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Office of Long Term Living Services
Bureau of Policy and Strategic Planning
P.O. Box 2675
Harrisburg PA 17105
Attention: Bill White

July 24th, 2009

Dear Mr. White,

On the behalf of Keystone Hospice I want to thank you and your staff for a job well done and openness to advance care alternatives for the elderly and those disabled within the commonwealth. That being said I want to express some concerns specifically noted in the proposed regulations which I believe are inconsistent with lowering the costs of healthcare, aging in place and balance of competing interests. Some of the concerns are:

2800.29 The regulation does not sufficiently address the role of hospice and aging in place; this is of particular concern when referencing excludable conditions; exceptions in 2800.229. The exception process is not just onerous but would require extensive amounts of time in those situations that may require a quick intervention to alleviate, pain, symptoms and just the ability to remain in place. Quite frankly dying people cannot often times wait 5 days to have a problem resolved. I would also reference you to two bills being supported by State Senator McIlhinney (SB1013) and Representative Watson (HB1893), which specifically reference evacuation procedures of Hospice residents for fire drills.

2800.30 Informed consent process although excellent in maintaining the rights of the client is fraught with legal implications for the licensee. These onerous regulations with the burden of proof falling on the facility will in time create processes resulting in fewer facilities being willing to take a client that has the potential of providing any risk. I reference you to your current survey process and the number of facilities that have zero citations, which is none. I draw your attention to the DPW website which provides a summary of violations for personal care homes in the State of Pennsylvania, of which Less than 1% have zero violations and 80%, 11 or more. Many providers are already fearful to take risk out of fear of violations; the net result could result in increased utilization of skilled facilities. The state may want to consider revisiting this issue through a root cause analysis process to see what can be done to improve outcomes and encourage true aging in place.

2800.41 Who determines what retaliation is and what is transfer or discharge of the resident for the well being of the licensee and the other residents. Please clarify the process by which intent is determined.

2800.54 (4) (d) 16 or 17 redundant, just say 16 or older.

2800.56 Administrator requirement of 40 hours per week in building is excessive, and cost prohibitive for the cure.

2800.85(d) Trash receptacles should be allowed without tops. In fact most facilities should be required to remove trash no less than daily to control pests. With the exception of Joe's Flop house, most facilities would want to remove trash regularly and not attempt to control the presence of rodents and insects by placing lids on containers that could be a challenge with clients who have impaired mobility. Also, isn't the goal a home- like environment?

2800.101 Resident living units square foot requirements are both cost prohibitive and potentially harmful to facilities that have operated quite well with lesser space for many years. This change in size is not necessary for seniors, and although responsive to a younger disabled group, the seniors are frailer and often require less space. I also direct you to the reports published by NASHP that provide guidance and state comparisons, including size comparisons. It seems that the average ALF is ***80-100 square feet*** in most other states, not all require kitchens which are cited as n expectation, versus a choice. ***Kitchens in most cases could present a risk for those who are cognitively impaired. Most seniors actually prefer their meals to be prepared, and the socialization time of meals helps reduce isolation and depression which impacts health outcomes and cognition.***

A one size fits all approach to Assisted Living can only result in the less frail receiving what they truly need, increasing cost of care and limits older facilities who provide exceptional care but will be penalized for structural changes that are not based on the reality of actual needs.

Longterm and Chronic Care

Assisted Living

Assisted Living and Residential Care Policy Compendium, 2007 Update
Released April 2008

This report, compiled by NASHP and released in April 2008 by the U.S. Department of Health and Human Services Office of the Assistant Secretary for Planning succinctly lays out current issues in assisted living and residential care, including policy developments, growth trends, changing regulatory models, approaches to quality, and financing and reimbursement. It is an update of the 2004 compilation. The compendium also summarizes each state's current policy and regulatory framework for assisted living and residential care.

Among the key highlights from the 2007 Compendium Update is:

- In 2007, states reported 38,373 licensed residential care facilities with 974,585 unites/beds, up 6% and 4% respectively since 2004.
- Regulatory changes since 2004 tend to address the challenges posed by serving frailer and sicker residents.
- 44 states now have requirements for residential care facilities serving residents with Alzheimer's disease and other dementias.
- This edition includes a broad look at adult foster care policy across states. Adult foster care/adult family care is typically delivered in a private home setting to no more than 3 to 6 individuals. Although notably different in character from other types of residential care, some states license adult foster care under their assisted living regulations.

The complete report can be accessed at: http://aspe.hhs.gov/daltcp/reports/2007/07alcom.htm

Also, the report is broken into four PDF files, which are available as follows:

Table of Contents - http://aspe.hhs.gov/daltcp/reports/2007/07alcom.pdf

SECTION 1. Overview of Residential Care and Assisted Living Policy - http://aspe.hhs.gov/daltcp/reports/2007/07alcom1.pdf

SECTION 2. Comparison of State Policies - http://aspe.hhs.gov/daltcp/reports/2007/07alcom2.pdf

SECTION 3. State Summaries - http://aspe.hhs.gov/daltcp/reports/2007/07alcom3.pdf

2800.130 Smoke detectors, 2800.131 Fire Extinguisher, 2800.132 Exit signs: I am surprised that there is No mention of fire suppression systems which do save lives. I refer you to the GAO report that clearly points to the need to have fire suppression systems in place:

http://www.pianet.com/NewsCenter/InsuranceNews/7-28-04-2.htm

The use of these fire suppressions systems should be a given over other requirements like excessive square footage and kitchens that are cost prohibitive as mentioned previously and do not exhibit a cost benefit, or significantly impacts the health or safety of the individuals being addressed here.

2800.266 Revocation or renewal of licenses, given my expressed concern over how current guidelines are interpreted, is there an appeals process for which a provider can have due process with an outside mediator. Furthermore, how is the decision made as to what is a justified class I violation and by whom?

Again, I do thank you in advance for your time and effort and hope that my concerns will be weighed based on their merit and Keystone's experience with the assisted living industry. Please feel free to contact me at 215-836-2440 if you have any addition questions

Respectfully,

Gail A. Inderwies, RN, BSN, MBA, CHPN

President and Executive Director Keystone Hospice and KeystoneCare LLC

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