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From: Liz Thompson [EThompson@srcare.org]
Sent: Friday, September 12, 2008 5:07 PM
To: IRRC; gweidmanjo@state.pa.us
Subject: Regulation No. 14-514

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Attached please find a submission from Susan Collins, Senior Director, Assisted Living, Presbyterian SeniorCare regarding Regulation No. 14-514. This letter was Federal Expressed to the attention of Mike Hall for Monday delivery. I'm sorry it was not addressed to Ms. Weidman.

Thank you for the opportunity to provide feedback.

Liz
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Presbyterian SeniorCare
A Regional Network of Living & Care Options

VIA FEDERAL EXPRESS

September 12, 2008

Mr. Michael Hall
Office of Long Term Living
Bureau of Policy and Strategic Planning
1401 North 7th Street
Harrisburg, PA 17102

Dear Mr. Hall:

Please allow me to introduce myself. I am an RN, with 40 years experience in health care. The last 28 years have been working in long term care both in a nursing home and in personal care homes. The last 18 years have been as an administrator in a personal care home that is on a campus setting and is part of a continuum.

Our organization, Presbyterian SeniorCare, enjoys, but does not take for granted, a reputation for providing quality services in an environment where quality of life is just as important as quality of care. Presbyterian SeniorCare is also known as an organization that is on the cutting edge of new programs and services for older adults. We pride ourselves on being able to do all of these new things while providing a significant amount of unreimbursed care in our personal care homes for those who are low income receiving SSI or for those who are slightly over resourced to receive SSI. This amounts to approximately $3 million annually.

As I begin to innumerate the unnecessary high costs associated with the new Assisted Living regulations, I am sure you will understand the concern PSC and I have regarding these costs and the possible impact it will have on the resident both in terms of increased rates and decrease in services. The other inadequacy I would like to note is that, although the legislation paved the way for some reimbursement for services, there is no reimbursement tied to the regulation or stream of funds identified that will pay for services for those who are low income and nursing home eligible.

One of the greatest costs is instituting a licensing fee for Assisted Living that is one of the highest, if not the highest, in the country. Our costs would increase from $50 to $3,230. This fee

is for only 26 units out of 110 units. The remaining 84 units will not qualify under the 175 square foot requirement for room size. The irony is that these rooms are those in greatest demand, as set by the market, and under the AL regulation will now be used for those with the lowest income who do not have the ability to pay the private rate. Therefore, PSC will lose approximately $86 per day on each room or $2,236 per month. Annually, this amounts to $27,152 which will increase resident rates an additional $247 a year.

The proposed square footage requirement of 250 for new construction and 175 for existing facilities is unreasonable and for the most frail unsafe. The market will drive the room size. It is completely unnecessary and irresponsible to regulate such large size rooms. Frail older adults are at greater risk for falls in larger spaces. Additionally, requiring kitchenettes in each living unit will also drive up the costs for those who can afford to pay. Personal Care Homes today and Assisted Living Residences of the future will provide three meals a day, making it unnecessary for residents to prepare meals in their living units. Having a space to prepare something simple such as cereal or sandwich would be more than adequate and may be accomplished in a "country kitchen" close to their room. I would note that we do have a few living units with kitchenettes and most go unused except for the refrigerator which stores a few beverages.

Again, I must mention costs. The cost to renovate our existing 84 rooms to meet the square footage requirement would be in the millions of dollars which will then be spread over a smaller mass of residents increasing their rates even more. This may be a good time to mention 2800.131 which requires fire extinguishers in all living units, as well as the kitchenette in the living unit. Not only is this costly, but unsafe for the resident who will not be able to operate the fire extinguishers due to their weight or the resident's cognitive status. It may also be unsafe for others in the area if a resident becomes confused and tries to use the extinguisher as a weapon. This scenario is not farfetched. It is difficult to determine the financial impact this would have on our organization in that the size is not clearly defined in the regulation, making it open to interpretation. However, there would not only be the one time costs of purchasing the extinguishers, but the annual cost of maintenance. I might also mention that our building is fully sprinklered and all staff receives "hands on" fire extinguisher training as part of their annual fire safety training.

Regulation 2800.96 mandates Automatic Electronic Defibrillators (AED's) in every first aid kit. The average price for an AED is $2,300. In a multi-story building such as ours with a first aid on each floor, the cost would be $9,200, and since we provide transportation, we would have to add an additional $2,300 for the one in the required first aid kit in the vehicle, making the total cost $11,500. I have not included in these costs the ongoing training that will be necessary for someone to properly use and maintain the AED. The majority, if not all, of all residents have some form of Advance Directive. This may be in the form of a POLST or Living Will. Most of our residents do not wish to have CPR or have their life prolonged. If we served a younger population, this requirement would make sense, but we are serving people who are 85-100 or more years of age. Having worked in critical care, I know that performing CPR can sustain a life until monitoring and defibrillation, if appropriate, can be performed.

The requirements for administrator training and presence in the building are unreasonable. Under the proposed Assisted Living regulations, administrator who are currently serving in licensed personal care homes are not grandfathered, even though they are operating homes under the Chapter 2600 regulations which is the basis for the AL regulations. The required curriculum for Assisted Living Administrator is also the same as the Personal Care Home Administrator. The price for training new Personal Care Home administrators is now approximately $1,000. In our system with personal care homes at least three of the five administrators would have to attend the Department approved course for AL Administrators.

Additionally, the requirement that a designee be present at all times the named administrator is not present, and that the designee must also possess the qualifications of a fully credentialed administrator is unreasonable and costly. This implies that a qualified administrator is present in the facility 24 hours a day, seven days a week. I would hope the intent was that if the administrator will be away for an extended time such as vacation or leave, a qualified administrator would be designated. Again, if the intent is a qualified administrator 24/7 the costs for initial and annual (24 CEUs) training would be prohibitive.

The regulation is also very unclear regarding the amount of time the administrator must spend in the facility. It does state that 40 hours per week is required, but I am not clear on how that administrator will be able to complete training requirements of 24 CEUs per year or if that administrator could also serve as the personal care home administrator in the same facility that may be dually licensed. Would two administrators be required?

The above comments are primarily related to the increased costs that will be incurred with the licensure of Assisted Living. As mentioned earlier, most of the costs will have to be passed on to the resident in order to continue providing programs and services to residents. There are other concerns with the proposed Assisted Living Regulations that will affect operations, but will not improve quality of care or services.

Facilities must be able to maintain control over transfer and discharge of its residents. As it stands in the proposed regulations, that ability has been curtailed and the Long-Term Care Ombudsman has been inserted as an active participant in these decisions. Administrators and their care teams make decisions related to transfers and discharges based on functional needs, the ability of the care team to meet those needs, and with the best interest of the resident in mind. It is inappropriate to have the Long-Term Care Ombudsman involved in this decision-making process.

Likewise, facilities must be able to maintain control over who is admitted and the process associated with admission. The suggested change to 2800.224 would be that "a potential resident whose needs cannot be met by the residence shall be informed of the decision and shall then be referred to a local appropriated assessment agency."

Quarterly review of support plans is excessive. The current standard is annually and with significant change. This standard is reasonable and consistent with nursing home language,

otherwise it will become just "more paperwork compliance" and the true purpose for support planning will be lost.

Another issue is the provision of core services and how those services are charged. Each facility should have the option to make the decision to bundle or unbundle core services. The pricing structure must be clear in either situation.

The section referring to Informed Consent (2800.30) must be reviewed and amended to reduce risk to the resident, other residents, and the provider.

Finally, I would note that in 2800.228(b)(2) the resident's family is allowed to provide supplemental services. This would put not only the resident at risk, but the provider as well, from a liability standpoint. We would not consider becoming licensed as an Assisted Living Residence if this language is not changed.

In closing, I have highlighted areas of concern specific for Presbyterian SeniorCare related to both costs and delivery of services. There are other areas that will be of concern for other providers. My caution to you is that we have an opportunity in Pennsylvania to rework and develop a long-term care system that will truly meet the needs of our older adult population in a way that is financially feasible. Let us not push through regulations that are not thoughtful and are open to interpretation. We did that with the 2600 regulations and are now on the fourth or fifth (I've lost track) LMI and we have more confusion with providers trying to do a good job. Regulations that will only increase costs to providers, but will not increase quality of care or quality of life are not the answer to this long standing and crucial problem in Pennsylvania.

Sincerely,

Susan F. Collins

Susan F. Collins
Senior Director, Assisted Living
Executive Director, Westminster Place

/sc

cc: James B. Pieffer
Paul M. Winkler