

2623

RECEIVED

RECEIVED

August 29, 2007

Janice Staloski, Director  
 Pennsylvania Department of Health  
 Bureau of Community Program Licensure and Certification  
 132 Kline Plaza Suite A  
 Harrisburg, PA 17104-1579

2007 SEP 12 AM 9:10

SEP - 5 2007

PA DEPT OF HEALTH  
DIVISION OF HOME HEALTHINDEPENDENT REGULATORY  
REVIEW COMMISSION

RE: Final draft regulations by the Department of Health amending the Health Care Facilities Act, providing for the licensure of home care agencies and home care registries.

Dear Ms. Staloski:

As our state's elderly population continues to rise as well as the cost of nursing home care, state officials now recognize the value and cost effectiveness of helping people to remain in their own homes. The proposed regulations to license homecare agencies and registries now under review are critical to helping thousands of older and disabled Pennsylvanians to remain in their own homes.

It is more important to contain any undue financial burden on home health agencies as a result of regulatory oversight. Act 69 clearly states that its purpose is to oversee homecare agencies providing *non-medical services*. However after reviewing the published draft regulations, I have **three major concerns** that focus on chapters relating to child abuse clearances; training requirements and health evaluations. These three issues will have a significant impact on homecare agencies' abilities to control administrative costs and hire qualified staff. If Pennsylvania is to continue with its efforts to create a long-term care system that promotes independence and home and community-based care options; these regulations must provide fair and reasonable expectations of an industry that is reliant on market demand and private pay. My three major concerns appear below:

1. **§ 611.53. Child Abuse Clearance** – While I fully support requiring all direct care workers who come in contact with children to have child abuse clearances, we do not agree that office personnel should be required to have clearances. We serve only a handful of children will more than likely drop those cases rather than take on the onerous financial burden of child abuse clearances for all staff. Staff that does not have access to files, including temporary employees or other contracted staff such as cleaning staff should not have to submit for a ChildLine verification.

2. **§611.55. Training Requirements** – Subsection (d) details the requirements that any competency training program must address, at a minimum.

a. I recommend that the Department reinsert after subsection (9) "The training program and competency examination, to be approved by the Department, also must include options for additional training or testing to ensure competency in the following subject areas." Only subsections 1-9 should be required to be part of any competency exam or training program. Subject areas 10-16 are far more intensive and hands on in the homecare environment, than are appropriate for someone performing only instrumental activities of daily living (IADLs). Requiring these subject areas for all direct care workers will add additional costs to the competency training programs.

3. **§611.56. Health Evaluations** –

a. (a) I recommend that employees be able to provide evidence of a screening assessment within one (1) year prior to the person's start date as was originally proposed.

b. (a) The Department should remove conditions 1-5 or, at a minimum, the Department must define "screened" in reference to the additional communicable diseases or conditions listed as 1-5. Requiring that workers are screened for conditions 1-5 adds to the overhead costs. Also, the Department has not defined what would constitute "screened" for these additional conditions.

c. As for (5), many of these symptoms can be attributed to a variety of conditions many of which do not put a consumer at risk. No health care provider is burdened with such prescriptive screening.

d. I recommend adding a subsection (c) for *Individuals currently employed or rostered*. A home care agency or registry as of \_\_\_\_ (The blank refers to the effective date of adoption of this chapter.) shall achieve compliance with the health evaluations requirements imposed by this subpart by \_\_\_\_ (The blank refers to 180 days after the effective date of adoption of this chapter.) The following are comments on additional chapters.

1. **Section 611.11. License Required**

a. Under home health an agency is allowed to have a central office and branch locations connected to that central office. I recommend that this be allowed under the homecare agency/registry regulations. My staff serves multiple offices but the personnel files are housed in a central location of the Health System.

**2. Section 611.18 Change in ownership or management**

a. Subsection (d) I recommend changing the notice to 90 days to allow for an employee to complete a probationary period with the employer to reduce the paperwork burden for agencies/registries and the Department.

**3. Section 611.31. Inspections**

a. I recommend adding subsection (f) "On-site inspections may be scheduled in advance or unannounced". Many times there is not an individual at an office to greet an inspector without some notice. Allowing surveyors the flexibility to schedule routine surveys in advance would benefit both the staff and the surveyor by ensuring that someone is on-site. Similar language is in the regulations for home health agencies.

**4. Section 611.32 Retention of Records**

a. I would recommend removing the word "onsite" in regard to the retention of records and replace it with "and be reasonably accessible". We do not have storage space, consequently older files are sent off-site (to Iron Mountain) to be stored. Employee files and other personnel files are maintained at a central office rather than at one specific office location. It would be cost prohibitive to duplicate personnel files for multiple offices.

b. The term "documentation" should include electronic files of the necessary criminal background checks, etc.

c. Electronic documentation that is Internet-based but accessible from the office computers should be considered "reasonable accessible" or "onsite".

**5. Section 611.51 Hiring or rostering of direct care workers.**

a. Subsection (a)(2) I recommend that the Department define a satisfactory reference. A satisfactory reference should include dates of employment from a previous employer and personal references.

b. Agencies/registries should be allowed to accept verbal references if they are documented.

c. Workers with more than two years of continuous employment should be grandfathered in with regards to the satisfactory references component.

d. I recommend adding a subsection (c) for *Individuals currently employed or rostered*. A home care agency or registry as of \_\_\_\_ (The blank refers to the effective date of adoption of this chapter.) shall achieve compliance with the hiring or rostering requirements imposed by this subpart by \_\_\_\_ (The blank refers to 120 days after the effective date of adoption of this chapter.)

**6. Section 611.54 Provisional hiring**

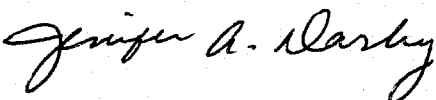
a. Subsection (4) should have the following statement added to the end of the sentence, "prior to assigning or referring a direct care worker to provide services to a consumer." Adding this language would allow agencies to provisionally hire individuals and allow them to take training courses while provisionally hired. The current language prohibits provisionally hiring someone unless they have already received all the appropriate training.

**7. Section 611.57. Consumer protections**

a. In subsection (C) it notes the information that must be provided prior to the commencement of services. Agencies should be permitted to provide this information verbally over the phone or in person to a consumer, their legal representative or responsible family member while allowing for a 3-5 day window to submit this information in writing. Many times patients/families are not receptive to reviewing the informational packet the day of admission to Home Health (it may be late in the day, the patient is fatigued or too ill to review the information). Agencies must be given time to mail the appropriate information without delaying home care. Documentation of when information was provided as well as dates info packets were mailed should be required.

Thank you for your time and attention to my comments.

Sincerely,



Jenifer A. Darby, MHSA, BSN, RN-Director  
Sharon Regional Health System Home Health Agencies  
663 E. State St.  
Sharon, PA. 16146