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INDEPENDENT REGULATORY
REVIEW COMMISSION

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September 11, 2008

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Office of Long-Term Care Living
Department of Public Welfare
6th Floor, Bertolino Building
Harrisburg, PA 17105

Kim Kaufman, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

The Honorable Pat Vance
Main Capital
Senate Box 203031
Room 168
Harrisburg, PA 17120

Reference: Proposed 2800 regulations, IRRRC #14-514

Dear Madams and Sir:

We are the President/CEO and Administrator of the Church of God Home, a Continuing Care Retirement Community located in Carlisle, Pennsylvania. The Church of God Home is a not-for-profit CCRC facility currently licensed for 64 Personal Care Beds, 109 Skilled Nursing Beds and 36 Entrance Fee Independent Living Apartments. For 60 years our Home has lived by its motto "Committed to Caring" for our Residents, Staff, and Community at large.

We, like many established CCRC's, maintain an excellent community reputation for providing quality care to our Residents. Our buildings are well maintained but range in age from 16 to over 50 years old. We have prided ourselves on the ability to meet and exceed the needs of our Residents as they move from Independent Living to Personal Care to Skilled Nursing.

Conceptually we are very concerned with the proposed Assisted Living Regulations. Because of the age, size, design and location of our existing Resident rooms, we do not believe we can meet the proposed regulations regarding square footage, all private rooms, kitchen and other aspects of the physical requirements without incurring significant financial hardship. Our existing Personal Care unit currently serves a lower economic population, and approximately 50% of those residents can not pay the market rate. Our free care for this unit will likely exceed \$250,000 this year alone. Unfortunately more than half of our Personal Care rooms will not meet the new minimum requirements to be licensed as Assisted Living and the remaining rooms that now can function as semi-private rooms would have to be reduced to private occupancy. With increased capital expenditures to retro fit existing rooms and taking others out of service, our overall occupancy will be greatly reduced and the cost per day will be greatly increased. We feel the only way we can offer Assisted Living will be to accept only private pay residents and limit the occupancy to about 15 compared to the 40 we currently serve.

We want to be more explicit in our comments so following are some of our more noteworthy concerns with the proposed regulations as currently written:

- 2800.11 – The annual license fee at \$105 bed will be another major increase in operating costs that will have to be passed on to Residents. We recommend that a more reasonable license fee be assessed and have it based on the number of private pay resident days rather than number of licensed beds. This way the Residence is only paying a license fee for the filled beds and excluding all Medicaid waiver bed days. This would encourage providers to care for the indigent and pass on the license fees to the private pay population.
- 2800.4 – The definition for Assisted Living Residence Administrator ends with the words “duties are shared with other individuals”. What does this mean? We are a CCRC, so does this mean the Administrator can also function as the Administrator of a licensed Personal Care section of our facility at the same time?
- 2800.5 – (b) says that we shall permit “community service organizations” to have access to the Facility during visitation hours. We believe the term “community service organizations” should be defined somewhere to give us more guidance. We think the term is too broad and could in fact require us to allow private so called community service organizations to have access to our Facility and inhibit us from providing the protection from radical organizations that could intimidate our residents.
- 2800.51 – We are a CCRC and as such we have staff that have been here for over 30 years. We do criminal history checks on every newly hired employee no matter what department they might work in. Granted that some of our very long term employees may have come to work for us prior to this being the standard policy (15 years ago). We believe a provision should be made to grandfather all our current staff and not require them all to have another criminal history check. This would be an added expense that should not be necessary. We do agree that all new employees should have a criminal history check.
- 2800.56 – When we read the Administrator requirements we found many issues that need to be addressed and changed.

- First, the coverage requirement standard of 40 hours per week that the Administrator must be in the Facility does not allow for out of office training time, vacation, sick time, holidays, etc. Any management position has to have provisions for these type of activities and exceptions.
 - Second, the requirement that when the Administrator is not in the building, a staff person be designated to function in the Administrator's capacity is just plain wrong. The way this is currently written would cause us to cover this position 24/7 by people who have the same level of training as the Administrator. This goes beyond what even the skilled nursing home regulations require. Obviously there has to be someone that is administratively in-charge when the licensed Administrator is not in the building, but the level of training and education should not be required to be the same as the licensed Administrator or we would have to have about four or five administrators on staff to cover the position. We all know that is an unrealistic expectation given the lack of qualified licensed Administrators and the prohibitive costs with this type of coverage.
 - The training and educational requirements for the person that is to function as the designated Administrator when the Administrator is out of the Facility is described to be the same as that required for the Administrator. This again is unrealistic and cost prohibitive. This is not even required in a skilled nursing facility.
- 2800.63 – (a) states that there should be “sufficient staff trained” in first aid. What does that mean?
 - 2800.65 – (d) says “Person-centered care” What does that mean? Maybe the Department should define this term! We think it can mean something different to many people and it should be defined.
 - 2800.90 – (a) the landline telephone should be amended to include a cell phone. This is the technology age and lets keep the regulations in tune with today's culture.
 - 2800.96 – The AED requirement needs to be modified. We are a CCRC and already have two AED's on the campus, one on a crash cart. We believe CCRC's should only be required to have one on a crash cart assessable to staff in an emergency situation. The way this is currently written, we would have to incur the additional cost of purchasing another AED, again another financial burden on a facility that is already serving the elderly.
 - 2800.98 – The need for a combined living room or lounge area that must accommodate all residents at one time is a large burden. Again being a CCRC and having an activity room and chapel large enough to accommodate all assisted living residents should be sufficient. This section should be written in a manner to take into consideration CCRC's and the way they are structured. A large living room type accommodation is not necessary for an assisted living type facility considering all the other alternatives within the campus.
 - 2800.101 – The section that requires individually controlled thermostats for heating and cooling is unrealistic especially for existing facilities. Having facility central heating and air conditioning is very common in existing buildings and would be almost impossible to revamp this type of system without a huge outlay of capital.

- 2800.101 – (p) Space for storage of personal property needs to be better defined. Does it have to be on site? How many square feet of space? Can the storage space be contained within their individual unit since they are all private rooms? Let’s keep in mind that storage space is expensive and again will drive up the cost of operations which will increase rates making the Facility less affordable to those in the lower economic scale.
- 2800.108 – This whole section on firearms and weapons could be eliminated or at a minimum be reduced to one sentence (no firearms or weapons are allowed in an assisted living facility). Let’s get real on this one. Who in their right mind would want an elderly person who has the need for assisted living services, going into the woods and hunting or having a weapon for protection while in our facility?
- 2800.161 – (h) We do not believe this section makes a lot of sense. If we encourage residents to go out and buy groceries and prepare their own food, how are we going to monitor their nutritional intake? Also, we will be purchasing raw food and preparing their meals and then they will not come to the dining room. This is another area that could drive up the cost of operations.
- 2800.171 (b) (3) – The driver of the residence vehicle cannot be a resident. Please change the definition of resident to be an assistant living resident. We have independent living residents on our campus who are capable and qualified to drive our facility vehicles and they should not be excluded by these regulations.
- 2800.226 – (c) Why should we have to notify the Department within 30 days after a resident develops mobility needs. This is an unnecessary requirement and should be eliminated from the regulations.
- 2800.268 – Notice of violations is one of the most demoralizing and intimidating sections of the proposed regulations. The Department might think that all of this is being drafted in the best interest of the Residents and the public at large; however, the impact of this is that it automatically finds the Facility guilty before it has a chance to appeal the Department surveyors opinion, is a form of abuse to the elderly residents in the Facility because they are now concerned about a finding that may not be appropriate and cause additional stress to an already frazzled caring staff who can often make more money at the local fast food establishment.

Let’s rewrite this section on notice of violations to make it a collaborative effort on behalf of the Department and the Facility and staff to correct the deficiency, help the Facility develop (or revise) policies and assist in recommendation of training that in combination will heighten the level of care and services that the elderly so richly deserve.

Don’t get us wrong, we are not suggesting that the residents be kept in the dark, but inform them of the findings and solutions in a way that they can be well-informed; not stressed and wondering if they will have a place to live which we consider a form of abuse. Let them be happy that the Department is doing its job and the Facility has demonstrated its willingness to improve. Let’s make this a win/win and not the Department against the Facility with the Resident in the middle!

With the writing of new regulations comes an opportunity to make a change in attitudes that could change the course of history and be an example for other States to follow!

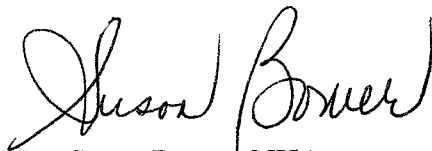
- 2800.269 – The writing of this section is second only to 2800.268 above. This whole section is written in a manner that allows the Department to bring in their BIG hammer and beat an already wounded duck! Again we do not dispute the need for this section but take exception to the absolute power the Department has in enforcement without any consideration for the Facility. The wording of (c) which states in part that “has maintained regulatory compliance for a period of time sufficient to permit a conclusion that the compliance will be maintained for a prolonged period” just leaves us cold. What does that mean? A prolonged period, how is that defined? That could be weeks, months or even years? The additional financial pressures put on a Facility during a period of banned admissions can only contribute to additional costs, which ultimately get passed on to Residents.

We think the Department should also be held to a test of time that they must return to the Facility within a set time period to certify the deficiency has been corrected and not let the faculty hang until they decide to return and clear the deficiency. After all if the deficiency was bad enough to put residents at risk, shouldn't the Department be back in to clear the faculty as soon as the deficiency is rectified?

Sincerely,



Carson G. Ritchie, CPA, NHA
President/CEO



Susan Bower, NHA
Administrator