

SILVAN B. LUTKEWITTE, III, CHAIRMAN  
GEORGE D. BEDWICK, VICE CHAIRMAN  
ARTHUR COCCODRILLI  
JOHN F. MIZNER, ESQ.  
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KIM KAUFMAN, EXECUTIVE DIRECTOR  
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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

February 15, 2011

Honorable Patricia H. Vance, Majority Chairman  
Senate Public Health and Welfare Committee  
168 Main Capitol  
Harrisburg, PA 17120

Re: Regulation #14-520 (IRRC #2881)  
Department of Public Welfare  
Transition to RUG-III Version 5.12 and Latest Assessment

Dear Senator Vance:

On January 12, 2011, we delivered our comments on the above-captioned regulation to Honorable Michael Nardone, then Acting Chairman, Department of Public Welfare. Because the General Assembly had adjourned *sine die*, we were precluded from providing you with a copy at that time.

Enclosed is a copy of our comments. If you have any questions, please contact me.

Sincerely,

Kim Kaufman  
Executive Director  
sfh  
Enclosure

SILVAN B. LUTKEWITTE, III, CHAIRMAN  
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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

February 15, 2011

Honorable Shirley M. Kitchen, Minority Chairman  
Senate Public Health and Welfare Committee  
463 Main Capitol  
Harrisburg, PA 17120

Re: Regulation #14-520 (IRRC #2881)  
Department of Public Welfare  
Transition to RUG-III Version 5.12 and Latest Assessment

Dear Senator Kitchen:

On January 12, 2011, we delivered our comments on the above-captioned regulation to Honorable Michael Nardone, then Acting Chairman, Department of Public Welfare. Because the General Assembly had adjourned *sine die*, we were precluded from providing you with a copy at that time.

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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

February 15, 2011

Honorable Gene DiGirolamo, Majority Chairman  
House Human Services Committee  
49 East Wing  
Harrisburg, PA 17120

Re: Regulation #14-520 (IRRC #2881)  
Department of Public Welfare  
Transition to RUG-III Version 5.12 and Latest Assessment

Dear Representative DiGirolamo:

On January 12, 2011, we delivered our comments on the above-captioned regulation to Honorable Michael Nardone, then Acting Chairman, Department of Public Welfare. Because the General Assembly had adjourned *sine die*, we were precluded from providing you with a copy at that time.

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## INDEPENDENT REGULATORY REVIEW COMMISSION

333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

February 15, 2011

Honorable Mark B. Cohen, Minority Chairman  
House Human Services Committee  
127 Irvis Office Building  
Harrisburg, PA 17120

Re: Regulation #14-520 (IRRC #2881)  
Department of Public Welfare  
Transition to RUG-III Version 5.12 and Latest Assessment

Dear Representative Cohen:

On January 12, 2011, we delivered our comments on the above-captioned regulation to Honorable Michael Nardone, then Acting Chairman, Department of Public Welfare. Because the General Assembly had adjourned *sine die*, we were precluded from providing you with a copy at that time.

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Sincerely,

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Executive Director  
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Enclosure

# **Comments of the Independent Regulatory Review Commission**



## **Department of Public Welfare Regulation #14-520 (IRRC #2881)**

### **Transition to RUG-III Version 5.12 and Latest Assessment**

**January 12, 2011**

We submit for your consideration the following comments on the proposed rulemaking published in the November 13, 2010 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Public Welfare (Department) to respond to all comments received from us or any other source.

#### **1. Section 1187.93. CMI calculations. – Implementation procedures; Clarity.**

This regulation amends the Department's payment methodology to phase-in the use of a new classification system and the most recent resident assessments in determining the case-mix indices that are used in setting case-mix per-diem rates for non-public nursing facilities and in making certain incentive payments to county nursing facilities. In the proposed regulation, the Department applies rate settings to past rate years and quarters, in particular beginning with July 1, 2010. The Department needs to clarify how the new rates applied to these periods will occur retroactively. Similar concerns apply to Section 1187.96, Section 1187.97, Appendix A, and Section 1189.105.