

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.



2712

Saint Mary's Home of Erie

Caring across the Centuries  125 years

SAINT MARY'S AT ASBURY RIDGE
SAINT MARY'S EAST

July 24, 2009

The Honorable John M. Hall
Secretary, Department of Aging
Office of Policy and Strategic Planning
Bureau of Policy and Strategic Planning
P.O. Box 2675
Harrisburg, PA 17105

RECEIVED
JUL 27 2009

Re: Proposed Assisted Living Regulations

Dear Secretary Hall:

As the President/CEO of a Continuing Care Retirement Community which includes 2 campuses and 295 licensed Residential Living/Personal Care beds including a 16 bed licensed Alzheimer specific Personal Care area, I am extremely concerned about the proposed Assisted Living Regulations and the cost of these regulations for existing and future facilities and our residents. Although changes have been made to the original proposed regulations these proposed Assisted Living Regulations are still very concerning and would place unreasonable and unnecessary additional costs on our facilities and our residents and their families. This is not at all in the public interest.

I am also concerned that your Department seems to have inherited these from the Department of Public Welfare and wonder if it would be better to not enact any new regulations in this area until your Department has had a chance to look at the present situation and come out with its own recommendations and regulations. In fact, to meld together under one license Personal Care/Assisted Living as many states do? Most only have one or the other licensure and cover all under it.

The regulations, as proposed, continue to require physical plant renovations, increased administrative burden which will have little to no bearing on the quality of care delivered to residents except to make this type of care too costly for most of our current and future residents to afford! It would require increased rates, a possible reduction of care and services, or maybe even effect the viability of one of our facilities and where would the people go? Who would care for them. We run at over 98.8% occupancy and sometimes over 100%!

Where would the existing approximately 100 Personal Care Residents go if one of our facilities did not qualify for Assisted Living and was unable to provide nursing care to the Personal Care Residents in that facility under Personal Care? At present we provide well over \$600,000 in Benevolent Care to our Residential residents – who will care for them under these increasing costs that you have proposed by these regulations? We are maxing out on our ability to give more Benevolent Care! In addition we are a faith-based facility and where would our residents go – there is not another same faith-based facility in the county or actually within about 60 miles.

These two licenses care for very similar populations – if not the same - and to have both levels of care licensed instead of one level of care combining both with one set of regulations is cumbersome administratively, confusing to the public, and not in their best interest, in my opinion.

Saint Mary’s Home of Erie is a member of PANPHA. PANPHA has submitted detailed comments on the proposed Assisted Living Regulations and we support PANPHA’s comments and will not retype them here for brevity sake.

In addition to PANPHA’s comments, the following areas are of concern:

Projected Cost Increase:

2800.11 Licensure Fee:

One of our facilities is licensed for 164 Personal Care beds with an annual licensure fee of \$50.00. All units meet the criteria for AL square footage. The proposed fee is outrageous!

$\$300 + \$75 \times 164 \text{ beds} = \$12,600.00$ an

increase of \$12,550.00!

\$12,550.00

Our 2nd facility is licensed for 131 Personal Care beds so the proposed fee for it would be an **increase of \$10,125.00!**

\$10, 125.00

This on top of the over \$600,00 of Benevolent Care we already give.

2800.64 (a) (2) The regs do not accept a person with a Personal Care Education who is currently a Personal Care Administrator as an Administrator of Assisted Living. This is unreasonable and creates unnecessary duplication of staff and costs.

Education and Training approximately \$5000

\$10,000.00

per facility (plus capital costs)

2800.171 Transportation

Requires a facility to provide or coordinate transportation and assistance to and from medical **and social appointments!**

We already coordinate these services with various transportation providers such as the LIFT and private Providers. However, the regs seem to require that both the transportation and the assistance should be **of the facility.** Many times the family can provide this assistance and transportation. This would not permit this. This would require: **additional staff, additional costs for More vehicles and drivers.** The Nursing staff on duty could not leave the facility and residents to accompany a resident who would require assistance and most Drs. Offices require someone be with the person if they require assistance. This would require **additional nursing staff at a time when there is a nursing shortage and shortage of healthcare personnel and MANY additional costs.**

Vehicle (wheelchair accessible) for each facility (2)	\$60,000.00 <i>plus</i> maintenance & fuel costs
Driver \$15.00/hour (2)	\$62,400.00/year
Nurse Aide \$9.94/hour (2)	\$41,350.00/year
(2-3 trips/day@ 6 to 8 hrs./day) <u>Subtotal:</u>	\$163,750.00/year

APPROX. TOTAL COST PROJECTED \$196,425.00/YEAR

2800.101 (b)

The **square footage** requirement of 175 sq. ft. per room would greatly impact one of our facilities. Some of our rooms cannot meet this minimum. We would be able to meet the 125 sq. ft. PANPHA is recommending. Our facility is in an area that serves many low income people and meeting this requirement would be prohibitive **in addition to** giving over \$600,000 in Benevolent Care annually! We are running at over 98.8% occupancy! People like the rooms and do not want nor would it be safe for some to have kitchens or microwaves. This should be up to Resident Choice – choose a facility that has higher square footage and kitchens if they wish – if not choose one without. **What ever happened to resident choice?**

2800.3(c)

Dual Licensure is a must. It **MUST** be put back into the regulations. I Do not think that it should be in a distinct part either. **That would NOT permit**

Aging in Place. Whatever happened to that concept, as well?

Other areas of concern:

- The proposed **bundling of “Core Services”**. This will result in higher admission fees and the non-user of services having to bear the cost of such services.
- Need for clarification of **proposed hours for the Administrator.**
- The **direct supervision** of an LPN by an RN in the completion of the assessment and development of the support plan.
- Dual Licensure** should be permitted room by room.
- Informed consent** of the resident could be a problem when a Safety/dangerous issue of other residents, staff and/or visitor is present.
- The **regulated training needs** of a certified nurse aide versus a person hired without any healthcare education *should be different*. We employ direct care workers who are certified nurse aides mostly and thus they should not need to meet the proposed regs.
- A **written basis for denial of admission should not be required.**
- The **approval of the resident handbook** by the Department should not be required. This is an internal document. Again – a resident’s right to choose a facility they choose with a handbook they can abide by not something approved by outside agencies. Handbook change as policies change and approval is an unnecessary burden and a time constraint to implementing change.
- There is a **lack of equity in the allowance of time to terminate a resident contract. Both parties** should have the **same notification requirement** and that would seem to be **30 days**.
- The **facility should have the right to inform residents that some of their possessions or furnishings may not meet safety requirements or be safe even if they should like to have them – if they are not safe they facility should have the right to do something about that.**
- Setting a ratio of CPR/First Aid trained staff to resident does not seem to be practical – especially during sleep hours, when staffing is less.**

The proposed Assisted Living Regulations contain other areas of concern and question but these are the main ones with a major impact on cost of living in our facilities.

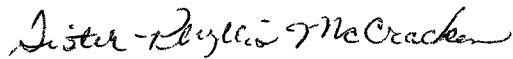
In **one** of our facilities, the current daily rate for personal care resident living in a 396 sq. ft. apartment is approximately \$122.00. **The implementation of the proposed regs will increase the daily rate approximately \$5.66 per day or \$2,066.00 per year making the daily rate \$127.66 or \$46,595.90 per year.** This is cost prohibitive for the majority and would service only the top sections of our income levels. It also would move people into Medical Assistance faster and at greater numbers than already is happening. We cannot afford to subsidize that type of misuse of people’s funds by more Benevolent Care and the costs of this program to our facilities might even make us need to decrease that funding that we already give to meet these regs – that would be sad and would cause the

mid income and lower income people in one of our facilities to not be able to stay – where would they go?

I **STRONGLY recommend** these Assisted Living Regulations be halted – stopped and put back on the drawing board especially in this economy and since they are in a new Department.

Thank you for your time and I hope these comments are helpful.

Respectfully submitted,



Sister Phyllis McCracken, MS, NHA
President/CEO
Saint Mary's Home of Erie

cc: Independent Regulator Review Commission
c/o Arthur Coccodrille, Chairman
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