



Pennsylvania Homecare Association

14-514

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INDEPENDENT REGULATORY
REVIEW COMMISSION

September 15, 2008

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

Arthur Coccodrilli, Chair
Independent Regulatory Review Commission
333 Market St, 14th Floor
Harrisburg, PA 17101

RE: Draft regulations by the Department of Public Welfare, providing for the licensure of assisted living residences - # 14-514.

Dear Ms. Weidman and Chairman Coccodrilli:

The Pennsylvania Homecare Association represents more than 400 agencies that deliver care and support directly in the homes of more than one million elderly and disabled citizens in the state of Pennsylvania, including thousands of individuals that currently reside in assisted living facilities. Our members provide a wide array of services including home health care, personal care and hospice care.

On behalf of our association's member agencies, we commend you and others in the Department of Public Welfare for working with various stakeholders to compose these draft regulations. If Pennsylvania is to continue with its efforts to create a long-term care system that promotes independence by adding assisted living to its array of home and community-based services; these regulations must offer choices to consumers while providing fair and reasonable expectations of a more "home-like" setting than an inpatient facility.

Our members' primary concerns are guaranteeing consumers' choice in regard to supplemental health care and ensuring that health care services are provided by the appropriately licensed health care provider.

§ 2800.142 – Assistance with health care and supplemental health care services. Assisted Living residents and those who would consider entering an assisted living residence (ALR) want to retain their freedom, choice and autonomy. This includes the ability to direct their own health care and select their own health care providers. If assisted living is truly intended to be the consumer's home, the freedom to make choices must be preserved. Notably, even in nursing facilities, consumers retain choice of pharmacy and doctors.

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Pennsylvania Homecare Association • 20 Erford Road • Suite 115 • Lemoyne, PA 17043
Toll-Free (800) 382.1211 • Tel (717) 975.9448 • Fax (717) 975.9456 • www.pahomecare.org

Consumers should not be required to surrender their choice of physicians, specialists, psychiatrists and supplemental health care providers by virtue of moving into an ALR. While it may be convenient for the ALR to assist residents in securing medical care and supplemental health care services, ALRs should not mandate that consumers use only those health care providers that are approved or designated by the residence.

Again, if ALRs are to be another option for long-term care, which will enable individuals to age in place, we must ensure that consumers have the same freedom to manage their own supplemental health care services as individuals do living in their own homes.

Currently, several homecare agencies provide homecare aide services to individuals living in assisted living residences. These arrangements are between the consumer and agency and are usually paid for privately or through a long-term care insurance policy. There is no involvement with the actual residence. In fact, many agencies report that they have followed consumers from one facility to another and have maintained an ongoing relationship for several years.

§ 2800.220(c) – Supplemental Services. The definition of supplemental health care services under § 2800.4 in the proposed regulations states that these types of services are *any type of health care service... except for any service that is required by law to be provided by a health care facility under the Health Care Facilities Act*. Therefore, the listing of supplemental health care services should not include the following services: home health, hospice and home care agency or home care registry, because these services must be delivered by health care facilities licensed under the Health Care Facilities Act.

Other concerns with the proposed regulations are listed below:

§ 2800.22 – Application and Admission. As proposed, a consumer would have to move in, sign a contract and begin payment to the residence before the facility would be required to identify the consumer's needs, explain how it proposes to meet those needs or even how much the consumer's needs would cost. Although the rules provide for a short-term, pre-screening checklist to determine whether the consumer could be safely admitted to an ALR or if they have conditions or needs that would require exclusion from the facility, an ALR is only required to perform a comprehensive screening "within 15 days" after admission to the facility. In addition, the facility has until 30 days after admission to develop the resident's actual care plan.

As Pennsylvania attempts to build its continuum of long-term care, which will provide consumers with various options, it is important to ensure consistent standards across the continuum for such things as staff training and assessments. Nursing homes, home health and home care agencies all have mandatory and strict timeframes for doing consumer/patient assessments and a similar requirement should be followed for ALRs.

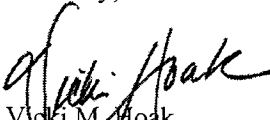
By giving the ALR 15 days to do the assessment and 30 days to develop a plan of care, consumers are put in the untenable position of having to move into a facility without knowing for certain if the ALR can meet their current or future needs and if they will be able to remain at the facility. An ALR should be required to perform a comprehensive assessment of a potential resident prior to admission in order to determine whether they can live in the facility successfully, what type of care is needed, whether the care needs can be met at that facility while integrating consumer choice and the costs associated with meeting those care needs at the ALR. These principals are the same for someone applying for other long-term care services.

§ 2800.25 – Resident-Residence Contract. The contract must make reference to a core package of benefits that is included in the base price of admission. The core package of benefits must be uniform from facility to facility. This is not currently in the proposed regulations and must be added. See additional comments under § 2800.220.

§ 2800.220 – Services. The regulations need to be clear 1) what are all the assisted living services that each facility must be equipped to provide and 2) what is the minimum core package of benefits that each consumer can expect to receive as part of their monthly fee. Each residence must provide a base core package of services that residents must purchase and can trust they will receive. We add several services to the list of “assisted living services” and we specifically recommend language for what should be contained in the base core package of services, allowing, of course, for facilities to provide enhanced packages or ala carte extra services on top of the base core package.

Thank you for considering our members’ concerns and recommendations for revisions to the ALR draft regulations. These changes are necessary in order for ALR residents to maintain their freedom, choice and autonomy while providing fair and reasonable expectations of a more “home-like” setting than an inpatient facility.

Sincerely,


Vicki M. Hoak
Executive Director