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HOUSE OF REPRESENTATIVES
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October 15, 2008

The Honorable Estelle B. Richman, Secretary
Pennsylvania Department of Public Welfare
333 Health and 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

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Dear Secretary Richman and Chairman Coccodrilli:

I recently had the opportunity to meet with a personal care home/assisted living center provider in my district regarding the proposed assisted living licensure regulations (#14-514). As a result of that meeting, I am offering the following comments and recommendations for your consideration in the final-form proposal.

- 1) Dual Licensure—The proposed regulations do not provide any guidance as to the manner in which joint licensure will be coordinated. Although Act 56 of 2007 clearly authorizes dual licensure situations, the statutory intent to allow for dual licensure should be expanded to clarify how it will be structured.
- 2) Physical Plant Requirements—The proposed 175 sq. ft. for existing facilities and 250 sq. ft. for new construction will suppress access to assisted living services in many areas of the Commonwealth. I strongly encourage consideration of the “averaging” concept that was proposed in recent comments submitted by Republican Aging Committee Chairman Tim Hennessey.
- 3) Licensure Fees—The proposed licensure fee of \$500 with an additional \$105/bed fee would cause Pennsylvania to bear the distinction of having the highest assisted living license fee nationwide! Again, I encourage consideration of the suggested \$500 fee/\$10 per bed fee as recommended in Chairman Hennessey’s comments, however, I would suggest imposing an aggregated cap of \$1,000 per residence as well.
- 4) Administrator Qualifications—The proposed regulations require that an Assisted Living Residence have an administrator, or an individual with the same training, to be present 24 hours/day, 7 days/week. I am very concerned regarding the potential cost that this requirement would impose on residences and, ultimately, be passed on to the residents.

In addition, the proposal does not consider grandfathering for individuals who currently operate nursing homes or personal care homes. Since nursing home administrators are already authorized to administer at a higher level of care, it would make sense to consider their qualifications and experience. With regard to personal care home administrators, I would encourage consideration of a requirement that they take a competency exam to augment the training and experience they have with regard to personal care home administration.

In closing, I want to express my sincere hope that both the department and IRRC very carefully review and consider the 200+ comments that were submitted during the public comment period. As you know, the Legislature has worked very hard for nearly ten years to achieve assisted living licensure to “ensure accountability and a balance of availability between institutional and home-based and community-based long-term care for adults who need care”. The Administration’s timeline for regulation adoption, however, has the real potential to circumvent full legislative review as well as decimating the healthy dialogue that the public comment period has created.

I strongly encourage you to slow down the process and fully engage and utilize the provider and consumer advocacy communities and the experience and expertise that they possess. I believe we have a unique opportunity to ensure personal choice and the ability to age in place through our Commonwealth’s assisted living licensure program. Let’s be deliberate and thoughtful in this process, for the sake of all potential assisted living consumers in Pennsylvania.

Thank you for your consideration of my comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Smith". The signature is fluid and cursive, with a large initial "S" and "S".

State Representative Sam Smith
The Republican Leader
PA House of Representatives