

L-212

PLEASE REPLY TO:

12TH DISTRICT
STEWART J. GREENLEAF
711 NORTH YORK ROAD
WILLOW GROVE, PA 19090-2124
(215) 657-7700
(215) 657-1885 FAX

OFFICE OF THE SECRETARY
DEPT OF PUBLIC WELFARE

REF _____

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Senate of Pennsylvania

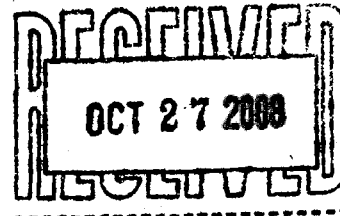
COMMITTEES

- JUDICIARY, CHAIRMAN
- APPROPRIATIONS
- BANKING AND INSURANCE
- CONSUMER PROTECTION AND PROFESSIONAL LICENSURE
- ENVIRONMENTAL RESOURCES AND ENERGY
- SOUTHEASTERN PA TRANSPORTATION AUTHORITY (SEPTA)
- TASK FORCE ON DECEDENTS' ESTATES LAWS
- TASK FORCE ON DOMESTIC RELATIONS LAW
- TASK FORCE ON ADOPTION LAW
- TASK FORCE ON REAL PROPERTY LAW
- TASK FORCE ON GERIATRIC AND SERIOUSLY ILL INMATES

SENATE BOX 203012
ROOM 19 EW
THE STATE CAPITOL
HARRISBURG, PA 17120-3012
(717) 787-6599
(717) 783-7328 FAX

2712

October 17, 2008



The Honorable Estelle Richman
Secretary of Public Welfare
Room 333 Health and Welfare Building
Harrisburg, Pennsylvania 17110

Dear Secretary Richman:

Please find enclosed correspondence I received from Victor Lane Rose, Director of Operations at Souderton Mennonite Homes in Souderton Pennsylvania. Mr. Rose and his associates have concerns regarding the new requirements for licensure for Assisted Living Residences. In the attached letter Mr. Rose identifies and prioritizes their most significant concerns.

I would appreciate your looking into their issues and concerns and addressing and responding to each point they identify.

Thank you for your attention to this important matter. Please direct your response directly to Mr. Victor Lane Rose at 207 West Summit Street, Souderton, Pennsylvania 18964 and I would request a copy of your response to my Willow Grove office at 711 N. York Road, Suite 1, Willow Grove, Pennsylvania 19090. If you have any questions, please don't hesitate to contact my office.

Sincerely,

Stewart J. Greenleaf

SJG/ams

Enc.

cc: Jen DeBell

Victor Lane Rose

INDEPENDENT REGULATORY
REVIEW COMMISSION

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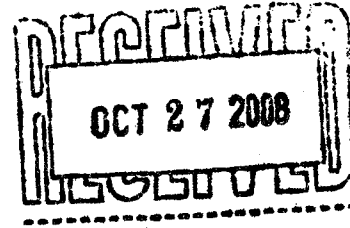
Souderton Mennonite Homes

207 West Summit St. ♦ Souderton, PA ♦ 18964-2054 ♦ 215-723-9881 ♦ www.soudertonhomes.org

INDEPENDENT REGULATORY
REVIEW COMMISSION

October 14, 2008

Honorable Stewart J. Greenleaf
Senate of Pennsylvania
711 North York Road
Willow Grove, PA 19090-2124



Dear Senator Greenleaf,

First, we as representatives of Souderton Mennonite Homes (SMH) would like to express our appreciation for the time you are willing to extend to listen to these important issues, more specifically our Commonwealth's current proposed rulemaking regarding Assisted Living Licensure. While the time for public comment is now past, SMH and other providers believe it to still be important that we engage in intentional dialogue with our legislature and state agencies about Pennsylvania's path towards "Re-balancing" our Long-Term Care services and the Assisted Living model currently proposed.

In working with our residents, other long-term care providers, and PANPHA we have identified and prioritized our most significant concerns regarding the current proposed rulemaking. These points are as follows:

1. **Overall Impacts on the System:** The proposed regulations as they currently exist would impose significant new costs on providers (and therefore residents through increased rate setting) without in most cases improving the quality of services provided, especially in terms of resident health or safety. The current proposal focuses instead on the construction of physical plant amenities that have little to no bearing on the actual care delivered to the residents. In many cases this would put the assisted living level of care beyond the financial reach of many Pennsylvanians. Furthermore, these proposed regulations once again ignore the unique circumstances that exist for a Continuing Care Retirement Community (CCRC) like SMH. *Because of these consequences, if this regulation goes through as currently drafted, few providers will choose to be licensed as Assisted Living.*
2. **Spending Down of Personal Resident Assets:** While preventing premature and unnecessary admissions to Skilled Nursing centers must absolutely be part of any effective re-balancing plan, it must also be noted that Home Based Community Services (HBCS), Personal Care, and Assisted Living are not absolute substitutes for the Skilled Nursing Level of Care. Prudence demands that whatever solutions are settled upon, they

not become so expensive as to decrease accessibility to care for those who financially have less or that they increase future burdens on the Medicaid system because assets have been spent down for those persons who will eventually and appropriately be admitted to the Skilled Nursing level of care. Souderton Mennonite Homes has been diligent in managing both the organization's resources and our resident's resources as good nonprofit stewards are charged. It is our fear that in the end, increasing services in non-Skilled Nursing levels of care will only decrease options for those in our community for whom our stated mission intends to serve and has done so for 91 years.

3. **Further Fragmentation of Long-Term Care Services:** Secondly, the current plan proposed acts only to add an additional level of care to the already existing (and some argue ineffective) long term care delivery system. We raise concern about the approach of adding additional regulation, licensure, enforcement, and inspections with yet another level of administrative oversight to a system that is already struggling with issues of being under-funded. Duty of care obligations to our resident stakeholders requires us both as providers and as a state government to work together, integrating the numerous services and programs that the seniors of our Commonwealth need so that we can fluidly adapt delivery to meet their individual and ever-changing needs.
4. **Dual Licensure:** As indicated above, the actual implementation of an additional level of care into the middle of an existing system with greater attempts at integration invites a host of issues (including redundancies and therefore increased operating costs for both the Commonwealth and providers alike).
 - Act 56 clearly calls for joint licensure, even going so far as to outline how joint surveys will be executed. The regulations as proposed are silent on this issue and therefore by extension do not permit the practice.
 - The regulations need to with intent, clearly explain the manner in which joint licensure will be coordinated rather than executing the change and "figuring it out" as we move forward.
 - Providers and PANPHA alike advocate that we be afforded as much flexibility as possible by being permitted to designate which rooms will be licensed as Personal Care and which rooms will be licensed as Assisted Living. This will help to ensure that various options are left available to all seniors in our surrounding community health systems, not just those with the funds to pay for more expensive care.
5. **Physical Plant Requirements:** One of the most hotly debated areas of the proposed Assisted Living Licensure regulations, Souderton Mennonite Homes also has strong fears as to what these changes will mean in regards to some of its existing physical plant.
 - Our comments urge sensible minimum square footage requirements for living units. Requiring 175 square foot for existing facilities with an increase to 250 square feet for newly constructed facilities will act to decrease access to Assisted Living facilities in much of the state.
 - The proposed minimum square footage is inconsistent with standards nationwide as only 8 states have such requirements above 150 square feet.
 - Kitchen capacity within the Living Unit should be concisely defined in the regulation in a manner consistent with the legislation – electrical outlets capable of supporting a small refrigerator and microwave. These regulations must also take into account the changing needs and abilities of our seniors as they age,

allowing providers to successfully work with each individual case to mitigate the risks associated with such requirements.

- Currently SMH has 11 rooms at minimum that fail to meet the current requirements for Assisted Living Licensure. This equates to 22 "beds" in its existing typical Personal Care Unit. The capital financing costs associated with increasing the amenities offered with these rooms and meeting the proposed square footage requirements would be so cost prohibitive that SMH would have no desire to license that suite of rooms as Assisted Living. Furthermore, the lost revenues from diminishing our product mix would force downsizing of our direct care team and decrease the supply of non-Skilled Nursing beds in our community health system.
- In addition, SMH operates a 22 bed specialized care unit for persons stricken with dementia. The physical lay-out of this program was designed after months of research (including numerous sessions with the Department of Public Welfare). This design included highly specialized resident room layouts that intentionally did not include items such as microwaves due to the very unique "At-Risk" issues that accompany this devastating disease. By their very nature, the regulatory requirements preclude SMH from participating in the Assisted Living Licensure program because of the potential harm issues that abound from such requirements in delivering services to this population.

6. **Licensure Fees:** In speaking to increasing operating costs and therefore resident rates, the proposed licensure fee structure gives reason for concern.

- The proposed licensure fee of \$500.00 with an additional bed assessment of \$105.00 per bed would bring the fee for a 100 bed facility to \$11,000 per year! This would make Pennsylvania the most expensive state in the union to license as Assisted Living providers. Currently, SMH is licensed for 154 Personal Care beds. ***Using the proposed calculations that would mean that SMH pay \$16,670 per year to maintain its current 154 beds should it choose to license as Assisted Living!***
- We encourage our legislature to work towards a more reasonable calculation that sets the fee at \$500.00 with an additional bed assessment of \$10.00 per bed with an aggregate cap of \$1,000.00. This revised licensure fee structure would then be much closer to nationwide industry averages and be very comparable to Pennsylvania's neighboring states.

7. **Administrator Qualifications & Requirements:** In addition to aforementioned potential in operating costs, the requirement for an Assisted Living residence to have an administrator or an individual with the training of an administrator to be present 24 hours per day, 7 days per week.

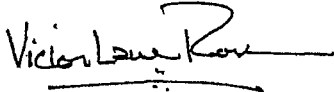
- The current regulatory provisions regarding this requirement would act to increase general administrative overhead to an alarming level.
- It is our urging that individuals with an NHA be exempted from the training and testing as they are already authorized to provide the management and oversight for delivery of services at a higher level of care.
- The current proposal provides no grandfathering for individuals who currently operate personal care homes or nursing homes! SMH already has 2 NHA's on staff, 1 Personal Care Administrator, and 1 person dually licensed. Yet even that

is inadequate to provide 24 hour, 7 day per week coverage to the extent that the proposed rulemaking calls for.

These items along with transfer & discharge requirements, informed consent agreements, and those other items communicated by providers across the Commonwealth during the public comment period are all items of the utmost importance to providers. As stated earlier, it is likely that if these items go unaddressed before the publication of the regulations is final it is likely that the option of Assisted Living will be available only to those individuals with substantial financial assets. Act 56 has the potential to create a new level of care for Pennsylvania's seniors, but that potential will go unrealized if we allow a regulatory package to be created that will suppress access both economically and geographically!

Once again, we thank you for your time and efforts in listening to our feedback and helping to re-shape our Commonwealth's long-term care delivery system. Should you have any comments or questions, please do not hesitate to contact any of the administration at Souderton Mennonite Homes.

Respectfully,



Victor Lane Rose NHA, MBA
Director of Operations
Souderton Mennonite Homes
207 West Summit Street
Souderton, PA 18964
(215) 723-9881 ext. 219
vic@soudertonhomes.org