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Independent Regulatory Review Commission
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INDEPENDENT REGULATORY
REVIEW COMMISSION

September 11, 2008

Reference: Proposed 2800 Regulation IRRC #14-514

Dear Madam:

We write to you from Foulkeways at Gwynedd a Continuing Care Retirement Community (CCRC) serving our Residents for forty one years. Foulkeways at Gwynedd planned for The Abington House assisted living in 1964 and the building was opened in 1969. The term assisted living has been used by Foulkeways since 1964.

Even though we have a long tradition of providing assisted living care and are seen as a pioneer in Pennsylvania for this aging in place concept, our buildings are only five years old. We have torn down our older assisted living facilities and rebuilt state-of-the-art facilities to accommodate our Residents.

So when we present our opinions, they are based on years of experience and ongoing modernization. If we a leader in the industry express concerns, you can be sure that there are many other qualified providers who will be placed in grave jeopardy should these 2800 Regulations be enacted without significant revision. This in turn will place many older Pennsylvanians at risk in finding assisted living arrangements that are available and affordable.

Our Abington House is licensed for eighty two Residents; this includes the eleven suites for Residents in the memory support dementia care unit. The average age of the Resident living in Abington House is ninety years old. Our Community provides high quality care for the Resident in their last years. We have licensed nurses caring for our Residents twenty four hours a day, seven days a week.

The intent of the 2800 Regulations is positive, however, the reality of the regulations will negatively impact the quality of care and financial stability of Abington House. Listed below is a summary of our major concerns:



Foulkeways® is operated by members of the Religious Society of Friends and is dedicated to providing a quality lifestyle of active retirement living for older adults. Established 1967 • Not-for-profit • Accredited by the Continuing Care Accreditation Commission

2800.11(c) Licensure Fee

Our current licensure fee is \$30.00. If the proposed regulations were adopted our licensure fees would be \$9,110.00, a 30,366 % increase.

2800.16 (a) (3) Reportable Events to the Department

The addition of illnesses treated at the hospital or medical center as a reportable event places an unattainable burden on the Residence and the Department. For instance, if a Resident being treated for cancer is receiving chemotherapy at a hospital, the department would have to be notified for each treatment. Furthermore, there is no definition for medical center.

2800.22 (b) Provision of written contract materials

Providing written “walk-away” materials to all prospective Residents as a requirement does not support a “green environment”, it is costly and is only needed by Residents who are moving into the Residence. We recommend that only residents who are moving into the Residence are required to receive written materials.

(b)(3) Departmental approval of the Residence’s Resident handbook is unreasonable and not required for any other level of care.

2800.101 Required Equipment

All of the Abington House suites have the appropriate refrigerator. The requirement of a microwave would cost approximately \$12,300 and it may be unsafe for some Residents and need to be removed and placed in storage.

2800.25 (c) (iii and v) Laundry and Transportation

Laundry and transportation services should not be included in the core services. These services should be charged separately which would allow a Residence to keep costs lower with the option of charging on an as-needed basis for those Residents who require the specific services. At Foulkeways some Residents have family that provides transportation and laundry services while other Residents choose to pay for these services. It would be unfair to increase the costs for all Residents in order to include these services.

At Foulkeways we have performed cost analyses related to transportation. Arranging a medical appointment, gathering the necessary paperwork, transporting the Resident and staying with the Resident are included in the cost analysis.

Currently at Foulkeways , our medical driver/scheduler may call and schedule the appointment, this can take anywhere from twenty minutes to one hour, gather the appropriate paperwork and consult form , arrange for a medical driver. The medical driver then stays with the Resident at the appointment. The cost for local service with a

twenty five mile round trip is \$45.00, and this rate is reviewed annually. If a Resident has an appointment outside the local area there is an hourly charge of \$30.00.

A Resident may schedule their own appointments and arrange their own drivers if they choose. In this case there are no charges to the Resident for paperwork or transportation.

At Foulkeways, the laundry department provides each Resident with towels and bed linens as part of the monthly fee. There is a fee for a Resident's personal clothing to be laundered. This laundry fee also enables proper labeling, ensuring that clothing is returned to the correct Resident, and prior to washing the laundry it is checked for items such as dentures, jewelry and hearing aides prior to washing. The laundry is washed, dried, folded or put on hangers as the Resident prefers and returned the same day. There are washers and dryers available to the Resident free of charge to do their own laundry or to launder an item that may have become soiled during the course of the day. This flexible approach allows for Resident choice and keeps costs lower.

2800.25(e) Additional Admission Burdens

The admission process involves a significant amount of administrative time and costs. To allow a Resident to terminate the contract up thirty days after admission is unreasonable. The admission process and helping the Resident and Resident's designated person through the transition from independent to assisted living is a staff time consuming process.

There is time in completing the contract, securing the medical evaluation, setting up medication administration records, and completing the mandatory assessments and paperwork, team meeting with Resident and designated person for input in the unique individualized needs, if after all this the Resident can rescind the contract it would greatly increase the operating cost to the Residence and would be passed onto the Residents in increased rates. It is reasonable that the Resident is able to rescind the contract up to 72 hours after the initial dated signature of the contract.

2800.30(a) (1) Informed Consent

The manner in which this section is worded creates risk and harm to the Resident as well as the Residence. Informed consent is a complex process for one individual that affects the entire Residence. The current wording places much of the process only in the hands of an individual. The Residence must have more control of the process in order to support and protect not only the individual but the entire residence. We support the following suggested language:

“When a licensee determines that a Resident's decision, behavior or action creates a dangerous situation and places the Resident at risk of harm by the Resident's wish to exercise independence in directing the manner in which he/she receives care, the licensee may initiate an informed consent process to address the identified risk and to reach a mutually agreed upon plan of action with the Resident or the Resident's designated

person. The initiation of an informed consent process does not guarantee that an informed consent agreement, which is agreeable to all parties, will be reached and executed.”

2800.56 Administrator staffing requirements

According to the proposed 2800 Regulations, the administrator shall be present in the Residence an average of 40 hours or more per a week is an unreasonable burden. This standard exceeds the requirement for Nursing Home Administrator’s in Nursing Facilities.

The administrator must be able to attend educational conferences and meetings and have sick, vacation and holiday time. Additional staff would be required to meet this requirement. Having a staff person designated to supervise during the administrator’s absence from the building requires having an administrator or designee on site twenty four hours a day.

The administrator would be required and the designated persons would need to have the 100 hour training course which is cost prohibitive. The intent of the regulation of having a responsible administrator is understood but should not exceed what is required in the nursing home.

2800.96 Automatic Electronic Defibrillator requirements 2800.171b (5)

According to the proposed regulations, “the Residence shall have first aide kits that include an automatic electronic defibrillator (AED)”. Because Foulkeways has four first aide kits, per the existing regulations, this additional equipment requirement would require the purchase of three additional AEDs for each first aide kit.

The additional requirement of an AED in each medical car or van/bus would require another four AEDs. This would require the purchase of seven AEDs at the cost of \$2,300 each for an estimated cost of \$16,100.

Foulkeways at Gwynedd has had an Automatic Electronic Defibrillator since 1995; it has been used twice for the entire complex. The average daily census on the campus is over four hundred persons.

2800.101(j) (1) Fire Retardant Mattresses

Allowing the Resident to bring his or her own mattress from their home, if they desire, it part of Resident choice and person centered care. In addition, the cost of replacing each person’s mattress would be costly, for Foulkeways it would be at least \$24, 600.

Abington House is 100% sprinkler installed and it is a no smoking building, the risk of harm to the Resident associated with this requirement does not appear reasonable compared to the cost and the elimination of personal choice.

2800.131(a) Fire Extinguishers

The placement of a fire extinguisher in each unit is a higher standard than hospitals or nursing facilities. Each of our assisted living suites already has smoke detectors and sprinklers.

Placing a fire extinguisher in every unit assumes the Resident has the capacity and training to use it. For the Residents at Foulkeways approximately less than 10% would have the capacity to use the extinguisher and none have been trained. Furthermore, no Resident should attempt to fight a fire themselves; this could lead to a tragic outcome for the Resident.

2800.14 Timing of Medical Evaluations

Permitting the medical evaluation to be completed within 15 days post admission to allow for emergency circumstances is more realistic.

2800.226 (c) Reporting mobility needs to the Department

Notification of a Resident who has mobility needs is currently not required and should not be required; there is no practical reason why this information needs to be submitted to the Department. Having the administrator maintain a list of Residents with mobility needs as is currently being done is practical.

2800.227(c) (k) Support Plan Documentation

The support plan should be updated on a semi-annually basis and when there is a significant change in the health status of the Resident. Requiring the review on a quarterly basis will mean time spent away from providing direct care to the Residents, which should be avoided whenever possible.

It is suggested that the Residence be required to give a copy of the support plan to the Resident and Resident's designated person. This adds a new level of paperwork compliance to the support plan process, such as getting a signature of that it was received, return receipt mailings for designated persons unable to receive a hand delivered support plan and volumes of plans being delivered for those persons with no significant changes in their health status. Please require this to be given "upon request".

2800.228(viii) (3) Ombudsman’s Role in Discharge Planning

The long term care ombudsman should be involved if there is a disagreement in discharge plan not in every discharge plan.

2800.231(e) Admission into a Specialized Dementia Unit

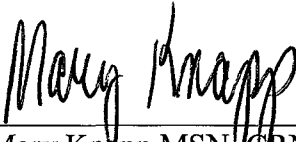
The reason that a Resident is being moved into a Dementia support unit is because they have lost the capacity to cognitively understand their environment or be able to make informed decisions. The proposed regulations, place that person in an unreasonable position of having to make admission decisions that they alone are unable to make.

The Resident moving into a dementia unit will rarely have the cognitive ability to understand the need for a secured unit. The requirement should read, “The designated person should be involved in the admission decision and enter into the contract as a representative of the Resident along with the Resident whenever possible”.

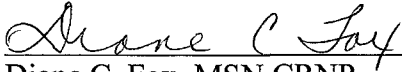
2800.234(c) Support Plan

It is recommended that the support plan be reviewed semi-annually or as the Resident condition changes. Requiring the care team to meet regularly to discuss the Residents in a forum focused on each Resident is more reasonable. At Foulkeways at Gwynedd, there are already monthly meetings where staff review Residents’ specific care needs and address any difficulties the Resident may be experiencing.

Respectfully Submitted,



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Director of Health Service



Diane C .Fox, MSN CRNP
Personal Care Administrator