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INDEPENDENT REGULATORY
REVIEW COMMISSION

Date: September 9, 2008

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

As the administrator of Steward Place at Ware Presbyterian Village in Oxford, Pa., I have some serious concerns regarding the impact of the proposed Assisted Living Regulations on my facility and the residents we serve. While I support the concept of aging in place and allowing our residents to make choices regarding the services they receive, the proposed regulations would impose such a financial burden on our facility that we may not be able to continue to serve residents needing this level of care.

Steward Place at Ware Presbyterian Village currently provides care and services to 56 residents a year, with 11% of them requiring us to subsidize a portion of their monthly fee because they do not have the income to pay the full rate. I am concerned that we will not be able to provide the level of subsidy we are able to provide today because of our dramatically increased costs. This would have the consequence of reducing seniors' access to care, rather than increasing it as the regulations intended.

One significant area of cost increase is the physical plant. The services we provide to our residents are very necessary and in demand, as evidenced by our percentage of occupancy which is consistently above 94%. While we do not provide skilled services, we do provide a wide range of services that allow our residents to age-in-place appropriately and delay admission to a nursing home. Our residents are very pleased with our facility, however, because of the physical plant requirements in the proposed regulations we will not be able to serve those same residents tomorrow that we serve today. And, because with the estimated renovation cost of \$405,800 that we would incur, the cost to the resident of this enhanced level of care will make it out of reach of most people with modest and low incomes.

I have attached specific comments detailing other areas of concern to me, particularly those that have a dramatic cost impact, and ask that you please consider these comments in formulating a decision. With an estimated increase in operating costs of \$300,000 annually, the effect on seniors in my community and many others are going to be very negatively impacted if these regulations are approved without change.

Thank you for your attention to this matter.

Sincerely,
Paul Taylor, PCA, BBA
Assisted Living Manager
Steward Place at
Ware Presbyterian Village
610-998-2489

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§ 2800.11. Procedural requirements for licensure or approval of assisted living residences.

- (1) A \$500 license application or renewal fee.
- (2) A \$105 per bed fee that may be adjusted by the Department annually at a rate not to exceed the consumer price index. The Department shall publish a notice in the *Pennsylvania Bulletin* when the per bed fee is increased.

Concern:

$$\$500 + (84 \times 105) = \text{\$9,320.00}$$

This cost is extraordinary, especially for not-for-profit homes who are attempting to provide a high-level of care while simultaneously keeping costs at a minimum.

§ 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 hours per week shall be during normal business hours.

(b) The administrator shall designate a staff person to supervise the residence in the administrator's absence. The designee shall have the same training required for an administrator.

Concern:

Part a: If the administrator must be present in the residence an average of 40 hours or more per week in each calendar month, where is the availability to take a day off, let alone a vacation.

$855 \times 6 = \text{\$5130}$ – Cost of having an Administrator in the building for 6 weeks of the year when the primary Administrator may not be present.

Part b: If the designee must have the same training as the administrator and there must be a designee whenever the administrator is absent, does that not mean that every staff member who may be the designee would have to complete the administrator training. Concurrently, not all staff would even be eligible to take the course due to the requirements to be an administrator.

§ 2800.57. Direct care staffing.

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(a) At all times one or more residents are present in the residence a direct care staff person who is 21 years of age or older and who serves as the designee, shall be present in the residence. The direct care staff person may be the administrator if the administrator provides direct care services.

Concern:

This is in direct relation to 2800.57. This indicates that a staff member, with the same training as the administrator, be present within the building 24-hours a day, seven days a week. Therefore, all staff would need to be trained as administrators.

20 X 1980 = **\$39,600** – Cost to have all staff complete the ALA training.

§ 2800.60. Additional staffing based on the needs of the residents.

(d) In addition to the staffing requirements set forth in this chapter the residence shall have a nurse on call at all times. The on-call nurse shall be either an employee of the residence or under contract with the residence.

Concern:

Our facility would have to incur the cost of hiring additional licensed staff or contracting a local agency in order to provide 24-hour access. Although we are part of a CCRC and we are connected to the Skilled Nursing Facility, regulations indicate that we cannot share staff.

(30X16)X365=**\$175,200** – Cost to have a nurse on-call for the 16-hours a day that we do not employ a nurse.

§2800.64. Administrator training and orientation.

(a) Prior to initial employment as an administrator, a candidate shall successfully complete the following:

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(2) A 100-hour standardized Department-approved administrator training course. The training provided for in § 2800.69 (relating to additional dementia specific (training) shall be in addition to the 100-hour training course.

Concern:

Although the current administrator has completed the 100-hour PCA training the 100-hour AL training would have to be completed, which is essentially the same course. Additionally, NHA's, who are required to take a 120-hour course, would also have to take the AL Administrator training. This would be a considerable cost, especially for classes that have already been taken.

§ 2800.96. First aid kit.

(a) The residence shall have a first aid kit that includes an **automatic electronic defibrillation device**, nonporous disposable gloves, antiseptic, adhesive bandages, gauze pads, thermometer, adhesive tape, scissors, breathing shield, eye coverings and tweezers.

Concern:

Regulations call for a First Aide kit in every transportation vehicle. Additionally, there must be a first aide kit on every living level and one in the kitchen. At our facility, we would be required to purchase (9) AED's at an average cost of \$1,200 per AED.

9 X 1200 = \$10,800 Cost of AED's

24 X 100 = \$2,400 Cost to train staff

(48 X 12)+(4X21) = \$601 Cost to pay staff for 2-hour training

10,800 + 2400 + 576 = \$13,776

§2800.98. Indoor activity space.

(b) The residence shall have at least one furnished living room or lounge area for residents, their families and visitors. The combined living room or lounge areas shall accommodate all residents at one time. There must be at least 15 square feet per living unit for up to fifty living units. There must be a total of 750 square feet if there are more than 50 living units. These rooms or areas shall contain tables, chairs and lighting to accommodate the residents, their families and visitors.

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Concern:

Our facility maintains a Country Style Kitchen on each neighborhood for use by residents, their families and visitors. However, our only room that would accommodate all of our residents at one time would be our dining room and this regulation does not indicate that the dining room would be an acceptable space.

§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 250 square feet of floor space measured wall-to-wall, excluding bathrooms and closet space. If two residents share a living unit, there must be an additional 80 square feet in the living unit.

(2) For residences in existence prior to (Ed. note: effective date), each living unit must have at least 175 square feet measured wall to wall, excluding bathrooms and closet space. If two residents share a living unit, there must be an additional 80 square feet in the living unit. . . .

(3) Each living unit must have a telephone jack and individually controlled thermostats for heating and cooling.

(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 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.

Concern:

Dependant upon the effective date and whether there will be a grandfathering clause, our facility contains 20 apartments that may not meet the requirements of this regulation. Furthermore, if we are able to supply kitchen capacity in these 20

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apartments, we will then have to furnish a refrigerator and microwave. Even a low average of \$100 per apartment, we would incur another cost of **\$2000.00**.

§2800.102. Bathrooms.

(c) There shall be at least one bathtub or shower in the bathroom of the living unit.

Concern:

Our facility contains 52 apartments, 32 of which are approximately 3 years old. However, our original Assisted Living wing is comprised of 20 apartments that were constructed in 1976. Each apartment in the original wing contains a half bath, but no tub or shower. 30% of the residents that reside have either limited or no income and assets. Their daily living is being paid for through our benevolent care fund. Converting the bathrooms in this wing may prove to be cost prohibitive and therefore we would lose 20 apartments that would otherwise be available to seniors with limited assets.

Remodeling:

Estimate - \$19,000 per bathroom

19,000 X 20 = \$380,000 – Cost to remodel all 20 bathrooms

(129 X 10) X 20 = \$25,800 – Lost revenue while remodeling each bathroom

Total - \$405,800 – (this is a general estimate. Real cost could be much higher)

§2800.171. Transportation.

(b) The following requirements apply whenever staff persons or volunteers of the residence provide transportation for the resident:

(4) At least one staff member transporting or accompanying the residents shall have completed the initial new hire direct care staff person training as specified in § 2800.65 (relating to direct care staff training and orientation).

(5) The vehicle must have a first aid kit with the contents as specified in § 2800.96 (relating to first aid kit).

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By indicating that at least one person on the transport be trained under 2800.65, our facility would have to send a PCA on every transport, or have all the transportation staff trained. By sending a PCA on every transport, we would incur an additional cost of the PCA's hourly wage in order to replace that staff member in the facility. Additionally, referring back to 2800.96, providing AED's for each transportation vehicle will prove to be a significant cost.

§2800.227. Development of the support plan.

(b) A residence may use its own support plan form if it includes the same information as the Department's support plan form. A licensed practical nurse, under the supervision of a registered nurse, must review and approve the support plan. '

(c) The support plan shall be revised within 30 days upon completion of the annual assessment or upon changes in the resident's needs as indicated on the current assessment. The residence shall review each resident's support plan on a quarterly basis and modify as necessary to meet the resident's needs.

Concern:

Our facility is staffed with a fulltime and part-time nurse, who are both licensed LPN's and are more than qualified to assess a resident and document a support plan. The requirement for an RN to review the support plan would either force us to hire an RN, or contract an RN's services to review assessments and support plans.

§ 2800.228. Transfer and discharge.

(h) The only grounds for transfer or discharge of a resident from a residence are for the following conditions:

(3) If a residence determines that a resident's functional level has advanced or declined so that the resident's needs cannot be met in the residence under § 2800.229 (relating to excludable conditions; exceptions) or within the scope of licensure for a residence. In that case, the residence shall notify the resident, the resident's designated person and the local ombudsman. The residence shall provide justification for the residence's determination that the needs of the resident cannot be met. If a resident or the resident's designated person disagrees with the residence's decision to transfer or discharge, the residence shall contact the local ombudsman. If the residence decides to proceed with the

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transfer or discharge then the ombudsman shall notify the Department. The Department may take any appropriate licensure action it deems necessary based upon the report of the ombudsman. In the event that there is no disagreement related to the transfer or discharge, a plan for other placement shall be made as soon as possible by the administrator in conjunction with the resident and the resident's designated person, if any. If assistance with relocation is needed, the administrator shall contact appropriate local agencies, such as the area agency on aging, county mental health/mental retardation program or drug and alcohol program, for assistance. The administrator shall also contact the Department.

Concern:

These conditions have taken the decision making away from the facility and places it in the hands of the Local Ombudsman and DPW.

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