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LATSHA DAVIS YOHE
& MCKENNA, P.C.

ATTORNEYS AT LAW

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2008 SEP 19 AM 9:55
INDEPENDENT REGULATORY
REVIEW COMMISSION

PLEASE REPLY TO: Mechanicsburg
WRITER'S E-MAIL: klatsha@ldylaw.com

September 15, 2008

VIA First Class Mail & Registered Return Receipt Requested

Gail Weidman
Office of Long-Term Care Living
Bureau of Policy and Strategic Planning
P.O. Box 2675
Harrisburg, PA 17105

RE: Regulation No. 14-514 (Assisted Living Residences)

Dear Ms. Weidman:

While the proposed Assisted Living ("AL") Regulations (Regulation No. 14-514) address the revocation or nonrenewal of licenses, the regulations do not specifically address the issuance of a provisional license. The statutory provisions governing the licensing of assisted living residences provide that "[w]hen there has been substantial but not complete compliance with all the applicable statutes, ordinances and regulations and when the applicant has taken appropriate steps to correct deficiencies, the department shall issue a provisional license for a specified period of not more than six months which may be renewed three times. Upon full compliance, a regular license shall be issued immediately." (See 62 P.S. §1008).

We are submitting this letter with the request that the AL Regulations be amended to include a provision which addresses the issuance of a Provisional License. Specifically, we ask that the text be amended to provide that if an assisted living residence ("ALR") is in substantial compliance, then the ALR shall be entitled to receive a provisional license. The purpose and use of a Provisional License in the regulatory framework needs to be addressed and clarified. We offer for your consideration the following suggested language to be added as a separate section under the "Enforcement" provisions of the AL Regulations:

1700 Bent Creek Boulevard, Suite 140 • Mechanicsburg, PA 17050 • (717) 620-2424 • FAX (717) 620-2444
350 Eagleview Boulevard, Suite 100 • Exton, PA 19341 • (610) 524-8454 • FAX (610) 524-9383
3000 Atrium Way, Suite 251 • Mt. Laurel, NJ 08054 • (856) 231-5351 • FAX (856) 231-5341
Maryland Telephone: (410) 727-2810

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[§2800.266. Provisional License. - Suggested Section # and Heading]

If the Department elects to initiate an enforcement action, then if the residence is in substantial compliance with the applicable statutes, ordinances and this chapter and has taken appropriate steps to correct the violation(s), the Department may not revoke or refuse to renew the license of an ALF, but rather shall issue the residence a provisional license for a specified period of not more than six months which may be renewed three times. Upon the residence achieving full compliance, the Department shall issue a regular license immediately.

It is our opinion that the above suggested language clarifies the grounds upon which a provisional license may be issued to a residence.

If you have any questions regarding this matter, please do not hesitate to contact me. Thank you for your attention to this matter.

Sincerely,



Kimber L. Latsha

cc: Arthur Coccodrilli, Chairman
Tanya Daniels Harris, Esq.