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Proposed Pa. assisted-living regulations panned

By David Spett
Inquirer Harrisburg Bureau

After years of debate, Pennsylvania will establish new standards for assisted-living centers next year, but just how strong those rules will be is an open question.

Two opposing forces - consumer groups and the assisted-living industry - are wrangling over details such as staff training, room sizes and wheelchair accessibility in hopes of swaying state regulators.

A draft of the standards calls for a raft of new rules - from minimal personal-hygiene services for residents, to a requirement that administrators be on site 40 hours a week.

Consumer groups want even stronger rules, such as more medical staff and more frequent evaluation of residents' care needs. They say such changes would lead to a higher standard of living for those least able to help themselves.

But the industry is pushing for other standards, such as smaller rooms and fewer requirements for administrators. They say the current proposal would be too costly, forcing some centers out of business.

Pennsylvania is among only a few states without explicit standards for assisted living, but Amy Bolze, counsel and executive director of the Senate Aging and Youth Committee, likes to look on the bright side.

"I think it's important that we've even gotten to this point, because it's been 10, 11, 12 years to get us here," she said.

In Pennsylvania, facilities other than nursing homes fall under a broad category known as personal-care homes, which have limited regulations. This has led to widely different conditions among assisted-living centers.

"A place can hang out a shingle that says it's an assisted-living facility, and all they provide is a meal, laundry services and a bed, whereas the next place down the road that calls itself assisted living has a dining room, maid service and chandeliers," said Ray Landis, advocacy manager for Pennsylvania AARP.

The care that residents receive also varies. In 2007, after an eight-month investigation, The Inquirer reported that at least 55 deaths of assisted-living residents might have been preventable with proper care. Other residents were beaten and neglected, and at least five were raped, the paper reported.

State regulation had been lax, as homes continued to operate without penalties.

"A lot of it has been bad law enforcement, a lot of it has been standards so diminished," said Alissa Halperin, a senior attorney for the Pennsylvania Assisted Living Consumer Alliance. "There's this gigantic disparity between these types of facilities."

Under proposed rules, suicide attempts, missing residents, and incidents leading to hospital care would have to be reported.

Currently, two tiers of regulations exist. Facilities are considered either nursing homes, for people who require

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extensive medical attention, or personal-care homes, which house healthier people with fewer needs. The state has about 725 nursing facilities and 1,500 personal-care homes.

Under the proposals, facilities will fit into three tiers, with nursing homes providing the most care, personal-care homes providing the least, and assisted living in the middle.

Depending on the facility, aides at assisted-living centers typically help residents with meals and dressing, but do not provide the extensive medical care nursing homes do.

Through Monday, members of the public may submit comments on the state's proposal, and an open hearing will take place at the Capitol on Thursday. Stacey Witalec, a spokesperson for the Department of Public Welfare, said officials hope to announce the final rules by spring.

There is much at stake.

Assisted-living facilities meeting the standards would become eligible for millions of dollars in Medicaid subsidies. The facilities would care for some individuals who are now in nursing homes but require fewer services.

Homes not meeting the standards would have to improve their practices and facilities or remove "assisted living" from their names.

The assisted-living industry says the proposed standards are excessive and too costly to implement without notably improving care.

"The costs would eventually trickle down to the consumer, which would limit their ability to choose that long-term-care option," said Daneen Reese, executive director of the Pennsylvania Assisted Living Association. The group represents 236 providers.

But Halperin, whose alliance represents consumers and about 20 participating health-related groups, said the proposed rules are so weak that they could cost lives.

"The state just has not changed enough," she said. "There are a lot of serious problems with the regulatory package that really need to be fixed."

The most contentious disagreement seems to be over the minimum room size in assisted-living facilities. The proposed standards call for at least 175 square feet in existing facilities, excluding a bathroom and closet. New facilities would need rooms of at least 250 square feet, excluding bath and closet.

Reese, of the industry group, said a majority of homes cannot meet the 175-square-foot requirement without extensive and costly renovations.

But Halperin said that at 175 square feet, rooms would be too small for wheelchairs.

The AARP takes the middle ground.

The rules "are not perfect by any means, but they are a balanced set of regulations that we feel does provide adequate protection for consumers while still allowing the facilities to operate," Landis said. "As some folks have said, when you have both sides complaining, you might have a good product."

Gov. Rendell signed a bill into law in July 2007 calling for the new rules and setting in motion the process in Harrisburg to write them. New Jersey, Maryland and New York set new standards for assisted living within the last five years.

"Pennsylvania is new to the game," said David Kylo, executive director of the National Center for Assisted Living, which represents providers. "Moving and developing rules is part of a national trend. . . . It's important for states to keep their rules up to date."

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