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October 6, 2008

The Honorable Estelle B. Richman, Secretary  
Pennsylvania Department of Public Welfare  
333 Health & Welfare Building  
Post Office Box 2675  
Harrisburg, PA 17110-2675

The Honorable Arthur Coccodrilli, Chairman  
Independent Regulatory Review Commission  
Fourteenth Floor – Harristown 2  
333 Market Street  
Harrisburg, PA 17101

Dear Secretary Richman & Mr. Coccodrilli:

I am writing to offer my comments on the proposed Assisted Living Regulations (No. 14-514), which were submitted by the Department of Public Welfare (DPW) on August 9, 2008. Having listened carefully to the questions and concerns raised by stakeholders during the public comment period, as well as at the committee's September 18<sup>th</sup> public hearing, I want to emphasize various issues that I believe need to be addressed.

Overall, the proposed regulations represent a fine effort by the department to balance the needs of providers and consumer advocates. I commend the department for conducting its Assisted Living Workgroup meetings, where Secretary Richman and Deputy Secretary Mike Hall and their staff moderated thorough discussions between stakeholders. However, I believe that, by making some revisions, a better balance could be achieved for all interested parties. Below, I have listed my major concerns with the proposed regulations along with recommendations.

- Square Footage – Sections 2800.19 (Waivers) & 2800.101 (Residential living units)  
My goal in passing *Act 56 of 2007* was to allow consumers to age in place and provide individuals with limited means the same access to assisted living services as those with higher incomes. As such, I believe the assisted living regulations should provide enough flexibility to allow for varying room sizes in facilities. I support a grandfathering provision or a two-tier system for square footage requirements. However, I believe the square footage requirements, as currently drafted, are set too high. Instead of a single limit for each tier, the regulations should be broken down into a numerical range.

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Providers should also be able to request an exception in writing from the department for new construction.

- Dual Licensure

The statutory intent to allow dual licensure should be expanded upon in the regulations.

- Training for Staff & Administrators – Sections 2800.53-54, 2800.63-65, & 2800.69 (sections related to staff & administrator training)

Instead of grandfathering, staff and administrators at existing facilities applying for assisted living licensure should be allowed a certain period of time to meet the higher standards.

- Timing for Assessment & Support Plan – Sections 2800.224-2800.227

I accept the statement DPW provided at the public hearing that assessments and support plans should be done before admission unless emergency situations preclude it. However, I believe that 30 days is too long to complete this process under any circumstances.

- Role of the Ombudsman – Section 2800.228 (Transfer & discharge)

The regulations should not place the ombudsman in a conflict between the resident and the facility. The provisions related to the ombudsman's role need to be revised to ensure full compliance with the federal *Older Americans Act*.

- Appeals Process

Regarding this issue, I respectfully request that the department revisit the possibility of including provisions for an appeals process in the regulations. While we would be willing to consider a legislative solution, I want to make sure that this issue cannot be addressed via regulation.

These are just a few of the issues that I believe deserve your attention before the final-form regulations are drafted. Thank you for considering my recommendations. It is my hope that the end product will result in an assisted living system that is accessible for consumers of all income levels. I look forward to your prompt response.

Sincerely,



Phyllis Mundy  
Chairman  
House Aging & Older Adult Services Committee

Cc: The Honorable Tim Hennessey, Minority Chairman, House Aging & Older Adult Services Committee