

County of Centre



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#2712.

August 25, 2008

Gail Weidman
Office of Long Term Living
Bureau of Policy & Strategic Planning
Department of Public Welfare
PO BOX 2675
Harrisburg PA 17105

RE: ID # 14-514 (#2712) Proposed Assisted Living Regulations

Dear Ms. Weidman:

Centre County Office of Aging would like to offer the following comments in response to the draft legislation for assisted living. We are very pleased to see a statutory definition of assisted living in Pennsylvania. We are also pleased to see the program allow older people and disabled adults to "age in place" in a supervised setting. These regulations provide an important option for the many older and disabled people living in the Commonwealth. Our comments/questions are offered in hopes that the regulatory intent will be clarified.

2800.27 Will SSI recipients or other eligible consumers be able to qualify for the state supplement for personal care homes in assisted living?

2800.28 (b) In the instance where a resident leaves prior to the required 14 days, the resident should not be charged for supplemental health services if they are not provided directly by the residence.

2800.30 (b) (1) There are major concerns about how involved the ombudsman will be able to be regarding the informed consent process due to current responsibilities.

2800.44 (a) While the notification of residents regarding right to file complaints with DPW, the ombudsman, etc. is important, the residence should also encourage residents to utilize the residence's complaint process in non-emergency situations.

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2800.44 (f) If a written complaint involves a report to the ombudsman or protective services, the investigation findings may not be completed within 7 days. Also, the complainant may not be entitled to a report of the findings under the Older Adult Protective Services Act.

2800.60 (d) The on-call nurse should be required to be able to be on site within one hour of a call. When a resident is approved under the exception request as listed under 2800.229 (a) and (e), a registered nurse should be on site.

2800.63 (a) First aid training should be required for all staff.

2800.64 (d) Staff who are certified as personal care home trainers for resident rights should be automatically approved as trainers for assisted living residences.

2800.65 (d) Direct care staff members who have successfully completed CNA (certified nursing assistant) training should be permitted to provide ADL services while unsupervised.

2800.83 An indoor maximum temperature should also be indicated. Department of Aging requires 78° maximum in a senior center.

2800.85 (f) A sewage permit should be required for a residence with 4 or more resident rooms that is not connected to a public sewer system.

2800.129 (b) The chimney and flue should be cleaned at least annually if there is no accumulation of creosote.

2800.144 (b) Total prohibition of smoking for residents may be discriminatory.

2800.228 (h) 3 and 2800.22 (a) (1-5) There continue to be questions about the role of level of care throughout the regulations. The regulations indicate that there will be a standardized form, likely completed by the residence. The area agency on aging would serve as an assessment agency depending upon whether there is public funding for care. However, in instances where exceptions have been granted and later the facility determines it can no longer provide those services to the resident, the residents should be entitled to an independent assessment from the area agency on aging.

2800.229 (c) (2) A Physician should review the exception request in consultation with DPW. The exception request process allows assisted living facilities to provide care traditionally provided in nursing homes without the degree of oversight by Department of Health. It is important that residents have an understanding of any medical risks that may exist in requesting the exception. This should also be outlined in the written alternate care plan.

2800.229 (e) (1) If the resident is not capable of self care of a gastric tube **and** a nurse is not required to be on site, individuals using gastric tubes should not remain in an assisted living residence.

2800.229 (e) (3) If a resident requires 24 hour nursing care for more than 15 days, the

resident should not remain in an assisted living residence.

In the special care regulation 2800.231(f) there is a requirement for quarterly review to see if the resident continues to need services of the unit. A similar requirement should be instituted for residents who have been granted an exception request. It is a great concern to those of us working in older adult protective services if residents are not receiving enough care but whose families may be trying to preserve assets by utilizing a generally less expensive option of assisted living when they may in fact be better served in a nursing facility. Requirement for a more frequent review of the residents' conditions would ensure that appropriate care is received.

2800.237 (a) (2) Self-care activities should be offered more than one time per week in a special care unit. The definition of the unit as supporting residents who are cognitively impaired emphasizes the need to require that self care be offered at least two times per week.

2800.269 (a)-(c) It is very good to see the option of a ban on admissions in the regulatory arsenal.

These regulations provide an opportunity for responsible providers to legally retain residents as they age. With adequate safeguards such as regular review of residents with exceptions and in special care units and the independent assessment prior to transfers, assisted living will provide another safe care option for frail elders.

If you have any questions about our comments, please contact our office at aging@co.centre.pa.us . Thank you for the opportunity to comment.

Sincerely,

Jane Taylor, Director

Don Seifert, Long Term Care Ombudsman