

October 31, 2012

Deborah Gottschalk, Chief Policy Advisor  
Office of the Secretary  
Main Admin Building  
1901 North DuPont Highway  
P. O. Box 906  
New Castle, DE 19720-0906

**RE: DLTCRP Proposed Rest (Residential) Home Regulation [16 DE Reg. 376 (October 1, 2012)]**

Dear Ms. Gottschalk:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Division of Long Term Care Residents Protection (DLTCRP) proposal to adopt a complete revision of its rest (residential) home standards. Council would like to share the following observations and recommendations.

1. In §2.0, definition of "Continuous", insert a comma after "cessation".
2. In §2.0, definition of "Department", capitalize "Department of Health and Social Services.
3. In §2.0, definition of "Homelike", do not capitalize "having".
4. In §2.0, definition of "Personal Care Services", Council assumes the Division does not intend to authorize "hosing down" the residents. Substitute "those services" for "a hose services".
5. In §2.0, definition of "Rehabilitation", the reference to "at his the highest" is grammatically incorrect.
6. In §2.0, definition of "Resident", the regulation indicates that only individuals 18 years or older can live in a covered home. The licensing statute would permit residency in a rest (residential) facility by someone less than 18 years of age. See Title 16 Del.C. §1102(4). See also Title 16 Del.C. §§1119B and 1119C. This may implicate a systemic problem with the Division's regulatory system. The above statutes (§§1119B and 1119C) require the Department to ensure the inclusion of special training and standards in all long-term care facilities serving juveniles. However, the Department has only issued such standards for nursing homes. See 16 DE Admin Code 3210, §2.1. At a minimum, the reference to "18 years or older" should be deleted from the definition of "Resident" in §2.0. The Division should also consider adding some provisions applicable to pediatric residents.

7. In §§4.2 and 4.3, there is a lack of punctuation (semi-colons). Compare §§3.5 and 8.1.8.
8. There is an extraneous period after the word “ventilation” in §5.3.2.1.
9. Section 5.3.2.4 could be improved. The local building code and the guidelines referenced in §5.3.1 may or may not adequately address ramp specifications. By analogy, the Americans with Disabilities Act (ADA) generally contemplates installation of handrails for any ramp with a rise in excess of six inches or horizontal projection greater than 72 inches. The Division may wish to consider adding some ramp standards apart from grade. Compare 16 DE Admin Code 3310, §5.10. The Division should also consider adding an accessibility reference akin to that in 16 DE Admin Code 3201, §7.2.
10. The period is missing at the end of §5.7.3.
11. It would be preferable to address the door handles in §5.7.6. By analogy, see attached description of ADA door hardware requirements. This could be a major safety issue in the event of a fire or other emergency. Council notes that the Division includes handgrips in showers (§5.9.4) to promote safety. The accessibility of doors is no less important.
12. There is some “tension” between the exhortation that covered entities be “homelike” (§1.1) and the reference to “institution” in §5.12.1. Council recommends striking “of the institution” in the latter section.
13. Section 5.12.9 requires hand washing facilities. The Division may wish to insert a temperature standard. Compare 16 DE Admin Code 3225, §17.8 and 16 DE Admin Code 3305, §13.3.
14. The Division may wish to require that dishwashers be capable of sanitizing dishes to deter spread of infections. Compare 16 DE Admin Code 3305, §13.21 and 16 DE Admin Code 3310, §6.4.
15. There is an extraneous period after the word “personal” in §7.1.2.
16. There is some “tension” between §8.1.3.4 and §8.1.4. Query whether a facility could provide a locking medicine cabinet or a resident could keep a lockable container in a bathroom?
17. In §10.1.6, Council believes the Division intended to insert the word “or” after “facility”. The published regulation contains only an “r”.
18. It would be preferable to include a specific requirement that the LTC Bill of Rights be posted and a copy provided to each resident. See Title 16 Del.C. §1123. Compare 16 DE Admin Code 3310, §4.2.3.4.

Thank you for your time and consideration of our comments and recommendations. Please feel free to contact me or Wendy Strauss should you have any questions.

Sincerely,

Terri A. Hancharick  
Chairperson

TAH:kpc

Enclosures