

D'YOUVILLE MANOR

PERSONAL CARE RETIREMENT RESIDENCE

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INDEPENDENT REGULATORY REVIEW COMMISSION

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#2712

September 10, 2008

Gail Weidman  
Office of Long Term Care  
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Harrisburg, PA 18104

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

The Honorable Charles T. McIlhinney, Jr  
187 Capitol Bldg.  
Senate Box 203010  
Harrisburg, PA 17120-3010

The Honorable David J. Steil  
49 East Wing  
PO Box 202031  
Harrisburg, PA 17120-2031

REFERENCE: DPW Proposed Regulation #14-514 (#2712), Assisted Living Residences

Dear Sirs and Madam

I write to you as the Administrator of D'Youville Manor, a not-for profit personal care home, owned and operated by the Grey Nuns of the Sacred Heart. D'Youville Manor has served the long term care needs of Bucks County and its surrounding counties since 1990. We are licensed to provide for the personal care needs of 70 residents whose average age is 86.

We have built a strong reputation for providing an affordable, warm, supportive, compassionate, homelike environment which enables our residents to function at their highest level and age in place, preserving their dignity and emotional and functional independence. We operate with licensed nurses round the clock, consequently, have been able to provide our residents with supplemental health care and oversight in addition to core personal care services.

The proposed DPW regulations for Assisted Living Residences would impose significant new costs and would most likely eliminate D'Youville Manor from Assisted Living licensure. The attached comments will highlight the specific points of elimination. The emphasis on physical plant found in the proposed regulations misses the "true" care needs of the resident-population that we serve. Additionally, the regulations, as proposed, would prevent a personal care home from providing the supplemental health care services we now provide, creating an unacceptable disruptive impact on specific residents.

One of the greatest challenges that we, as providers and our residents and families as consumers have had to face over my 33 years in long term care, the last 13 years as an administrator is to meet the financial challenge of paying the cost of remaining in an environment that most appropriately meets the resident's needs, both physically and emotionally. These proposed regulations will do nothing to assist residents who will remain in Personal Care homes to meet this financial challenge, and; will make it financially more difficult for Personal Care homes to coexist with Assisted Living Residences.

Please consider the attached comments on the proposed regulations.

Respectfully,

*Cecile F. Shocket, MSN, RN, NHA*  
Cecile F. Shocket, MSN, RN, NHA  
Administrator  
D'Youville Manor  
1750 Quarry Road  
Yardley, PA 19067

**D'YOUVILLE MANOR  
COMMENTS ON  
DPW PROPOSED REGULATION #14-514 (#2712), ASSISTED LIVING RESIDENCES**

PROPOSED REGULATIONS	COMMENTS
<p><b>2800.4. Definitions.</b>  <b>Transfer;</b> Movement of a resident within the assisted living residence or to a temporary placement outside the assisted living residence.</p> <p><b>2800. 228. Transfer and Discharge.</b>            ( b ) If the residence initiates a transfer or discharge of a resident, or if the legal entity chooses to close the residence, the residence shall provide a 30-day advance written notice to the resident, the resident's family or designated person and the referral agent citing the reasons for the transfer or discharge. This shall be stipulated in the resident-residence contract.</p>	<p>The words transfer and discharge are being used interchangeably in 2800.228. The proposed regulation is requiring a 30-day notice for both transfer/discharge. This requirement for transfer would restrict the continuity of service that prompts a transfer.</p> <p>Based on the definition, do we need to give a 30-day notice also if we transfer a resident from one living unit to another within the residence? Please clarify.</p>
<p><b>2800.11. Procedural requirement for licensure or approval of assisted living residence.</b>            ( c ) After the Department determines that a residence meets the requirement for a license, the Department's issuance of renewal of a license to a residence is contingent upon receipt by the Department of the following fees based on the number of beds in the residence as follows:            ( 1 ) A \$500 license application or renewal fee            ( 2 ) A \$105 per bed fee that may be adjusted by the Department annually at a rate not to exceed the Consumer Price Index. The Department will publish a notice in the Pennsylvania Bulletin when the per bed fee is increased.</p>	<p>D'Youville Manor is a 70-bed stand alone residence. Currently, we pay \$30 for the annual renewal of our license. With the proposed regulation, our cost will significantly increase from \$30 to \$7,850 (\$500 for license and \$7,350 for bed assessment)</p> <p><b>Financial Impact:</b> This would be an increase of \$7,820 for licensure and will be cost prohibitive for us as a residence. The only way our residence can afford this is to pass the cost to our residents.</p>
<p><b>2800.16. Reportable incidents and conditions.</b>            ( a ) A reportable incident or condition includes the following            ( 3 ) An injury, illness or trauma requiring treatment at a hospital or medical facility. This does not include minor injuries such as sprains or minor cuts.</p>	<p><b>Please remove "illness" as a reportable incident.</b>            If we will be reporting every time we send a resident for "illness" to the hospital, we will be spending at least an hour each time to complete the entire process - time that we should be spending with residents. <b>Impact:</b> If we were following this proposed regulations this year, we would have had to report at least 50 illnesses, resulting in at least 50 hours of man power to meet the initial reporting procedure and required duplication/placement of report.</p>

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<p><b>2800.22. Application and Admission.</b></p> <p>( b ) Upon application for residency and prior to admission to the residence, the licensee must provide each potential resident or potential resident's designated person with written disclosures that include:</p> <ul style="list-style-type: none"> <li>( 1 ) A list of nonwaivable resident rights.</li> <li>( 2 ) A copy of the agreement the resident will be asked to sign.</li> <li>( 3 ) A copy of residence rules and resident handbook. The resident handbook shall be approved by the Department.</li> <li>( 4 ) Specific information about: <ul style="list-style-type: none"> <li>( i ) What services are offered by the residence</li> <li>( ii ) The cost of those services to the potential resident</li> <li>( iii ) The contact information for the Department</li> <li>( iv ) The licensing status of the most recent inspection reports and instructions for access to the Department's public website for information on the residence's most recent inspection reports.</li> </ul> </li> <li>( v ) Disclosure of any waivers that have been approved for the residence and are still in effect.</li> </ul>	<p>Recommends removal of " <b>Upon application for residency</b>" from the proposed regulation.</p> <p>This proposed regulation requires at the time of application an extensive amount of written materials be provided for potential applicants who would not necessarily even become residents. At present, a brochure identifying services and charges are provided at time of application. At time of commitment, more extensive materials are provided including a copy of the contract which includes resident rights, services provided and charges for services as well as written guidelines for smooth transition which include contact numbers for facility employees. Before or on the actual day of admission, a resident handbook is given to the resident.</p> <p><b>Impact:</b> If this regulation will not be changed, this will cause an excessive financial burden to us to provide all these written materials to every potential resident or potential resident's designated person.</p>
<p><b>2800.25. Resident-residence contract.</b></p> <p>( 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 14 days notice or by the residence with 30 days' notice in accordance with 2800.228 (relating to transfer and discharge)</p> <p>( c ) At a minimum, the contract must specify the following:</p> <ul style="list-style-type: none"> <li>( 2 ) A fee schedule that lists the actual amount of charges for the residence's core AL services that the individual is purchasing</li> <li>( v ) transportation in accordance with 2800.171</li> </ul>	<p>Recommends that resident must also give the facility <b>30 days'</b> notice when terminating contract not <b>14 days</b>.</p> <p><b>Transportation is included in the residence's core assisted living services with one core service rate (the language is unclear as to whether coordination of or actual provision of transportation is required).</b></p> <p>Currently, transportation is not required and we assist the</p>

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<p>( e ) The resident, or a designated person, has the right to rescind the contract for up to 72 hours after the initial dated signature of the contract or upon receipt of the initial support plan. The resident shall pay only for the services received. Rescission of the contract must be in writing addressed to the residence.</p>	<p>residents in coordinating their transportation. Majority of the transportation for medical appointments are provided by the family members. <b>Impact:</b> If the actual provision of transportation is required within the core assisted living services, there will be a significant rate increase for all residents, regardless of whether they use it or not since our rate is "<b>all inclusive</b>". Currently our average core package rate per day is \$125.00.</p> <p>Admission is a process that involves significant administrative cost. The Director of Nursing will spend a lot of time completing the prescreening assessment for potential resident required by the regulations. There is administrative time involved in completing the resident-residence contract, securing medical evaluation, securing the medications and setting up medication administration records, preparing the room for the new resident to move in, completing all mandatory assessment forms and completing the support plan with the input of the resident and his/her designated person, to name some of the costs. If after all these processes are completed and resident may simply rescind the contract, the cost involved with these processes will certainly increase the average cost of operating a residence and will be passed on to all residents in increased rates.</p>
<p><b>2800.56. Administrator staffing.</b> ( a ) The administrator shall be present in the residence an average of 40 hours or more per week, in each calendar month. At least 30 hours per month shall be during normal business hours.  (b) The administrator shall designate a staff person to supervise the residence</p>	<p>Currently, I work 40 hours or more (although 2600 only requires an administrator to be in the residence 20 hours per week). I am on call 24/7. I assign a designee when I am on vacation. With this proposed regulation, does it mean that I need a designee present in the facility 24/7? This needs to be clarified.</p> <p>I am a Nursing Home Administrator and also a Registered Nurse.</p>

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<p>in the administrator's absence. The designee shall have the same training required for the administrator.</p>	<p>With this proposed regulation, does it mean that my designee need to have the same exact credentials like me?</p> <p><b>Impact:</b> If we are required to have an Administrator or designee 24/7 with the same training and qualifications, the addition of 3.2 FTE's ( We need 4.2 FTE's to cover 24/7) will cause a very significant financial burden on a small residence like us and will completely prohibit us in even thinking of applying as an Assisted Living residence.</p>
<p><b>2800.60. Additional staffing based on needs of residents.</b></p> <p>( d ) In addition to the staffing requirements set forth in this chapter the residence shall have a nurse on call at all times. The on-call nurse shall either be an employee of the residence or under contract with the residence.</p> <p>( e ) The residence shall have a dietitian on staff or under contract to provide for any special dietary needs of a resident as indicated in his support plan.</p>	<p>At present, I have professionals (RN or LPN) on duty 24/7 and my Director of Nursing and myself (I'm also an RN) are on call 24/7. Since we have professionals 24/7, would we need to have an on call nurse? Please clarify.</p> <p>Can the dietitian be "available" rather than on staff or under contract? This needs further clarification.</p> <p><b>Impact:</b> If this will be a required provision, this will cause another financial burden to the residence and would have no choice but pass the cost to the residents.</p>
<p><b>2800.64. Administrator training and orientation.</b></p> <p>( a ) Prior to initial employment as an administrator, a candidate shall successfully complete the following:</p> <p>( 2 ) A 100-hour standardized Department-approved administrator training course. The training provided for in 2800.69 (relating to additional dementia-specific training) shall be in addition to the 100-hour training course.</p>	<p>The way this proposed regulation is written, it seems that even an experienced NHA as I am, needs to complete the 100-hour training course.</p> <p><b>Impact:</b> Financial burden would be tremendous and in addition, this will require me to be out of the building for these courses. It also impacts on the strict implementation of 2800.56 (a). If this applies as written, my back up would have to be an NHA and an</p>

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<p>( d ) Annual training shall be provided by Department-approved training sources listed in the Department's assisted living residence training resource directory or by an accredited college or university.</p>	<p>RN when I am out for the 100+ hours of training. The cost of the 100-hr training course is approximately \$2000 for each person (Administrator and designees)</p> <p><b>Recommends to add exception to current NHA's</b></p> <p>I'm an NHA and need to attend 48 hours of NAB approved credits. It is very important that the Department accepts credits from courses that are approved by the National Association of Boards of Examiners of Long Term Care Administration (NAB). Requiring additional 24 hrs per year at Department approved courses would be costly.</p>
<p><b>2800.69. Additional dementia-specific training.</b> Administrative staff, direct care staff persons, ancillary staff persons, substitute personnel and volunteers shall receive at least 4 hours of dementia-specific training within 30 days of hire and at least 2 hours of dementia-specific training annually thereafter in addition to the training requirements of this chapter.</p>	<p>There should be a more reasonable time frame in completing the initial 4 hours dementia-specific training - such as completing it within the first year of employment.</p> <p>The annual 2 hours of dementia-specific training shld. be included as part of the training requirements of this chapter not an addition.</p> <p><b>Impact:</b> Should this be a required provision, this will add to the already significant burden of the residence ( added cost of trainer and salaries for all staff - be it regular pay or overtime).</p>
<p><b>2800.96. First aid kit.</b> ( a ) The residence shall have a first aid kit that includes an automatic electronic defibrillation device, nonporous disposable gloves, antiseptic, adhesive bandages, gauze pads, thermometers, adhesive tape, scissors, breathing shield, eye coverings and tweezers.</p>	<p>At present, our residence has five ( 5 ) first aid kits ( one on each floor and one that goes with the residents during outside activities). We have one AED on the first floor next to the first aid kit but not inside the first aid kit. Do I need to put the AED inside the first aid kit? Do I need to buy additional four (4) AED's for the remaining four first aid kits? Please clarify.</p>

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	<p><b>Impact:</b> If the facility needs to have an AED in all the first aid kits, this will be an additional financial burden - each AED can cost a minimum of \$1,500.00</p>
<p><b>2800.101. Resident living units.</b></p> <p>( b )( 2 ) For residences in existence prior to _____, each living unit must have at least 175 square feet measured wall to wall, excluding bathrooms and closet space. If two residents share a living unit, there must be an additional 80 square feet in the living unit.</p> <p>( d ) Kitchen capacity.</p> <p>( 2 ) Existing facilities. Facilities that convert to residences after _____, must meet the following requirements related to kitchen capacity:</p> <ul style="list-style-type: none"> <li>( i ) The residence shall provide a small refrigerator in each living unit.</li> <li>( ii ) The residence shall provide a microwave oven in each living unit.</li> <li>( iii ) The residence shall provide access to a sink for dishes, a stove top for hot food preparation and a food preparation area in a common area. A common resident kitchen shall not include the kitchen used by the residence staff for the preparation of resident or employee meals, or the storage of goods.</li> </ul>	<p>We are currently operating 51 living units - 49 living units meet the square footage requirement.</p> <p><b>Impact:</b> Even if only 2 living units (3.92%) do not meet this requirement, we still can not apply for an assisted living licensure since we can not afford any renovation at this time nor do we have the space to increase the square footage.</p> <p>At present, residents bring their own small refrigerator and microwave if they want too.</p> <p>We do not have a space for a common area where residents can prepare their own food.</p> <p><b>Impact:</b> Should this provision be required, our residence will not be able to have this additional financial burden and therefore not likely to be able to apply for the assisted living licensure.</p>



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<p><b>2800.131. Fire extinguishers,</b>            ( a ) There shall be at least one operable fire extinguisher with a minimum 2-A rating for each floor and living unit, including the basement and attic.</p>	<p>It is cost prohibitive to put fire extinguishers in all 51 living units. With the provision of 3 meals a day, there is no need of cooking and the risks involved in having such equipment powered. If the risk is removed, then a fire extinguisher in each living unit is not warranted.</p>
<p><b>2800.141. Resident medical evaluation and health care.</b>            ( a ) A resident shall have a medical evaluation by a physician, physician's assistant or certified registered nurse practitioner documented on a form specified by the Department, within 60 days prior to admission.</p>	<p>Recommends to add a timeframe of 30 days after admission as proposed requirement is not always feasible or practical. Current PCH regulations allow us to do this.</p>
<p><b>2800.220. Assisted living residence services.</b>            ( b ) Core Services. The residence must, at a minimum, provide the following:            ( 1 ) Nutritious meals and snacks            ( 2 ) Laundry services            ( 3 ) A daily program of social and recreational activities            ( 4 ) Assistance with performing ADLs and IADLs as indicated in the resident's assessment and support plan            ( 5 ) Assistance with self administration of medication or medication administration as indicated in the resident's assessment and support plan            ( 6 ) Household services essential for the health, safety and comfort of the resident based upon the resident's needs and preferences.            ( 7 ) Transportation in accordance with 2800.171 (relating to transportation)</p>	<p>The core services as described except for transportation are the core services we currently provide. In addition, we do additional supportive services for the residents as needed. Our rate is all inclusive and currently, we charge an average of \$125 per day.</p> <p>At present, we coordinate transportation, but do not guarantee provision of transportation.</p> <p><b>Impact:</b> If the actual provision of transportation is required within the core assisted living services, there will be a significant rate increase for all residents, regardless of whether they use it or not since our rate is "<b>all inclusive</b>".</p>

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<p><b>2800.224. Preadmission screening.</b></p> <p>( b ) A potential resident whose needs cannot be met by the residence shall be provided with a written decision denying their admission and provide a basis for their denial. The potential resident shall then be referred to a local appropriate agency.</p>	<p>Please consider all the issues that a residence must consider when deciding if an applicant is appropriate for the residence to ensure the well-being of the existing residents. There are times when decisions to deny admissions may not be appropriate to document . For example, if the potential resident has socially inappropriate behaviors that would impact the quality of life of the current residents, putting that in writing may be insulting to the applicant and family.</p>
<p><b>2800.225. Initial and annual assessment.</b></p> <p>( a ) A resident shall have a written initial assessment that is documented on the Department's assessment form within 15 days of admission. The administrator or designee, or licensed practical nurse, under the supervision of a registered nurse, may complete the initial assessment.</p>	<p>At present, either an RN or LPN completes the initial or annual assessment in our residence. Both seem to be equally proficient, therefore an LPN being directly supervised by an RN does not seem to be necessary.</p>
<p><b>2800.226. Mobility criteria.</b></p> <p>( c ) The administrator shall notify the Department within 30 days after a resident with mobility needs is admitted to the residence or the date when a resident develops mobility needs.</p>	<p>Since the Department (through the LMI of 8/26/2008) has decided that personal care homes no longer are to send notice to them when a resident is admitted with mobility needs or when a mobility need develops, I recommend that this regulation also be changed to require that the residence maintain a list.</p>
<p><b>2800.227. Development of the support plan.</b></p> <p>( b ) A residence may use its own support plan if it includes the same information as the Department's support plan form. A licensed practical nurse under the supervision of a registered nurse, must review and approve the support plan.</p> <p>( k ) The residence shall give a copy of the support plan to the resident and the resident's designated person.</p>	<p>At present, either an RN or LPN completes the initial or annual assessment in our residence. Both seem to be equally proficient, therefore an LPN being directly supervised by an RN does not seem to be necessary.</p> <p>Could the mandatory requirement to provide a copy be changed to upon resident's request or designated person's request?</p>

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<p><b>2800.229. Excludable conditions; exceptions</b>            ( c ) Submission, review and determination of an exception request.                  ( 2 ) The Department will review the exception request in consultation with a certified registered nurse practitioner or a physician, with experience caring for the elderly and disabled in long term living settings.</p>	<p>Recommends to specify number of years experience ( like 5 yrs) requirement for professional making the determination</p>
<p><b>2800.251. Resident records.</b>            ( e ) Resident records shall be made available to the resident and the resident's designated party during normal working hours. Resident records shall be made available upon request to the resident and the family members.</p>	<p>Recommends adding language that asks for written notification and specifying time frame for compliance of request ( like within 48 hours of receipt of written request).</p>