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CELEBRATING ABILITIES. EXCEEDING EXPECTATIONS.

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INDEPENDENT REGULATORY  
REVIEW COMMISSION



2712

September 11, 2008

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Bureau of Policy and Strategic Planning  
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Harrisburg, PA 17105

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Comments on Regulation No. 14-514  
55 PA. CODE CH. 2800  
Assisted Living Residences

Submitted by The Arc of Greater Pittsburgh  
A Member of ACHIEVA

These comments are made on behalf of the more than 7,000 people with intellectual disabilities and their families served by ACHIEVA throughout multiple counties in Western Pennsylvania. We appreciate the opportunity to comment on these proposed regulations and do so based on the support needs of people with intellectual disabilities.

The Arc of Greater Pittsburgh/ACHIEVA commends the Department of Public Welfare for drafting the first regulations specifically for Assisted Living facilities. Historically, assisted living facilities have been categorized with personal care homes for licensure, even though people living in assisted living facilities require more care than people living in personal care homes.

The Arc of Greater Pittsburgh/ACHIEVA commends the Department of Public Welfare for recognizing the importance of the following critical points and for including them in the proposed regulations:

- Setting licensure fees that are sufficient to fund state oversight efforts (2800.11)
- Requiring fire safety approvals to be renewed every 3 years (2800.14)
- Increasing or enhancing requirements that cannot be waived (2800.19)
- Adding pre-admission disclosures to (2800.22(b))
- Allowing for contracts that may now run month to month with a 14 day termination notice by a resident (2800.25(b))

THE ACHIEVA FAMILY

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- Adding the requirement of experience to the administrator's qualifications (2800.53)
- Requiring the facility to at all times to be under the supervision of a person who is trained in how to operate and manage such a facility. Adding the requirement that an administrator's designee must have training as an administrator (2800.56)
- Requiring a nurse to be on call 24 hours a day and a dietician to be involved in meal planning for residents' whose support plans call for special diets (2800.60)
- Requiring air conditioning for the entire facility (2800.83)
- Requiring that all stairs must have strips for those with vision impairments (2800.94)
- Requiring facilities to have larger rooms than in personal care homes, with 250 square feet of living space for new construction and 175 square feet of living space for existing facilities (2800.101)
- Requiring living units to have kitchenettes with counter space, cabinets, a microwave, a refrigerator and access to a sink (2800.101)
- Requiring facilities to disclose their policies about pets and whether pets are allowed in the facility (2800.109)
- Requiring a smoke detector in each unit (2800.129)
- Requiring that **all** exits be marked with readily visible signs indicating the direction to travel to exit the building (2800.133)
- Requiring assistance with meals and cueing for meals (2800.162)
- Requiring vehicles for transportation to be accessible (1800.171)
- Requiring facilities to obtain prescribed medications and to maintain an adequate amount on site for each resident
- Requiring all residences to provide cognitive support services (2800.119)
- Requiring a written decision if residency is denied with an explanation of why at 2800.224
- Requiring a nurse to review and approve support plans
- Requiring that a facility must ensure a safe and orderly discharge with a resident's belongings to be transported with the resident at the time of discharge. Also, requiring that the termination notice must include information about how the process for discharging must proceed (2800.228)
- Requiring a tracking of admissions and discharges and transfers by the facility, including those involving excludable conditions (2800.228 and 2800.229)

The following comments are areas in need of enhancement in order to provide residents of assisted living facilities high quality services while also ensuring their health, safety and welfare:

- The right to choose a healthcare provider, which is currently in the personal care home regulations, has been eliminated. The Arc of Greater Pittsburgh proposes that the regulations include the language: "The resident has the right to choose all healthcare providers."
- Informed consent process still lacks protections ensuring that consumers are not forced to regularly or hastily release facilities of their responsibility to provide care and their liability for failure to do so. The Arc of Greater Pittsburgh proposes that an independent entity be designated to help consumers determine the merits of entering into an informed consent agreement.
- Applicant's rights, appeal rights or an appeal process are not included in the regulations. Nor, is there pendency language that would allow a person to continue to reside in a facility pending the outcome of the appeal.
- There is no provision for an independent panel to determine whether a resident with an excludable condition can, in fact, be admitted or retained.
- The proposed regulations fail to require facilities to meet the highest available physical site standards for life safety, uniform construction code, fire safety, and accessibility.
- The regulations authorize grandfathering of bedrooms (and facilities with bedrooms that are only 175 sq feet, which is too small for people who use walkers or wheelchairs.
- There is no requirement for asbestos remediation or carbon monoxide detectors or pool safety.
- There is no requirement that all hallways and common areas be wheelchair accessible.
- There is no requirement that facilities must accept service pets.
- The requirements should include an assessment prior to admission, completed by a nurse, and updated on a quarterly basis.
- The regulations should require at least 2 hours of care per resident per day with the actual care hours determined based on the assessed need of each resident.
- There should be a requirement that all staff be certified in first aid and CPR and re-tested on an annual basis.
- There should be a requirement that all supervisory staff have at least the training of direct care staff. There also needs to be a minimum of 24 hours of training per year for direct care staff. All staff must receive training in the care and support of people with intellectual disabilities, if they will be expected to care for and support them.

- The required qualifications for administrators needs to significantly be enhanced and must include training in the care and support of people with intellectual disabilities.
- There needs to be a requirement that contracted employees have the minimum training, licensure or certification.
- There needs to be a requirement that no training requirements can be waived for any position.
- There are no requirements that address dual licensure issues or how an existing personal care home can become an assisted living facility.
- There is no regulation prohibiting the grandfathering of staff or facilities.
- The regulations contain no protections against the facility assuming the role of a representative payee. Representative payees must be independent and not be allowed to be employees of any facility.
- There is no requirement that addresses deceptive marketing.
- There is no requirement that reportable incidents will be tracked and made available to the public.
- No steps were taken to improve enforcement provisions.

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