

Regulatory Analysis Form

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2004 FEB -2 PM 4: 18

REVIEW COMMISSION

(1) Agency

Insurance Department

(2) I.D. Number (Governor's Office Use)

11-220

IRRC Number: 2385

(3) Short Title

Continuing Care Providers

(4) PA Code

31 Pa. Code, Chapter 151, §151.7

(5) Agency Contacts & Telephone Numbers

Primary Contact: Peter J. Salvatore, Regulatory Coordinator,
1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429
Secondary Contact: Elaine M. Leitzel, Program Analyst,
Office of Regulation of Companies, 1345 Strawberry Square,
Harrisburg, PA 17120 (717) 787-8840

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The purpose of this rulemaking is to update and clarify Chapter 151 with respect to the requirements for annual audits of financial statements filed by continuing care providers with the Department. This rulemaking is a companion to Insurance Department 11-217, which is being proposed, in part, to clarify the requirements in Chapter 147 (relating to annual audited insurers' financial report required) with respect to audits of non-profit and for-profit continuing care providers. Chapter 151 was adopted in 1985 to implement the Continuing-Care Provider Registration and Disclosure Act. Chapter 147 was last amended in 1995 and prescribes requirements for annual audits of all types of licensed insurers and continuing care providers. Therefore, the provisions in Chapter 151 relating to annual audits are outdated and not needed in addition to the requirements in Chapter 147.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The rulemaking is proposed under the authority of the Continuing-Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3225).

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

No.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

This rulemaking is needed to eliminate outdated, unnecessary requirements relating to the engagement of CPAs to conduct annual audits of financial statements filed by continuing care providers.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environment or general welfare risks associated with this rulemaking.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Continuing care providers and CPAs will benefit from the improved clarity and efficiency of the regulation. The general public will benefit to the extent that these improvements enhance compliance with regulatory and accounting profession standards for financial statements filed by continuing care providers with the Department.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No adverse effects are anticipated as a result of this rulemaking.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Licensed continuing care providers are required to comply with the regulation. There are 117 licensed continuing care providers.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

Comments on these regulations were requested from the Pennsylvania Association of Nonprofit Homes for the Aging. The comments received were considered in the development of the proposed rulemaking. In addition, the regulatory process provided for a 30-day public comment period subsequent to publication of the proposed rulemaking in the *Pennsylvania Bulletin*.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures, which may be required.

The updated requirements in this regulation will impose no significant additional costs on the regulated community.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures, which may be required.

There are no costs or savings to local governments associated with this rulemaking.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures, which may be required.

The efficiency of the Department's review of financial statements filed by continuing care providers and the conduct of on-site financial examinations of continuing care providers will be improved to the extent this rulemaking improves the clarity of regulatory requirements and promotes the reliability of financial statements filed by these entities.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years. N/A

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

There are no significant measurable costs or savings associated with this rulemaking.

Regulatory Analysis Form

(20b) Provide the past three-year expenditure history for programs affected by the regulation.

N/A.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

This rulemaking will impose no significant additional costs on affected parties or the Department. Continuing care providers and CPAs will benefit from the improved clarity and efficiency of the regulation. The general public will benefit to the extent that these improvements enhance compliance with regulatory and accounting profession standards for financial statements filed with the Department.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

This rulemaking is the most efficient means to establish requirements for continuing care providers under the authorizing statute. No other alternatives were considered.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

This rulemaking updates an existing regulation. No other regulatory schemes were considered.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Continuing care providers are licensed by the Department to operate continuing care facilities in Pennsylvania. The regulation will update and clarify regulatory requirements and will have no impact on competition with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This rulemaking updates an existing regulation of the promulgating agency. No other regulations are affected.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings are anticipated.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports, which will be required as a result of implementation, if available.

The rulemaking will not require additional reporting, record-keeping or paperwork.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The updates to the regulation recognize the differences in accounting and financial reporting requirements for non-profit and for-profit continuing care providers under generally accepted accounting principles.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The rulemaking will undergo a 30-day public comment period and will take effect upon approval of the final form regulation by the legislative standing committees, the Office of the Attorney General, and the Independent Regulatory Review Commission and upon final publication in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

The Department reviews each of its regulations for continued effectiveness on a triennial basis.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU

(Pursuant to Commonwealth Documents Law)

2385

RECEIVED
2004 FEB -2 PM 4: 18
REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to
form and legality. Attorney General

[Signature]

By _____
(Deputy Attorney General)

JAN 30 2004

Date of Approval

→ Check if applicable.
Copy not approved. Objections
attached.

Copy below is hereby certified to be a true and correct
copy of a document issued, prescribed or promulgated
by:

Insurance Department

(AGENCY)

DOCUMENT/FISCAL NOTE NO. 11-220

DATE OF ADOPTION: _____

BY: *[Signature]*
M. Diane Koken

Insurance Commissioner

TITLE: _____
(EXECUTIVE OFFICER, CHAIRMAN OR
SECRETARY)

Copy below is hereby approved as to form and
legality. Executive or Independent Agencies

BY: *[Signature]*

12/5/03

DATE OF APPROVAL

(DEPUTY GENERAL COUNSEL)
(CHIEF COUNSEL, INDEPENDENT AGENCY)
(STRIKE INAPPLICABLE TITLE)

→ Check if applicable. No Attorney General
approval or objection within 30 days after
submission.

NOTICE OF PROPOSED RULEMAKING

INSURANCE DEPARTMENT

31 Pa. Code, Chapter 151
§151.7

CONTINUING CARE PROVIDERS

PREAMBLE

The Insurance Department (Department) proposes to amend Chapter 151 (relating to continuing care providers) to read as set forth in Annex A. The rulemaking is proposed under the authority of the Continuing-Care Provider Registration and Disclosure Act (40 P.S. §§ 3201—3225).

Purpose

The purpose of this rulemaking is to update and clarify Chapter 151 with respect to the requirements for annual audits of financial statements filed by continuing care providers with the Department. This rulemaking is a companion to Insurance Department 11-217, which is being proposed, in part, to clarify the requirements in Chapter 147 (relating to annual audited insurers' financial report required) with respect to audits of non-profit and for-profit continuing care providers. Chapter 151 was adopted in 1985 to implement the Continuing-Care Provider Registration and Disclosure Act. Chapter 147 was last amended in 1995 and prescribes requirements for annual audits of all types of licensed insurers and continuing care providers. Therefore, the provisions in Chapter 151 relating to annual audits are outdated and not needed in addition to the requirements in Chapter 147.

Significant Provisions

Section 151.7(d) (relating to disclosure statements) is being amended to replace out-dated, incomplete requirements for audited financial statements with a reference to the requirements in Chapter 147. This amendment, together with the amendments to Chapter 147 are needed to establish up-to-date, detailed financial reporting requirements for non-profit and for-profit continuing care providers under generally accepted accounting principles.

External Comments

The Department requested comments from the Pennsylvania Association of Nonprofit Homes for the Aging in drafting this proposed rulemaking and the companion rulemaking to update Chapter 147. The comments received in response to the Department's request were considered in the development of this rulemaking.

Affected Parties

Chapter 151 applies to continuing care providers licensed to transact business in this Commonwealth. The provisions relating to annual audits also apply to the certified public accountants retained to conduct audits of financial statements filed by continuing care providers with the Department.

Fiscal Impact

State Government

The rulemaking will update and clarify existing regulatory requirements. There will be no increase in cost to the Department as a result of this rulemaking.

General Public

The rulemaking has no fiscal impact on the general public.

Political Subdivisions

There will be no fiscal impact on political subdivisions as a result of the rulemaking.

Private Sector

The updates in this rulemaking will impose no significant costs on continuing care providers.

Paperwork

The rulemaking will not impose additional paperwork on the Department and affected parties.

Effectiveness/Sunset Date

The rulemaking will become effective upon final adoption and publication in the *Pennsylvania Bulletin* as final-form rulemaking. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore no sunset date has been assigned.

Contact Person

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

Under the Regulatory Review Act (71 P.S. §§ 745.1—745.15), the Department is required to write to all commentators, requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve our stakeholders, the Department has made a determination that all commentators will receive a copy of the final-form

rulemaking when it is made available to the Independent Regulatory Review Commission (IRRC) and the legislative standing committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 2, 2004, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. In addition to the submitted proposed rulemaking, the Department has, as required by the Regulatory Review Act, provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of that material is available to the public upon request.

IRRC will notify the Department of any objections to any portion of the proposed rulemaking within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies detailed procedures for the Department, the Governor, and the General Assembly to review these objections before final publication of the regulations.

M. DIANE KOKEN,
Insurance Commissioner

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 151. CONTINUING CARE PROVIDERS

Sec.

151.7. Disclosure statements.

§ 151.7. Disclosure statements.

(a) Disclosure statements shall contain the information required by section 7 of the act (40 P. S. § 3207) and the information required by this section.

* * * * *

(d) The certified financial statements required to be contained in disclosure statements, under section 7(a)(9) of the act (40 P. S. § 3207(a)(9)), shall be prepared in accordance with **[generally accepted accounting principles and shall be signed by an independent certified public accountant in accordance with generally accepted auditing standards. The certified financial statements shall include the following as of the end of the providers two most-recent fiscal-years, or the period of time that the provider has been in existence, whichever is shorter.**

(1) A balance sheet showing the assets, liabilities and equity.

(2) Statements of income, retained earnings or equity and changes in financial position.] Chapter 147 (relating to annual audited insurers' financial report required).

* * * * *



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

SPECIAL PROJECTS OFFICE
1326 Strawberry Square
Harrisburg, PA 17120

Phone: (717) 787-4429
Fax: (717) 772-1969
E-mail: psalvatore@state.pa.us

February 2, 2004

Mr. Robert Nyce
Executive Director
Independent Regulatory Review Comm.
333 Market Street
Harrisburg, PA 17101

Re: Insurance Department Proposed Regulation No. 11-220, Continuing Care Providers

Dear Mr. Nyce:

Pursuant to Section 5(a) of the Regulatory Review Act, enclosed for your information and review is proposed regulation 31 Pa. Code, Chapter 151.

The purpose of this rulemaking is to update and clarify Chapter 151 with respect to the requirements for annual audits of financial statements filed by continuing care providers with the Department. This rulemaking is a companion to Insurance Department 11-217, which is being proposed, in part, to clarify the requirements in Chapter 147 (relating to annual audited insurers' financial report required) with respect to audits of non-profit and for-profit continuing care providers. The provisions in Chapter 151 relating to annual audits are outdated and not needed in addition to the requirements in Chapter 147.

If you have any questions regarding this matter, please contact me at (717) 787-4429.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Peter J. Salvatore".

Peter J. Salvatore
Regulatory Coordinator

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 11-220
SUBJECT: Continuing Care Providers
AGENCY: DEPARTMENT OF INSURANCE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

2004 FEB -2 PM 4:19
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
2-2-04	<i>[Signature]</i>	HOUSE COMMITTEE ON INSURANCE
2-2-04	<i>[Signature]</i>	
2-2-04	<i>[Signature]</i>	SENATE COMMITTEE ON BANKING & INSURANCE
2/2/04	<i>[Signature]</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
2/2/04	<i>[Signature]</i>	ATTORNEY GENERAL (for Final Omitted only)
2/2/04	<i>[Signature]</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)

February 2, 2004