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July 22, 2009

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INDEPENDENT REGULATOR,
REVIEW COMMISSION

To: Department of Public Welfare

Re: **Assisted Living Draft Regulations**

Following are questions and comments on the draft assisted living regulations.

Page 16
2800.11

- (a) (2) Please clarify if this is a one time fee or an annual fee.

Page 17

- (g) (1) It is entirely possible that a resident may need to move from one designated section to another for financial reasons. The required assisted living accommodations are undoubtedly going to cost more than a single room without such amenities or a semi-private room. It is unrealistic to assume resident who was private pay in an apartment style apartment who runs out of funds and is either subsidized by the facility or qualifies for SSI is going to be able to stay in that same apartment at that more expensive rate. No facility is going to be able to afford to have a low income, SSI resident in an apartment style room. Just as Medical Assistance residents do not reside in private nursing home rooms if there are semi-private rooms available.

Page 18
2800.14

- (e) What agency is going to do a fire safety inspection and renew the facility every three years? What agency is responsible for this and have they agreed to take on these every three year renewals?

Page 22
2800.22

- (a) (2) While most medical evaluations are getting done prior to admission, having only 15 days to get them completed after admission is a very tight time frame. Recommend the 30 day time frame required of PCH's.

Page 24

- (4) (vi) What is the purpose of having to provide an applicant with the number of living units that comply with the ADA? Is this a requirement in any other similar setting?

Page 29

2800.28 Refunds

- (b) It is unfair to require a resident to only give 14 days notice of a move-out and not give the facility that same time frame. 14 days is an unacceptably short period of time and this should be changed to 30 days.

Page 38

2800.56 Administrator Staffing

- (a) This does not take into account vacations throughout the year. It is unrealistic to expect an administrator work more than 40 hours a week in order to make up for a week of vacation. This is not even a requirement for a nursing home administrator which allows for vacations. Is 40 hours really necessary for a small home?
- (c) This would require two administrators for every building which is excessive, expensive and unnecessary.

Page 39

2800.60 Additional Staffing based on the needs of the resident

- (d) Clarify "on call". Does this mean available to take a call for questions, or available to come in to the building at any time?

I would recommend that one of the differentiating criteria of assisted living from personal care be a minimum number of LPN or RN hours in the facility on a weekly basis.

- (e) Can the resident be charged for consultation with the dietician?

Page 40

2800.64 First Aide, CPR and obstructed airway training

- (a) This is more than twice what is required for PCH's and excessive. The odds of having more than one resident having a heart attack at the same time is probably a zillion to one.

Page 48

2800.81 Physical Accommodations and equipment

- (a) Should be changed to say "The residence shall provide or arrange for *reasonable* physical site accommodations and equipment....". If you leave this regulation as is, it is open ended as to what may have to be provided and a resident may want/need an accommodation that is not financially or physically possible for the facility.

Page 52

2800.96 First aid kit

(e) An AED device is not even required in nursing homes and this could be an unaffordable expense to some homes.

Page 52

2800.98

(a) What is basis for TWO spaces?. PCH regs require only one. For smaller homes, this may not be possible. Why are two spaces required?

Page 53

2800.101

(b)(1) 250 sq feet is an excessive requirement and will only drive up the cost of new assisted living construction which will result in higher fees to the resident.

(2) Again, while many existing facilities may meet this criterion, many may not. A facility may not be eligible to be assisted living for no other reason than this square footage requirement. What is the basis for this sq footage requirement?

(d) The whole notion of kitchen capacity requirements seems to be in contradiction to the type of resident ALF's are designed to serve. If the level of care for these residents is between personal care and nursing home, why would kitchen capacity be a requirement?

I believe you have individuals giving DPW input into these regulations that are asking for "pie in the sky" without considering cost, feasibility and what the average resident wants or needs. We have numerous apartments with kitchen accommodations at my facility and only one of twenty-five residents with these accommodations actually uses the stove top. It is a nice amenity to offer but I do not believe large units and kitchen amenities should be defining factors when differentiating from personal care.

Page 56

2800.12 Bathrooms

(c) I believe there should be a provision to allow for the shower/tub to be a community shower room and not required in each resident room.

Again, I do not believe that accommodations should be a primary factor in differentiating personal care from assisted living.

Page 65

2800.141 Resident medical evaluation and health care.

(11) Who pays for this? The resident?

Page 70

2800.171 Transportation

- (a) (4) Please clarify whether this is a requirement for facility owned/supplied transportation of if this is required for any transportation.

Page 71

(d) These are ridiculous requirements to put in a regulation. While there should be reasonableness in regard to this issue, time frames such as these should not be regulations.

Page 85

(g) 2800.224 Initial Assessment and preliminary support plan

(c) Preliminary Support plan

(5) Remove RN requirement. There is no reason an LPN could do not this support plan in this setting. With the nursing shortage, facilities will be hard pressed to find the RN's to do this. I understand having an LPN being one of the differentiating factors between PCH and ALF, but the RN requirement is unnecessary. Requiring an RN will also drive up cost to the consumer.

Page 87

2800.227 Development of final support plan.

(b) Remove RN requirement. There is no reason an LPN could do not this support plan. With the nursing shortage, facilities will be hard pressed to find the RN's to do this. I understand having an LPN being one of the differentiating factors between PCH and ALF, but the RN requirement is unnecessary. Having an RN available to fulfill this task will also drive the cost of assisted living up.

Page 92

2800.229 Excludable Conditions; exceptions

(e) (7) Who is considered a *qualified* individual to administer oxygen?

Page 108

2800.264 Appeals of Penalty

While there is a provision to appeal a penalty, there is no provision for appealing a *deficiency*. This is a gross omission with the PCH regs and one would think this would be rectified and included in the ALF regs. Just as the Dept of Health provides for nursing homes, there should be measures in place to appeal a deficiency if a facility *disagrees with the violation*. This is critical.

Thank you for your time and attention.

Sincerely,

Karen Russell