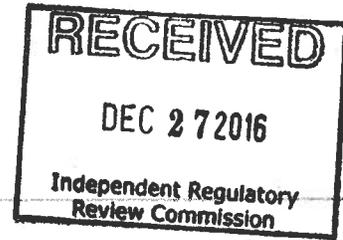


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14-540- (220)

Kroh, Karen

From: Mochon, Julie
Sent: Tuesday, December 20, 2016 2:03 PM
To: Kroh, Karen
Subject: FW: Comments on Proposed Chapter 6100
Attachments: PHA Comments Chapter 6100.pdf



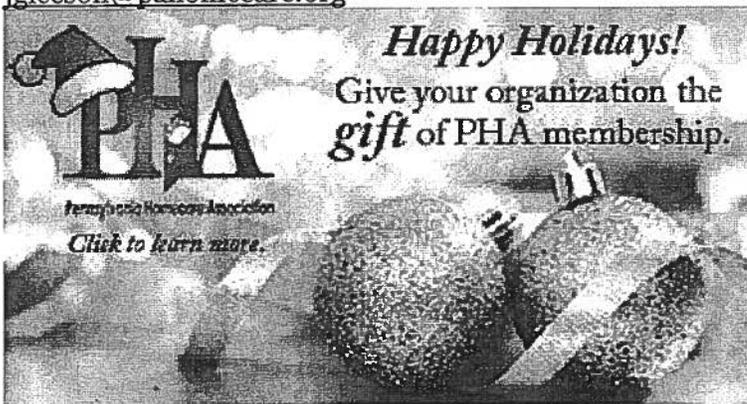
From: Janel Gleeson [<mailto:JGleeson@pahomecare.org>]
Sent: Tuesday, December 20, 2016 1:57 PM
To: Mochon, Julie <jmochon@pa.gov>
Subject: Comments on Proposed Chapter 6100

Good afternoon Ms. Mochon,

Attached you will find written comments from the Pennsylvania Homecare Association related to the proposed Chapter 6100 regulations. Thank you for the opportunity to submit our feedback.

Have a great holiday!
Janel

Janel Gleeson, Esq.
Public Policy Director
Pennsylvania Homecare Association
600 N. 12th Street, Suite 200
Lemoyne, PA 17043
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9-30

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Review Commission

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From: [Illegible]
Date: [Illegible]

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Pennsylvania Homecare Association

Submitted electronically via email to: jmochon@pa.gov

December 20, 2016

Re: Regulation No. 14-540

Julie Mochon
Human Service Program Specialist Supervisor
Office of Developmental Programs
Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120

Dear Ms. Mochon:

I am writing on behalf of the Pennsylvania Homecare Association, representing homecare providers serving individuals under the Office of Development Programs (ODP) waiver programs, to offer comments on proposed Chapter 6100 of the Pennsylvania Code. PHA appreciates the department's comprehensive update of the regulations that will bring regulatory requirements more in line with person-centered care and independent living principles. The comments that follow discuss three sections of the proposed regulations: incident reporting, annual training, and criminal background checks. Thank you for the opportunity to provide our feedback on these changes.

Incident Reporting

PHA supports the updated language included in Section 6100.401, which lends more clarity to the types of incidents that are considered reportable by ODP, however a few questions remain. For instance, 6100.401(a)(3) names an inpatient admission to a hospital as a critical incident. Does this include planned inpatient admissions? Does it include hospital stays during which the consumer was never admitted but stayed on observation status?

Another opportunity for more clarity is found in 6100.401(a)(15) which names a violation of individual rights as a critical incident. Such a violation should certainly be seen as a reportable incident, however, it would be helpful for agencies complying with this provision if this section cited back to the list of individual rights included in proposed Section 6100.182 and 6100.183 to make it clear which rights are being protected.

In 6100.405(b), agencies are directed to review and analyze incidents at least every three months, yet 6100.405(e) requires the continuous analysis of critical incident data. While it is important for a provider to be continuously aware of vulnerabilities that could impact individuals' health and safety, the wording of these two provisions may make it difficult to plan for and monitor provider compliance. We suggest a more concrete timeframe like three months rather than the more fluid "continuous" requirement, with the understanding that providers nevertheless have the responsibility to respond to critical incidents as they occur.

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Annual Training

PHA supports the latitude given to providers in developing a training plan that fits the needs of the specific individuals they serve, which will make the care provided in the home even more person-centered and focused on the individual service plan. However, we feel the specific hourly requirements proposed for staff training are excessive and will impose a great administrative and financial burden on homecare agencies. It is our understanding that 24 hours was chosen based on similar training requirements for facility-based ODP providers, however the care we provide and the staff that we employ are unique compared to our facility counterparts. Our staff members are not located within a facility and rarely travel to the agency's physical office as part of their duties.

PHA strongly urges ODP to reduce the minimum number of training hours or completely eliminate the hourly requirement consistent with current practices. The nature of the in-home support provided to individuals through the waiver programs requires direct care staff to be out in the field caring for individuals in their homes. It is difficult for providers and unfair to the individuals they serve to remove staff from the community for a full 24 hours each year. Until now, providers have been able to successfully meet ODP training requirements based on staff competency rather than arbitrary quantitative standards. In addition, the person-centered nature of training calls for flexible training hours depending on each individual's unique service needs.

Criminal History Background Checks

The proposed changes at 6100.47 would greatly expand the scope of staff persons who must complete criminal history background checks. It is important to ensure the safety of individuals receiving care by conducting thorough checks on those who will have direct contact with the waiver participant. However, performing checks on office staff does not provide any protection to the participant; it only adds to the provider's financial burden. A homecare agency will spend close to \$42 to obtain all three background clearances (state police, FBI and ChildLine) for one employee, a cost that is not reimbursed by the state. PHA believes ODP can meet its goal of protecting waiver participants by amending the proposed 6100.47(a)(1) to read "Full and part-time staff persons in any staff position *who have direct contact with individuals receiving care.*"

Distinction between Paid and Unpaid Caregivers

Throughout the proposed regulations and more specifically in provisions related to criminal background checks and medication administration training, the department blurs the line between paid and unpaid caregivers. For instance, 6100.47(b) calls for criminal history background checks on household members but notes that the section will not apply to natural supports. Does this mean the service provider is responsible for securing background checks for only paid caregivers who are also members of the individual's household? Later in 6100.470, the regulations exempt an "adult relative" from the requirements for medication administration training. Is this provision exempting the same natural support providers or does it also apply to paid relatives that are employed by a homecare agency? PHA urges the department to require training for any paid caregiver that administers medications, even caregivers that work for an agency but are related to the individual.

Consistency with Department of Health

Something that homecare providers working under the waiver programs continuously struggle with is the inconsistency between Department of Human Services (DHS) requirements for Medicaid waiver providers and Department of Health (DOH) requirements for licensure. For instance, there are different and often duplicative systems for critical incident management and reporting. There are varying requirements for staff training and competency. In addition, the DOH requirements for

background checks apply to a different group of staff persons than in the proposed regulations. PHA urges ODP to take advantage of this regulatory revision by building more consistency with Chapter 611 of the Pennsylvania Code, which contains the DOH homecare agency licensure requirements.

Alternatively, PHA recommends adding language at the outset of Chapter 6100 at 6100.2(b) to note *“In the event of a conflict between the regulations set forth in this chapter and related but separate licensing regulations, the licensing regulations apply and supersede this Chapter.”*

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Vicki Hoak". The signature is written in a cursive, flowing style.

Vicki Hoak, CEO

