



pennsylvania
DEPARTMENT OF HUMAN SERVICES

Ms. Paula Sagan-Hahn, RN, Administrator
Lakewood Senior Living - Drums LLC
159 South Old Turnpike Road
Drums, Pennsylvania 18222

DEC 04 2014

RE: Fritzingertown Senior Living Community
Certificate #: 201660

Dear Ms. Sagan-Hahn:

Thank you for your request for a waiver of 55 Pa.Code Ch. 2600 (relating to personal care homes). You have requested a waiver of 55 Pa.Code §§ 2600.51 and 2600.52 (relating to criminal history checks).

The conditions for which you are applying for a waiver are not conditions that can be remedied through the waiver process. The Department cannot waive the Older Adult Protective Services Act (OAPSA, 35 P.S. §§ 10225.101 – 10225.5102) or the Department of Aging regulations at 6 Pa.Code Chapter 15 (relating to protective services for older adults). The OAPSA and the implementing regulations protect older adults who lack the capacity to protect themselves and are at imminent risk of abuse, neglect, exploitation or abandonment.

On December 30, 2003, the Supreme Court of Pennsylvania found the Older Adults Protective Services Act – Criminal Background Check Provisions *Nixon v. Commonwealth of PA* provisions of OAPSA to be unconstitutional “as applied to the individual plaintiffs.” The Supreme Court only approved relief for the individual plaintiffs and not to all persons affected by the criminal history check background provisions in OAPSA.

In your submitted documentation to the Department, you included a Pennsylvania State Police criminal background check for [REDACTED]. If the home feels as though the Nixon Decision is applicable to [REDACTED] the home should obtain the following documentation from [REDACTED]:

1. A copy of [REDACTED] criminal history background check. Obtain information from [REDACTED] regarding the prohibited offense(s).
2. Copies of [REDACTED] five-year aggregate work history in care-dependent services, without incident, from either the date(s) of conviction or release(s) from incarceration, whichever is later.
3. Confirmation of [REDACTED] work history referenced in number 2, such as copies of pay stubs and W-2 statements.

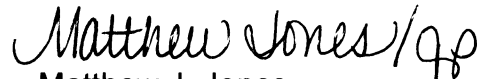
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4. The home's investigation of the five years of aggregate work history through [REDACTED] employers. This will involve the home contacting any/all employers. The home shall require [REDACTED] previous employers to provide confirmation and written documentation of [REDACTED] employment and conduct a character reference check.
5. A detailed, written account of [REDACTED] job duties in your personal care home, including job titles, and dates of various job duties/titles.

The home must keep a copy of [REDACTED] personnel record in addition to his criminal history background check, and other related documents. For more information about the Nixon Decision, please review the enclosed reference materials provided by the Department of Aging. You can also contact the Department of Aging for more information at (717) 265-7887.

If you have any questions regarding the waiver process, please contact the Operator Support Hotline, at telephone number 1-866-503-3926.

Sincerely,

A handwritten signature in cursive script that reads "Matthew Jones/gp".

Matthew J. Jones
Director