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INDEPENDENT REGULATORY  
REVIEW COMMISSION

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September 15, 2008

Gail Weidman  
Department of Public Welfare  
Office of Long-Term Care Living  
P.O. Box 2675  
Harrisburg, PA 17105

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

**Re: Regulation 14514 (Assisted Living Residences)**

Dear Ms. Weidman and Chairman Coccodrilli:

The Assisted Living Consumer Alliance (ALCA), a national coalition of state and local organizations and individuals who are committed to improving assisted living care for residents, endorses the comments of the Pennsylvania Assisted Living Consumer Alliance on proposed regulations for assisted living residences. ALCA also submits the following additional comments:

**ALCA is concerned about the ability of personal care homes, under the proposed regulations, to become licensed as assisted living residences while not meeting the requirements for assisted living residences.** Facilities could be licensed as assisted living residences (ALRs), even though they do not meet the size, kitchen, or fire safety requirements for ALRs.

The proposed regulations create one set of size requirements for new construction and another set for facilities that convert to ALRs (§2800.101(b)(1), (2)). They also create one set of kitchen requirements for new construction and another set for facilities that convert to ALRs (§2800.101(d)(1), (2)). ALCA opposes these provisions, which allow existing personal care homes to become ALRs without meeting the requirements for ALRs. Personal care homes that do not meet ALR standards can continue to be licensed under the appropriate licensure category; they should not be able to change their licensure designation to ALR and then be allowed to continue in permanent noncompliance with ALR requirements.

**The proposed regulations do not establish a comprehensive set of services for ALRs and instead allow ALRs to decide which services they will provide and when.** The proposed regulations do not define a set of services that all ALRs must provide to all residents. Without a standard set of services required by regulation, consumers will have difficulty comparing ALRs when they are looking for a facility and, most importantly, will lack a clear understanding of what services they can expect to receive as residents of a facility.

**The proposed regulations omit many important rights for residents.** Omitted rights include protection from involuntary transfers and discharges and the right to meet at the ALR with family and friends at times of their choosing. These missing rights must be added.

Also, the proposed regulations explicitly allow ALRs to require residents to use health care providers identified by the ALR. ALCA urges the Department to delete this provision, and to give residents the right to choose health care providers. There is no reason why admission into an ALR should require a waiver of this important right and the disruption of the valuable relationships between consumers and their caregivers that often exist, particularly at this stage in a consumer's life.

The proposed regulations create an informed consent process (§2800.30), which allows an ALR to require a resident to sign an informed consent process or face eviction from the facility (§2800.30(f), (g)). ALCA urges the Department to delete §2800.30 – it is an unnecessary procedure that could lead to residents waiving additional rights.

The admissions process and financial management regulations (§2800.20) are insufficient to protect residents of ALRs and need to be strengthened. Residents need to know before moving into an ALR that the ALR can meet their needs; assessments cannot be completed weeks later.

**The proposed regulations do not ensure that ALRs will have sufficient numbers of well-qualified and well-trained staff on-site.** Staffing is one of the most important predictors of high quality of care for any residential setting providing services to people with health care needs. The proposed regulations are seriously flawed in the area of staffing.

The proposed regulations do not assure that ALRs have sufficient numbers of direct care staff or that direct care staff are appropriately qualified and trained to meet the needs of the residents. They are vague in their requirements (e.g., “on-call nurse” is not defined) and base staffing on a largely irrelevant distinction between “mobile” residents and residents with mobility needs (§2800.57). The proposed regulations do not require that Special Care Units for residents with dementia have additional staffing or additional training for staff. The proposed regulations do not identify additional categories of necessary staff, such as social services staff and activities professionals, and include only minimal standards for administrators. They do not limit medication administration to nurses. All of these provisions need to be revised. ALCA recommends that Pennsylvania adopt different levels of care for ALRs, with staffing standards relevant to the needs of the residents.

Thank you for the opportunity to comment on the proposed regulations. ALCA urges the Department to revise them substantially to ensure that residents receive all the care and services they need in ALRs.

Sincerely,

Eric M. Carlson  
President, ALCA

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