference, this provision could appear to create a presumption that 30 days' notice is required unless the contract explicitly states that no notice is required.

A provision should be added requiring that "The refund of rent must be by cash or a valid check. Failure to issue a valid check will be a violation of this chapter and interest will accrue in the amount of 1% per day from the date the check was issued until funds are available at the bank from which the resident can obtain her monies and a valid check has been reissued to resident."

2600.31 (2600.41 per PA Bulletin version)- Notification of Rights and Complaint Procedures

2600.31(a) should be revised to make it clear that the resident has the right to file complaints with the Department or the ombudsman as follows:

"Upon admission each resident and, if applicable, the resident's family and/or advocate shall be informed of the residents rights and the rights to lodge complaints with the PCH or the Department or the Ombudsman .. "

(f) This provision would be clearer if it explicitly stated that the facility must have procedures concerning the investigation and resolution of complaints. In addition, the right to make a complaint should not be limited to resident's rights but also extend to problems with care, etc. This should be added to the language of (f) as follows: "The home shall ensure... resident's rights, **the provision of care or other concerns.**"

(g) 14 business days is entirely unreasonable for the PCH to respond to a complaint. In Mental Health facilities, homes have 48 hours. Here, there should be at most 72 hours to respond. Thus (g) should read: "The home shall render a decision within **72 hours ± 4 business days** upon receipt..." Additionally, PCHs must be required to keep in their records copies of all internal complaint investigation reports.

2600.31 (h) and (i) appear to require the filing of a complaint with the facility as a prerequisite to filing a complaint with the Department, ombudsman, or other advocacy agencies (2600.31(h) speaks of filing complaints "beyond the home's internal system"; while 2600.31(i) states that the resident can address complaints to other entities "when the resident ... feels that complaints have not been properly resolved through the home's complaint procedure"). This is completely unacceptable and such language must be deleted. All of these outside entities are and must be available at any time to accept and investigate complaints by residents. In many cases, residents are frightened to complain to the facility; they are afraid that staff or administrators will be angry at them and that their care will be affected or that they will be evicted. This will continue to be a barrier, despite the proposed regulations' prohibition on retaliation (especially if the appeals procedures for involuntary discharges are not beefed up, as discussed infra). In fact, residents may not be aware of their rights until they have contacted the ombudsman or another outside entity about their concerns.

2600.32 (or 2600.42 in PA Bulletin version) - Specific Rights

(b) This subsection should include the right to be free from intimidation.

(h) This subsection should be clarified to provide that a PCH shall be open and provide services as needed in care plan 365 days *per year*.

(i) This subsection should be revised to specify that "A resident shall receive assistance **from the facility as required by the resident's assessment and support plan** in accessing medical, behavioral health, rehabilitation services, and dental treatment. **This shall include assistance in accessing prescription medications.**"

(m) A resident must be able to leave and return to the home at reasonable times without home rules limiting the resident's ability to do this. Thus, the section should be revised to say "A resident shall have the right to leave and return to the home at reasonable times ~~consistent with the home's rules.~~"

(q) The use of the verb "shall" in the second sentence should be changed to "may". As written, this subsection requires residents to clean their "personal space". This appears to imply that residents are required to do all cleaning in their own rooms, etc., which cannot possibly be what is intended.

(s) The right to privacy should include the right to privacy while receiving care.

(u) This provision should be made more consistent with 2600.228 (Notification of Termination) as follows: " A resident shall have a right to remain in the home, so long as it is operating with a license, **except as set forth in 2600.228 (h).**" **This is an extremely important provision which should absolutely be retained in the final regulations.** The experience of ombudsmen and other consumer advocates has uniformly been that PCH residents are terrified to voice complaints because they are afraid that they will be evicted if they do so. Under the current regulations, in fact, a facility can evict a resident for any reason or no reason, and the resident has no recourse. Moreover, residents should be able to count on being able to remain in a facility unless one of the legitimate reasons for discharge listed in 2600.228(h) exists and not fear being kicked out because a facility operator does not like them.

(w) **In order for the protections in subsections (t) and (u) to be meaningful, residents must have the right to appeal discharge and termination decisions to the Department.** Additionally, the resident must have the right to reside in the facility with continued supports pending the outcome of an appeal. What good is the right to complain without risk of retaliation if the resident cannot appeal a retaliatory eviction to the Department? Limiting the right to appeal to the facility is a completely inadequate option: a facility which is willing to evict a resident as retaliation for asserting his or her rights patently cannot be counted on to provide a fair hearing to the resident when he or she appeals that eviction. In order to make this very important right meaningful, the Department must set up a fair hearing system for PCH involuntary discharges. Department hearing officers already decide involuntary nursing home discharges, and this system can be used as a model for PCH appeals.

Several additional, important rights should be added:

(aa) A resident shall have the right to choose his own healthcare providers from those within his own health insurance plan and the facility shall help the resident arrange care through his insurance plan.

(bb) A resident has the right to reasonable accommodations of his disabilities.

(cc) A resident has the right to receive assistance in applying for public funding if private funding is exhausted.

(dd) A resident has the right to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of the individual or other residents would be endangered.

2600.53 - Staff titles and qualifications for administrators.

The increase in qualification levels for administrators is an extremely important improvement which we applaud and strongly urge you to retain in the final regulations. The current requirements are grossly insufficient to ensure that administrators are equipped to run facilities which will provide safe and adequate care to consumers, especially as the medical acuity of the PCH resident population continues to rise. The only real qualifications required to become an administrator under the current regulations are that one be 21 years old and have a

high school diploma or GED.¹ These qualifications are more appropriate for a boarding home operator than for a modern-day PCH/ALR, where an administrator may be responsible for providing or directing the care of very dependent individuals with dementia, mental illness, physical disability, immobility and/or mental retardation. The administrator must be able to effectively direct and supervise staff, and ensure that all of a resident's potentially extensive care needs are identified and met, including assistance with medication and obtaining medical care. The administrator also must have the ability to manage the financial affairs both of the facility and of residents for whom financial management services are needed. A high school diploma or GED is simply not an adequate credential to ensure the literacy level or the ability to perform these functions. Indeed, a PCH administrator who was indicted just last month for felony neglect told a grand jury that she had dropped out of high school and had only a GED, and that she was unqualified and had been thrown into the job without proper training. "Personal Care Home's License Was Upgraded After Slaying", *Philadelphia Inquirer*, A-1, October 10, 2002.

The college or university degree or credit hours should be in areas relevant to an administrator's job functions. Therefore, the following language should be added at the end of 2600.53(a)(2): **"with an emphasis in human services, administration, or nursing."**

An additional provision should be added stating that all administrators must meet all administrator qualification requirements prior to becoming/serving as a PCH's administrator. In the past, the Department has allowed administrators to run facilities despite the fact that they did not yet meet even the current de minimus standards. See PHLP White Paper at 51. This is outrageous and unacceptable, and a requirement must therefore be added to the regulations to the effect that:

"An administrator shall meet all the requirements of this section prior to serving as an administrator for any home."

2600.54 – Staff titles and qualifications for direct care staff

We also endorse wholeheartedly the increase in qualification requirements for direct care staff. Under current regulations, the only real requirement is that one be 16 years of age.² There are no educational or literacy requirements. This is frightening, given that direct care

¹ Additional qualifications at 2620.72(a)(1)-(7), which also appear in the proposed regulations, are not meaningful in determining whether an administrator is qualified or not, as there are no criteria to determine whether they are met and the Department has only cited violations of them after repeated and serious failure on the part of the administrator. For example, 2620.72(a)(1), which also appears in the proposed regulations at 2600.53(e), requires that an administrator have "the ability to provide personal care services, or to supervise or direct the work of others to provide personal care services". No criteria presently exist to measure the ability to supervise and/or provide personal care services, and this requirement has been cited by the Department only rarely when there has been a repeated failure to provide services to residents. See PHLP White Paper at 50

² The requirement that an individual be "of good moral character" is essentially meaningless, as this term is not defined and cannot realistically be measured or cited. No physical examination is administered to determine whether the requirement that an individual be free of medical condition, including addiction, which would interfere with the ability to provide personal care services is met, and this requirement is only cited after a staff person has seriously abused drugs or alcohol on the job.

staff are providing "assistance with self-administration of medications" which should more realistically be described, in many cases, as administering medication. It is essential that direct care staff have sufficient literacy to read information connected to medications such as dosage, frequency and other instructions. They also need the ability to read (and in some cases, prepare) assessments and service plans. As with administrators, the regulations should state that direct care staff must meet the qualification requirements prior to beginning work. In addition, a qualification requirement should be added that direct care staff complete Department-required training and orientation.

2600.55 – Exceptions for Staff Qualifications

It is not clear whether the grandfathering provisions in (a) and (b) apply only to the age and educational qualifications or also to the revised training requirements in 2600.57 and 2600.58. This is in part because 2600.53(c) (Administrator qualifications) includes the requirement that an administrator complete Department-required training, while 2600.54 (Staff qualifications) does not. This should be clarified.

Subsection (a) is inadequate to ensure the health and safety of consumers. Staff must be allowed 1 year in which to take and pass a competency test in order to be grandfathered. Subsection (a) should be revised to state:

"The staff qualification requirements for administrator and direct care staff shall be met by all ~~do not apply to~~ staff persons hired or promoted to the specified positions prior to the effective date of this chapter within 1 year of the effective date of these regulations. Passing the competency test devised by the department under 2600.57 (for administrators) or 2600.58 (for other staff) will constitute satisfaction of the qualification and training requirements. ~~as long as they maintain current license.~~"

An alternative possibility is that administrators be grandfathered unless Class I deficiencies are thereafter cited in their facility or their facility's license is downgraded to provisional. If one of these events occur (which would indicate problems with the management or provision of care in the facility), the grandfathered administrator should be required to take and pass the competency test developed to implement 2600.57 (Administrator training and orientation) and to take the full 140 hour administrator training if he or she fails to pass.

2600.56 – Staffing

Subsections (a) and (b) largely reflect the consensus achieved by the Staffing Workgroup of the Department's Personal Care Home Advisory Committee. That group, in which both consumer advocates and providers participated, agreed that direct care staffing levels should be tied to the aggregate number of personal care hours required by all of a facility's residents, as determined by the residents' assessments and service plans. This approach makes it critical that the regulations contain strong provisions concerning the assessment and service planning process.

We are pleased to see that the proposed regulations require that facilities have sufficient staff to provide an average of one hour of personal services daily per mobile resident and two

hours for immobile residents. The Workgroup contemplated that some residents may require less than one hour per day of services, as determined by their service plans, while others may require more than one (or even two). The concept was that the facility should have sufficient number of direct care staff to meet the aggregate needs. Subsection (a) should be reworded accordingly:

- (a) "A home shall employ... At minimum, **the home shall staff to provide that each mobile resident shall receive an average . . .**"
- (b) "If a resident's support plan indicates that the resident's personal care needs exceed the minimum staffing levels **hours** in subsection (a), the home shall provide a sufficient number of trained direct care staff to provide the necessary level of care **and hours of care** required by the resident's support plan...."

The term "resident with special needs" needs to be defined.

Subsection (f), which requires an administrator, *designee or direct care staff person* to be present on the premises when residents are present is in contradiction with subsection (c), which requires an administrator or designee (rather than a direct care staff person) to be present on a 24 hour basis. An administrator or designee should be required to be present on a 24 hour basis.

(h) should be clarified to state that the facility shall maintain at least one but no fewer than the number of overnight staff needed to fulfill the residents' support plans.

2600.57 – Administrator training and orientation

This section is a very important improvement over the current, completely inadequate training requirements for administrators. Forty hours of training are utterly insufficient to prepare individuals to run a facility which is responsible for meeting potentially extensive care needs of very dependent people. Worse yet, the quality of many of the currently available courses is widely considered to be laughable, and there is no testing whatsoever at the conclusion to determine whether the student learned anything or even paid attention in class. Increasing the hours of training and incorporating competency testing are long-overdue and critically important improvements, and we cannot urge strongly enough that these provisions be retained in the final regulations.

We have suggestions concerning the content of training:

(b): The trainer must have appropriate training and background in the area on which he/she is training, especially in areas such as mental illness, Alzheimer's/dementia, etc. Thus, (b) should be revised to require Department-approved training **provided by an appropriately trained person or agency**. Subsection (b) also needs to make clear that "Prior to licensure and **at all times during licensure** the legal entity is to appoint **and maintain on staff** an administrator who has successfully completed and passed...."

Several crucial areas of training have been left out of (c) and (d). For example, as (c) is currently written, the administrator would not get any training on incident reporting, how to

provide personal care services, abuse and neglect reporting requirements, etc. Also, strangely, many training areas have been required for annual continuing training but not for initial training, like safe management techniques and infection control. Additionally, Residents Rights are not a topic which is specific to the area of mental illness and gerontology and should not be listed as a training area under these but as its own critical training area in subsections (c), (d) and (e). Specifics on training on mental illness, mental retardation, and gerontology should be spelled out in more detail. Thus we suggest that subsections (c)(6), (d)(5) and (e)(9) all be revised as follows:

Overview of Mental Illness, mental retardation, substance abuse, dual diagnoses, and gerontology, which shall be provided by trained specialists and which shall include, but not be limited to:

- (i) residents rights
- (ii) care for persons with **mental illness, mental retardation, or dementia/cognitive impairments**
- (iii) ~~care for persons with mental retardation~~
- (iv) symptoms, medication side effects, and behaviors of major mental illness (i.e. schizophrenia, schizo-affective disorder, major depression, bi-polar disorder and personality disorders), mental retardation, aging, and dementia/cognitive impairments.**
- (v) community and healthcare services, programs, and systems available for persons with mental illness, mental retardation, etc.**
- (vi) Confidentiality laws.**
- (vii) De-escalation techniques and interventions.**

The following additional areas should be added to subsection (c):

- (9) Preventing, identifying, and reporting abuse and neglect.**
- (10) Incident Reporting**
- (11) Cultural Competency**
- (12) Residents Rights**

Subsection (d) (concerning the internship) should include the provision of personal care services as a training area.

The language from 2600.57(e)(9)(iv) (concerning safe management technique training) needs to be added to both 2600.57(c)(6) and 2600.57(d)(5). The language from 2600.57(e)(4)(ii)-(iii) (concerning medication self-administration, infection control and areas associated with immobility such as prevention of decubitus ulcers, etc.) should be added to 2600.57(c) (2) and 2600.57 (d)(4).

Also, although subsections (b), (c) and (d) all refer to competency-based training, which implies that competency will be tested, these provisions do not state explicitly that competency testing will be administered and must be passed by applicants to be administrators. This language should be added.

Subsection (e)(11) is duplicative of (e)(5) and should be deleted.

(g): This subsection mistakenly states that administrator training time is 40 hours (it should say 140).

2600.58 – Staff Training and Orientation

We are pleased to see that staff training and orientation requirements have been enhanced, and very strongly urge that these enhancements be retained in the final regulations. The current regulations on staff training at 55 Pa. Code 2620.73(e) are utterly inadequate, mandating training only in a few areas. Incredibly, PCH staff can currently work for up to six months before receiving any training specific to their job functions. Worse yet, there are no standards for training, which can be provided by anyone in any fashion.

Direct care staff do not just give baths and help residents go to the toilet. They are responsible for making sure that residents, many of them confused or mentally ill, take the proper medications in the proper dosage at the correct time. They provide the bulk of care to an increasingly frail and sick population, many of whom suffer from mental illness or dementia. Adequate and timely training in all of the areas listed in the proposed regulations (as well as in a few more discussed below) is essential in order to ensure quality care for PCH/ALR residents. Horrifically poor care is provided in too many personal care homes, largely because of poor staff training. The Department's own records document widespread problems in PCHs, including failure to obtain emergency and routine medical care, failure to provide adequate assistance with personal hygiene and ADLs, failure to obtain medical evaluations or to transfer residents to a higher level care when needed (resulting in deterioration in their conditions or even death). See PHLP White Paper at 23-36, 43-46, 55-60. Perhaps most seriously, the Department's inspection records show that medication errors are rampant in PCHs. Id. At 25-30.

It is crucial, therefore, that staff training occur prior to providing unsupervised direct care, that it be sufficiently extensive (the 24 hour requirement in the proposed regulations should be retained) and that it include competency testing, to ensure that the staff person has mastered the task being taught. In order to improve the quality of training available, the Department should develop training materials based on best practices. Training courses should be required to obtain approval by the Department to ensure their adequacy.

Subsection (a) should include as part of orientation for all staff a component on mandatory reporting obligations. All staff in personal care homes are mandatory reporters of abuse and neglect under the protective services laws, and must be oriented to their identification and reporting obligations.

Subsection (b) is duplicative of (d).

Subsection (c) should include, as a required training area, "Prevention of abuse and abuse/neglect reporting requirements". "Falls and accident prevention" and "Disaster plans", which are in subsection (g) (annual training), should be included in the initial training, as well.

Subsection (h) should be redrafted to include time frames. As written, it implies that a person who completes a training today could be exempt from training again when they go to apply for a job in 8 years. That is simply not reasonable. (h) should be revised to read:

"If a staff person has completed any of the required training identified in this section **within a year** prior to"

2600.59 – Staff Training plan

This provision is vitally important and should be retained. Many of the problems cited by the Department and deaths or injuries reported in the press have resulted from facilities' neglecting to properly train or obtain training for their staffs. A staff training plan will ensure that training is planned for and implemented in an effective, organized manner. The planning contemplated by this section is not overly burdensome, and is in fact the process which an effectively-run facility would use to choose relevant topics and identify training needs, plan for the training, and learn whether the training was effective and any changes which should be made in the future.

PHYSICAL SITE:

Section 2600.81 Physical accommodations and equipment

Inaccessibility is a major problem in PCHs. Very, very few PCHs in Philadelphia are wheelchair-accessible. This often means that a wheelchair-using individual who could otherwise be served in a PCH must enter the more institutional environment of a nursing home. A former Elderly Law Project client who was a double amputee had to crawl from one part of the PCH where he resided to another because it was completely wheelchair inaccessible. Another resident of that PCH had to eat all of her meals in the hallway outside her room because the dining room was inaccessible. Such a lack of accessibility violates the Americans with Disabilities Act and the Fair Housing Amendments and must be addressed.

The current language in the proposed regulation should become new subsection (a). This language is too generic and provides no guidance to personal care home operators or staff. A new subsection (b) should be added with the following language

"Personal care homes designed or built after March 13, 1991 shall comply with the accessibility requirements of the Fair Housing Amendments Act, 42 U.S.C. 3601, et seq., including the regulations thereunder found at 24 C.F.R. Part 8."

A new subsection (c) should be added with the following language:

"No personal care home shall discriminate against any persons with disabilities, including persons with physical mobility impairments, in the provision of equal housing opportunities or other services in a personal care home."

2600.83 - Temperature

A large population of personal care home residents are mental health consumers. Psychotropic drugs do not work properly if the body is at an extreme temperature. Additionally, persons with heart conditions and other conditions are put at risk by extreme heat. Residents' health and safety can only be assured by requiring air conditioners in all personal care homes. Fans simply move hot air around. They do not cool. In fact, moving hot air has a greater heat effect, just as moving cold air has a greater chill factor.

(b) Replace with "The indoor temperature must not exceed 80 degrees Fahrenheit when residents are present in the home.

2600.87 - Lighting

Lighting must not only operable but sufficiently bright for safely evacuating and safely and comfortably performing the activities that are likely to be performed in the area. Thus, the sentence should be revised by adding at the end "**and the ability of residents to safely and comfortably perform the activities likely to be performed in each area.**"

2600.88 - Surfaces

This section should also address hazards related to lead paint.

Add as (d): **If asbestos is found in a building or contained in any part of the structure, the building must have a certification from an asbestos remediation company that the building is safe for residents and the asbestos does not pose a risk.**

2600.89 - Water

Having hot and cold water under pressure is not the same as having sufficient supply and pressure to comfortably accommodate the needs of residents. Thus, the sentence of (a) should be revised to read: "The home shall have hot and cold water under pressure in all bathrooms, kitchen, and laundry areas **in an amount adequate** to accommodate all of the **needs of the** residents in the home."

2600.93 - Handrails and railings.

In homes that serve people with all levels of disabilities, it is invaluable to prevent against unnecessary risks. A person with disabilities can fall, stumble, etc. on 2 steps or of a porch and be injured even if the drop is only 30 inches. Thus, we suggest that "exceeding two steps" be removed from (a) and "that has over a 30-inch drop" be removed from (b).

2600.94 - Landings and stairs

Add as (c): **All stairs shall have contrast strips for those with vision impairments.**

2600.95 – Furniture and equipment

Furniture must be appropriate to a home setting and comfortable to the residents. We suggest the following change:

"Furniture and equipment shall be in good repair, **functional, comfortable**, clean, free of hazards, **and appropriate for a home-like environment.**"

2600.96 – First Aid Supplies

It is insufficient to have only one set of first aid supplies in every building, especially in large facilities with large buildings and multiple floors. First aid, by definition, needs to be quickly accessible. There should be **one set of first aid supplies on every floor or wing of each building.**

2600.97 – Elevators and stair glides

A valid certificate of operation does not ensure that the equipment is operational. Thus this section should be revised to state that:

"Each elevator and stair glide **shall be in operating condition...**"

As with smoke detectors, 1) if this equipment becomes inoperative, repair shall be completed within 48 hours of the time the equipment was found to be inoperative and 2) the home shall develop emergency procedures that will be immediately implemented until the equipment is operable. These items are important, as there may be persons who rely on that equipment daily to get around the facility.

2600.98 -- Indoor activity space

In many personal care homes, few meaningful activities are offered, and those which are provided are often appropriate and meaningful for only a portion of the resident population. For example, it is not uncommon for bingo to be the major activity offered, despite the presence of a significant younger population in the home. As a result, residents in many facilities spend most of their time simply sitting in the hallways with nothing to do. In order to make meaningful activities available, subsection (d) should be revised as follows: "The program shall provide social, physical, intellectual and recreational activities **designed to meet the interests and the physical, mental and psychological well-being of each resident** in a planned, coordinated and structured manner."

In addition, we have too often seen residents stuck watching programs or listening to music that the staff has chosen. We have seen homes where terribly loud music is turned on in the common room where the residents are gathered so that the staff can hear and enjoy the music while they are cleaning bedrooms two doors down from the common room. This is not the purpose of having TV and Music in the home. Thus, (f) should include language at the end such as "**TV and music volume and programming shall be at the choice of the residents.**"

2600.99 – Recreation space AND EQUIPMENT

The title of this section should be recreation space and equipment. Additionally, residents should have some choice in the items available to them for recreation purposes and the items available should be age and disability appropriate. Thus, the section should be revised to read:

"The home shall provide regular access to **and choice of** outdoor and indoor recreation space and **age- and disability-appropriate** recreational items including but not limited to: books, **current** magazines ..."

In addition, physical exercise equipment should be included in the list of examples of equipment that PCHs should have.

2600.100 – Exterior Conditions

In (a), the exterior conditions must also be free of debris, litter, dangerous pieces of discarded furniture, and other junk. Too often, we have seen discarded furniture or other junk littering space outside the facility which is residents' only outdoor recreation area.

In 2600.100 (b), the home must ensure that the snow and ice removal is done **at least daily and more frequently if necessary** to ensure the health, **accessibility** and safety of the residents.

2600.101 - Bedrooms

While we are pleased that the Department has increased the space in single rooms and for residents with disabilities (where a doctor indicates a need for space), further changes are needed. The space for each PCH resident in a shared room, at 60 square feet, is less than that afforded in a prison cell. The result is that beds, often four to a room, are only a few feet from each other with no means of affording any privacy, despite the requirement in both the current regulations and at 2600.101(i) that bedrooms be equipped to ensure a resident's privacy. Subsections (a), (b), and (c) should therefore all be consolidated to state that **"Each resident shall have 100 square feet of floor space measured wall to wall, including space occupied by furniture."**

In the year 2002, it is time to stop forcing 4 adult strangers to live together in tiny spaces. For any new construction, new additions, or increase in census, bedrooms should have no more than 2 to a room (although 1 would be preferable). With statewide occupancy at only 68%, there are adequate beds available to implement this. Thus, (d) should read:

(d) For facilities built or space or beds added after the effective date of these regulations, no more than 2 residents shall share a bedroom and only by choice. For facilities, wings, and licensed capacities in place prior to effective date of these regulation, no more than 4 shall share a bedroom.

(e) Change the 7 to 8. The children's facilities regulations require at least 7½ feet. If a light or fan hangs down from the ceiling the clearance in the room is even less. The minimum

ceiling height must be 8 feet. Perhaps existing homes could be grand fathered in at 7½, but an 8-foot standard should be set.

(i) This provision has long been completely meaningless and unenforced, despite the damage that lack of privacy does to residents' quality of life. It should be amended to read: **"Curtains or partitions** bedrooms shall be **employed** equipped to ensure the resident's privacy."

(k) should be revised as follows "Each resident shall have the following in **their** bedroom"

(k)(2) must include a **"durable mattress pad"** for each resident, especially if the mattress is to be wrapped with plastic.

(q) Each bedroom must have walls and doors that extend from floor to ceiling. The Department currently is allowing residents to live in large open room areas with office-cubicle walls dividing one "4-person room" from another. This wholly violates the concepts of privacy and dignity and must not be allowed.

(s) Revise this to read, **"In each bedroom, there should be a wall switch that is connected to at least one operable ceiling light or lamp for general lighting when entering a dark room. And, each room shall have a minimum of one operable lamp per resident."**

2600.102 – Bathrooms

A provision must be added requiring that the PCH maintain sanitary conditions in bathrooms and that if septic systems are used, they must have adequate capacity and be regularly emptied so that they can handle all waste. The reason for this concern is the innumerable PCH bathrooms we have seen which are not maintained in anything approaching sanitary conditions. We have heard of residents who are not allowed to flush their waste or the toilet paper they use to wipe themselves because of septic system capacity issues. Additionally, the current regulations, at 2620.52(j), require adequate ventilation, a provision which should be retained. Bathrooms must also be required to be accessible to persons with disabilities.

Subsection (c): There should be one bathtub or shower for every six (6) residents, similar to the children's regulations (55 Pa. Code §3800. Thus revise (c) as follows: "There shall be at least one bathtub or shower for every **six fifteen** or less . ". Given the multiple people using the tub or shower, a provision should also be added requiring that the bath or shower be cleaned with soap at least once a day, and monitored for any additional cleaning needs on each shift.

Subsection (g): Among the individual toiletry items that should be supplied should be sanitary napkins and disposable razors, especially for SSI residents without funds to pay for these expensive but essential grooming items. Individual toiletry items including toothpaste, toothbrush, shampoo, deodorant, comb, **sanitary napkins, disposable razors and shaving cream**, and hairbrush shall be made available.

Subsection (h): Toilet paper shall be provided for every toilet **and paper towels shall be provided for every sink.**

The following additional provisions should be added:

- (k) **Sanitary conditions must be maintained and bathroom(s) must be cleaned and sanitized once a day with monitoring during each shift.**
- (l) **Any home using a septic system shall have a sufficient system to handle and shall regularly empty and maintain their system to handle all waste. Residents shall not be prevented from sanitary disposal of waste.**
- (m) **All bathrooms shall have appropriate fans or ventilation systems to ensure adequate ventilation.**
- (n) **All bathrooms shall be accessible to residents with disabilities.**

2600.103 – Kitchen areas.

All equipment in the kitchens must be working and in good repair. "Operable" is not enough to ensure that it works as it is supposed to and poses no harm to residents or employees. Thus, the language in (a) should be revised to this effect.

2600.105 – Laundry

It must be clear that PCH staff are responsible for changing bedding and towels. Additionally, disappearance of clothing during the laundering process is a major problem in PCHs. Administrators and staff must implement measures to ensure that residents' clothing are not lost or misplaced. Thus, these sections should be revised as follows:

- (d) Bed linens and towels shall be changed **by PCH staff** at least once every week.
- (e)
- (f) The administrator shall **implement and staff shall follow** ~~take-reasonable~~ measures to ensure that residents' clothing are not lost or misplaced in the process of laundering or cleaning. **The use of a "community closet" in which residents' clothing is taken from them and distributed for the use of other residents is prohibited.**

2600.106 – Swimming Pools AND OTHER BODIES OF WATER

(1) Not all applicable laws and regulations require fencing and self-closing latched gates. These two items have been shown to prevent significant numbers of accidental deaths by drowning and must be required by any personal care home that has a pool, regardless of the local regulations.

The title must be changed to cover other swimmable bodies of water. Must add essential safety features such as:

(c) Staff certified as Red Cross Life Saving staff must be present when residents are using the pool or other body of water.

(d) All pools and ponds shall be fenced and have automatic latched gate.

2600.107 – Internal and external disasters

The terms "internal disaster" and "external disaster" need to be defined, as it is very unclear what types of incidents this provision is intended to cover. Additionally, some sections are too ambiguous. For example, (c)(1) requires disaster plans to include contact names without indicating for whom or what. The section also fails to require the "disaster plan" to include an evacuation plan. These pieces should be added to (c).

2600.109 Firearms and weapons

It should not be the general rule that firearms are allowed in PCHs. People with mental illness and dementia are particularly at risk should a firearm be improperly stored. If a facility has a justifiable reason for having a firearm on the premises, it should request a waiver to permit this.

2600.124 – Notification of local fire officials

This provision should be modified to state that such notification must be updated promptly (within 7 days) if circumstances concerning the need for evacuation assistance change (for example, because an immobile resident is admitted).

2600.129 – Fireplaces

Only working fireplaces should have to be inspected and they should also be cleaned. Thus (b) should say: "A **working** fireplace chimney and flue shall be inspected **and cleaned** at least once a year. . ."

2600.133 Exit Signs

All exits should be marked with readily visible signs, regardless of whether the exit or way to reach it is immediately visible. Thus the phrase "if the exit or way to reach the exit is not immediately visible" should be removed from (b).

2600.141 – Resident health exam and medical care

It is imperative that the resident's annual health examination be performed by her own primary care physician and not by a "house" doctor. We have seen numerous instances of substandard personal care homes employing or contracting with "house doctors" who perform all of their residents' annual health examinations. Residents have reported that they were given only a cursory examination (at one facility, the resident was seen in the hallway), diagnoses are incomplete, and conditions which indicate a need for a higher level of care are ignored so that the resident can remain in the facility. In one large facility which closed voluntarily this summer, it was discovered that the house doctor changed the diagnoses of numerous residents

with psychiatric diagnoses so that they could all be on the same medication, which was administratively easier for the facility.

Thirty days after admission is too long for the resident to go without a health examination; it should be completed within 7 days of admission unless admission was sudden/unscheduled and the home needs 30 days to get the resident in to a doctor. Subsection (a)(2) should be amended as follows: "All [m]edical **diagnoses** ...". It is not clear what is meant by "health status" in subsection (a)(9).

Where the doctor's own assessment calls for regular doctor's visits and health examinations more frequently than annually, these must be obtained by the home.

Subsection (b) should provide not just that residents have access to health care, but require the facility to obtain medical care when needed. In some cases, a resident will not be able to recognize that he needs medical attention or may not be able to request it; the facility is responsible to monitor the residents' health status and promptly arrange medical care if the resident's observed or reported condition or symptoms warrant it. Subsection (b) should provide that the facility shall assist residents in accessing dental and psychiatric care, if needed.

2600.142 - Physical and behavioral health

In (a), medical or physical health needs should be included in those to be addressed in the support plan. The reference to the health exam at the end of the first sentence appears more appropriately to be to the assessment (needed referrals might be more likely identified in the assessment than in the health exam). Subsections (b) and (c) should include mental health among the types of treatment concerning which the facility will attempt to educate the resident or for which the facility will try to obtain consent.

2600.143 - Emergency medical plan

Subsection (d)(3) should be amended to require that all diagnoses be listed, as follows: "Resident's medical **diagnoses**."

Subsection (d)(9) should include a resident's health care proxy, as well as power of attorney.

2600.144 - Use of tobacco and tobacco-related products

Subsection (b)(2) should be made more specific: "Ensure the protection of the rights of nonsmoking residents. A facility shall have one or more common areas large enough to accommodate all of the non-smoking residents at one time where smoking is not permitted and which is free of smoke or the odor of cigarette smoke."

If smoking tobacco is permitted inside, then there must be a separate room designated for smoking that is properly ventilated to prevent smoke from entering the rest of the house.

2600.162 – Meal Preparation

A section should be added requiring facilities to accept resident input and not unreasonably to deny requests for accommodations of residents' preferences on menu choices. In one facility where our clients resided, new owners imposed an all-vegetarian menu which was a source of great dissatisfaction to the mostly elderly and Italian population. Very recently, another facility stopped serving coffee because the operators believed that it would be better for the residents to have less caffeine. In both cases, the residents' quality of life was significantly harmed but there was no requirement that the facility consider reasonable requests for accommodation of resident preferences.

2600.164 – Withholding or forcing of food prohibited

This section needs to include language about cueing cognitively impaired individuals as well as responding to refusals to eat. We suggest the revision of (b) as follows:

(b) A resident shall not be forced to eat food. **All appropriate cueing shall be used to encourage and remind residents to eat and drink. Repeated or continuous (lasting 24 hours) refusal to eat or drink shall be reported to appropriate treating professional and family or legal representative.**

The following should be added as (d):

(d) **"If a home has a resident with cognitive impairments that affect his/her ability to eat and drink adequate amounts of food and water, then staff must be trained in proper cueing and feeding techniques."**

2600.171 – Transportation

(a)(2) needs to be reworded for clarity. "All vehicle occupants shall be in appropriate a safety restraints ..."

(a) (3) Teenage drivers are considered high risk by the insurance industry for a reason. The driver of a vehicle in the children's regulations (55 Pa. Code §3800) is required to be 21 years of age and the driver here must meet that same standard.

The following must be added to avoid balance billing of an MA recipient, in contravention of the state and federal laws.

(c) **For SSI recipients, the home shall not charge an SSI recipient for transportation to/from a medical provider. The home shall utilize the Medical Assistance Transportation Program through which the SSI recipient is entitled to reimbursement.**

2600.181 - Self-Administration

It is very problematic and disturbing that the proposed regulations continue the current regulations' dangerous practices concerning "self-administration" of medication. Providers,

advocates and regulators have all publicly expressed awareness that residents who cannot distinguish between their medications and do not know the correct doses or purposes of their medications have their medications administered to them every day by PCH direct care staff with very little training, many of whom have low educational and literacy levels. The notion that the staff person is merely "assisting in self-administration" by handing the pills to be taken (after the staff person has consulted the bottle as to the dose and counted it out) is a fiction. A medication administration training program is desperately needed to ensure that trained, qualified staff are present in personal care homes to administer medications safely.

Subsection (e) takes a step in the right direction by attempting to define when a resident is capable of self-administration. It is unclear, however, whether this subsection is describing a resident who is capable of self-administering medications without assistance (and who could therefore store their medications in their own room) or one who needs assistance from staff. In addition, it is not clear what the "examples" given in the last sentence are meant to be examples of. The "examples" all address whether the resident is physically capable of ingesting or applying a medication, not whether he or she can understand the purpose and dosage, etc. of the medication, which the previous sentence addresses. This provision must make clear that a resident who is capable of placing a pill in his mouth and swallowing but has no idea what the purpose of the medication is not "capable of self-administering medication".

2600.185 -- Use of medications

The PCH should be required "to obtain medications for residents and keep an adequate supply of resident medication on hand at all times". An additional provision should be added stating that medications may only be administered to the resident for whom they were prescribed. Facilities have been cited by the Department for purposely giving a resident another resident's medication.

2600.186 -- Medication records

Subsection (b) should include the condition which each medication is intended to treat.

2600.187 -- Medication errors

Subsection (a) contains numerous references to mistakes in "self-administering" medication. It is unclear whether this refers to an error by a resident who is capable of self-administering and therefore taking his own medication or to a staff error with *assistance in self-administration*. Although the latter is presumably intended, the former is the more common-sense interpretation of the provision as written. In addition, licensed staff do administer medication in personal care homes; errors in medication administration need to be included, as well.

2600.202 -- Prohibition on the use of seclusion and restraints

The second sentence of subsection (a)(4) should be edited to provide that "[w]hen a physician orders a drug that is part of the resident's ongoing support plan and has been prescribed and documented as necessary and clinically indicated to treat the symptoms of a

specific diagnosed mental, emotional or behavioral condition, the drug should not be construed as a chemical restraint unless given in excessive dose or for excessive duration."

The difference between a "mechanical restraint" and a "manual restraint", addressed at (a)(5) and (a)(6) respectively, is unclear.

2600.221 – Activities program

The second sentence of this provision should be amended to provide that "The program shall provide social, physical, intellectual, and recreational activities **designed to meet the interests and the physical, mental and psychological well-being of each resident** in a planned, coordinated and structured manner."

2600.224 – Pre-Admission Screening Tool

The Pre-Admission Screening tool should still be a department approved/provided form. The pre-admission screening must include a mobility assessment, as has always been required.

Additionally, much of the omitted language from 2620.21 must be reinserted. Thus, should reinsert:

"The **pre-admission screening** instrument will be provided by the Department and provide basic information about the person and the suitability of the home to provide care for that person. Copies of this instrument are available from the appropriate PCH licensing field office."

2600.225 – Initial Assessment and Annual Assessment

This section and the following one, concerning the support plan, are among the most important improvements to the PCH regulations and we cannot urge strongly enough that they be retained in the final version. In order to provide adequate care and services to an increasingly frail population, facilities must identify the individualized needs of each resident and create a plan to meet those needs. These provisions will greatly improve the quality of care and services in many PCHs. Currently, we frequently see residents with extensive medical, psychiatric or care needs which are not being met. Because there is no requirement to conduct an assessment, there is often nothing in the PCH's records to indicate what the resident's needs are and what services the facility is providing to the resident. Written admission agreements do not fill this need, either; they are often boilerplate documents which contain no information specific to the resident concerning which services will be provided and with what frequency.

The term "human service agency", used in (a), should be defined. Subsection (d)(2) and (4) contain no time frame; assessments should be done within 72 hours of a discharge from hospital or of change of condition. Subsection (g) should provide that if a resident is determined to be immobile as part of **any** assessment (not just initial or annual), the requirements relating to immobility shall be met immediately.

2600.226 – Development of the Support Plan

Until the support plan is complete, services must be provided as articulated in the assessment.

Subsection (a) should be amended as follows:

(a) "This plan shall also be revised within ~~30 days~~ **upon 72 hours of** completion of the annual assessment or upon any changes in the level of functioning of the resident as indicated on the assessment. It shall **articulate how** address all of the needs **identified in** the resident's current assessment including their personal care needs **will be met. The support plan shall be attached to or incorporated into and serve as a part of the resident/home contract."**

2600.227 – Copies of Support Plan

Copies of support plan must also be attached to the contract so that a binding document exists which articulates what services the resident needs and is supposed to be receiving as well as how and when they are supposed to be receiving them. This section should also state that a copy of the current plan must be maintained in the resident's records and available to the resident on request.

2600.228 – Notification of Termination

Subsection (a) should be amended to provide that "A resident shall have the right to request and receive assistance **from the facility** in relocating....".

Subsection (b) should be revised to read "... a 30 day advance written notice to the resident **and the resident's designated person**". In addition, the third sentence should state that a 30 day notice "need not be given", not "may not be given", in the situations described. **This subsection also needs to be expanded to require that certain information be included in the termination notice: the specific reason for the discharge, and an explanation of the resident's right to appeal and how to file an appeal.** If this information is not required to be included in the 30 day notice, the right to appeal will be meaningless because residents will not know that they can appeal or how to do this. **This section must also provide that even if a 30 day notice is not required, written notice given as far in advance as is practicable is still required and must include all of the appeal information discussed above.** Otherwise, a facility will be able to eviscerate the right to appeal a discharge by claiming that the health or safety of the resident or others in the home is at risk, and the resident will have no recourse.

Omitted language from 2620.27(2) should be reinserted. This language, in cases where the resident is a danger to self or others, calls for the administrator to take appropriate steps to protect the other residents while insuring that the dangerous resident is served until appropriately relocated.

There are some changes which should be made to proposed section (f) to reflect **the lessons which were learned from the Philadelphia relocations of the summer of**

2002. Section (f) needs to be revised to make it clear that a closure by the Department gives rise to the same relocation assistance as does a voluntary closure. Additionally, it needs to be revised to make clear that the administrator shall not interfere with the relocation process.³ Thus, the language should be revised as follows:

"If the legal entity chooses to voluntarily close the home or the Department has prevailed in legal action to close the home.... Each resident shall These procedures shall Neither the legal entity, administrator, nor staff shall be involved in or interfere in the relocation efforts."

Section 2600.228(h)(3) needs to be revised to be clear that the change to a resident's needs must be confirmed by the resident's physician or the area agency on aging and cannot be solely left to the determination of the home. This was in 2620.27 and has been omitted here. Additionally, it is unclear how the resident's functional level could have "advanced" (which implies improvement) such that the home cannot meet his needs. The use of this word is not clear and not necessary. Thus, this subsection should be revised as follows:

"If a resident's functional level has advanced or declined such that the resident's physician or a local appropriate assessment agency has confirmed that the resident's needs cannot be met in the facility"

Section 2600.228(h)(5) should be amended to state that the resident has the right to remain in the home unless she has **"failed to pay after reasonable documented efforts by the home to obtain payment."** This language, which has been discussed with the Department in stakeholder meeting and was added to the resident's rights section, is intended to protect a resident from being evicted for failure to pay monies she was never made aware were owed.

2600.229 – Secured Unit Requirements

This section has omitted crucial elements such as: who is admissible to a secured unit, what disclosure must be made, and what DPW oversight there will be of secured units. In fact, the proposed regulations leave out any requirement that DPW inspect and determine that the secured unit meets these requirements prior to the secured unit's opening and admitting residents. Additionally, this section must clearly indicate that none of these provisions can be waived!

The section should begin with a paragraph stating that:

"Secured Units to serve residents with confirmed cognitive impairments and a need for restrictions on their mobility are permissible for homes that meet all licensure requirements of this chapter and this section. Prior to opening or operating a secured unit, the Department shall confirm that all requirements are

³ During the Department's closing of Thoroughgood Home in August 2002, the facility's owner moved numerous residents to another facility which she also owned, despite the fact that it was under a cease and desist order and in fact was closed by the City of Philadelphia Licenses and Inspections Department shortly thereafter. Department staff insisted that there was nothing they could do to prevent this interference with relocation efforts; regulatory language must therefore be added.

met and certify in writing that the home has met the requirements and is authorized to operate a secured unit."

(b)(1) needs to expressly state that there must be adequate wandering space. "Exercise" space implies a designated exercise or gym area. The reality is that persons with cognitive impairments are prone to wandering and need adequate open space in which to safely do this.

(c)(4): "legal representative" needs to be defined.

(d)(2) should be revised to state: "Within 72 hours ... shall identify the resident's physical, medical, social, cognitive, and safety needs, **how and by whom such needs will be met, and when and with what frequency services will be provided.**" It is unclear what the reference to "the responsible person" in the proposed language means.

(f) and (g) should specify how many additional hours of orientation and training must be completed.

The implication in subsection (j) is that secured units can be opened and operated simply by submitting a "notice" to the department that the home is opening and operating such a unit. This must be revised to make clear that the home must submit an "request for approval of secured unit" and that the department must come out and inspect and find that the home meets all the requirements of this chapter and section and affirmatively grant approval for the home to open and operate a secured unit. Thus, (j)(1) should read:

(j)(1) "60 day prior to **desired date of** the secured unit becoming operational for the first time, the legal entity shall **submit to notify** the appropriate Department Regional Office in writing a **request for approval of secured unit indicating** the home's need or desire to implement a secured unit within the home."

(j)(2) "If the home makes any **later** changes to an **approved** secured unit..."

(j)(3) "The following document shall be included in the written **request for approval of secured unit notification**"

The proposed regulations fail to include a disclosure requirement and this must be included as section (k). The home that operates a secured unit must be required to disclose to potential residents and their families or legal representatives what requirements the department imposes, proof/verification that the home meets these requirements, a description of what services the home provides and of what safety mechanisms are in place for the secured unit to protect the health and safety of the cognitively impaired residents.

2600.230 – Mobility Standards

Section (b) is unclear as to what "specific requirements" are being referenced. The final regulations should cross-reference other sections (such as staff levels, bedroom space, etc.) and allow for additional requirements as imposed by the department.

There is no reasonable explanation for why the home could need or should be provided 30 days to notify the licensing office that an immobile has moved in. The home should have 72 hours to fax a standardized notice form.

Must add as (d): **A PCH without a secured unit shall not provide services for a person whose assessment indicates or who the PCH has other reason to know is likely to wander into dangerous conditions.**

2600.242 Content of records

(b) Add a number (9): This section must include information on the resident's dentist and other specialty doctors that the resident uses (e.g., cardiologist, neurologist, pulmonary specialist, ophthalmologist, allergist, audiologist, oncologist, dermatologist, surgeons, etc.)

2600.244 – Record Access and Security

Residents must have a right to see and obtain a copy of their record.

2600.251-253 – Enforcement

The Department of Public Welfare's appointed advisory board, the Personal Care Home Advisory Committee, unanimously recommended numerous measures for improvement of the Department's enforcement that could be accomplished within the statutory scheme. None of these have been included in this section. Improvements to the Department's enforcement are perhaps the most important change needed to better protect residents and the health of the PCH industry. Therefore, we **strongly urge that the Advisory Committee's recommendations (a copy of which is attached) be incorporated into the final version of these regulations.**

In addition to the changes urged by the Department's Advisory Committee, we recommend that expertise beyond that of current licensing staff is needed to review and adequately determine compliance with appropriate regulatory standards. The Department should consider the creation of multidisciplinary monitoring team(s) (to include a doctor/nurse, persons with expertise in physical plant safety, psychiatric and aging professionals) to perform licensing inspections, to include record reviews, clinical reviews, client interviews, etc specialized needs that consumers require. This team should also review and approve any correction plans generated as a result of license deficiencies.

The enforcement regulations should also be amended to provide that if a facility is found out of compliance with local licensing and inspection requirements, the Department will suspend and/or not renew the facility's license as well as require relocation of all consumers. Providers must be required to report all local L&I violations to the Department within 2 working days. The Department, in turn, should notify local L&I agencies of all building-related violations of the Department's regulations.

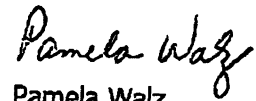
2600.252 Penalties

(c) Remove the sentence, "This time period may be extended for good cause."

(g) Remove the word "may" and replace it with "shall".

Thank you for your consideration of these comments. We look forward to seeing the final version of these very important revisions to the PCH regulatory system.

Sincerely,



Pamela Walz
Director
Elderly Law Project

Cc: Independent Regulatory Review Commission
Hon. George T. Kenney, Jr.
Hon. Frank L. Oliver
Hon. Harold Mowery, Jr.
Hon. Timothy Murphy
Hon. Vincent Hughes