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**LUTHERCARE**  
**AT ST. JOHN'S HERR ESTATE**

2008 SEP 15 PM 3:20

INDEPENDENT REGULATORY  
REVIEW COMMISSION

September 10, 2008

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BUR OF LTC PGMS  
REFER TO \_\_\_\_\_

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

Dear Ms. Weidman,

In accordance with state regulatory review requirements, St. John's Herr Estate, a not-for-profit senior living in Lancaster County, Pennsylvania, submits the following comments regarding the proposed Assisted Living regulations, IRRC Number 2712. St. John's Herr Estate currently operates a Personal Care Home licensed by the Pennsylvania Department of Public Welfare and considers the proposed regulations to have the potential to adversely affect the cost and availability of care for our primary customers. We have chosen to limit our comments to those items we believe will most significantly influence the cost of care either by adding, what we believe to be, excess additional physical plant costs or other cost burdens related to the provision of quality daily care services. If St. John's Herr Estate decides to pursue Assisted Living licensure for our current Personal Care Home, final regulatory requirements relating to these specific items would most significantly affect that decision. Comments reference particular sections of the proposed 2800 regulations as follows:

**2800.11. (c) (1) & (2) Procedural requirements for licensure or approval of assisted living residences.**

Licensure fees greatly exceed current fees paid by St. John's Herr Estate to the Department of Public Welfare. The additional cost would exceed \$5,000 annually. This annual cost would be incorporated into the daily rate charges to the consumer, adding an additional burden to the average consumer's ability to afford this service.

**2800.56. (a) Administrator staffing.**

In a smaller residence, 40 beds or less, allowance for a less than full-time administrator seems appropriate. Smaller settings provide residents with a more home like, personal environment. The administrative cost burden of supporting this requirement for a full-time administrator will ultimately reduce the number of smaller assisted living residences if not altered.

**2800.56. (b) Administrator staffing.**

Is a designee with equal training to the administrator required to be in the building 24 hours a day, seven days a week in the absence of the administrator? If so, this will add another additional administrative cost burden on most facilities. Written clarification of the purpose and application of this regulation is required.

**2800.65. Direct care staff person training and orientation.**

St. John's Herr Estate supports the initial training requirements for direct care workers and other persons. However, the on-going annual training requirements when totaled appear to require 14 hours annually for direct care staff, including 2 hours of additional dementia training. Then, listed at 2800.236 is an additional training requirement for Special Care Units, this adds an additional 8 hours of annual dementia training for each direct care worker working on a special care unit. All this on top of the required initial completion of a department approved direct care staff training that has yet to be clearly stipulated as to specific curriculum or cost.

We estimate the additional cost to our organization for compliance with this one component of the regulation to be \$200 per employee working as direct care staff in Assisted Living and \$150 for all other staff and volunteers providing services in the residence or a total cost to St. John's Herr Estate of approximately \$8,000 per year. Again, this is in addition to current training and orientation costs per employee.

We believe quality in-service education programming that meets all the requirements of the proposed regulations could be appropriately provided with a maximum 12-hour annual in-service requirement.

**2800.101. (b) (1) & (2) Resident living units.**

The proposed square footage (excluding bathrooms and closets) requirement of 175 square feet per living unit for existing facilities and 250 square feet per living unit for newly constructed facilities is unacceptable. A higher square footage for each living unit equals a higher cost profile to the provider and ultimately to the consumer. We need to focus on resident care, the square footage minimum does not enhance the level of care we provide or clearly enhance the dignity of the residents served.

Assuming a current new construction cost of \$120 per square foot, the cost per unit, minus bathroom and closet space, would be over \$21,000 per apartment. In addition, energy costs to heat and cool these spaces, housekeeping costs and preventive maintenance costs would all increase the daily per diem cost to consumers as the square footage increases.

St. John's Herr Estate proposes a square footage minimum of 135 for existing facilities and 175 for newly constructed facilities. This standard will adequately provide appropriate floor space while considering both resident safety and consumer cost.

The proposed costs may not prevent providers from building new Assisted Living residences, but the cost will limit access to accommodations in this new level of care for seniors living on fixed monthly incomes. St. John's Herr Estate wishes to remain a preferred-affordable provider to these seniors.

**2800.101. (d) (2) (i) (ii) Kitchen capacity.**

In addition to the minimum square footage requirement, residences will need to meet kitchen capacity requirements. The costs associated with equipping living units with microwaves will be significant for St. John's Herr Estate. Costs, including electrical improvements to accommodate adding microwaves, are estimated at \$4000.

**2800.101. (i) (1-7) Each resident shall have the following in the living unit.**

In most cases residents want their personal furnishing and belonging so that they may create the most familiar and comfortable personal environment possible in their new accommodation. While we support the intent to make certain residents have everything they need to live comfortably, requiring all these items in every residence is overly prescriptive. An estimated cost per unit to provide all the items listed for St. John's Herr Estate's existing residences, at \$700 per unit, is \$28,000.

Laundry and linen services are covered in the regulations at 2800.105 and do not need to be included in this section.

Suggested alternative language would be: *The residence will inform the perspective resident of the availability of the following items and will provide the items as needed and requested by a resident at admission or at any time during occupancy. The offer and acceptance or declination of the items will be recorded in the resident record.*

**2800.171. (a) Transportation.**

The requirement that a residence provides or coordinates transportation to social appointments is far too broad and too open to interpretation. We suggest limiting this item to transportation to medical appointments and residence scheduled activities trips. Assistance with scheduling non-medical transportation could be provided as an additional fee service or otherwise arranged.

**2800.171. (b) (5) Transportation.**

The inclusion of an AED in each residence vehicle is cost prohibitive. On average AED's cost in excess of \$2000 per unit. St. John's Herr Estate supports the provision of AED's in each assisted living residence, but not in vehicles.

**2800.227. (b) Development of the support plan.**

The requirement for the support plan to be prepared under the supervision of a Registered Nurse adds another additional administrative cost burden to the operations of the assisted living residence. Each resident has a primary care physician and the residence will have routine access to this provider as listed in 2800.227 (d). Preparation of the portions of the care plan not under the direct order of a physician or similar practitioners by an LPN would be sufficient in most cases. If required at all, specific criteria for the additional use of an RN to oversee care planning in certain situations should be considered by the Office of Long Term Living.

St. John's Herr Estate applauds the Office of Long Term Living and the Advisory Committee members for their significant efforts to more clearly define Assisted Living for all Pennsylvanians and for their efforts to improve the quality of housing services and care provided within this scope of service.

We request the Office of Long Term Living and the Independent Regulatory Review Commission to carefully consider our comments and fully weigh the financial impact that these new regulations will have on the average Pennsylvania senior citizen seeking services while living on a limited annual income.

Thank you for the opportunity to provide necessary comments on the proposed regulations.

Sincerely,



Anita M. Martin  
Executive Director  
St. John's Herr Estate

cc: PANPHA, Nick Luciano