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From: Wayne [corbeaudraf@comcast.net]
Sent: Friday, September 12, 2008 8:26 AM
To: IRRC
Subject: comments to reg. # 14-514

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INDEPENDENT REGULATORY
REVIEW COMMISSION

Thursday, September 11, 2008

Gail Weidman
Office of Long-Term Care Living
Bureau of Policy and Strategic Planning
P. O. Box 2675, Harrisburg, PA 17105

Reference: Regulation No. 14-514

Ms Weidman,

Please find included herewith my line comments to the Department of Public Welfare's proposed rulemaking. Comments are for [55 PA. CODE CH. 2800] Assisted Living Residences; [38 Pa.B. 4514]

Thank you for the public comment opportunity.

Wayne R. Koch
622 Fifth St.
Lancaster Pa. 17603
(717)393-9834

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Regulation No. 14-514

The public has until Monday, September 15th to comment on the proposed regulations before the agency's final review.

Send comments, suggestions or objections regarding the proposed regulations to: Gail Weidman, Department of Public Welfare, Office of Long-Term Care Living, P.O. Box 2675, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

WAYNE'S NOTES

Wayne R. Koch

622 Fifth St.

Lancaster Pa. 17603

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Paperwork Requirements

Assessment

An assisted living residence will be required to complete a written initial assessment form within ~~15 days~~ (72 hours) of admission of an individual. Additional assessments must be completed at least annually or upon significant change in the resident's condition.

Support Plans

An assisted living residence is also required to develop and implement a support plan within ~~30 days~~ (72 hours) of a resident's admission that documents the resident's medical, dental, vision, hearing, mental health or other behavioral care services that will be made available to the resident, or referrals for the resident to outside services. In addition, the assisted living residence is required to review each resident's support plan quarterly and revise the support plan as the resident's needs change.

CHAPTER 2800. Assisted Living Residences

GENERAL PROVISIONS

2800.4. Definitions.

IADL - Instrumental activities of daily living

The term includes the following activities when done on behalf of a resident:

ADD (xiii) Meal preparation & Cleanup.

GENERAL REQUIREMENTS

2800.20. Financial management.

(b) If the residence provides assistance with financial management or holds resident funds, the following requirements apply:

(2) Resident funds shall be disbursed during normal business hours within 24 ~~hours~~ (one hour) of the resident's request.

(8) The residence shall give the resident and the resident's designated person, an itemized account of financial transactions made on the resident's behalf on a ~~quarterly~~ (monthly) basis.

2800.22. Application and Admission.

(a) The following admission documents shall be completed for each resident:

(2) Medical evaluation completed 60 days prior to or ~~15 days~~ (72 hours) after admission on a form specified by the Department.

- (3) Assisted living resident assessment completed within ~~15 days~~ (72 hours) after admission on a form specified by the Department.
- (4) Support plan developed and implemented within ~~30 days~~ (72 hours) after admission.
- (5) Resident-residence contract completed prior to admission(.) ~~or within 24 hours after admission.~~

2800.25. Resident-residence contract.

(a) Prior to admission(~~, or within 24 hours after admission,~~) a written resident/residence contract between the resident and the residence shall be in place. The administrator or a designee shall complete this contract and review and explain its contents to the resident and the resident's designated person if any, prior to signature.

(c) At a minimum, the contract must specify the following: .

(1) Each resident shall retain, at a minimum, the current personal needs allowance as the resident's own funds for personal expenditure. A contract to the contrary is not valid. A personal needs allowance is the amount that a resident (feels is necessary to meet their miscellaneous needs and wants.) ~~shall be permitted to keep for his personal use.~~

(2) A fee schedule that lists the actual amount of charges for the residence's core assisted living services that the individual is purchasing, {(resident may choose all, none of, or any number of these services) including:

ADD (viii) Cost of housing/rooms.

(10) A statement that the resident is entitled to at least ~~30 days'~~ (45 days) advance notice, in writing, of the residence's request to change the contract.

(i) The assisted living services included in the package the individual is purchasing shall be the contract price. Supplemental health care services must be (priced and contracted separately and only if the resident chooses should they be included in the package. The resident reserves the right to contract for required services not included in the residence's package with whomever they choose.) ~~packaged, contracted and priced separately from the resident residence contract. Any other~~

~~services other than supplemental health care services must be priced separately from the service package in the resident residence contract.~~

RESIDENT RIGHTS

2800.42. Specific rights.

(d) A resident shall be informed of the rules of the residence and given ~~30 days'~~ (60 days) written notice prior to the effective date of a new residence rule.

(m) A resident has the right to leave and return to the residence at (any time as long as it doesn't disrupt other residents.) ~~times consistent with the residence rules and the resident's support plan.~~

(r) A resident has the right to receive visitors at any time provided that such visits do not adversely affect other residents. ~~A residence may adopt reasonable policies and procedures related to visits and access. If the residence adopts such policies and procedures they shall be binding on the residence.~~

(y) To the extent prominently displayed in the written resident-residence contract, a residence may require residents to use providers of supplemental health care Services as provided in § 2800.142 (relating to assistance with health care and supplemental health care services). ~~When the residence does not designate, t(T)he~~ Resident may choose the supplemental health care service provider.

STAFFING

2800.53. Qualifications and responsibilities of administrators.

(a) The administrator shall have one of the following qualifications:

(1) A license as a registered nurse from the Department of State and ~~1~~ (3 years) year, in the prior 10 years, of direct care ~~or~~ (and 1 year) administrative experience in a health care or human services field.

~~(2) An associate's degree or 60 credit hours from an accredited college or university in a human services field and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.~~

~~(3) An associate's degree or 60 credit hours from an accredited college or university in a field that is not related to human services and 2 years, in the prior 10 years, of direct care or administrative experience in a health care or human Services field.~~

~~(4) A license as a licensed practical nurse from the Department of State and 1 year, in the prior 10 years, of direct care or administrative experience in a health care or human services field.~~

2800.56. Administrator staffing.

(a) The administrator shall be present in the residence an average of 40 hours or more per week (~~, in each calendar month~~). At least 30 (20) hours per month (week) shall be during normal business hours.

PHYSICAL SITE

2800.84. Heat sources.

Heat sources, such as steam and hot heating pipes, water pipes, fixed space heaters, hot water heaters and radiators exceeding ~~120°F~~ (100°F) that are accessible to the resident must be equipped with protective guards or insulation to prevent the resident from coming in contact with the heat source.

2800.89. Water.

(d) If the water is found to be above maximum contaminant levels, the residence

shall conduct remediation activity to reduce the level of contaminants to below the maximum contaminant level. During remediation activity, an alternate source of (~~drinking~~) water shall be provided to the residents.

(e) The residence shall keep documentation of the laboratory certification, in addition to the results and corrections made to ensure safe water (~~for drinking~~).

2800.94. Landings and stairs.

(a) Interior and exterior doors that open directly into a stairway and are used for exit doors, resident areas and fire exits must have a landing, which is a minimum of ~~3 feet by 3 feet~~. (5 feet by 5 feet.)

2800.101. Resident living units.

(b)(1) For new construction of residences after (Ed. note: effective date), each living unit for a single resident must have at least (two areas separated by partition walls, one a sitting/dinning are minimum 225) ~~250~~ square feet of floor space measured wall-to-wall (and a bedroom area with a minimum 120 square feet of floor space measured wall-to-wall, all) excluding bathrooms(, kitchen) and closet space. If two residents share a living unit, there must be an additional 80 square feet in the ~~living unit~~. (bedroom area.)

(2) For residences in existence prior to (Ed. note: effective date), each living unit must have at least (two areas separated by partition walls, one a sitting/dinning are minimum 145) ~~175~~ square feet (of floor space) measured wall-to-wall (and a bedroom area with a minimum 120 square feet of floor space measured wall-to-wall, all) excluding bathrooms(, kitchen) and closet space. If two residents share a living unit, there must be an additional 80 square feet in the ~~living unit~~. (bedroom area.). ..

(d) Kitchen capacity.

(1) New construction. For new construction of residences after. (Ed. note: effective date), the kitchen capacity, at a minimum, shall contain a small refrigerator with a freezer compartment, a cabinet for food storage, a small bar-type sink with hot and

cold running water(, a 2 foot by 3 foot work area, microwave oven, a stovetop for hot food preparation) and space with electrical outlets suitable for small cooking appliances such as a microwave oven. The cooking appliances shall be designed so that they can be disconnected and removed for resident safety or if the resident chooses not to have cooking capability in his living unit. (The kitchen shall be adjacent to the sitting/dinning but not included as part of the minimum floor space.)

(2) Existing facilities. Facilities that convert to residences after (Ed. note: effective date) must meet the following requirements related to kitchen capacity:

(i) The residence shall provide a small refrigerator (with a freezer compartment) in each living unit,

(ii) The residence shall provide a microwave oven in each living unit.

(iii) The residence shall provide ~~access to~~ a (small bar-type sink with hot and cold running water, a cabinet for food storage) ~~sink for dishes~~, a stovetop for hot food preparation(, space with electrical outlets suitable for small cooking appliances such as a microwave oven) and a food preparation area (2 foot by 3 foot.) ~~in a common~~ (The kitchen shall be adjacent to the sitting/dinning but not included as part of the minimum floor space) area. A common resident kitchen shall not include the kitchen used by the residence staff for the preparation of resident or employee meals, or the storage of goods.

(j) Each resident shall have the following in the living unit:

(2) A (lounge) chair for each resident that meets the resident's needs (plus one additional lounge chair for visitors use).

(7) An operable lamp or other source of lighting (in addition to any overhead lighting) that can be turned on at bedside.

(8) If a resident shares a bedroom with another resident, the items specified in ADD {(9) A table with four chairs suitable dinning, minimum 3 foot by 3 foot} paragraphs (4)-(7) {+(9)} may be shared with one other resident.

(o) In living units with a separate bedroom there must be a door on the bedroom,

2800.104. Dining room.

(e) Breakfast, midday and evening meals shall be served to residents in a dining room except in the following situations:

ADD (3) When a residence choose to prepare meals in their living units. A resident must notify residence personal (48) hours to doing so or have it included in the residence/resident contract.)

2800.109. Pets

ADD (f) Residence nay not bar access for service animals.

FIRE SAFETY

2800.127. Supplemental heating sources.

(a) The use of kerosene(, woos ans/or coal) burning heaters is prohibited.

~~(b) Wood and coal burning stoves shall be used only if a local fire department or other municipal fire safety authority, professional cleaning company or trained maintenance staff person inspects and approves them annually. Wood and coal burning stoves that are used as a regular heating source shall be cleaned every year according to the manufacturer's instructions. Documentation of wood and coal burning stove inspections and cleanings shall be kept.~~

~~(c) Wood and coal burning stoves must be securely screened or equipped with protective guards while in use.~~

RESIDENT HEALTH

2800.142. Assistance with health care and supplemental health care services.

(a) The residence shall assist the resident to secure medical care and supplemental health care services. To the extent prominently displayed in the written admission agreement (~~, a residence may require residents to use providers of supplemental health care services approved or designated by the residence~~). If the resident has health care coverage for the supplemental health care services, such approval shall not be unreasonably withheld. The residence shall document the resident's need for the medical care, including updating the resident's assessment and support plan.

NUTRITION

2800.162. Meals.

Add (h) Assistance in food preparation and cleanup in living units,

TRANSPORTATION

MEDICATIONS

ADD 2800.192. Medication may be purchased through whatever source they choose.

SAFE MANAGEMENT TECHNIQUES

SERVICES

2900.220. Assisted living residence services.

(a) Services. The (resident must not be required to purchase core services provided by the) residence ~~must provide core services~~ as specified in subsection (b). Other individuals or agencies may furnish services directly or under arrangements with the residence ~~in accordance with a mutually agreed upon charge or fee between the residence,~~ resident and other individual or agency. These other services shall be supplemental to the core services provided by the residence and shall not supplant them.

(b) Core Services. The residence must, at a minimum, provide the following services (for purchase):

(c) Supplemental Services. The residence shall provide or arrange for the provision of supplemental health care services, (however resident must not be required to purchase supplemental services provided by the residence,) including but not limited to:

2800.225. Initial and annual assessment.

(a) A resident shall have a written initial assessment that is documented on the Department's assessment form within ~~15 days~~ of admission. The administrator or designee, or licensed practical nurse, under (72 hours) the supervision of a registered nurse, may complete the initial assessment.

2800.227. Development of the support plan.

(a) Each resident requiring services shall have a written support plan developed and implemented within ~~30 days~~ (72 hours) of admission to the residence. The support plan shall be documented on the Department's support plan form.

2800.228. Transfer and discharge.

(b) If the residence initiates a transfer or discharge of a resident, or if the legal entity chooses to close the residence, the residence shall provide a ~~30-day~~ (60 days) advance written notice to the resident, the resident's family or designated person and the referral agent citing the reasons for the transfer or discharge. This shall be stipulated in the resident-residence contract.

(d) A residence may not require a resident to leave the residence prior to ~~30 days~~ (60 days) following the resident's receipt of a written notice from the residence regarding the intended closure of the residence, except when the Department determines that removal of the resident at an earlier time is necessary for the protection of the health, safety and well-being of the resident.

SPECIAL CARE UNITS

2800.231. Admission.

(g) An individual who does not have a primary diagnosis of Alzheimer's disease or other dementia may reside in the special care unit if desired by the resident or his designated person.

(1) The individual shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner, documented on a form provided by the Department within 60 days prior to residence or ~~15 days~~ (72 hours) after residence.

RESIDENT RECORDS

ENFORCEMENT