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From: Daniel Haimowitz [SUSANDAN@rcn.com]
Sent: Monday, September 15, 2008 3:57 PM
To: IRRC
Subject: draft regulation 15-514 comments
Attachments: al reg comments.doc

attached are comments on the proposed assisted living regs (15-514).

please contact me if I can be of any assistance.

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#2712

September 15, 2008

Gail Wiedman
Department of Public Welfare, Office of Long-Term Care Living
P.O. Box 2675
Harrisburg, PA 17105

Re: Draft Regulations 15-514 Assisted Living

Dear Ms. Wiedman,

Thank you for giving me the opportunity to comment on the proposed regulations for assisted living in Pennsylvania. I am certainly in favor of any changes that benefit both the residents of our commonwealth who will reside in these facilities, as well as the providers and healthcare professionals who care for them.

Let me begin by stating that as a past-president and active member of the PA Medical Directors Association (PMDA), I am in full support of the comments submitted by our current president Dr. Thomas Lawrence. I have been a board member of the PA Health Care Association and participate in their Center for Assisted Living Management committees. On a national level, I have worked extensively with the American Medical Directors Association (AMDA) concerning assisted living. I was an AMDA representative to the national Assisted Living Workgroup, and currently serve as their representative on the Advisory Board for the Center for Excellence in Assisted Living. I am also a board member of the Consumer Consortium on Assisted Living, based in Falls Church Virginia. I should note that I am a geriatrician in private practice, and see patients and am a medical director in several assisted living facilities.

I would like to comment on some specific sections of the proposed regulations, first on medical issues, then general issues:

MEDICAL

Section 2800.4 Definitions

I do not believe your definition of Activities of Daily Living (ADL) is correct. The areas included almost universally under basic ADLs are eating, dressing, toileting, transferring and bathing (walking, I suppose, could be included). Securing and managing health care, self-administering medications and positioning in bed should not be included in this definition.

Also, your definition of Dementia is not correct. Dementia is a loss of intellectual capacity such as memory, judgment, language, visual-spatial skills and executive functioning. It does NOT have to be of "long" duration (vascular dementias, for example, can occur fairly quickly).

Section 2800.22 Application and Admission

Regarding section (A) (2), I would humbly suggest that the Department seek input from the medical community regarding the types of forms mandated by the Department. While the current MA51 is an improvement over the prior version, I would imagine an organization such as PMDA could help with a medical form that could potentially be more user-friendly.

Section 2800.42 Specific Rights

Under (y), I would specify that residents be given a fair choice when deciding upon various healthcare providers. I have gone to a facility where residents were clearly, and unfairly, directed to one particular physician basically to the exclusion of all others. This same basic right should be given to other organizations such as home care and hospice.

Section 2800.65 Direct care staff person training and orientation

I am not sure where this fits under the regulations, but I would like to see somewhere how knowledgeable and appropriate physician education to staff should be encouraged.

Section 2800.96 First aid kit

Automatic electronic defibrillator devices (AEDs) are <u>not</u> part of a standard first aid kit, and should not be included. Mandating AEDs would require much more education for assisted living staff, I believe would increase liability risk for all concerned, and really aren't for residents (mainly for staff and visitors!).

Section 2800.144 Use of tobacco

Personally, I think the regulations should say that smoking should be strongly discouraged by residents, the facility should provide information regarding the dangers of smoking to residents, and help residents who smoke to utilize smoking cessation programs.

Section 2800.184 Labeling of medications

I am very pleased to see the allowance of samples (with written instructions) under section (c). This can be very helpful to residents.

Section 2800.186 Prescription medications

I agree with PMDA's position regarding item (c). An appropriate healthcare professional should be able to make medication changes, not solely the prescriber. The example of when a consultant orders a medicine and the attending physician wants to alter it would apply.

Section 2800.231. Admission

I would skip (d), and include "geriatric assessment team" under definitions.

Other

The regulations mention using a MMSE with dementia patients. I think it should be used as a screening tool for all residents, considering the high incidence of dementia. Even a briefer screen (such as a 3 item recall and a clock draw) could identify dementia sooner. If medication is started earlier, it would delay nursing home placement and significantly reduce costs.

The regulations do not mention medication review. I feel reviews by a qualified consultant pharmacist are invaluable, and should be required (at least twice a year, although I think quarterly is better).

I do not think there should be a regulatory requirement for what records should go with residents when they see a consultant or go to the hospital. Better would be a suggested list of items. PMDA has worked with the Pennsylvania Medical Society's Specialty Leadership Council about such a list, and would gladly share that information with the Department of Welfare.

GENERAL

I have discussed these regulations with colleagues on a more national level. Some comments:

Good:

The "aging in place" details are better than in many other states.
The list of excludable conditions and those requiring permission is appropriate.
The informed consent process is more progressive than most states.
The amount of hours required for annual training seems good.
I like the requirement of individually controlled thermostats.

Areas that could be improved:

The support plan completed prior to admission seems unrealistic, as staff needs time to spend with residents to know their needs and interests.

The regulations do not define the qualifications of the person completing the assessment. This needs to be an RN, as LPNs are not trained in assessment skills.

The regulations need to specify the process for consent agreement for residents with diagnosed or suspected dementia.

In Section 2800.25, there needs to be more detail on resident "engagement" (note that the proposed regulations use the older terminology "recreation").

I would recommend included the term "resident rights" to the list of defined terms.

The regulations do not require any specific training in advance of working for direct care staff, and is not clear in what they need "orientation" in. It isn't specified in detail of what denotes "department approved course or study," so it is difficult to determine whether this is adequate or not.

The regulations should state that windows above the ground floor have safety guards installed limiting their opening beyond six (6) inches.

It is only stated that living units have entrance doors that are wheelchair accessible, but do not address the bathroom doors. I believe this language should be specifically included.

Section 2800.101 states that all resident units have a microwave oven. This is potentially very dangerous with residents with dementia. A better way of stating this is that a microwave oven will be provided to each resident that is approved through the assessment process to be able to safely operate the oven.

The regulations are silent on grab bars in bathrooms (which I feel should be included), regular menu review by registered dieticians (quarterly seems appropriate. Also, regulations require retaining menus for one month. Nationally, 6 months seems more appropriate) and sprinkler systems (all new construction should be fully sprinklered).

Again, I appreciate the opportunity to give these comments. Please note that I give them solely as an individual in private practice, who has clinical experience with treating patients in assisted living facilities (as well as the aforementioned organizational experience). Feel free to contact me if I can help in any way.

Sincerely,

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