

This document is a comment on the preliminary DRAFT final regulation. On June 24, 2009, the Department of Public Welfare provided a DRAFT final regulation for public review and comment. The DRAFT final can be found at : <http://www.irrc.state.pa.us/Documents/SRCDocuments/Regulations/2712/AGENCY/Document-12700.pdf>.

This is an informal process. The Department will consider these comments in preparation of a formal final regulation to be submitted at a later date.

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

2712
July 23, 2009

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Ms. Kaufman,

In accordance with state regulatory review requirements, St. John's Herr Estate, a not-for-profit senior living community in Lancaster County, Pennsylvania, submits the following comments regarding the proposed Assisted Living regulations. St. John's Herr Estate currently operates a Personal Care Home licensed by the Pennsylvania Department of Public Welfare and considers the proposed regulation to have the potential to adversely affect the cost and availability of care for our primary customers. I have chosen to limit my 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 effect that decision. Comments reference particular sections of the proposed 2800 regulations as follows:

1. Licensure Fees:

Licensure fees greatly exceed current fees paid by this organization to the Department of Public Welfare. The additional cost to our organization would exceed \$3,000 annually; currently we are paying \$30.00. This annual cost would be incorporated into the daily rate charges to consumer, adding an additional burden to the average consumer's ability to afford this service.

2. Administrator Requirements:

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. The cost for this is estimated at \$3,000.00 so that we can train additional LPN's. This is a significant cost to our organization, which will be an additional burden to our Residents fees.

3. Direct care staff person training and orientation:

The new regulations require that direct care workers have all their training which includes CPR, First Aid and 18 hours of training related to their job duties before they can even provide care to the Residents. St. John's Herr Estate supports the listed items of required training, but believes it is unnecessary when coupled with other mandated training requirements in this chapter. Currently our direct care staff are not providing unsupervised services until they have been trained by another team member. We estimate the additional cost approximately \$200.00 per staff person.

4. Physical Plant Requirements:

The square footage minimum of 125 for existing facilities and 150 for newly constructed facilities, which providers have suggested, provides an appropriate regulatory floor that ensures a dignified quality of life for residents, is within the mainstream nationally, and does not close the market on significant portions of Pennsylvania's geography. Market forces will result in many providers offering rooms well beyond the 125 or 150 square foot minimum.

We renew our belief that it is critical to the viability of Assisted Living here in Pennsylvania that consumers drive the market, with both their feet and their dollars, rather than the Department doing so via square footage requirements that will leave large segments of the Commonwealth without Assisted Living as a viable option.

Along with the minimum square footage requirement, is the necessity for all newly constructed facilities to equip living units with a kitchen that possesses a sink with hot and cold running water. The costs associated with equipping each living unit with plumbing for the kitchen will not be insignificant. This is an amenity many will not request or use, as three full meals will be provided by the residence. However, the provision of a country kitchen or a small congregate style kitchen area will adequately meet the needs of residents. Again, many providers will opt to equip all living units with a kitchen sink of some type, but the market should decide whether that is a necessity for Assisted Living.

The proposed square footage requirements of 175 square feet per living unit for existing facilities and 250 square feet per living unit for newly constructed facilities continues to be 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 does not enhance the level of care we provide or clearly enhance the dignity of the residents we serve.

5. Supervision by RN in Assessment and Support Plan Development:

The requirement for the support plan to be prepared under the supervision of a Register Nurse adds another additional administrative cost burden to the operations of the assisted living residence. The additional cost to Luthercare for an RN to oversee the support plans would be \$58,000 per year. An RN is not a

clinical necessity in the completion of an Assessment or in the development of a Support Plan. This is a mandate that simply increases the cost profile of delivering care. A provision that mandates that an RN review Assessments and Support Plans for accuracy may be reasonable, but to require direct supervision during the completion is not warranted.

6. Discharge of Residents: The residence must be permitted to maintain control over the transfer and discharge of its residents as is called for in Act 56 of 2007. Certain provisions that were advanced in previous proposed regulations have been appropriately disposed, however newly inserted language forces this issue to remain as a preeminent concern for us.

Thank you for the opportunity to provide our comments on the proposed regulations, so that you can see our concerns for our Residents.

Respectfully Submitted,



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

CC: Department of Aging, Secretary John Hall
PANPHA, Nick Luciano, W. Russel McDaid
Independent Regulatory Review Commission, Kim Kaufman