



STATE OF DELAWARE  
STATE COUNCIL FOR PERSONS WITH DISABILITIES  
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**MEMORANDUM**

DATE: May 31, 2011

TO: The Honorable Susan DelPesco, Director  
Division of Long Term Care Residents Protection

FROM: Daniese McMullin-Powell, <sup>DMP/kit</sup>Chairperson  
State Council for Persons with Disabilities

RE: 14 DE Reg. 1190 [DLTCRP Proposed Assisted Living Facility Regulation]

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Health and Social Services/Division of Long Term Care Residents Protection's (DLTCRP's) proposal to amend its assisted living facility regulations published as 14 DE Reg. 1190 in the May 1, 2011 issue of the Register of Regulations. SCPD has the following concerns and recommendations.

First, SCPD recommends substituting "the resident will be adversely affected" for "residents will be adversely affected". The focus of the waiver is on the status of the individual resident who temporarily requires care otherwise excluded by §5.9. See references to "a current resident" in §6.1 and to "the resident" in §§6.3.2 and 6.4.3. Use of the plural "residents" arguably changes the focus to the health or safety of other residents.

Second, SCPD recommends substituting "transfer or discharge" for "discharge". The statute referenced in the regulation [Title 16 Del.C. §1121(18)] addresses both discharge and transfer. If a resident needs temporary acute care, the assisted living facility should have the option of transferring the resident to a hospital, holding the resident's bed, and accepting the resident back when the resident no longer needs acute care. The statute uses the term "transfer", not "discharge", in this context. It is in the interests of the resident and public to facilitate assisted living resident return from temporary treatment in an acute care setting.

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations or recommendations on the proposed regulation.

cc: Ms. Deborah Gottschalk  
Mr. Brian Hartman, Esq.  
Governor's Advisory Council for Exceptional Citizens  
Developmental Disabilities Council