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July 27, 2009

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

Office of Long Term Living  
Pennsylvania Department of Public Welfare  
Via email: [RA-asstdliving@state.pa.us](mailto:RA-asstdliving@state.pa.us)

Re: Comments of the Pennsylvania Bar Association on the Assisted Living Facilities Interim Regulations  
Chapter 2800 of 55 Pa Code

To Office of Long Term Living:

The Pennsylvania Bar Association acknowledges that the Office of Long Term Living and Department of Public Welfare made great improvements in the interim regulations by correcting many of the concerns we had with the proposed regulations. In particular, the following changes protect consumers:

1. Establishment of a core package, and an enhanced package, of services offered by the assisted living residence.
2. Requirement, in most cases, of a pre-admission assessment and support plan. Additionally, the support plan is to be part of the resident's contract.
3. Better checks and balances in the Informed Consent Process, as well as clarification that the Informed Consent Agreement is an expression of self-directed care, not a blanket waiver of liability.


However, the interim regulations still lack the following consumer protections:

1. Lack of a formal process to challenge involuntary/inappropriate discharges. We recognize that the position of the Department is that Article 10 of the state's constitution does not give the Department jurisdiction to impose such a process. Hopefully, legislative action can be taken to resolve this. In the meantime, it is suggested that a voluntary system be explored.
2. The Informed Consent process still does not provide for a framework for protecting the frail/infirm resident. For the resident who has concerned family, friends, or legal representative(s), there are assurances that these people will be notified, and if the resident wants their help, they are to be part of the process. However, for the infirm, mentally confused resident with no one to watch out for him/her, the Ombudsmen is notified, and the interim regulations do not give any framework for what is to happen next.

Thank you for the opportunity to comment on these interim regulations.

Respectfully submitted,

  
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Pennsylvania Bar Association

  
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