

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
OFFICE OF GENERAL COUNSEL**

Original: 2488

DATE: October 5, 2005

**SUBJECT: Public Comment
Nursing Facility Services; Preadmission Requirements and Civil Rights
Compliance for Nursing Facilities- # 14-493
Proposed Regulation**

TO: Kim Kaufman
Executive Director
Independent Regulatory Review Commission

FROM: Ruth D. O'Brien *ROB/ss*
Senior Assistant Counsel

Attached is a public comment (15) received regarding the above proposed regulation.

Attachments

cc: Scott Johnson
Norris Bennis
Melanie Brown
Sandra Bennett

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2005 OCT -5 PM 3:32
INDEPENDENT REGULATORY REVIEW COMMISSION

PENNSYLVANIA PROTECTION & ADVOCACY, INC.

1414 N. Cameron Street, Suite C
Harrisburg, PA 17103

September 27, 2005

Department of Public Welfare, Office of Medical Assistance Programs
Attention: Regulations Coordinator
Room 515 Health and Welfare Building
Harrisburg, PA 17105

Phone:
Voice: 800-692-7443 or 717-236-8110
TTY: 877-375-7139 or 717-346-0293

Fax:
717-236-0192

Email:
ppa@ppainc.org

Pennsylvania Protection & Advocacy (PP&A) is the designated advocacy organization on behalf of persons with disabilities authorized under federal law. I write to express PP&A's full support for the proposed rulemaking entitled Nursing Facility Services; Preadmission Requirements and Civil Rights Compliance for Nursing Facilities.

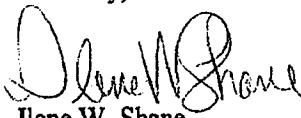
Based on my own years of experience and the thousands of calls that PP&A receives each year, I can state with certainty that people with disabilities prefer to live in their own homes and to be integrated in their own communities. Giving persons with disabilities more information earlier in the process will help them make the informed choices necessary to achieve these goals. Time and time again, PP&A staff has witnessed the difficulty of people returning to the community once they have lost their houses or apartments. Indeed, it is not uncommon for persons with disabilities to lose their housing during a relatively short stay in a facility. Finding a new place to live then becomes the primary obstacle for persons to return to their communities. Thus, it is of the utmost importance that information on community alternatives be given before the person enters a facility and runs the risk of losing their housing.

PP&A also supports the provision requiring the collection of data on civil rights compliance. PP&A has on numerous occasions heard from persons with disabilities or their family members describing examples of discrimination by nursing homes in their selection process.

Finally, representatives of the nursing home industry have suggested that these regulations violate the Supreme Court's *Olmstead* decision. Nothing could be further from the truth. I was co-counsel in the Third Circuit case of *Helen L. v. Didario*, which preceded the *Olmstead* decision and was the first case to apply the interpretation of the ADA later adopted by the Supreme Court. The *Olmstead* case is about the rights of unnecessarily segregated persons with disabilities to leave congregate facilities. The decision has nothing to do with the issue of persons seeking to enter such facilities and, to my knowledge, every court to consider the issue has rejected the type of argument being made by the representatives of the nursing home industry.

It is critically important that these regulations be adopted as proposed.

Sincerely,


Ilene W. Shane
CEO

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FAX Cover Sheet**PENNSYLVANIA PROTECTION & ADVOCACY, INC.**

1414 N. Cameron Street, Suite C, Harrisburg, PA 17103

800/692-7443...717/236-8110...717/236-0192 (fax)

TO: Regulations Coordinator, DPW office of Medical Assistance**FROM:** Ilene Shane, CEO**FAX #:** 787-4639**SUBJECT:** Nursing Facility Services**DATE:** 9/27/05**PAGES (including this cover sheet):** 2**COMMENTS:**PROGRAM ANALYSIS
AND REVIEW SECTION

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cc: PAT
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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE

DATE: 10/4/2005

TO: Ruth O'Brien
Office of General Counsel
OGC Regulatory Unit

FROM: Gail Weidman
Bureau of Long-Term Care Programs
Program Analysis Review Section

REGULATION #: 14-493

Our Bureau has received the attached public comments regarding the above proposed regulation.

Comment Letter #: 15

Gail Weidman

cc: Gail Weidman
Policy Unit

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