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Passavant Retirement  
Community

July 23, 2009

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

Independent Regulatory Review Commission  
333 Market Street 14<sup>th</sup> Floor  
Harrisburg, PA 17101

Hon. Jane Clare Orie  
9400 McKnight Road  
LaCasa Blanca Building, Suite 105  
Pittsburgh, PA 15237

Hon. Richard R. Stevenson  
1771 North Main Street Ext.  
Butler, PA 16001

Hon. Patricia H. Vance  
Senate Box 203031  
Harrisburg, PA 17120-3031

Hon. Phyllis Mundy  
36 East Wing  
PO Box 202120  
Harrisburg, PA 17120-3031

Dear Madams and Sirs:

On behalf of current and future residents of Passavant Retirement Community and elders in Assisted Living Residences throughout the Commonwealth, this letter is our response to the **current preliminary DRAFT final regulation (Regulation #14-514 (IRRC # 2712))** for Assisted Living Residences in Pennsylvania. In addition to our response below, we are also **entirely in agreement with PANPHA'S response** to these draft regulations. Our mission at Passavant Retirement Community is to provide elders with the opportunity to experience **Abundant Life™** and, as such, we looked forward to regulations that would not only enable elders to age in place and "be home" in their apartments but also continue to experience an **Abundant Life**.

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REVIEW COMMISSION

You need to know that we remain disappointed with these draft regulations. These regulations hamper and hinder us from pursuing a level of service so important to elders who come to Passavant Retirement Community. Rather than promote resident independence and the right to age in place, they stifle providers with actions and requirements far removed from resident-centered service and, as a result, move toward a more institutional and medical setting versus a true home and social setting. Furthermore, these draft regulations continue to ignore the severe insufficiency of the public payment source for low-income Pennsylvanians who need the care provided by an Assisted Living Residence.

Specifically we have comments about the following regulations:

**Definition: Common living area.**

Please give consideration to eliminate "swimming pool" from its own separate distinction. Consider it within the perimeters of either indoor activity space (if an indoor pool) or recreational space.

We support PANPHA's recommendation of the following change:

***Suggested Language***

(iv) Swimming area, if present in the residence.

**Definition: Distinct Part.**

Please consider an individual apartment as a separate and distinct part, rather than a wing or floor as the only separate and distinct part. This separate distinction will further allow an elder to "age in place" where he/she calls home, where "his/her changing needs and preferences" can be met, rather than have the elder transfer from a personal care apartment to an assisted living wing or floor. This "move" sometimes causes potential trauma and anxiety for the resident. **This definition may preclude Passavant Retirement Community from pursuing assisted living licensure.**

As stated by PANPHA, currently the Department has not included a definition for how compliance will be measured when surveying a distinct part of an assisted living residence. For clarity and uniformity, we support PANPHA's suggested definition.

***Suggested Language***

***Distinct Part***—[A portion of a building that is visually separated such as a wing or floor.] **Any combination of two or more contiguous rooms, which meet or exceed the physical plant standards established for Assisted Living Residences within this regulation and that the residence has set aside for the provision of assisted living services. These rooms shall be clearly delineated on the Residence's floor plan printout, which will be provided to the Department's licensing agents at time of inspection.**

**2800.11 Licensure Fees.**

Thank you for lessening the licensure blow (2800.11c) by permitting multiple buildings located on the same premises to apply for a single assisted living residence licensing/renewal fee. That would be a \$300 annual savings from the former proposed regulations if we could pursue assisted living licensure.

At Passavant, we have two (2) residences licensed under Chapter 2600 (personal care) regulations. Though licensed for occupancy of 97 in 74 apartments, the personal care home in the Main Building on our campus holds an average census of 72 residents. We increased our capacity by 20 to provide opportunity for couples to live together without compromising regulatory capacity requirements. Likewise, the other assisted living residence on the Passavant campus, Newhaven Court, with licensed capacity of 164 in 94 apartments, has an average census of 97.

Though these high occupancy numbers have never been met, the per bed licensing fees proposed in the current draft 2800 regulations would increase fees from a tiered annual \$80 fee for both residences to \$19,875 annually for Passavant Retirement Community as illustrated below:

\$300 renewal fee/2 licensed residences	\$ 300
\$ 75/261 bed capacity	\$ 19,575

**This arbitrary \$19,875 annual licensure fee would eliminate the opportunity for .5 FTE direct care worker and compromise our ability to support a fair wage for our direct care workers! IF we would pursue assisted living licensure, these fees would have to be passed on to our residents. Many cannot afford additional rate increases to cover these licensure fees.**

**2800.11(g)(1).** If this section is true as written, residents will not have to transfer from their apartment (personal care) into an assisting living apartment. However, this section is particularly disturbing to us as a potential operator of assisted living residences. As written, no current Personal Care Home resident who has outspent their resources and is the beneficiary of benevolent care by a non-profit facility would be permitted to apply for an ALR waiver and live in their home licensed as an assisted living unit. With a number of residents receiving benevolent care, many would likely seek waiver assistance for their long term care. We cannot support this regulation as written without further clarification.

***Suggested Language***

11(g)(1) A facility that is dually licensed shall not segregate [or transfer] residents from one licensed facility to another based on payment source.

**2800.16 Reportable Incidents.**

**We are disappointed that this regulation did not change.**

Fifty-six (56) reportable incidents were submitted to the Department of Public Welfare for the past licensure year by Passavant Retirement Community. In addition, Passavant Retirement Community is fortunate to have 10 physicians who rent office space in our Clinic and provide service to all residents on campus. The Clinic, a "medical facility," is heavily utilized by our residents. Passavant also provides transportation for residents who choose medical providers off campus. This past year, 138 trips to medical facilities were provided to residents to off-campus sites by our transportation department. Trips are supported by the local ambulance company for emergent and non-emergent services. **Requiring that a reportable incident form be completed for each of those trips, plus the hundreds of office visits at the on-site clinic for**

**an “ILLNESS... requiring treatment at a hospital or medical facility” would be an undue burden on both the facility and licensing office and serves no useful purpose. We continue to request that “ILLNESS” be deleted from the regulatory language.**

Furthermore, NEW language in this current draft requires that the facility immediately report each incident, **not only to the designated person but to the family.** We request that you eliminate *family* from 2800.16 (c) and only require the facility to report to the designated person. **Family could mean multiple calls to multiple family members.**

**2800.19(b). Waivers**

**Posting waivers for a 30-day period on the website for public comment is an arbitrary and capricious regulation.** For example, if we request a waiver for a person to “age in place” in a tub-less personal care apartment the elder calls home, why should the elder have to wait for 30 days for the public to comment? This requirement serves no useful purpose to the elders we serve.

**2800.19(3)(c).** We encourage the Department to consider the many highly qualified staff, like Certified Nurse Assistants, who are likely to apply for direct care positions within newly licensed assisted living residences. **Currently, this proposed provision would require those staff to have to repeat all the required training and this is likely to present a barrier to recruit a trained workforce.** We ask that the Department eliminate the “staff training requirement” from the items listed as “exempt from waiver” requests.

***Suggested Language***

19(3)(c) The scope, definitions, applicability or residents’ rights, assisted living service delivery requirements, special care designation requirements, [staff training requirements,] disclosure requirements, complaint rights or procedures, notice requirements to residents or the resident’s family, contract requirements, reporting requirements, fire safety requirements, assessment, support plan or service delivery requirements under this chapter may not be waived.

**2800.22(c)(1-3).** **The new addition of this subsection is redundant and excessive.** We support PANPHA’s request and encourage the Department to remove this section as the criteria for admission to an assisted living residence is covered in many other sections as well as exclusionary factors prohibiting individuals from being served by an assisted living residence. **The addition of this section does not improve the quality of care, safety of residents, nor serve any tangible purpose.**

***Suggested Language***

(c) A potential resident who requires assisted living services but does not currently require assistance in obtaining supplemental health care services may be admitted to the residence, provided the resident is only provided assisted living services required or requested by the resident. When services are required, the residence shall develop a preliminary support plan as required in 2800.225 (relating to initial assessment and preliminary support plan).

**2800.22.(b.3) Application and Admission. Denial in writing.**

Requiring a residence to provide a written response of denial to an applicant that includes the decision and basis for denial is a blatant overuse of regulatory authority on the part of the department and does not belong in regulation.

Likewise, we support PANPHA's language and recommendations:

***Suggested Language***

22(d) Each assisted living residence shall demonstrate the ability to provide or arrange for supplemental health care services in a manner duly protective of the health, safety and well-being of its residents utilizing employees, independent contractors or contractual arrangements with other health care facilities or practitioners licensed, registered or certified to the extent required by law. To the extent prominently disclosed in a written agreement, an assisted living residence may require residents to use providers of supplemental health care services designated by the residence.

**2800.22b Approval of Resident Rules and Handbook.**

The handbooks provided by Passavant Retirement Community for both assisted living residences on campus are updated annually to incorporate changes within the community. In addition, a 30-day notice to residents of any changes is already a requirement. Departmental approval for changes in home rules and the resident handbook for every assisted living residence in the Commonwealth would cause an undue burden on the both the residence and licensing office and serves no useful purpose. **We once again request that the department removes this draft regulation.**

**2800.25(b). There is no equity in the allowance to terminate a residency contract.** There is no basis for allowing the resident to terminate the contract with 14 days notice to the provider, while binding the provider to 30 days notice of termination to the resident. The administrative responsibilities placed upon the residence in order to discharge a resident, whether at our request or the resident, demands a 30 day timeframe. **Both parties should be held to the same notification requirements, and the appropriate time frame is 30 days.**

***Suggested Language***

25(b) The contract shall be signed by the administrator or a designee, the resident and the payer, if different from the resident, and cosigned by the resident's designated person if any, if the resident agrees. The contract shall run month-to-month with automatic renewal unless terminated by the resident with 30 days notice or by the residence with 30 days' notice in accordance with 2800.226 (relating to transfer and discharge).

**2800.25(c)(2). Core Package Fee Schedule.**

What is the rationale for a fee schedule of services that are included in a basic core package (2800.220) when the resident will not have the opportunity to opt out of those services? If a core package is the intent, then requiring a fee schedule for services in the package is unnecessary.

***Suggested Language***

25(c) (2) [A fee schedule that lists the actual amount of charges for] **An enumeration of each of the services that are included in the resident's core package in accordance with 2800.220 (relating to service provision).**

**2800.28(b).** The language of this provision matches the language of 2800.25(b), providing for only 14 days of notice of termination by the resident. As mentioned in the comment to .25(b), 14 days is an insufficient time allotment to process a discharge.

**We agree with PANPHA's suggestion for 30 days notice of termination for both the Assisted Living Residence and the resident.**

***Suggested Language***

28(b) After a resident gives notice of intent to leave in accordance with 2800.25(b) (relating to resident-residence contract) and if the resident moves out of the residence before the expiration of the required 30 days, the resident owes the residence the charges for rent, personal care services and supplemental health care services, or both for the entire length of the 30-day time period for which payment has not been made.

**2800.30. Risk Agreements.**

**Passavant agrees with PANPHA's recommendations regarding all suggested language regarding risk agreements.**

**2800.56. Administrator Requirements.**

**With PANPHA, Passavant applauds the Department's attention to our concern about this issue and their attempt to clarify the language dealing directly with Administrator requirements.**

**With PANPHA, Passavant urges additional clarification on this issue and recommends that in 2800.56(b) training be clarified as —*qualifications as defined in 2800.53(a)(1-5)*. The proposed regulation sets forth a requirement for the Administrator to be in the building 40 hours or more per week. This is above the current Skilled Nursing Home requirement for Nursing Home Administrators who are required to be present 36 hours per week. This recognizes the inherent off-site needs to successful operations of long term living organizations, so too should the Assisted Living regulations. **We urge the adoption of the same 36 hours per week average.****

***Suggested Language***

The administrator or designee shall be present in the residence an average of 36 hours or more per week, in each calendar month. At least 30 hours per month shall be during normal business hours.

**2800.63. First aide, CPR, and obstructed airway training.**

As it relates to the night shift, Passavant Retirement Community cannot financially support this additional regulation that, for every 20 residents there be one staff person trained and present in the residence at all times to meet the needs of the residents.

To be in compliance with this regulation in our Newhaven Court building with the average census of 97, five (5) staff members (40 service hours) would be required on the night shift.

These 40 service hours can only represent 25% of the daily assisted living service hours (2800.57.d) in the building. Thus, the remaining 75% of service hours required during waking hours (2800.57.d) would represent 15 staff members (120 service hours). This 1:20 requirement doubles the current staffing ratio in this building! We cannot afford, nor support what this regulation represents. **We request that you use the language in the first draft which allows for staff to flex depending on the needs of the residents.**

***Suggested language***

There shall be sufficient staff trained in first aid and certified in obstructed airway techniques and CPR present in the residence at all times to meet the needs of the residents.

**2800.65 (b) (c). Staff orientation.**

We do not support a regulation mandating direct care staff be certified in first aid and CPR prior to providing direct care to residents. Though important, initial training in these areas equates to 8 hours of training plus the employment of trained educators to be available at the times of orientation. Like us, many providers subcontract this education requirement and the availability of the trainer for every orientation is an unreasonable expectation.

**Please remove the language in 2800.65 (c). Direct care staff workers shall be certified in first aid and CPR before providing direct care to residents.**

**2800.65 Administrator training**

Passavant supports PANPHA's language relating to administrator training. Current language exceeds requirements for nursing home administrators and registered nurses.

**2800.83 Temperature.**

Passavant Retirement Community has enjoyed serving elders as a social service ministry of the Evangelical Lutheran Church in America for over 100 years. All common areas are air conditioned and resident apartments are afforded central a/c or window air conditioning units, **although most residents choose to turn them off. It is unreasonable to have a regulation that requires existing facilities to "submit justification to the Department for the use of window air conditioners."** This regulation serves no useful purpose and should be deleted from the regulatory language.

**2800.88 Surfaces.**

This additional language regarding asbestos leaves a great deal to interpretation. There can be undue costs to the facility to certify that the residence is safe for residents and that asbestos does not pose a risk. According to CPSC doc #453 of the US Consumer Protection Agency, asbestos is not harmful if encapsulated and left alone. How often the building should be inspected for asbestos is subject to interpretation and can be an undue financial burden to older facilities.

***Delete this language***

If asbestos is found in a residence or contained in any part of the residence, the residence shall have a certification from an asbestos remediation company that the residence is safe for residents and that the asbestos does not pose a risk.

**2800.101 (2) Resident Living Units. square footage.**

All apartments in both assisted living residences on the Passavant Campus are private apartments with private bathrooms. Twenty-three apartments do not meet the square footage requirements of 175 sq. ft. (old construction). All noted apartments are currently rented and Passavant continues to have a healthy waiting list for these apartments. Losing the ability to rent these apartments under these draft assisted living regulations would compromise the lives of elders in need of services. Elders whose financial situations are compromised welcome these apartments for their cozy, private atmosphere where the elder maintains privacy yet has the opportunity to receive services and maintain independence. **They would not want to leave these apartments as they age in place.** Over time, the proposed regulations would limit our ability to service elders requiring needed services in the place they call home. Passavant's smallest apartment, at 132 sq. ft., continues to remain occupied. Our residents do not spend most of their day in their rooms as they are involved in a variety of community activities throughout the residence. **Frankly, the loss of revenue of \$677, 390, for these 23 apartments in the Main Building, cannot be absorbed by Passavant. The remaining residents would have to absorb the loss that would increase monthly fees by the residents in 53 remaining apartments by \$1,065/mo. Our residents cannot absorb this additional financial burden! This regulation is grossly unfair to them. We continue to request that the regulation would be changed to exempt existing construction or read as PANPHA proposes:**

***Suggested Language***

101(b)(2) For residences in existence prior to \_\_\_\_\_ (Ed. Note: effective date), each living unit must have at least 125 square feet measured wall to wall, excluding bathrooms and closet space. If two residents share a living unit, there must be an additional 60 square feet in the living unit.

**2800.101 (3) Resident Living units: individually controlled thermostats**

Due to the age of the building, nineteen (19) apartments do not have individual controlled thermostats. Heat flow can be maintained via a damper system that residents can control. **We continue to request that you change the regulation to allow old construction to remain exempt from this requirement or, upon licensure review, give an opportunity to waiver the regulation until such time that the heating system can be upgraded.**

**2800.102(c) One bathtub or shower per living unit.**

The "spa" experience for elders living in the assisted living residence in the Main Building is something the elders look forward to. Twelve (12) spa appointments happen everyday, 7 days a week, in two spa sites in the Assisted Living Residence. Although 73 of the 76 apartments have individual walk-in showers with grab bars and assistive seating, residents prefer the "spa experience." Currently three (3) private living units do not have bath/shower units in their private bathroom due to the age/construction of the building. The three private apartments without a shower, though sometimes hard to sell, are occupied. The elders occupying these units, like their peers whose apartments have private showers, enjoy their "spa experience." **We continue to request a change in this regulation to allow old construction to remain exempt from this requirement OR permit these apartments to be permanently waived without annual waiver renewal. Loosing these three (3) apartments, due to this regulation, would result in a loss of revenue of \$104,775 annually resulting in an additional \$1,435 annual**



increase to residents in the remaining apartments. Our residents cannot afford this additional financial burden!

**2800.102 (n) Bathrooms: Emergency notification system.**

All assisted living residents on campus are provided Lifeline™ pendants. Residents are encouraged to wear their Lifeline™ pendant at all times on campus. Wherever they are on campus, help is available in an emergency. Passavant has a coordinated system of notification and emergency response. If the resident is walking with a Lifeline™ pendant around his/her neck, an emergency notification system will not be in the bathroom unless the resident is present. **We request that you modify the regulation to allow other emergency systems to suffice so that additional notification systems in the bathroom need not be purchased and installed OR a permanent waiver be granted without annual renewal.**

**2800.105(f) Laundry: 24 hour turnaround.**

**We are disappointed that this regulation was not addressed in the latest draft.**

If laundry continues to be considered a CORE service in the proposed regulations, assisted living residences, like the nursing center on our campus, may need to consider outsourcing laundry services. Turnaround time for the current outsourced personal laundry service in the nursing center is 3 days, triple the time limitation set in the proposed regulation. **Please, once again, consider removing the 24 hour time limitation in this regulation for the return of clean resident clothing.**

**2800.107 (d). Review/submission of emergency preparedness plans.**

As stated by the Red Cross during their training sessions, emergency preparedness plans are always a "work in progress". At Passavant, portions are continually reviewed by the Safety Committee and the Leadership team. **We agree with PANPHA's recommendation:**

***Suggested Language***

107(d) The written emergency procedures shall be reviewed, updated and submitted [annually] every three years to the local emergency management agency. Should the residence undergo a major renovation to its physical plant, the residence shall review and submit an updated plan to the local emergency management agency once the renovation is completed.

**2800.131 Fire extinguishers.**

This regulation could still be misinterpreted to mean in each kitchen area of each individual living unit. **We agree with PANPHA's suggested language:**

***Suggested Language***

131(c) A fire extinguisher with a minimum 2A-10BC rating shall be located in each common kitchen of the residence. The kitchen extinguisher must meet the requirements for one floor as required in subsection (a).

**2800.171 (a) Transportation for social appointments.**

We believe that an elder's social inclusion is a mainstay for his/her Abundant Life. We celebrate resident opportunities for socialization and take great pride in offering social engagements off campus. However, it is unrealistic to include transportation to social appointments as written in

these draft regulations. **There is no limitation to this requirement. We simply cannot bear the financial burden of transportation as a CORE service for the desires of each and every resident. We agree with PANPHA that the language be amended to include only social activities planned and organized by the residence.**

***Suggested Language***

171(a) A residence shall be required to provide or arrange for transportation to and from medical and social appointments within a reasonable local area. As prominently displayed in the agreement, residences may charge an amount as listed and may require a minimum of 48 hours advanced scheduling.

**2800.171 (d) and (e) (1-4) Transportation: time limitations.**

We cannot accept these time limitation in the regulatory language. **We agree with PANPHA's** response that these windows of time are mandates without any concern for weather or traffic delays or volume of resident transportation needs. We request reconsideration of these time limitations for transporting residents. **Since January, 2009, we have provided 2,707 trips for residents.** To arrange this many trips, coordination of appointments and efficient use of vehicles is crucial; however, mandating strict drop-off/pick-up times is unreasonable.

Likewise, we **CANNOT CONTROL the vehicles of transportation companies** with whom we make arrangements for transportation for our residents. Due to the volume of transportation needs, local ambulance services, and County public transportation are utilized to augment Passavant's transportation needs. **On average, we outsource transportation 32 times monthly.** It is unrealistic to expect strict limitations as mandated in these draft regulations. For these reasons, **we agree with PANPHA's suggested language:**

***Suggested Language***

(d) If a residence supplies its own vehicles for transporting residents to and from medical and social appointments, a minimum of one vehicle used for this purpose shall be accessible to resident wheelchair users and any other assistive equipment the resident may need.

(1) The residence shall schedule a pick-up time to transport the resident to the medical or social appointment. **The residence shall make every effort to pick-up the resident within 15 minutes before or after the scheduled pick-up time.**

(2) **The residence shall make every effort not to drop off the resident at the medical or social appointment more that 1 hour prior to the time of the appointment.**

(3) **The residence shall make every effort to pick up the resident from the medical appointment no later than 1 hour after the medical appointment.**

(4) **The residence shall make every effort to pick up the resident from the social appointment no later than 1 hour after the end of the social appointment.**

(e) If a residence arranges for transportation for residents to and from medical and social appointments the following shall apply:

(1) The residence shall schedule a pick-up time to transport the resident to the medical or social appointment. **The residence shall make every effort to pick-up the resident within 15 minutes before or after the scheduled pick-up time.**

(2) **The residence shall make every effort not to drop off the resident at the medical or social appointment more that 1 hour prior to the time of the appointment.**

(3) The residence shall make every effort to pick up the resident from the medical appointment no later than 1 hour after the medical appointment.

(4) The residence shall make every effort to pick up the resident from the social appointment no later than 1 hour after the end of the social appointment.

**2800.220(b) (7) Assisted Living Residence Services: Core Service -transportation**

**Please consider transportation service as a SUPPLEMENTAL service, rather than a CORE service in the proposed assisted living regulations. Though Passavant Retirement Community absorbs the cost of hourly "town run" bus service on campus, we cannot afford to offset the additional trips to medical facilities, extended shopping trips and other destinations requested and paid by our residents. Under these draft regulations, transportation, as a CORE service, would include ambulance trips and limit transportation opportunities due to the costs associated with gasoline, vehicle repair, and driver/proposed "driver assistant" wages and benefits. We cannot afford to absorb the cost of ambulance trips! Our residents cannot afford the additional financial cost associated with the addition of transportation as a CORE service for the thousands of trips provided our residents for "town runs," pleasure trips, medical trips and the opportunity to remain independent.**

**2800.220(c)(2) Enhanced Core Package.**

**We agree with PANPHA that enhanced core services should be supplemental services as per this suggested language:**

***Suggested Language***

**All other services.** Services provided by the residence that are not included in the basic core package may be purchased by the resident according to the changing needs of the resident and as indicated in the support plan.

**2800.220(d)(7) Assisted Living Residence Services: Supplemental Services.**

The proposed regulations read "the residence shall provide or arrange for the provision of supplemental services." Payment, by the residence, for these supplemental services, is implied. Currently, dependent on resident need, as indicated in the support plan, residents may require an escort to and from medical appointments using Passavant's transportation service. The residents have the option of family support as escort or they may contract with local outside agencies (i.e. Home Instead) who offer the escort service. **Direct care staff cannot afford to be off-site and away from their other residents. Additional FTE's to support escort service is an undue burden on the facility. Please re-word the regulation to clarify that payment for supplemental services by the residence is not implied.**

***Suggested Language***

**All other services.** Services provided by the residence that are not included in the basic core package may be purchased by the resident according to the changing needs of the resident and as indicated in the support plan.

**2800.224 (f) Preadmission screening: provide or arrange the provision of supplemental health care.**

As noted in our response to 2800.220(c), payment for supplemental health care by the provider is neither implied nor denied by regulation. **Clarification of payment source for supplemental healthcare must be defined as the responsibility of the resident.**

**2800.227 (b) Development of the support plan.**

This regulation has NOT been changed and continues to add undue layers of bureaucratic signatures by an LPN and RN, as a supervisor who reviews and approves the support plan. If an LPN is on the payroll, then an RN must supervise the LPN, OR the administrator has to be an RN who serves as the LPN's supervisor. **Regulators should remember there is a nursing shortage. This regulation should be eliminated. Our residents cannot afford the additional financial burden of an RN supervisor to approve support plans.**

***Suggested Language***

227(b) The 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 must review and approve the support plan.

**2800.228 (b) (2) Transfer and discharge.**

This regulation severely limits the residence's ability to ensure the protection of resident rights. We cannot approve nor assume the responsibility to allow non-trained family members or care providers to provide care that the residence has already determined is beyond their trained abilities. If we as trained caregivers and providers can not safely meet the needs of our residents, how can we ensure as the licensed provider that an untrained, unprofessional family member will safely meet the needs of the resident? Why would any provider choose to assume this liability as an assisted living residence?

**This language should be removed from the draft regulations.**

**2800.251(c). Medical Records**

We agree with PANPHA's language to include the possibility of an electronic medical record.

***Suggested Language***

251(c) The residence shall use a standardized method, whether paper or electronic forms, to record information in the resident's record.

**2800.251 (e)** Current language requires the residence to provide access to medical records to family members. This regulation must take the HIPPA Privacy Act into consideration.

***Suggested Language***

Resident records shall be made available to the resident and the resident's designated person during normal working hours. Resident records shall be made available upon request to the resident and family members, **within the confines of applicable state and federal law.**

As licensed nursing home administrators with over 40 years combined experience, we wholeheartedly praise the Commonwealth for wanting to ensure services for elders that promote Abundant Life™. It is our mission at Passavant. It is our passion as professionals.

We, again, appreciate you taking the time and effort to listen to our previous responses and act on many of them. Like you, we have the best interests of our elders in mind. However, we would strongly encourage your consideration of our comments regarding these draft Assisted Living Regulations. Many of the proposed regulations continue to be more stringent than even those that govern licensed skilled nursing facilities and create a medical, institutional model of care delivery. **We maintain our intention in providing these comments is to ensure that we have reasonable and achievable regulations that truly benefit the elders we serve while not imposing an undue hardship on the provider, regulator or elder; many of these draft regulations are neither reasonable, achievable, nor beneficial to the elders we serve.**

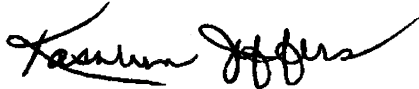
We continue to appreciate your efforts and hope, for the sake of elders and residences throughout Pennsylvania, that these regulations can be amended with our elders' best interests in mind.

Thank you for your time and attention.

Sincerely,



Laura R. Roy, NHA, CASP  
Executive Director



Kathleen M. Jeffers, RN, NHA, CASP  
Associate Director/PCH Administrator