

Assisted Living Advocacy in Pennsylvania
Center for Advocacy for the Rights and Interests of the Elderly (CARIE)
www.carie.org

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Go to <http://www.paassistedlivingconsumeralliance.org/> for more information about PALCA formed in 2008 to advance advocacy for Assisted Living in PA

Assisted Living Residences (ALRs) Regulations in Pennsylvania

Introduction

- CARIE – CL, CARIE Online (APPRISE link & Open Enrollment), Ombudsman, Legislative Committee Meetings – next date 12/4/08, CARIE Connection.
- PA Assisted Living Consumer Alliance
- Bad news – Can't tell them about the final regulations as requested but.....
- Handouts

Background

- No separate licensing status for ALRs; all in PA are licensed as PCHs.
- Standards for PCHs are designed for residents with a much lower acuity level than ALRs market themselves to serve.
- Currently no “aging in place” since PCHs are prohibited from serving residents whose needs are similar to those in a nursing home.
- Intent is NOT to license all PCHs as ALRs.
- PA and advocates have been trying to establish a separate licensing status for ALRs for 10 years. Multiple bills every legislative session since 1999.
- In July 2007, Act 56 of 2007 was signed into law. (Senate Bill 704; Vance)

Next Steps in Process

- The proposed regulations were published in August. The public comment period closed on September 15. Over 200 groups/individuals submitted comments. IRRRC provided feedback/written comments about the regulations to DPW on October 15.
- DPW originally wanted to respond to the comments and submit final form regulations before the end of 2008 but now must wait until the next legislative session in January.
- IRRRC recommended in its comments that DPW provide a preview to the stakeholders to try to resolve conflicts before submitting the final-form regulations.
- Once DPW submits the final-form regulations, IRRRC will approve or deny the regulations. No changes can be made.
- DPW hopes to have regulations in place to begin licensing ALRs in July 2009.
- LB&FC financing report. In 2008, PA is only one of 6 states that didn't fund AL through MA. (29 states and DC use MA Waivers mostly 1915(c) home and community based Waivers; 10 use MA Waivers and MA State Plans; 6 MA State Plans only.)

Definitions

- PCHs: any premises in which food, shelter, and personal assistance or supervision are provided for a period exceeding 24 hours for 4 or more adults who are not relatives of the operator, who do not require the services in or of a licensed long term care facility but who do require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation of a residence in the

- event of an emergency or medication prescribed for self administration. (PCH regs)
- ALRs: "Assisted living residence" means any premises in which food, shelter, **personal care**, assistance or supervision and **supplemental health care services** are provided for a period exceeding twenty-four hours for four or more adults who are not relatives of the operator, who require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self-administration. (Act 56)
 - The similarity in definition is one of the problems identified by IRRC with the proposed regulations.

Provisions of Act 56/New ALR Law

- Most of the details about how ALRs will be structured and function will be included in the final regulations. The regulations must meet or exceed the current requirements for PCHs.
- The new law will prohibit facilities from calling themselves ALRs unless they are licensed under the new regulations. DPW had hoped to begin licensing facilities in July 2009 but appear to be behind schedule.
- Definition allows NFCE individuals to reside in ALRs but doesn't describe required services.
- Aging in Place is permitted but includes a number of conditions that allows a facility to deny admission or evict a resident. (There is an ambiguous exceptions process for facilities to use to try to get approval for a consumer with an excludable condition.) The conditions include: ventilator dependency, stage III and IV decubiti and vascular ulcers that are not in the healing stage, continuous IV fluids, reportable infectious diseases such as tuberculosis in a communicable state unless the DOH requires isolation be established within the ALF, nasogastric tubes, physical restraints, and continuous skilled nursing care 24 hours/day.
- Requires DPW to issue regulations about training and staffing requirements, services provided, facility structure, resident rights, etc.
- Requires private rooms without forced sharing and no more than 2 people per room is permitted. (married couples)
- Creates "informed consent"/negotiated risk agreements between ALRs and the resident, essentially waive liability for the facility for adverse outcomes of the resident's choice of behavior/actions.
- Allows for the use of AL or HCBC Waivers once obtained for ALR use.
- Prohibits residents from choosing their providers, including drs. And can't hire their own caregivers/assistance. However, ALRs must contract for services that a resident needs that is not provided by the facility or its own subcontracted providers.
- Only administrative staff and direct care workers are identified as being required to be employed or under subcontract with the ALR.

What's Missing?

- Does NOT identify/define or require a uniform core package of services/benefits a consumer could expect to receive in any ALR.
- No marketing standards
- There are NO appeal rights or processes for transfers and discharges; NO complaint procedures for residents.
- No applicant rights or right to appeal denied admission.
- Lacks required comprehensive assessment prior to admission; proposed regulations ALR has up to 15 days to complete an assessment and up to 30 days for a care plan.
- Does NOT allow residents to choose their providers such as their dr.
- The described role of the ombudsman in the informed process is questioned. Need independent advocate/legal assistance.
- Does not include whether grandfathering will be permitted or under what circumstances.
- Does not describe whether or how a facility could have a dual license for both ALR and PCH.
- Physical site issues regarding safety and accessibility need to be addressed.

IRRC Letter to DPW (*Partial list of Concerns*)

- Distinguishing an ALR from a PCH (definitions too similar; lacks clarity) Want consumers to be able to make good choices.
- Will the implementation of these regulations change the level of care that PCHs currently provide their residents? (e.g., hospice care)
- Defining aging in place (Could resident be moved to a different room or unit as needs change?) and supplemental health care services.
- Fiscal impact – cost of upgrading facilities and concern about accessibility for MA residents. (Battle between providers and advocates.) Square footage requirements. (250 square feet for new units.) Kitchen capacity including small refrigerator and microwave. (Sink issue) IRRC wants DPW to do a survey about how many rooms will be qualified to be licensed as ALRs. Also licensing fees issue.
- Dual license – regulations neglect to address issue. e.g., room-by-room, separate wing, separate building. How to market/advertise?
- Levels of Care – only described one level plus cognitive support services.
- Application and Admission – timeframe issues and potential for residents to be rejected after admission.
- Encourages DPW to conduct additional stakeholder meetings

November 18, 2008

June 23, 2004

The Honorable Robert Thompson
Senate of Pennsylvania
Senate Box 203019
Harrisburg, PA 17120-3019

Dear Senator Thompson:

On behalf of CARIE's Dorothy S. Washburn Legislative Committee, I am writing to ask you to schedule Senate Bill 136 for a vote by the Appropriations Committee before the Senate adjourns for its summer recess. Assisted living is an issue of great importance to older Pennsylvanians and their families. Since our Commonwealth has a significant number of older adults, the need for quality assisted living is critical as they seek alternatives to nursing home care and ways to remain independent as long as possible.

Currently, however, there is nothing in state law that defines or regulates assisted living, sets standards for staffing and services, or describes what consumer protections apply. At this time, assisted living facilities are licensed as personal care homes. Since assisted living facilities market "aging in place" to consumers and serve those who look more and more like nursing home residents, assisted living facilities must be held to a higher standard of care.

CARIE provides ombudsman services for residents in over one hundred long term care facilities in Philadelphia. It is our experience that effective standards are vital to our ability to advocate on behalf of consumers. While quality care is still a major issue of concern for residents of nursing facilities, when a resident has a complaint an ombudsman can look to state and federal law to remedy the problem. For example, nursing home law requires that residents cannot be discharged without a viable alternative. Personal care home residents do not have the same protections. We have witnessed many situations where the law has simply failed to protect residents. They clearly need more protections spelled out in law.

Since Senate Bill 136 is the result of years of negotiations among various stakeholders, we hope we can count on your leadership to help ensure the safety and well-being of vulnerable older adults by scheduling a vote on Senate Bill 136 prior to the summer recess. Thank you in advance for your consideration of our request.

Sincerely,

Diane A. Menio
Executive Director

June 6, 2005

The Honorable Ronald Waters
Pennsylvania House of Representatives
103 Irvis Office Building
Harrisburg, PA 17120-2020
Fax: (717) 787-7597 & mail

Dear Representative Waters:

I am writing on behalf of CARIE to express my concern about House Bill 259. The bill is scheduled for a vote tomorrow and I urge you to **vote against** this bill. If passed, it will perpetuate the problems currently found in the personal care home (PCH) system. Assisted living is an issue of great importance to older Pennsylvanians and their families. Since our Commonwealth has a significant number of older adults, the need for quality assisted living is critical as they seek alternatives to nursing home care and ways to remain independent as long as possible. As Pennsylvania experiences dramatic increases to its Medicaid budget, it is important to consider that no state has rebalanced its long-term care system without assisted living.

It is critical that any law that defines or regulates assisted living set appropriate standards for staffing and services and clearly describe what consumer protections apply. At this time, assisted living facilities are licensed as personal care homes. Since assisted living facilities market "aging in place" to consumers and serve those who look more and more like nursing home residents, assisted living facilities must be held to a higher standard of care.

If passed, HB 259 would actually lower the standard of care required under current personal care home regulations. In nearly all areas including education and important performance factors, administrators and their staff have significantly lesser requirements than PCH regulations. HB 259 fails to provide any standards for living quarters while the regulations have clear space and room sharing guidelines. Additionally and in contrast to PCH regulations, HB 259 does not provide basic protections from abuse, neglect and financial exploitation. At the very least, the bill should be amended to ensure that any assisted living legislation meet or exceed current personal care home regulations. Some areas of the bill should also be amended to ensure consumer rights and the ability of residents to age in place.

We would be pleased to provide you with a full comparison of HB 259 to the PCH regulations should you wish to have further more detailed information. We hope we can count on your support to ensure the safety and wellbeing of vulnerable older adults by either working to amend the bill or to defeat this measure in its current form. If you have any questions or need more information, please contact me at 215-545-5728, extension 244 or at menio@carie.org. Thank you in advance for your consideration of our request.

Sincerely,

Diane A. Menio
Executive Director

MEMO



TO: CARIE's Dorothy S. Washburn Legislative Committee
RE: Assisted Living Alert - Senate Bill 136
July Meeting Cancellation

CARIE's Legislative Committee meeting scheduled for July 1 has been **CANCELLED!** In lieu of our meeting, please take the time to help with this important advocacy effort. Senate Bill 136 was moving along and was expected to pass the Senate soon. Unfortunately, PA's provider organizations have negotiated in bad faith and are now opposing the bill. These actions have effectively **STALLED** the legislation. One of their reasons is that they claim the bill does not protect consumers since it does not license assisted living "services." Ironically, language that was originally part of the bill was removed at the request of the provider organizations since House Bill 518 is addressing this issue.

CARIE and other advocates had concerns about how Senate Bill 136 would impact the final form personal care home regulations. CARIE received clarification from staff at the Office of Health Care Reform indicating that the personal care home regulations will not be impacted by SB 136. DPW must act by September or risk starting the regulatory review process all over again which they do not want to do. CARIE is fully supporting SB 136 even though it includes some recent amendments we don't like.

Now is the time to act! Since Senator Mowery will be retiring at the end of this legislative session, we don't expect to have a bill next session that will incorporate as many consumer oriented provisions as SB 136. Ideally, the bill needs to pass the Senate prior to the summer recess which is tentatively scheduled for June 30. SB 136 is currently in the Senate Appropriations Committee.

Please help ensure that legislators hear from you. We have been working on this issue for so long and we shouldn't allow the industry to block the bill after years of negotiations. Please make the following calls as soon as possible:

- **Senator Chip Brightbill**, the Senate Majority Leader, and urge him to schedule the bill for a full Senate vote before the summer recess. (PHONE: 717-787-5708)
- **Senator Robert Thompson**, Senate Appropriations Chairman, and urge him to schedule a vote for SB 136. (PHONE: 717-787-5709 or 610-692-2112)

If one of the following Southeastern PA Senate Appropriations Committee members represents your county, please call and urge him to schedule a vote for SB 136:

Robert Thompson (Chester):	717-787-5709 or 610-692-2112
Ed Erickson (Delaware):	717-787-1350 or 610-853-4100
Stewart Greenleaf: (Montgomery):	717-787-6599 or 215-657-7700
Robert Tomlinson: (Bucks):	717-787-5072 or 215-638-1777
Vincent Fumo: (South Phila./Center City):	717-787-5662 or 215-468-3866
Vincent Hughes: (West Phila.):	717-787-7112 or 215-471-0490

Please share this message with as many people as possible and encourage others to call. The message is that consumers want and need Senate Bill 136 to become law. If you have time, I'd be interested to hear whether you made any calls and what response you received. Attached is a detailed fact sheet about Senate Bill 136 developed by Joe Willard from the United Way of Southeastern Pennsylvania and a letter CARIE sent to Senator Brightbill. (We sent a similar letter to Senator Thompson.) As always, don't hesitate to contact me if you need any other information. Thanks for taking the time to help with this advocacy effort.

Kathy

Kathy Cubit

Center for Advocacy for the Rights and Interests of the Elderly (CARIE)

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Please visit our website at www.carie.org.

October 20, 2004

The Honorable David Brightbill
Senate of Pennsylvania
Senate Box 203048
Harrisburg, PA 17120-3048

Dear Senator Brightbill:

On behalf of CARIE's Legislative Committee, I am writing to ask that Senate Bill 136 (SB 136) be scheduled for a full Senate vote as soon as possible. Assisted living is an issue of great importance to older Pennsylvanians who seek alternatives to nursing home care when faced with chronic health related problems.

The passage of SB 136 is also of critical importance to taxpayers. As the Medicaid budget continues to grow, it is vital that the legislature support cost saving measures. Pennsylvania has an institutional bias in the provision of long term care creating a significant drain on the budget. Assisted living can cost states a third to a half less than nursing home care. The Commonwealth has received federal grants that may help Pennsylvania shift its long term care delivery system to an alternative that costs less and is preferred by the public. The success of reshaping this complex system is dependent upon the passage of SB 136 as no state has rebalanced its long term care system without assisted living!

Unfortunately, Pennsylvania does not have a law to establish regulations for assisted living. Since assisted living facilities are licensed as personal care homes and serve consumers who are more like nursing home residents, they must be held to a higher standard. Facilities should have the ability to provide Medicaid Waiver services to help consumers "age in place" and avoid nursing home placement. CARIE provides ombudsman services in over 100 long term care facilities in Philadelphia and effective standards are vital to our ability to advocate for residents. When nursing home residents have complaints, an ombudsman can look to state and federal laws to resolve them. For example, regulations require that nursing home residents be discharged with a discharge plan in place. Personal care home residents do not have the same protections.

Since SB 136 is the result of years of negotiations among various stakeholders, we hope we can count on your leadership to avoid any further delays in moving Pennsylvania in the right direction. Please schedule a vote on SB 136 as soon as possible. As the legislative session comes to an end, time is running out for vulnerable older adults and Pennsylvania's taxpayers. Thank you for considering our request.

Sincerely,

Diane A. Menio
Executive Director

Testimony for
Pennsylvania House Aging & Older Adult Services Committee
Public Hearing on Proposed Assisted Living Regulations
Regulation No. 14-514

September 18, 2008

Diane A. Menio
Executive Director
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Good morning. My name is Diane Menio and I am the Executive Director of CARIE, the Center for Advocacy for the Rights and Interests of the Elderly. Thank you for sponsoring today's public hearing about the proposed assisted living regulations and for the opportunity to comment.

As a member of the Assisted Living Workgroup of the Department of Public Welfare (DPW), I appreciate being part of the process DPW undertook and understand the challenge of trying to address the concerns of a variety of stakeholders, many with opposing views, in drafting the regulations. As the formal regulatory review process begins, the tug of war over conflicting ideas will no doubt continue. However, Pennsylvania can benefit from the best practice experiences of other states as well as the lessons learned when Pennsylvania had weak and poorly enforced personal care home regulations.

As a member of the Pennsylvania Assisted Living Consumer Alliance (PALCA), we fully support the detailed comments and recommendations submitted by PALCA.

We hope DPW will retain key improvements over current personal care home regulations and make needed modifications to ensure the safety and well-being of residents as recommended by PALCA.

Founded in 1977, CARIE is a non-profit organization dedicated to improving the quality of life for frail older adults by working to protect their rights and promote awareness of their special needs and concerns. CARIE provides long term care ombudsman services to residents of over 155 nursing facilities and personal care homes in north, west, south and central Philadelphia. The following comments reflect CARIE's experience as ombudsman that will hopefully help support the need to ensure that the

regulations address the needs of residents. Assisted living residents and applicants, particularly those who are vulnerable, need regulations that clearly define assisted living in an understandable way and work to ensure they receive the care they need.

Developing a core package of services is essential so that consumers and their families can better understand what is covered at a minimum and can more effectively compare costs among providers. Most older adults and their families know very little about long term care options until there is a crisis or other life changing event that prompts the need to address care needs. Assisted living offers a combination of housing and services that are appealing to many. It is important that the regulations more clearly define what assisted living means in language that is understandable to the public. As currently stated, the regulations do not make clear distinctions between assisted living and personal care homes and the difference may be lost on the consumer in need of long term care services. The proposed regulations would make it difficult for consumers to compare costs and services. One facility may appear to cost less than another facility but may in fact cost the consumer more when adding in extra charges that may have been included in a competitor's rate.

Clear marketing standards need to be established. We have experience coordinating a statewide Medicare fraud prevention project and has witnessed the impact of marketing abuses on consumers as well as the cost to the system. While considering placement in a personal care home my mother, I was told that my mother would have a single room and was referred to the on-line tour. When I asked what would happen if my mother ran out of money, I was told that the facility does not "put anyone out" and that my mother would be moved to a "low-income" room. That room was described as a

room with four beds—it was not shown on the on-line tour. This is just one way in which consumers who may not know all of the questions to ask may be misled upon admission. Stressed caregivers and older consumers contemplating a major move to an assisted living facility can be easily confused by deceptive marketing techniques and promises. Questionable marketing practices have been well documented through the work of Carol Cirka and Carla Messikomer of Ursinus College in their study, *Ethical Perspectives in Assisted Living: A Leadership Role for Pennsylvania*. Among other recommendations, they suggest establishing standards for ethical marketing practices that focus on consumer disclosure and advertising policies.

A comprehensive assessment must be completed prior to admittance and implemented upon admission to ensure quality of care. The lack of a required comprehensive assessment prior to admission needs to be remedied in the regulations. The screening tool described in the regulations would not help determine whether the consumer's needs could be met or what the actual cost of care would be for the consumer. As advocates and ombudsman, we know how traumatic a move into a residential setting can be. Transfer trauma can occur when residents need to move from one facility to another. The emotional trauma is often coupled with a decrease in functional ability that may or may not be recovered after a move. The need to ensure the best possible match between the capacity of a facility to care for a particular applicant and the needs of a consumer is essential. Consumers and their families should also be clear about the costs and how the costs may change to once again help consumers make the best possible choice. As proposed, the facility has up to 15 days to complete a comprehensive assessment and up to 30 days to develop a care plan. Since assisted living

residents and applicants will typically be older adults coping with multiple chronic conditions, a delay in implementing a needed component of their care identified by assessment could cause a decline in their functioning.

It is imperative that the proposed regulations be modified to identify the specific rights of assisted living residents, that residents be informed of all their rights and how to use them in an understandable manner, and ensure they are free to exercise these rights without repercussions. As ombudsman, we routinely deal with issues related to resident rights for residents of nursing facilities and personal care homes as well as problems with inappropriate discharges. We often field inquiries from both hospitals and families about problematic discharges from personal care homes. Unfortunately, we typically receive these calls after the discharge occurred. For hospitals, the problem is usually that the facility sent a resident to the hospital but is refusing to let them return. When we hear from families, they were often unaware of the discharge process or their rights and are trying to resolve the problems associated with inappropriate discharges. It is also a common complaint to hear from residents that the facilities threaten to discharge them if they do not comply with a particular request or policy. The threat of discharge or being punished for complaining is a fear many residents and families have that can impact their quality of care and life. In one personal care home, each time our ombudsman visited, he learned that afterward, residents were “grilled” as to what they had discussed. On several occasions, after returning to that facility, residents *withdrew* their complaints. We need to make sure this does not happen and that residents and families feel comfortable voicing concerns.

We strongly recommend the addition of the following rights:

1. A resident has the right to choose healthcare providers, subject to limitations on the choice of supplemental healthcare providers pursuant to §2800.142(a).
2. A resident has the right to refuse treatments or services prescribed or recommended.
3. A resident has the right to manage his or her own financial affairs.
4. A resident has the right to reside and receive services with reasonable accommodation of individual needs and preferences, except where the health or safety of other residents would be endangered.

The requirements for a 30 day notice and an “appropriate” discharge need to be expanded to include specific appeal rights or an appeal process to ensure that residents can challenge a facility’s decision regarding discharge. The resident should be guaranteed the right to stay in the facility during the appeal process and if the facility facilitates an inappropriate or unsafe discharge, penalties should be imposed.

For example, a facility should not be permitted to discharge a resident to the home of a caregiver unable or unwilling to care for the resident, a homeless shelter or an unlicensed boarding home. Facilities should also provide a list of residents’ discharge rights when issuing a discharge notice since this information is given upon admission and is often forgotten when a discharge notice is issued.

Resident rights should be expanded to address the need for Resident and Family Councils. The regulations grant residents the right to “freely associate, organize and communicate with friends, family, physician, attorney, and other persons.” Residents should be able to organize and meet in the facility in a private space without the presence

of staff unless invited by the group. The facility should designate a staff person to assist the group and respond to any written requests from the meetings. The facility should respond to any complaints or recommendations made by the council. The same rights should be granted to family members wishing to organize and meet about the care and services provided in a facility. Resident Councils and Family Councils have proven effective means to help residents and their families discuss concerns and resolve problems. The councils also allow for guest speakers to attend meetings and provide education on topics identified by the group. The addition of Resident and Family Councils fits with the Department's description: "The proposed rulemaking protects consumers' health and safety, privacy and autonomy"

Facilities should be required to ensure full accessibility for wheelchair and walker users throughout the facility and meet federal ADA standards. Many providers are voicing concerns about the costs associated with making facilities accessible for residents and describe costs as too prohibitive in meeting the current proposed standards for fire safety and accessibility. Since the purpose of the assisted living regulations is to create a long term care alternative to "allow people to age in place" and "maintain their independence," the Department should not weaken these standards. Providers are not being forced to transition to assisted living and could certainly continue to operate under current regulations as personal care homes. In fact, the proposed regulations do not go far enough to ensure that residents who may need to use walkers or wheelchairs, perhaps even temporarily, the opportunity to age in place.

We have serious concerns about the informed consent provisions of the law.

While we do believe that it is important that consumers be informed and educated, we do not see any advantage to consumers in signing a contract that might limit their individual rights. By signing, consumers are relinquishing the rights they have under law to refuse medical treatment and to make decisions about their care. The support planning process is a wonderful vehicle for discussing concerns about whether those decisions are placing the resident at risk and to arrive at mutually-agreeable methods of addressing them. If agreement is not possible and the consumer continues to wish to exercise her rights, the residence has other remedies available. They can document their efforts to educate the consumer about potential harm or risk and in some circumstances can even discharge the resident for legal reasons. We know that facilities are quite concerned about liability. However, we are concerned that the informed consent process could be abused in order to limit liability of the facility. We also believe that there are too many unanswered questions about how this process will work. For example, a residence can initiate the informed consent process when a consumer's behavior is placing other residents at risk. But, the process cannot result in an agreement which places other residents at risk. This is understandable, but what then is the point of using an informed consent process in this situation?

There must be an independent advocate available for consumers to ensure they understand what signing an informed consent agreement means for them. However, the use of the ombudsman is not appropriate. The ombudsman is not trained to negotiate contracts nor do the federal rules governing the ombudsman program permit this function. The very nature of the informed consent process puts the resident at a

disadvantage with the provider. The resident will probably be an older adult with multiple health problems. The provider benefits from legal counsel and other support and experience. There is one particular nursing facility in our area that essentially requires certain residents to sign a “behavioral contract.” When ombudsman speak to residents about the contract, they respond by stating they believed they had to sign it or face being discharged even though they did not understand or agree with the contract. The contract does not resolve the underlying behavioral problems and in fact is more likely to escalate problems when staff refers to the contract at the time residents are acting out. While the proposed regulations state that “a licensee may not require execution of an informed consent agreement as a standard [emphasis added] condition for admission,” an applicant should not be denied admission for refusal to sign an informed consent agreement under any circumstances particularly without the right to appeal. Section 2800.43 (c) states that, “waiver of any resident’s right shall be void.” This seems to be in conflict with the signing of an informed consent agreement that specifically waives residents’ rights. With so much potential for confusion and abuse, it is imperative that an independent advocate be available to help consumers and families navigate this challenging new provision.

The regulations should better reflect a higher standard in terms of staffing levels and training. The proposed regulations do not ensure an adequate number of staff or enough training to meet the needs of residents. We have witnessed and it is well documented that serious problems occur in long term care settings when there is not an adequate number of staff to care for vulnerable residents with multiple medical problems. These problems are exacerbated when staff is not fully trained. Residents could experience an adverse impact on their health and functioning if needs are not recognized

and addressed. CARIE Ombudsman frequently hear from residents that staff yells at them but they do not want to make a formal complaint out of fear of being discharged. The result is that residents are not treated with dignity or respect and staff is not getting the support or training needed to cope with challenging situations. Due to the prevalence of Alzheimer's Disease and other dementias, it is imperative that all staff including Administrators receive training about caring for cognitively impaired residents. Since assisted living is supposed to have the capacity to provide a higher level of care than personal care homes and residents should have the opportunity to "age in place," the training should be enhanced.

Vulnerable assisted living residents deserve the best possible standards of care and effective enforcement of these standards. We hope we can count on your support to help ensure the final regulations will ensure the health, safety and well-being of older Pennsylvanians who will reside in assisted living residences in Pennsylvania and that the final form regulations will include our recommendations as well as those of PALCA. Thank you again for providing the opportunity to testify today.

Assisted Living Staff Will Need Less Training than Make-up Artists and Hair Braiders



Consumer coalition calls for quality standards to protect Pennsylvania families from inadequate regulations

PHILADELPHIA, PA—(September 2008)—Pennsylvania’s proposed training requirements for direct care workers at an assisted living facility are considerably less stringent than those for several other occupations that don’t require a college degree. For instance, a natural hair braider must log 300 more training hours than would be required of a direct care worker under the Department of Public Welfare’s new proposed Assisted Living regulations.

Direct care staff members have a wide range of responsibilities in the care of frail elderly and persons with disabilities. They need to understand how to care for people with cognitive impairments, to understand nutrition and food handling, and use universal precautions. They need to know how to provide recreation and socialization activities and help residents with their daily needs such as feeding, dressing and bathing.

“The care of our frail elderly and persons with complex care needs requires many skills, from properly knowing how to lift residents to understanding infection control,” said Alissa Halperin, Senior Attorney and Deputy Director of Policy Advocacy at the Pennsylvania Health Law Project, the organization leading the efforts of the PA Assisted Living Consumer Alliance (PALCA). “They also need to know how to identify a problem and what to do in emergency. We think they should be competent and qualified.”

PALCA formed this year to ensure that new licensing rules will protect elderly and consumers with disabilities residents. About 50,000 people in Pennsylvania currently live in facilities that may call themselves assisted living facilities. Assisted living has emerged in the past generation to house people who are not so sick that they require a nursing home. But they generally need more help with bathing, dressing, medication management and other basic care needs. Consider, for example, a recent Pennsylvania bill [\[1\]](#) to certify dog groomers. Had it passed, the bill would have required at least 80 hours of training for someone who wants a job to bathe and brush a dog. A basic groomer would need to have completed 300 hours of training before licensure. A master groomer would have needed 600 hours of training.

Under the draft regulations, staff training is the same as at personal care homes where residents are typically healthier and more mobile. Assisted Living direct care staff need not complete a minimum amount of training; by contrast, the state has minimum training hour requirements and licenses many other jobs. Several examples of jobs where individuals must meet minimum hours of training and receive a license by the state are listed below.

“SEIU strongly supports the regulation of assisted living facilities and wants to see regulations

enacted now,” said Kevin Hefty, Vice President for Long Term Care of SEIU Healthcare Pennsylvania. “But we are not happy with the rules as proposed. We had hoped that the assisted living regulations would raise the training standard above what is currently required for personal care homes. Every day, direct care workers tell us what expert research confirms: that their training is too little, too hasty, and too unfocused to be effective. As a result, they are overwhelmed by the demands of their jobs.”

Hefty, who also co-chaired Pennsylvania’s Direct Care Workforce Workgroup, convened by the Pennsylvania Center for Health Careers and the Governor’s Office of Healthcare Reform, added: “Under-training is a key driver of the rampant turnover in our long-term care system. Such turnover undermines quality and wastes precious public resources. We have to address it if we want to create a first-rate system of supports for seniors and people with disabilities.”

PALCA is urging the state to adopt minimum training hours and to require all direct care staff to be trained in 1st Aid and CPR. Training is just one weakness in the draft regulations identified by PALCA. Other areas of concern include ensuring adequate staffing levels, access to one’s own doctor, a responsive appeals’ process and sufficient dwelling space. The regulations were released for public comment on August 8. Public Comments are due on September 15. For more information on the regulations and how to submit comments, go to:

<http://www.paassistedlivingconsumeralliance.org/index.php/assistedlivingregs.org>

Current Pennsylvania training requirements for licensure				
Occupation	Minimum Required hours of training for licensing		State board oversees licensure	State board requires Exam
Nail technician[1]	200		Yes	Yes
Esthetician[2]	300		Yes	Yes
Cosmetologist[3]	1,250		Yes	Yes
Natural hair braider[4]	300		Yes	Yes
Barber[5]	1,250		Yes	Yes
Time Share	30 hours + 30 days		Yes	No

Salesperson[6]	onsite training			
Auctioneer[7]	300		Yes	Yes
Dog Warden[8]	56		No	Yes
Certified Real Estate Appraiser[9]	120		Yes	Yes
Personal Care Home direct care staff person	0		No	No
Assisted living direct care staff person	0		No	No

[1] <http://www.pacode.com/secure/data/049/chapter7/chap7toc.html> [2] <http://www.pacode.com/secure/data/049/chapter7/chap7toc.html> [3] <http://www.pacode.com/secure/data/049/chapter7/chap7toc.html> [4] http://www.dos.state.pa.us/bpoa/lib/bpoa/20/cosm_board/cosmetology_-_natural_hair_braider_application_w_out_exam.pdf [5] <http://www.pacode.com/secure/data/049/chapter3/chap3toc.html> [6] <http://www.pacode.com/secure/data/049/chapter35/s35.229.html> [7] <http://www.pacode.com/secure/data/049/chapter1/s1.11.html> [8] <http://www.agriculture.state.pa.us/agriculture/lib/agriculture/legalreference/doglaw.pdf> [9] <http://www.pacode.com/secure/data/049/chapter36/chap36toc.html>

Death At Assisted Living Facility Points To Desperate Need For Better Regulations From The State



PHILADELPHIA, PA—(June 22, 2008) — With yet another tragedy in the headlines, Pennsylvania residents can wait no longer for strong regulations to protect residents of our state's assisted living facilities.

Such regulations would prevent outrageous and dangerous practices such as those that forced the Department of Public Welfare to close the Cambridge Brightfield assisted living facility.

Earlier this month, an aide at the center in Hatfield, PA., was indicted for involuntary manslaughter in the death of a 79-year-old resident, Ronald Myers, there last October 9. She had fed Mr. Myers hot cereal, which severely scalded his lips, tongue, and mouth. He could not speak and was left untreated for nearly a day and died several days later as a result of his burns. The employee was fired and the facility was soon prohibited from taking in new residents, but it was far too late to save Mr. Myers.

“Pennsylvania must regulate assisted living facilities so that they provide quality care for a wide range of residents in an environment that supports their independence, choice and health,” said Alissa Halperin, Senior Attorney and Deputy Director of Policy Advocacy at the Pennsylvania Health Law Project and director of the PA Assisted Living Consumer Alliance. “This is not the first time when medical care has been urgently needed but not immediately provided in a personal care or assisted living facility. And, this is not the first time reportable incidents have gone unreported to the state licensing agency.”

While Pennsylvania has stringent minimum training hours and testing requirements before one can become a hairdresser, make-up artist, land surveyor, barber or auctioneer, Pennsylvania does not yet have any minimum hours of training with testing that one must undergo to be a direct care worker in an assisted living facility. There was even a bill pending in the legislature last session that would have made it mandatory for a pet-groomer to have several hundred hours of supervised training before being able to cut a dog's hair. Yet the Commonwealth has yet to require staff providing direct care at an assisted-living facility to have basic first-aid training. Therein, those working at Cambridge would have been taught what to do with someone having first-, second- or third-degree burns.

Mr. Myers life can no longer be saved, but his tragedy must bring into focus what needs to be done, especially as the baby boomers ages and more and more assisted-living facilities will no doubt be coming on line quickly.

“The days of denial about abuse and neglect that so many of our loved ones endure in assisted-living facilities in Pennsylvania must stop now,” said Halperin. “Too many Pennsylvanians have suffered needlessly and died prematurely because our state lacks adequate protections for

residents of assisted-living facilities.”

Pennsylvania needs strong regulations that clearly establish residents rights and assurances that they can be exercised without retaliation, that clearly define what services will be provided to each resident based on his or her individualized care needs, that assure residents are cared for by adequate amounts of well trained staff, and that set life and fire safety standards at the national levels recommended for assisted living.

This issue could not be more timely. This summer Pennsylvania is finalizing its first ever regulations for assisted living. The final regulations will either go far enough to ensure that our loved ones can be safely served in a facility that is capable of supporting their needs and choices or they are weak enough to guarantee that tragedies like the Ron Myer’s scalding will continue in perpetuity.

PA Assisted Living Consumer Alliance (PALCA) urges all residents – and certainly all legislators and officials – to visit its Website (www.paassistedlivingconsumeralliance.org.) to study all the specific proposals PALCA is calling for, as quickly as possible, to avert ever more tragedies like that of Mr. Myers and the too many others that have not quite made headlines.

Find Alliance on Facebook and become a fan: <http://tinyurl.com/lzd7d8>

New Assisted Living Regulations Do Little to Protect Consumers



Alliance asks the public to make their voices heard on fundamental rights

PHILADELPHIA, PA—(August 2008)—Proposed rules to cover assisted living facilities fall far short of what is needed to ensure that Pennsylvania’s elderly and those with disabilities receive adequate care in safe surroundings, according to the Pennsylvania Assisted Living Consumer Alliance (PALCA).

Fundamental consumer protections are missing from the proposed regulations. As proposed, a consumer would have to move in, sign a contract for residency and services, and begin payment to the facility weeks before the facility would be required to identify the consumer’s care needs and explain to the consumer and her family how they proposed to meet those needs or even how much it would cost. As proposed, direct care staff would not have to complete a minimum amount of training hours and not all direct care staff would need any training in first aid or CPR. As proposed, facilities that exist as of the day the regulations take effect would not have to meet the best available standards or practices for fire safety or even wheelchair accessibility.

“The Department has made some moves in the right direction. And, for these, we are thankful,” said Alissa Halperin, Senior Attorney and Deputy Director of Policy Advocacy at the Pennsylvania Health Law Project, the organization leading the efforts of PALCA. “But, the measures are baby steps when what we need are significant strides so consumers can feel confident that they or their loved one will be well cared for by adequate amounts of appropriately trained staff in safe and accessible facilities. These regulations just do not do cover all the critical bases.”

The Pennsylvania Department of Public Welfare released the proposed regulations on Saturday, August 9.

The public has until September 8 to comment on them before the agency’s final review. People can send their written comments about the proposed assisted living regulations to the Department of Public Welfare, Division of Long Term Care Client Services, Attention Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

“Consumers must make themselves heard on this issue,” Halperin said. “About 50,000 people currently live in facilities that may call themselves assisted living facilities. They are our mothers, our husbands, grandparents and our friends. The regulations must protect them and give their families confidence that their loved ones are well cared for. And, the public must speak out to make sure the final regulations do just this.”

PALCA was formed this year to make sure that new licensing rules would protect elderly and

disabled residents. The Pennsylvania Health Law Project is primarily using operating support from The Pew Charitable Trusts to fund the campaign.

The Pennsylvania General Assembly last year passed a bill to license the fast-growing assisted living industry. The regulations being developed will set the standards that these facilities must meet. Until now, state regulations have lumped assisted living facilities together with a wide range of homes for Pennsylvania's elderly and individuals with disabilities.

Some other ways in which the proposed regulations fall short include:

- They propose far too few staff members on duty to meet residents needs
- They allow resident living space that is far too small,
- They omit essential residents' rights that should be afforded to all consumers.
- They provide consumers with no right to challenge a facilities decision to kick them out.
- They make no requirement for all hallways and common areas to be wheelchair accessible.
- They take away a residents' right to continue to use or otherwise choose their own healthcare providers, such as their doctor or psychiatrist.

Assisted living has emerged in the past generation to house people who are not so sick that they require a nursing home. But these people generally need more help with bathing, dressing, medication management and other basic care needs than may be provided in personal care homes. Assisted living has been a marketplace phenomenon for consumers who want independence, privacy, and choice, but who also want the ability to "age in place" - meaning they will not have to move when their care needs increase. In the past, however, state regulation of assisted living has only been by treating them as board and care homes, the regulation of which has been so minimal and enforcement has been so lax that there have been numerous reports of bad outcomes and tragic results for residents.

"Here is our opportunity. We need to get this right. Pennsylvania's families deserve to know that they can trust Pennsylvania's assisted living facilities to safely and appropriately care for their loved ones and that the state is committed to ensuring that the facilities fulfill this promise," added Halperin.

PALCA members have met monthly since January and regularly talk to state regulators in the Pennsylvania Department of Public Welfare. The Alliance consists of numerous individual consumers and family members as well as several local and statewide organizations. The statewide and local organizations participating in PALCA include:

- The Pennsylvania Health Law Project (www.phlp.org)
- The Center for Advocacy for the Rights and Interests of the Elderly (CARIE)

(<http://www.carie.org>)

- The Disability Rights Network of Pennsylvania (<http://drnpa.org>)
- Mental Health Association in Pennsylvania (MHAPA) (<http://www.mhapa.org>)
- Mental Health Association of Southeastern PA (<http://www.mhasp.org>)
- The National MS Society—PA chapters (<http://pae.nationalmssociety.org>)
- Liberty Resources (<http://www.libertyresources.org>)
- Pennsylvania Statewide Independent Living Council (<http://www.pasilc.org>)
- Pennsylvania Association of Area Agencies on Aging (<http://www.p4a.org>)
- SEIU Healthcare Pennsylvania (<http://www.seiuhealthcarepa.org>)
- Elder Law Section of the Pennsylvania Bar Association (<http://www.pabar.org/public/sections/elderlaw>)
- Community Legal Services Elderly Law Project (www.clsphila.org)
- PA Brain Injury Network (www.abin-pa.org)
- Pennsylvania Council on Independent Living (www.pcil.net)
- Pennsylvania HomeCare Association (www.pahomecare.org)
- PA Statewide Independent Living Council (www.pasilc.org)
- United Cerebral Palsy (www.ucp.org)
- Speaking for Ourselves (www.speaking.org)
- Southwestern Pennsylvania Partnership for Aging (www.swppa.org)
- Vision for Equality (www.visionforequality.org)
- AIDS Law Project (www.aidslawpa.org)
- SeniorLAW Center (www.seniorlawcenter.org)
- Pennsylvania Jewish Coalition (www.pajewishcoalition.org)

The Pennsylvania Assisted Living Consumer Alliance encourages you to share your Assisted Living experience with us at www.paassistedlivingconsumeralliance.org and to share your opinions on the proposed regulations with policymakers before September 8th.

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New Coalition Presses for Quality Standards



Consumers and advocates join the fight to protect Pennsylvania families from inadequate regulations

PHILADELPHIA, PA—(July 7, 2008)—A new organization of consumers, family members and advocates for the elderly and persons with disabilities is pushing for quality standards in Pennsylvania state regulations covering assisted living facilities. The Pennsylvania Assisted Living Consumer Alliance (PALCA) formed this year to ensure that new licensing rules will protect elderly and persons with disabilities. About 50,000 people in Pennsylvania currently live in facilities that may call themselves assisted living facilities.

It's essential that we get these regulations right to protect all of Pennsylvania's families," said Alissa Halperin, Senior Attorney and Deputy Director of Policy Advocacy at the Pennsylvania Health Law Project, the organization leading the efforts of the Alliance. "We are committed to championing and supporting individual rights and quality care for everyone." The Pennsylvania Health Law Project is primarily using operating support provided by The Pew Charitable Trusts to fund the campaign.

The Pennsylvania General Assembly last year passed a bill to license the fast-growing assisted living industry. The regulations are expected to be released this month, and the public will have a chance to comment on them before they are finalized. Until now, state regulations have lumped assisted living facilities together with a wide range of homes for the elderly and disabled. "The passage of Act 56 was a great first step for consumers," said Halperin, "but now we need to make sure that the law isn't window dressing. We need regulations that will protect the residents' rights to access their own doctors and caregivers, to have adequate living space and to be served by appropriately trained staff."

Assisted living has emerged in the past generation to house people who are not so sick that they require a nursing home. But they generally need more help with bathing, dressing, medication management and other basic care needs than may be provided in personal care homes. Assisted living has been a marketplace phenomenon for consumers who want independence, privacy, and choice, but who also want the ability to "age in place" - meaning they will not have to move when their care needs increase. In the past, however, state regulations have been so minimal and enforcement has been so lax that numerous reports of bad outcomes and, even, tragic results for residents have been published.

The assisted living industry will be caring for increasing numbers of Pennsylvania residents and we need to make sure these facilities are places where we confidently can entrust the care of our mother, husband or grandfather," said Diane Menio of the Center for Advocacy for the Rights and Interests of the Elderly. "Thus far, the quality of care has varied immensely from facility to facility,

with the differences depending far more on the intent of the facility owner than on meaningful standards for ensuring good care. We need solid requirements coupled with meaningful enforcement to ensure that quality care is available.”

“PALCA has been set up to give consumers a voice in developing state regulations,” says Halperin, as she invites residents and their family members to get involved. “Those who are most affected need a seat at the table.”

PALCA members have met monthly since January and regularly talk to state regulators in the Pennsylvania Department of Public Welfare. The Alliance consists of numerous individual consumers and family members as well as several local and statewide organizations. The statewide and local organizations participating in PALCA include:

The Pennsylvania Health Law Project (www.phlp.org)

The Center for Advocacy for the Rights and Interests of the Elderly (CARIE) (<http://www.carie.org>)

The Disability Rights Network of Pennsylvania (<http://drnpa.org>)

Mental Health Association in Pennsylvania (MHAPA) (<http://www.mhapa.org>)

Mental Health Association of Southeastern PA (<http://www.mhasp.org>)

The National MS Society—PA chapters (<http://pae.nationalmssociety.org>)

Liberty Resources (<http://www.libertyresources.org>)

Pennsylvania Statewide Independent Living Council (<http://www.pasilc.org>)

Pennsylvania Association of Area Agencies on Aging (<http://www.p4a.org>)

SEIU Healthcare Pennsylvania (<http://www.seiuhealthcarepa.org>)

Elder Law Section of the Pennsylvania Bar Association (<http://www.pabar.org/public/sections/elderlaw>)

Community Legal Services Elderly Law Project (www.clsphila.org)

PA Brain Injury Network (www.abin-pa.org)

Pennsylvania Council on Independent Living (www.pcil.net)

Pennsylvania HomeCare Association (www.pahomecare.org)

PA Statewide Independent Living Council (www.pasilc.org)

United Cerebral Palsy (www.cup.org)

Speaking for Ourselves (www.speaking.org)

Southwestern Pennsylvania Partnership for Aging (www.swppa.org)

Vision for Equality (www.visionforequality.org)

The Pennsylvania Assisted Living Consumer Alliance encourages you to share your Assisted Living experience with us at www.paassistedlivingconsumeralliance.org and to share your opinions on the proposed regulations with policymakers this summer.

Media contact: Barbara Beck, 215.209.3076 (office); 610.246.9167 (cell)

Proposed Assisted Living Regulations Would Allow Facilities to Rent Inaccessible Rooms to Persons Who Use Wheelchairs or Walkers



Consumer coalition calls for quality standards to protect Pennsylvania families from inadequate regulations

PHILADELPHIA, PA—(September 2008) — Pennsylvania’s proposed assisted living regulations would allow facilities to rent rooms to residents that do not meet current safety standards and are not accessible to persons who use wheelchairs or walkers.

While new assisted living construction would be required to comply with state minimum standards or practices, as well as federal accessibility requirements, existing facilities would be exempt under the Department of Public Welfare’s new proposed Assisted Living regulations. Available data from 1999 showed that at any one time no less than 21 percent of Assisted Living Residents rely on wheelchairs and 44 percent of Assisted Living Residents rely on walkers.

“These proposed rules make absolutely no sense,” said Robert Meek, managing attorney from the Disability Rights Network of Pennsylvania. “Why would anyone want to jeopardize the safety and care of residents who are elderly or have disabilities? Assisted living is designed for some of our most vulnerable citizens who need to a safe place to call home. Many of them rely on a walker and/or a wheelchair to get around. They shouldn’t be shoehorned into a box.”

The Pennsylvania Assisted Living Consumer Alliance (PALCA) advocates that these facilities should provide at least 250 square feet of living space, excluding the closets and bathrooms. Other government agencies, including the Philadelphia Housing Authority and the Pennsylvania Housing Finance Agency, recommend that living units should be no smaller than that size.

PALCA formed this year to ensure that new licensing rules will protect residents who are elderly and who have disabilities. About 50,000 people in Pennsylvania currently live in facilities that may call themselves assisted living facilities. Assisted living has emerged in the past generation to house people who are not so sick that they require a nursing home. However, residents generally need more help with bathing, dressing, medication management and other basic care needs.

Under proposed rules, residents could wind up living in a space of only 175 square feet. By comparison, hotel rooms average 325 square feet and single bedroom apartments typically include a bedroom between 250 and 500 square feet. Efficiency apartments supported by the Pennsylvania Housing Finance Agency must be at least 400 square feet. Pennsylvania’s proposed assisted living rules also do not address issues concerning older buildings that do not meet current fire or life safety standards. Many of these building were allowed operating licenses years ago and never had to achieve best practice standards for safety or accessibility.

Another short-coming in the proposed regulations is that assisted living facilities could prohibit appropriate service animals from the premises, a violation of federal requirements. Many residents who are blind or who have other disabilities rely on these highly trained animals to help them accomplish basic daily tasks.

“These are not small issues,” said Alissa Halperin, Senior Attorney and Deputy Director of Policy Advocacy at the Pennsylvania Health Law Project, the organization leading the efforts of the PA Assisted Living Consumer Alliance (PALCA). “We want to preserve quality of life for residents. They need to feel comfortable and cared for and the current regulations don’t guarantee that either will happen.”

Accessibility is just one weakness in the draft regulations identified by PALCA. Other areas of concern include ensuring adequate staff and administrator training, access to one’s own doctor, a responsive appeals’ process and sufficient residents’ rights.

The House Aging and Older Adult Services Committee hearing will be held Thursday, Sept. 18 at 9:30 a.m. in room 418 in the Main Capitol Building in Harrisburg.

For more information about the regulations, click on <http://paassistedlivingconsumeralliance.org/index.php/assistedlivingregs>

State Must Toughen Provisions Regarding Fire Safety At Assisted Living Facilities Or Risk The Lives Of The Elderly And Persons With Disabilities



PHILADELPHIA, PA—(March 2009)—The well-being of frail elders and persons with disabilities in assisted living residences will continue to be at risk unless soon-to-be-released state regulations require these facilities to follow national best practices for fire and life safety.

Since its formation a year ago, the Pennsylvania Assisted Living Consumer Alliance (PALCA), which is comprised of more than 30 organizations including AARP, has called on the Pennsylvania Department of Public Welfare (DPW) to issue licensing rules that ensure the care and safety of residents. No such rules exist at the moment.

“Best practices for life and fire safety measures must be a cornerstone of the new state regulations,” said Alissa Halperin, Senior Attorney and Deputy Director of Policy Advocacy at the Pennsylvania Health Law Project, the organization leading PALCA’s efforts (www.paassistedlivingconsumeralliance.org). “Anything less than that would be irresponsible and unconscionable.”

Since DPW released its draft regulations last summer, PALCA has urged department officials to toughen provisions regarding fire safety. In the draft, for instance Pennsylvania officials did not address issues concerning older assisted living buildings that do not meet today’s fire safety and life safety laws standards. Many of these older residences adhere to outdated and inadequate methods that were in place years ago when these structures were built. Even worse, most older rules treat assisted living facilities more like hotels or dormitories than like facilities providing care to residents with complex health and daily care needs.

“It’s critical that the rules protect residents in the event of fire whether the building is old, new or anything in between,” said Crystal Lowe of the Pennsylvania Association of Area Agencies on Aging. “Fire is dangerous in any building regardless of its age. People need to be warned quickly and be able to be moved safely out of its way.”

National best practices for fire and life safety have recently been updated to specifically address assisted living residences. Every three years, the bipartisan National Fire Protection Association (www.nfpa.org) updates its Life Safety Code 101.

The National Fire Protection Association 2009 (NFPA) standards require that new facilities be designed and constructed to facilitate the “defend-in-place” occupant protection strategy. This strategy requires the facility to be able to withstand the effects of fire for the time necessary to either evacuate the occupants or relocate them to a safe location within the building.

For existing buildings that seek to obtain an assisted living license, best practices for fire and life

safety would require that the facility, as a whole, be classified by the occupants' evacuation capability — or their ability to move, as a group, to a point of safety in the event of a fire - which was broken down into three subclasses — prompt, slow, and impractical and that the fire—and that the appropriate fire and life safety requirements be followed.

While Pennsylvania follows the NFPA rules for nursing homes and other long term care institutions, the state must affirmatively adopt the NFPA rules for assisted living facilities in order for them to apply.

“Imagine the horror if an elderly parent or grandparent perished in a fire at a facility held to outdated standards,” Lowe said. “We cannot let pass this opportunity to prevent such tragedies from happening.”

Pennsylvania’s new assisted living regulations must require facilities to meet the national best practices for fire and life safety contained in the NFPA Life Safety 101. New facilities should have to meet the code standards and existing facilities should be reclassified based on their new use and the evacuation capability of their anticipated occupants under the new assisted living rules.

The new state rules also must require facilities to be inspected for fire safety once every three years under the NFPA standards. In the past, facilities only needed approval once, when first licensed, to satisfy the state.

The new rules must also ensure that any facility found in violation of applicable fire safety standards should be issued a provisional license and required to remedy the problem immediately. If it can’t or won’t comply, residents should be relocated until the facility is safe again.

“The safety measures we believe are necessary are no-brainers,” Halperin said. “How comfortable could you feeling knowing your loved one is in a facility governed by standards that became outdated decades ago?”

About 50,000 people currently live in Pennsylvania facilities that may call themselves assisted living facilities. These residences have emerged in the past generation to house people whose care needs are not so great that they require a nursing facility. But they generally need more help with bathing, dressing, medication management and other basic care needs than may be provided in personal care homes. Assisted living has been a marketplace phenomenon for consumers who want independence, privacy, and choice, but who also want the ability to "age in place" - meaning they will not have to move when their care needs increase.

PALCA was formed to make sure that new licensing rules will protect the elderly and those with disabilities who reside in assisted living facilities.