

This document is a comment on the preliminary DRAFT final regulation. On June 24, 2009, the Department of Public Welfare provided a DRAFT final regulation for public review and comment. The DRAFT final can be found at : <http://www.irrc.state.pa.us/Documents/SRCDocuments/Regulations/2712/AGENCY/Document-12700.pdf>.

This is an informal process. The Department will consider these comments in preparation of a formal final regulation to be submitted at a later date.



**ANDREW E. DINNIMAN**

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**Senate of Pennsylvania**

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LIFE SCIENCES AND BIOTECHNOLOGY CAUCUS, CO-CHAIR  
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August 4, 2009

Jen Burnett, Director  
 Office of Long Term Living  
 Bureau of Policy and Strategic Planning  
 P.O. Box 2675  
 Harrisburg, PA 17105

Dear Ms. Burnett,

Recently, the Legislative Committee of the Hickman, a longtime and highly respected senior living community in West Chester, wrote to you concerning the Office of Long Term Living's proposed assisted living regulations (55 PA Code Chapter 2800).

A copy of the letter and review of the proposed regulations is enclosed.

I ask that you seriously consider the concerns outlined by the committee, which is made up of three staff members and eight residents. I would appreciate it if you would get back both to the Hickman committee and to me, as their State Senator, with a response not only to their comments on industry regulations, but also their larger concerns.

Their first concern is that the suggested regulations will likely put assisted living residences out of the financial reach of all but the wealthy, leaving a much larger group of low to moderate income people unable to access the essential services provided by such facilities.

Their second fundamental concern is that existing personal care homes, with plans to devote a floor or wing to assisted living, may find implementing the regulations to be financially prohibitive, rendering them also unable to provide such services to those in need.

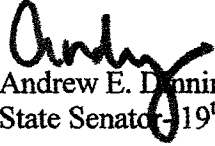
The third fundamental concern is that the regulation of assisted living lacks a crucial provision for low income people, which may impose yet another unwanted barrier between many senior citizens and the care they need.

Over the years, the Hickman has been a leader in our community in providing a wonderful place for senior citizens to live, and I think you will agree that we should not make it more difficult for

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those in need of care to receive it. Due to its long record of excellent service to its residents, the Chester County community takes any comments or concerns expressed by the Hickman very seriously. I hope that you also will take some time to consider their words.

Sincerely,



Andrew E. Dinniman  
State Senator - 19<sup>th</sup> District

AED/ac

CC: Anne Brownlow  
Don Byerly  
Elaine Cote  
Charlotte LeClerc  
Elma Mack  
Jane Mack  
Dot Pyle  
Anthony DeCarolis  
Marilee Mohr  
John Schwab  
Rep. Barbara McIlvaine Smith



400 North Walnut Street  
West Chester, PA 19380-2487

July 24, 2009

The Honorable Barbara McIlvaine-Smith  
107 East Chestnut Street  
West Chester, PA 19380

Dear Barbara:

Enclosed please find the comments of The Hickman Legislative Committee to the Office of Long Term Living's proposed assisted living regulations (55 Pa. Code Chapter 2800). As a committee consisting of three staff and eight residents of The Hickman, we worked diligently over the past 30 days, reviewing the proposed regulations and formulating our comments about them.

Our biggest concern is the cost of implementing these regulations. It is our belief that assisted living residences should be affordable to all seniors, not to just a privileged few. Such regulations will likely put assisted living residences out of the financial reach of all but the wealthy, leaving the much larger group of low-to-medium income people unable to access them. Existing Personal Care Homes with plans to devote a floor or a wing to assisted living may find implementing these regulations financially prohibitive. Implementation of the regulations of assisted living lacks a crucial provision for funding of low-income people.

The Hickman Legislative Committee requests that you review our comments and support our position on these regulations.

Your attention to this matter is greatly appreciated.

Sincerely,

John Schwab  
On behalf of The Hickman Legislative Committee

**The Hickman Legislative Committee**

Residents:	Anne Brownlow	Charlotte LeClerc	Staff:	Anthony DeCarolis
	Don Byerly	Elma Mack		Marilee Mohr
	Elaine Coate	Jane Mack		John Schwab
	Frances Fisher	Dot Pyle		



400 North Walnut Street  
West Chester, PA 19380-2487

July 24, 2009

Office of Long Term Living  
Bureau of Policy and Strategic Planning  
P.O. Box 2675  
Harrisburg, Pennsylvania 17105

Email: RA-asstdliving@state.pa.us

Re: Comments on Assisted Living Residences (55 Pa. Code Chapter 2800)

Dear Bureau of Policy and Strategic Planning Staff:

Over the past 30 days, The Hickman's Legislative Committee, comprised of three staff members and eight residents, has studied Chapter 2800, Assisted Living Regulations, dated June 24, 2009. We have collected the attached comments, feeling that in many cases the regulations are unduly strict or will lead to unnecessary expenditures.

Such regulations will likely put assisted living residences out of the financial reach of all but the wealthy, leaving the much larger group of low-to-medium income people unable to access them. Existing Personal Care Homes with plans to devote a floor or a wing to assisted living may find implementing these regulations financially prohibitive.

Implementation of the regulations of assisted living lacks a crucial provision for funding of low-income people.

It is important to remember that a vital aspect of an assisted living residence is that it cares for the needs of all qualified people in a homelike, comfortable setting, and that it be affordable to the vast majority of consumers.

We invite you to consider our comments and implement changes that will minimize the cost to implement regulations, thereby maximizing access to assisted living residence for all income brackets.

Sincerely,  
John Schwab  
On behalf of The Hickman Legislative Committee

The Hickman Legislative Committee

Residents: Anne Brownlow	Charlotte LeClerc	Staff: Anthony DeCarolis
Don Byerly	Elma Mack	Marilee Mohr
Elaine Coate	Jane Mack	John Schwab
Frances Fisher	Dot Pyle	

cc: Senator Andrew Dinniman  
Senator Patricia Vance  
Senator Phyllis Mundy  
✓ Representative Barbara McIlvaine-Smith  
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Definitions

§ 2800.4 – Basic cognitive support services: Item (vi) Specialized communication techniques should be removed from this definition as it is a service that could require the professional services of a speech or behavioral therapist, taking it out of the realm of basic services.

§ 2800.4 – Cognitive services: How does an ALR determine when a resident with cognitive weaknesses changes “significantly”? If “significantly” is left undefined, the decision may vary from inspector to inspector or from one day to another day. Let the decision be made by the ALR’s clinical staff.

§ 2800.4 – Department: Shouldn’t the definition of Department be “Office of Long Term Living, Department of Aging”?

§ 2800.4 (ii) and (iii) – Specialized cognitive support services: “Dining with Dignity” and “Routines and Roles” need to be defined.

§2800.11(c)(2) – Procedural requirements for licensing ALRs: Although the fee has been reduced to \$75 per bed, we feel that this is excessive and continues to place an additional cost on each resident. We have determined that \$50 per bed is a more reasonable fee.

§2800.11(g) – Procedural requirements for licensing ALRs: Remove the words “and are located in a distinct part of the building”. Provided all other requirements are met, we see no reason why a residence can not be licensed by door. This provides flexibility for both the consumer and the provider.

§2800.16(a)(3) – Reportable incidents and conditions: Delete “illness” from line 1. To include illness would be to include too many items to report. Incidents like heart attacks and broken bones need to be reported, but cataract care, urinary infections, infected teeth and the like are normal occurrences that should not be required to be reported.

2800.19(b) – Waivers: The public should not have the right to comment on an individual’s waiver request.

I'm weak on the term "waiver"

§2800.19(3)(c) – Waivers: This is too broad of a list. Individual circumstances may warrant the waiver of some of these items, particularly as it concerns a resident’s right to risk and the informed consent process.

§2800.19(3)(d) – Waivers: The contact information for the Department staff person should be provided in this section.

§2800.22(b.2) Application and admission: This item should read, “The certification *may be* made by the following persons:”.

§2800.22(b.2) – Application and admission: Add an item (2) as follows: “An R.N. employed by the residence, in consultation with supplemental health care provider.” Current item (2) would then be item (3). Current item (3) would then be item (4) and should read: “The medical director of the residence, if one exists.”

✓ §2800.65(c) - **Staff orientation and direct care staff person training and orientation:** It is our belief that it is appropriate to give a person 90 days to receive their training as long as they are working along side a trained individual.

✓ §2800.65(g) - **Staff orientation and direct care staff person training and orientation:** It is adequate for direct care staff to have 12 hours annual training relating to their job duties.

✓ §2800.82 - **Poisons - Poisons** should not include toiletry items (i.e., hairspray, shampoo, soaps, perfumes and colognes, toothpaste), items used by residents for household upkeep (i.e., furniture polish, glass cleaner) or hobby supplies (i.e. paint, glue) used by the resident in a safe manner and considered as normal everyday items found in a household.

§2800.98(b) - **Indoor activity space:** It is our opinion that the dining room should be considered part of the living space of the residence as doing so fosters a residential family-centered environment.

§2800.101(b)(1) - **Resident living units:** 250 square feet or floor space exclusive of closets and bathrooms is excessive. If 80 sq.ft., suffices for a PCH, certainly 200 sq.ft. is enough for an ALR, whose population is frailer and less mobile. Extra space may be needed in closet(s) and bathroom, not in the main room. Alternatively, retain 250 sq.ft., but have it include bathroom and closet(s), allowing each ALR to select room, bathroom and closet sizes appropriate to the needs of the residents.

§2800.101(b)(2) - **Resident living units:** 175 sq.ft. in existing residences is excessive and puts an unnecessary burden on existing residences.

§2800.101(d)(1) - **Resident living units/New construction:** For new construction, kitchen space in every room seems excessive. Somewhere between 10% and 25% of rooms might reasonably be kitchen-supplied. A "country kitchen" would be enough for most residents' needs in either new or existing facilities.

§2800.101(h)(4) - **Resident living units/Master keys:** Multiple master keys may need to be maintained for multiple buildings at the building site.

§2800.124 - **Notification of local fire officials:** It is a waste of time and money to notify the fire department whenever there is a resident in need of assistance to evacuate in an emergency. Continuous up-to-date lists of such residents, kept by the Receptionist and by each Resident Care Office in the residence can be handed to firefighters on arrival. This residence's fire department has given written approval for such a plan. Indeed, our fire department prefers not to receive periodic updates.

§2800.125 - **Flammable and combustible materials:** These materials need to be defined and should not include items used by the resident in a safe manner and considered as normal everyday items found in a household.

§2800.141(b)(1) - **Resident medical evaluation and health care:** Change "At least annually" to "Within one year and one month of the previous evaluation." "At least annually" means *less than one year* after the preceding evaluation. Many medical insurance policies require medical



residents do not want a copy when it is offered; when declined, time and money are saved. However, not on a quarterly basis as in the previous comment.

**§ 2800.228(b)(1)(iii) - Transfer and discharge:** It may be impossible to notify a patient of the location of where he/she is going. The residence's knowledge of this information is dependent upon the cooperation of the resident and the resident's family in sharing this information with the residence.

**§ 2800.228(b)(2) -- Transfer and discharge:** The sentence "The residence may not transfer or discharge a resident if the resident or his designated person arranges for the needed services" should be eliminated. Our concern is that the residence knows its capabilities and family-arranged services could be inadequate or disruptive to the community.

**§2800.229(f) – Excludable conditions; exceptions:** We request that this paragraph be stricken. Allowing the consumer to apply for an exception exceeds the scope and authority of Act 56, which gives the power to request an exception to the residence only.

**§ 2800.236(a) – Training:** There is a concern that the number of hours required for training may be excessive. Eight hours of training related to dementia and 12 hours of annual training, totaling 20 hours, is more than adequate.

