



立法會秘書處 法律事務部
LEGISLATIVE COUNCIL SECRETARIAT
LEGAL SERVICE DIVISION

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By Fax (2543 0486)

19 July 2011

Mr Stephen SUI
Commissioner for Rehabilitation
Labour and Welfare Bureau
Division 1
Rehabilitation Team
10/F, Citibank Tower
3 Garden Road, Central, Hong Kong

Dear Mr SUI,

**Residential Care Homes (Persons with Disabilities) Regulation
(L.N. 111 of 2011)**

We are scrutinising the legal and drafting aspects of the above Regulation and should be grateful if you could clarify the following matters-

Section 5(4)(d)

- (a) According to section 5(4)(d) of the Regulation, the Director must remove from the register the name of a person who is also registered as a health worker under the Residential Care Homes (Elderly Persons) Regulation (Cap. 459A) and whose name has been removed under section 5(4) of that Regulation. Under section 5(4)(b) of Cap. 459A, a health worker may voluntarily request in writing that his name be removed from the register under Cap. 459A. This would mean that if a health worker who is registered under both Cap. 459A and the Regulation intends to only remove his name from the register under Cap. 459A by making such request under section 5(4)(b) of Cap. 459A, his name in the register for residential care homes for persons with disabilities (PWDs) must also be removed automatically (and involuntarily) by virtue of section 5(4)(d) of the Regulation even though he wishes to retain his registration under the Regulation and he is a fit and proper person as a health worker for residential care homes for

PWDs. Does this reflect the Administration's intention? Is there any reason why the person is not allowed to continue to be registered under the Regulation in the above scenario?

Section 15

- (b) In section 15 of the Regulation, will the Administration consider imposing a duty on the operator to ensure the accuracy of certain basic information stated in an advertisement for promoting the residential care homes for PWDs (e.g. information on the fees, number of specific types of staff, staff to residents ratio, gross floor space area and area of floor space per resident)? If not, why?

Section 23

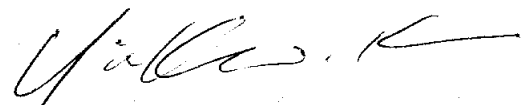
- (c) In calculating the minimum area of floor space per resident under section 23 of the Regulation, will spaces that are not designated for exclusive use of individual residents (e.g. toilet and cooking facilities, office space, and communal space) be counted as part of the minimum floor space per resident? If so, for the sake of clarity, would it be desirable to set out the method for calculating the minimum floor space per resident in the Regulation?
- (d) Please clarify whether "any open space" in section 23(2) of the Regulation means outdoor open space or indoor open space or both.

Section 24

- (e) In cases where residential care homes for PWDs are not served by lifts, please clarify how these residential care homes can satisfy the requirement on accessibility by emergency services provided under section 24 of the Regulation. Will the Director issue guidelines in this respect to the operators?

It is appreciated that your reply in both languages could reach us as soon as possible, preferably by 12 August 2011.

Yours sincerely,



(YICK Wing-kin)
Assistant Legal Adviser

cc. DoJ (Attn.: Ms Lonnie NG, Sr Govt Counsel (By Fax: 2845 2215))

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