



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case # 10-090-9034
El Paso Healthcare and Rehab Center

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at El Paso Healthcare and Rehab Center, a nursing home. Complaints alleged the following:

- 1. Housekeeping does an inadequate job of cleaning.**
- 2. Staff is demeaning to residents.**
- 3. Residents are not receiving medication at the right time.**
- 4. Staff and residents do not follow State smoking requirements.**
- 5. Residents' clothing and personal belongings are lost or stolen even though clothing is marked. Inventories are not done at admission or are done on later dates and then backdated.**
- 6. Residents do not know their rights. If residents complain, the staff takes things away from them in retaliation.**
- 7. Staff are not adequately maintaining the Center.**

If found substantiated, the allegations would violate the Nursing Home Care Act (210 ILCS 45), Illinois Administrative Code (77 Il. Admin. Code 300) and the Smoke Free Illinois Act (410 ILCS 82/10).

El Paso Healthcare is a statewide nursing home for individuals in need of mental health services. It is licensed for skilled nursing and is a long term care facility. El Paso Healthcare employees 75 staff members that consist of RNs, LPNs, CNAs, Housekeeping and Activity Directors. The facility has 120 beds and offer skills training and group training to their residents.

To investigate the allegations, HRA team members met and interviewed the administrator, the director of nursing, and the director of housekeeping. The team also toured the facility and reviewed documents pertinent to the case, including resident records with guardian consent.

COMPLAINT STATEMENT

The complaint states that housekeeping does an inadequate job of cleaning. Examples given include feces in showers used by residents, fecal matter in bathrooms, fecal matter tracked into dining area, fecal matter in the hallways, dirty silverware, urine in chairs of common areas, dining room tables and floor not kept clean, doors to resident's rooms are dirty, and soap is still in the coffee cups. The complaint also states that there are flies and ants throughout the building. A resident was told to use a bath towel to cover the dirty floor in the shower. Areas are left unclean, even after reporting, for lengths of time. A resident attempted report to the second in charge of the facility was unsuccessful. The second in charge of the facility stated that the resident should "Go tell housekeeping."

The complaint also states that staff are demeaning to residents. CNAs use foul language, towards residents and talk to residents in a disrespectful manner. A specific third shift nurse is allegedly rude to all residents. The complaint states that when a resident has attempted to seek her assistance, along with residents asking for PRN (as needed) medications, they are told "I'm busy," or "Wait for your next medication time."

Also residents are reportedly not receiving medication at the right time. They were told medication was supposed to be given at 9PM and have waited as long as 9:30PM.

Staff do not follow smoking requirements and are said to smoke right outside an exterior door sometimes propping the door open and smoke enters the facility.

Residents clothing and personal belongings are lost or stolen even though clothing is marked. Inventories are not done at admission or are done on later dates and then backdated.

Residents are not aware of their rights and if residents complain, the staff takes items away from them in retaliation.

The staff are not adequately maintaining the Center. Toilets are flooded and broken. The facility boiler was broken from May 30 through June 7, 2010. There was no hot water and residents had to take cold showers.

FINDINGS

Interview with Staff

The HRA began the investigation by speaking with the El Paso Administrator, the Director of Nursing and the Director of Housekeeping. Regarding the 3rd shift nurse, the Administrator stated that they do not have a nurse on the 3rd shift with the same name stated in the complaint. The Administrator said that there is a CNA with the same name but she does not

distribute medications. The Administrator said that she had never received any complaints about the 3rd shift and that no one has ever complained about foul language. She also stated that the employees receive a progressive discipline policy when they are hired that they must read that covers inappropriate behavior around residents. The Administrator explained that they are very straightforward with residents and open with communication so they can just come to her door to talk and voice complaints. The administrator said that when a resident complains, they will come to her. She said that she will ask the resident if he or she took the complaint to the charge nurse. The Administrator will then write down the complaint and take it to the staff member whom the complaint was brought up against. If it is a situation where the complaint is one person's word against another person's word, she will bring them both in and discuss the situation. She said that there is no written complaint unless it involves abuse; resident-to-resident abuse or staff-to-resident abuse. The facility has a complaint form for missing items but not for situational complaints. She said that social services will document the missing item complaint and it becomes part of the resident's chart.

The Administrator stated that she did receive one complaint over not receiving medicine. The resident thought that she was supposed to receive medicine at a certain time but the doctor stated that she was supposed to receive the medication at a different time. She said that PRNs (as needed) are being given to the residents and they have received no complaints that PRNs are not being given. She said there is always someone at the nursing station who is ready to give PRNs. She said that medication time is 4:30PM and 7:30PM. She also said that residents have separate times that they are scheduled to take medications based on the doctor's orders. She said if they are scheduled, they follow the scheduled time. The Administrator stated that the nurses have medication books with two colored sheets. The yellow sheet is the medication schedule for the resident and the blue sheet is the resident's PRNs. When a resident asks for medication on the PRN list, the nurse will give the medication and then follow up with the resident two hours later. They document the whole process in the comment section. The Administrator said that they get complaints if the residents ask for medications early and do not get them because it is off schedule or if they ask for more medication than the ordered dosage. She stated when they ask for more medication, staff attempt to get them to do other things that will help their situation to redirect them; for example, if a resident asks for more anxiety medication or asks for the medication early, they attempt to get the resident to do something that is relaxing for them.

The Director of Nursing spoke about the process that the facility goes through with a medication error. She stated that nurses call the Director when there is a medication error. They also call a physician, the family, and depending on the error, they may consult a pharmacist. They stated that the resident's vitals are checked and they document the situation and log it. The Director stated that if medication is totally missed, they consider it a medication error. They also stated that medication is considered late if it isn't given within an hour of the time that the resident is supposed to receive the medication.

The Administrator also stated that the resident's rights are given at admission and also given during an annual evaluation meeting. Social services staff review the rights with the residents at that meeting. Also, the employees get a copy of the resident's rights in the employee handbook. She also stated that when residents go to the staff with their complaints, they are directed to the social services department. The Administrator stated that the facility does have a

grievance process and the residents and guardians are notified of the grievance process at admission. She stated that the grievance process is in the admission packet.

The Administrator also stated that there are designated smoking times for residents who smoke. The times are 7AM, 10AM, 1:15PM, 4PM, 7PM and 9PM. The residents have a designated smoking area on the patio where they go to smoke. The staff regulates the cigarettes and passes them out to the residents. The residents receive one cigarette per smoke break. The staff members who smoke, go to a car port area in the back of the building to smoke. There are no residents in the general area where the staff members smoke and they do not have access to the exit where the staff members go to smoke. There is no smoking inside the facility. The Administrator stated that sometimes the door will fly open or not catch when the residents go out to smoke but they always close the door. The HRA viewed the smoking area when residents were outdoors smoking and residents who had wheelchairs and other assistive devices for mobility were located in the cemented patio area which was not 15 feet away from the doorway. Also, during the tour of the facility, the Administrator explained about a machine that hangs above the door which blows air down when the door is opened. This machine is intended to keep flies out of the facility when the door is opened.

In regard to the staff training, the Administrator stated there are currently no ongoing trainings with the staff but she is in talks with the rest of the administrative staff about setting up trainings. The Administrator stated the CNAs are trained on the floor with other CNAs. The new CNAs go through 3 days of training with the other CNAs. The Administrator stated that the CNAs that they hire are already certified.

The Administrator stated that there have been no complaints related to the feces in the shower but this could have happened. Some people use the shower independently while others need assistance with the shower so something could have happened with one of the independent users that was found by another resident. The Administrator went on to say that there is an emphasis on cleaning in the facility and even when something is spilled, a staff member will stand by the spill to ensure no one slips until it is cleaned. The Housekeeping Supervisor stated that they have a cleaning crew in the facility 7 days a week but cleaning ends at 8PM because the cleaning crew is not allowed to enter resident's rooms. She stated that every room in the facility is cleaned everyday. She stated that a CNA would clean anything after 8PM and also that CNAs clean all feces in the facility, but after an area is cleaned, the housekeepers come and disinfect the area. The Supervisor also stated that she has never seen anything that was described in the complaint. The Supervisor explained there is various cleaning coverage, of one or two people, through the week until 8PM. She also stated that they have checklists for cleaning that are filled out daily by the staff.

In regard to the complaint regarding pests, the Administrator stated that they have a pest control company that sprays once a month depending on the season. She stated that the facility occasionally has flies but they have never had a complaint regarding ants. She stated that a couple of months ago, there was a bug infestation in one of the resident's rooms. She said that the resident and her belongings were removed and the pest control company sprayed the room and eliminated the infestation. She stated that the problem was only in one room and the

problem was taken care of. She also said that there is a log of when the pest control company visits and what they do on the visits.

The Administrator stated that the facility has a full-time Maintenance Director and that the boiler did completely break down once. It was over Memorial Day weekend and they ordered a new boiler as fast as they could. They had a meeting with the residents and explained the situation and they used wipes to clean the residents over that time. She stated that the facility went 3 days without hot water but she did not receive any complaints about the situation from the residents. In a subsequent phone conversation with the facility's maintenance manager, the HRA was told that they did not have a policy in place regarding preparedness for mechanical failure to the boiler. They also stated the Illinois Department of Public Health was notified when the boiler stopped working. The maintenance manager also stated that they had intermittent hot water during the time that the boiler was out and the boiler was only out 2 ½ days.

In regard to the personal property complaint, the Administrator explained the CNAs have an inventory sheet and they inventory all items. When the CNAs inventory, they check the room, complete the sheet, and follow-up later on what they have inventoried. They do give the residents a list of recommended items to have in their rooms. The resident's clothes are labeled with their names. The facility has a complaint form for missing or stolen items. The facility also recommends that people get lock boxes and not leave their money out when they are not around and they also ask them not to get too much out of the bank. The Administrator stated that if money is lost, they usually find it but if they cannot, they do not replace the money. Also, if there is a guardian, and the resident is losing excessive amounts of money, they will talk to the guardian about the situation to try to remedy what is going on. The Administrator also explained that the residents have the option to bank with the social service department, which means if they were to take \$10 from the bank, they could give the money to social service staff and get what they need from social service. For example if they wanted a dollar for the vending machine, they could go to social service staff and ask for it. The Administrator said the whole process is logged. The Administrator stated that when a complaint comes in, they check the room first and then follow up with the complainant. They always educate the residents on each other's personal property and tell them not to steal or go into other resident's rooms. The Administrator stated that there is not an excessive amount of complaints about missing items and this is probably because of the lock boxes. The Administrator stated that they only do one inventory on admission and do not audit the inventory, but they ask if anything new is brought into the facility by the family, that they bring it to be inventoried first. Also, they ask if something gets taken home, the family tells someone so that it is taken off the inventory. They said they have had situations where an item was missing and they called the family and they had taken it home without telling the facility. They stated that they do not often reimburse lost or stolen items but they have done it in the past. The Administrator brought up a situation where a resident's shoes were washed and ruined in the dryer, so they bought the resident new shoes. She stated that technically they do not have to replace the items but they will replace out of courtesy.

In regard to the complaint that staff take personal property from residents in retaliation, the Administrator informed the HRA that they only take away items from individuals who are a suicide risk. The Administrator stated that they take items away that they could hurt themselves

with but they also try to replace the items with something safer. The Administrator used as an example that they have one resident who is on 15 minute suicide checks and they have taken away items that the resident could use to cut herself. She also said that the resident is able to go anywhere within the facility even though she is on the suicide checks and the 15 minute checks are partially because the resident has the freedom within the facility. The Administrator said that the only incident that she could think of that may be interpreted as taking items away from someone is one in which a certain resident wanted to do a puzzle in an area where the puzzle would have spilled; they moved the puzzle to a table and told the resident that if she didn't want to put the puzzle together on the table, then she could not work on the puzzle. The Administrator stated it was more of a behavior modification than taking the item away in that they only moved the item. She also stated that, when the resident's rooms get too cluttered, they will go through the room to "declutter" and get rid of items that the resident does not want any longer. This action is done with the resident's approval.

Tour of the Facility

The HRA took a tour of the facility and viewed the hallways, a resident's room, a resident's bathroom, the main sitting area, the dining room, and the resident's shared shower room. On the day of the tour, all rooms were clean and there were no signs of feces in any of the locations. The bathroom and shared shower area were clean. There was a presence of flies in the building and they were seen around the nurse's station, the activity board, and the doorway to the patio.

Record and Policy Review

The HRA reviewed documents pertaining to the complaints voiced in this case. A cleaning log dated 8/12/10 from the 6AM-2PM cleaning shift, has cleaning tasks such as "I have cleaned the glass doors," "I have cleaned to the 2 public restrooms", "I cleaned the dining room after breakfast only," and "I have walked through my hall and corrected any safety issues." Each cleaning task is initialed by the person who completed the task. Another sheet dated 8/12/10 has tasks such as "I have cleaned the bricks and copper on the fireplace", "I have ran the floor machine in the living room when there is no floor tech," and "I have completed the deep clean that is on the calendar," which is followed by "Rm #315" handwritten in. All the tasks are initialed by the individual who completed the task. On the date of 8/12/10, all hours, between 6am and 4pm are covered by an individual completing the tasks. The HRA also reviewed a "Deep Clean Calendar" for the month of August. The days in the calendar have specific rooms written where a deep clean is to take place. Other than the rooms, there are instructions such as "Employee restrooms," "Doors," "All dining rooms," and "Nurses station."

The HRA also obtained "Integrated Pest Management Detailed Service Reports" from 9/22/09 through 9/7/10. According to the reports, from the dates of 9/22/09 until 5/4/2010, the facility was receiving monthly service but on 5/18/2010, the facility started receiving service twice a month. On all reports, under the "Pest Activity" section, it states "None Noted." On the 4/13/2010 report, the report does state that there was one exterior rodent trap "With Activity" and, in the device inspection details for the exterior trap, it reads "Replaced Comment: Broken General/Other." In the "Pest Activity" on that date, it still reads "None Noted." On each report,

in the "Open Deficiencies/Observations" section it reads "Interior/Dietary, Condition: food clutter in corners and under equipment. Action: Clean as necessary."

The HRA also reviewed the facility's "Progressive Discipline Policy." Under the "Policy" section of the document, it reads "Establish certain standards of personal conduct and work performance and insure that they are understood and followed by all employees." It also reads "Discipline shall be viewed as an instrument to change unacceptable work or personal behavior, and to motivate and encourage disciplined employees to become better, more productive individuals." Under the section titled "Critical Offenses" there is a list of incidents that would be considered critical offenses which reads "Theft," "Threatening, intimidating or coercing residents or others," and "Willful damage of equipment or property." In the "Serious Offenses" section of the policy, examples of serious offenses include "Use of vile, intemperate or abusive language," and "Poor attitude and/or inability to support goals and programs."

The facility's "Adverse Drug Reactions and Medication Discrepancy" reads "A medication discrepancy/error has been made when one of the following occurs," and goes on to list "Medication administered at wrong time," and "Medication not administered."

The facility's "Resident Smoking Policy" states its purpose is to "... insure all residents who smoke are supervised while smoking in order to assure that all residents are kept as free from smoking hazards as possible." The policy proceeds to list smoking procedures such as the facility completing a smoking assessment; residents are not allowed to have or keep a lighter; smoking will be outside in the patio area, and facility staff will supervise smoking. The policy does not mention following Illinois State laws concerning smoking. The "Smoking Agreement" form that is signed by residents who want to smoke while at the facility states that the smoking times are supervised in order to "assist in budget, behavior, and safety issues." It also proceeds to state that you will purchase one carton of cigarettes monthly from the facility or you will have your family provide smoking materials. The agreement also asks the residents to agree to follow the smoking rules and not smoke in undesignated areas without staff supervision and they agree not to provide smoking materials to other residents. The smoking agreement also makes no mention of Illinois State smoking laws.

The "Residents Personal Property" policy states "The Facility shall provide a means of safeguarding small items of value for the Resident and the Resident may have daily access to such items. Any Resident who wishes to have a small item of value safeguarded by the Facility must deliver the item to the Administrator. However, except for small items of value physically delivered to the Administrator for safeguarding, the Facility shall not be responsible for the loss, theft or destruction of any Resident's personal property." The HRA also reviewed a sample of a "Resident's Belongings Inventory" which has spaces for the resident's name, admission date, initials of the staff member who performed the inventory, and a physical inventory of the resident's belongings. On the completed forms reviewed by the HRA there is only one written date and no indication that an item is being kept from a resident.

The HRA reviewed a document titled "Resident Rights Verification" which reads "By my signature below, I verify receipt of a copy of 'Resident Rights for People in Long Term Care Facilities', and that these Resident Rights have been explained to my satisfaction, and that I

understand how these rights will be implemented." This form is signed and dated by the resident's guardian. There are also "Annual Social Service Review and Update" forms that are communicated to the resident by a facility staff member. At the top of the form it reads "I have been informed of and reviewed the following" and then it states to check off the information as it is reviewed. The first item on the list to be reviewed is "Resident Rights and have been given a copy" and then there is a box that states "Date Given". On all five forms reviewed with guardian consent, the date given matches the date signed. The "Resident Grievances/Complaints" policy reads "It is the policy of Petersen Health Care to actively encourage residents and their representatives to voice grievances and complaints on behalf of themselves or others without discrimination or reprisal." The document proceeds to explain that a resident can take a grievance to any staff member at any time. The policy also states that Resident Council meetings are another resource where residents can address complaints, have their complaints logged into the minutes, and the facility liaison to the Resident Council will also direct the complaints to the appropriate department head. Step 3 states that when a grievance is brought to a staff member, the staff member should complete the grievance/complaint form with their supervisor, and then the supervisor, or sometime the Administrator, should investigate and resolve the complaint. If it is determined from the complaint that multi-disciplinary intervention is necessary, than the grievance will be presented at the resident care plan conference or the resident's family conference. Step 5 of the policy states that "Grievance and complaint investigations shall be completed within 15 days by the Investigator who shall distribute copies of the report to the Administrator and the Social Services Director. The Social Services Director shall keep the complete forms on File." Step 6 states that "The Investigator shall notify the Resident and document the results of the investigation and notification on the grievance/complaint form. The Social Service Director is responsible to notify the family and resident representative of the resolution." The process is finished by the Social Service Director and the Administrator discussing the grievance with all involved parties.

The HRA also reviewed a copy of the residents' rights which are given to each resident. The residents' rights are listed in a standard pamphlet from the Illinois Department on Aging titled "Residents' Rights for People in Long-term Care Facilities." Within the documents are statements regarding rights such as "Your facility **must** provide services to keep your physical and mental health, and sense of satisfaction," and "You **must not** be abused by anyone - physically, verbally, mentally, financially or sexually." The pamphlet does not specifically address rights regarding property other than a statement reading addressing that safety of personal belongings and property are part of resident rights.

The HRA reviewed an invoice from a plumbing company that indicates that work was done on 6/3/10 regarding the boiler. The invoice states "Disconnect and remove existing A.O. Smith HW670 Boiler for domestic hot water and replaced with new A.O. Smith HW670 Water Heater. Installed new valves for inlet and outlet to heater." This indicates that the hot water heater was replaced on 6/3/10. The El Paso Health Care Center had no documentation regarding contacting Illinois Department of Public Health (IDPH) about the boiler not working. The facility did produce documentation from an investigation the IDPH conducted concerning the boiler on 6/21/10 stemming from complaints about the boiler and other issues.

The HRA also reviewed masked records of resident "Theft/Missing Item Reports" from various dates in 2010. The reports have the resident's name, what was lost, value of the item, when the item was last seen, and to whom the item was reported missing. Each report also has who investigated the incident, with whom the incident was discussed, searched locations and results of the search, other actions, and there are also areas for comments regarding a second search, administrator actions and comments, and discussions with resident/responsible party. A theft/missing item report from 8/6/2010 states that \$14 dollars were missing from a resident's room. A staff member searched the resident's room and found nothing so they spoke with laundry staff and asked them to keep an eye out for the money. \$7 of the money was found in the laundry. Another report from 7/27/2010 stated that a resident was missing two pairs of earrings from a jewelry box in her room. They spoke with other staff members who had not seen the earrings and the resident's room was searched and nothing was found. Another report on 6/15/2010 stated that a resident lost \$15 dollars from a wallet that was in the resident's pillow case. The staff talked to the resident's roommate, who did not hear or see anything, and then they spoke with the laundry staff. The staff searched the room and nothing was found. The report reads that the facility "Encouraged resident to only take out the money he would like to spend that day and not to tell other residents how much money he has."

The HRA also reviewed 5 consumer admission sheets and checked them to the dates that the consumer's inventory was completed. The dates for 4 out of the 5 consumers matched the date of the inventory, with one inventory date being left blank for one of the consumers. The admission and the inventory were both completed on the same day according to these documents.

With the guardian's consent, the HRA reviewed five resident's medication administration records (MAR) and PRN records. Each MAR listed the resident's medications along with instructions on when medication is to be taken, such as "take 1 tablet daily" or "take 1 tablet in the evening." On the MAR, there is the time that the pills are administered, which are generally 8AM and 4PM unless more than 2 tablets are needed or unless the directions state that the pill should be taken at nighttime, and the initials of the individual who gave the medication. On the PRN forms, there is a list of medications on the resident's PRN and, below the list, if the medication has been given, the time, date, and initials of the staff member who gave the medication. There were no instances where medication was not given as ordered on either form.

MANDATES

The HRA reviewed pertinent regulations regarding the complaints in this report. In regard to the complaint that housekeeping does an inadequate job of cleaning, the Skilled Nursing and Intermediate Care Facilities Code reads "a) Every facility shall have an effective plan for housekeeping including sufficient staff, appropriate equipment, and adequate supplies. Each facility shall: (B) 1) Keep the building in a clean, safe, and orderly condition. This includes all rooms, corridors, attics, basements, and storage areas. (B) 2) Keep floors clean, as nonslip as possible, and free from tripping hazards including throw or scatter rugs . . . c) Bathtubs, shower stalls, and lavatories shall not be used for laundering, janitorial, or storage purposes" (77 Ill. Adm. Code 300.2220).

In regard to the complaint that the staff are demeaning to the residents, The Nursing Home Care Act reads "An owner, licensee, administrator, employee or agent of a facility shall not abuse or neglect a resident. It is the duty of any facility employee or agent who becomes aware of such abuse or neglect to report it as provided in 'The Abused and Neglected Long Term Care Facility Residents Reporting Act'" (210 ILCS 45/2-107) and also states "A facility shall establish written policies and procedures to implement the responsibilities and rights provided in this Article. The policies shall include the procedure for the investigation and resolution of resident complaints as set forth under Section 3-702. The policies and procedures shall be clear and unambiguous and shall be available for inspection by any person. A summary of the policies and procedures, printed in not less than 12 point type, shall be distributed to each resident and representative" (210 ILCS 45/2-210).

In regard to the complaint that the residents are not receiving medication at the right time, the Skilled Nursing and Intermediate Care Facilities Code reads " a) The facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychological well-being of the resident, in accordance with each resident's comprehensive assessment and plan of care. Adequate and properly supervised nursing care and personal care shall be provided to each resident to meet the total nursing and personal care needs of the resident" (77 Ill. Adm. Code 300.1210). The Code also reads "1) Medications including oral, rectal, hypodermic, intravenous and intramuscular shall be properly administered. 2) All treatments and procedures shall be administered as ordered by the physician" (77 Ill. Adm. Code 300.1210).

The Skilled Nursing and Intermediate Care Facilities Code also states "2) All employees, except student interns shall attend in-service training programs pertaining to their assigned duties at least annually. These in-service training programs shall include the facility's policies, skill training and ongoing education to enable all personnel to perform their duties effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include information on the prevention and treatment of decubitus ulcers. In-service training concerning dietary services shall include information on the effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept" (77 Ill. Adm. Code 300.650).

In regard to the complaint that staff and residents do not follow Illinois State smoking requirements, the Smoke Free Illinois Act reads "Smoking in public places, places of employment, and governmental vehicles is prohibited. No person shall smoke in a public place or in any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State or a political subdivision of the State. An owner shall reasonably assure that smoking is prohibited in indoor public places and workplaces unless specifically exempted by Section 35 of this Act" (410 ILCS 82/10).

In regard to the complaint that clothing and personal belongings are lost or stolen even though clothing is marked and inventories are not done at admission, the Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300.3210) reads "a) *No resident shall be*

deprived of any rights, benefits, or privileges guaranteed by law based on their status as a resident of a facility" and "b) A resident shall be permitted to retain and use or wear his personal property in his immediate living quarters, unless deemed medically inappropriate by a physician and so documented in the resident's clinical record." The Code also states "f) The facility shall make reasonable efforts to prevent loss and theft of residents' property. Those efforts shall be appropriate to the particular facility and may, for example, include, but are not limited to, staff training and monitoring, labeling property, and frequent property inventories ... The facility shall develop procedures for investigating complaints concerning theft of residents' property and shall promptly investigate all such complaints." The Skilled Nursing and Intermediate Care Facilities Code mirrors the Nursing Home Care Act (210 ILCS 45) in regard to personal property.

In regard to the complaint that the residents do not know their rights and if residents complain, the staff takes property away in retaliation, the Skilled Nursing and Intermediate Care Facilities Code states "*a) A resident shall be permitted to present grievances on behalf of himself and others to the administrator, the Long-Term Care Facility Advisory Board, the residents' advisory council, State governmental agencies or other persons without threat of discharge or reprisal in any form or manner whatsoever . . . b) The facility administrator shall provide all residents or their representatives with the name, address, and telephone number of the appropriate State governmental office where complaints may be lodged" (77 Ill. Adm. Code 300.3310).*

In regard to the complaints that the staff is not adequately maintaining the facility, the Skilled Nursing and Intermediate Care Facilities Code states "*a) Every facility shall have an effective written plan for maintenance, including sufficient staff, appropriate equipment, and adequate supplies," and "b) Each facility shall . . . 2) Maintain all electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems in safe, clean and functioning condition. This shall include regular inspections of these systems. (A, B) . . . 5) Maintain all furniture and furnishings in a clean, attractive, and safely repaired condition . . . 8) The building and grounds shall be kept free of any possible infestations of insects and rodents by eliminating sites of breeding and harborage inside and outside the building; eliminating sites of entry into the building with screens of not less than 16 mesh screen to the inch and repair of any breaks in construction. (B) . . . 9) Maintain all plumbing fixtures and piping in good repair and properly functioning" (77 Ill. Adm. Code 300.2210).*

The Skilled Nursing and Intermediate Care Facilities Code states that "Each facility shall have policies covering disaster preparedness, including a written plan for staff, residents and others to follow" (77 Ill. Adm. Code 300.670). The Code defines "Disaster" as "For the purpose of this Section only, "disaster" means an occurrence, as a result of a natural force or mechanical failure such as water, wind or fire, or a lack of essential resources such as electrical power, that poses a threat to the safety and welfare of residents, personnel, and others present in the facility" (77 Ill. Adm. Code 300.670). The Code also states "Hot water distribution systems shall be arranged to provide hot water of at least 100 degrees Fahrenheit at each hot water outlet at all times" (77 Ill. Adm. Code 300.2930). The Code requires that "Upon the occurrence of any disaster requiring hospital service, police, fire department or coroner, the facility administrator or designee must provide a preliminary report to the Department either by using the nursing home

hotline or by directly contacting the appropriate Department Regional Office during business hours . . . If the disaster will not require direct Departmental assistance, the facility shall provide the preliminary report within 24 hours after the occurrence. Additionally, the facility shall submit a full written account to the Department within seven days after the occurrence, which includes the information specified in subsection (i)(1) of this Section and a statement of actions taken by the facility after the preliminary report" (77 IL ADC 300.670).

The Abused and Neglected Long Term Care Facility Residents Reporting Act states that "Any long term care facility administrator, agent or employee . . . having reasonable cause to believe any resident with whom they have direct contact has been subjected to abuse or neglect shall immediately report or cause a report to be made to the Department" (210 ILCS 30/4).

CONCLUSION

Complaint #1 - Housekeeping does an inadequate job of cleaning.

The complaint states that the staff does an inadequate job of cleaning. The complaint states that there is feces in the shower, fecal matter in the bathroom and it is tracked into the dining area, and the hallways. The complaint also states the dining area is not kept clean and the resident's rooms are dirty. The complaint also states that there are flies and ants throughout the building. The HRA reviewed the cleaning schedule which indicates that all areas of the facility are cleaned and each area also receives a deep clean. The HRA also reviewed the facility's pest control company invoices and the pest control company did service once a month and is currently servicing the facility twice a month. The facility Administrator did admit that there was an infestation of one of the resident's rooms but the infestation only occurred in the one room and did not spread throughout the facility. The HRA toured the facility and saw that residents' rooms as well as group areas were clean. The HRA did notice on their tour a presence of flies throughout the facility. Due to the fact that the facility has a cleaning process in place, a pest control service, and that the facility was clean during the tour, the HRA finds this complaint **unsubstantiated**, but offers the following suggestion:

- Request that the pest control service eliminates the facility of flies and offer advice on how to keep the fly population down within the facility.

Complaint #2 - Staff is demeaning to residents.

The complaint states that the staff is demeaning to residents. The complaint states that the staff use foul language and speak in a disrespectful manner. The complaint also states that, when asking for medication, the resident's are told that the CNAs are busy and to wait for their next medication time. The complaint also states that a 3rd shift nurse is rude to all residents but when questioned, the Administrator stated that they do not have a nurse by that name. The Administrator also brought up that each staff member signs a progressive discipline policy which illustrates how to treat residents and the staff knows how they are supposed to act and the repercussions of being demeaning to the residents. As mandated reporters of abuse, if a staff member witnesses another staff member verbally abuse a patient, it is that staff members duty to report the incident in accordance with The Abused and Neglected Long Term Care Facility

Residents Reporting Act (210 ILCS 30/4). Due to the fact that the HRA found no evidence that the staff is demeaning to residents, the complaint is **unsubstantiated** but offers the following suggestions:

- Annually train staff on appropriate interactions with residents.
- Address with residents what should be done within the facility if the staff is demeaning and mistreating them to ensure that they know their rights and the process of grievance for that specific complaint.
- Remind staff of obligations to report other staff that is verbally or physically abusive in accordance with The Abused and Neglected Long Term Care Facility Residents Reporting Act (210 ILCS 30/4).

Compliant #3 - Residents are not receiving medication at the right time.

The complaint states that residents are not receiving medication at the right time. They were told medication was supposed to be given at 9PM and have waited as long as 9:30PM. In reviewing the individual MARs and PRNs, the medication times are 8AM and 4PM unless medication is directed to be given more than twice daily or at a specific time of night, such as before bedtime. Each instance of medication is logged and initialed by the administrator of the medication on each MAR and PRN. Due to the fact that the HRA has found no evidence that medication is not being given at the accurate times, the complaint is found **unsubstantiated**.

Complaint #4 - Staff and residents do not follow State smoking requirements.

The complaint states that the staff and residents do not follow smoking requirements and smoke outside the exterior door and the smoke enters the facility. After reviewing the facility's records, residents are allowed to smoke outside during specific break times. The staff members smoke outside in a different area of the facility that is not accessible to the residents. In reviewing the facility's smoking policy, there is no mention of following the Illinois Smoke Free Act which dictates that individuals must smoke at least 15 feet away from an entrance to a building and, from viewing the smoking area with residents smoking, the HRA saw individuals smoking on the patio less than 15 feet away from the entrance to the facility. The Administrator did mention that they are building a covered area away from the door of the facility where the residents can go to smoke. Due to the fact that the residents are not smoking 15 feet away from the entrance of the building, the HRA **substantiates** the complaint and offers the following **recommendation**:

- In accordance with Illinois State law, do not allow individuals to smoke within 15 feet of the entranceway from the patio.

Complaint #5 - Residents clothing and personal belongings are lost or stolen even though clothing is marked. Inventories are not done at admission or are done on later dates and then backdated.

The HRA reviewed the facility's personal property policy, which states that the facility will provide a means of safeguarding small items of value for the Resident. The HRA also reviewed a sample of the resident's belongings inventory, which were filled out for each resident

and dated. The date on the inventory corresponded with the date that the resident was checked into the facility. The HRA also reviewed complaints regarding stolen or lost items within the facility. Of the complaints reviewed, no items were categorized as "stolen" on the complaint sheets. Items are being lost or stolen within the facility, but the HRA found no evidence that this is due to an incomplete inventory process or due to the fact that items are being backdated. Due to no evidence to support the complaint, the HRA finds this complaint **unsubstantiated**, and offers the following suggestions:

- When staff inventories clothing, add the date to the tag that they are putting on the items to assure residents know that the items are being inventoried when they are admitted.
- The Illinois Administrative Code (77 Il Admin Code 300.3210) requires that "*The facility shall develop procedures for investigating complaints concerning theft of residents' property and shall promptly investigate all such complaints.*" Although the facility does investigate thefts, a procedure is not documented within the personal property policy. The HRA suggests the facility document the complaint procedure and insure that all residents are aware of the procedure.

Complaint #6 - Residents do not know their rights. If residents complain, the staff takes things away from them in retaliation.

The HRA reviewed the facility's rights policy that they give to each consumer titled "Residents' Rights for People in Long-term Care Facilities" and reviewed documents with resident's signatures that state they have read the document. The HRA examined the resident's annual review document where it states that the rights have been given to the resident again. This is another signed document. The HRA also reviewed the facility's resident grievance/complaint policy which encourages residents to voice their grievances and also explains steps for the resident to take to voice his or her grievance to the facility. The staff discussed a situation where staff moved a resident's puzzle and directed the resident to the area where the puzzle was moved; this action was felt to be more of a redirection than taking property away from a consumer as per staff.

The grievance procedure reads that "Grievance and complaint investigations shall be completed within 15 days by the Investigator who shall distribute copies of the report to the Administrator and the Social Services Director. The Social Services Director shall keep the complete forms on File." Step 6 states that "The Investigator shall notify the Resident and document the results of the investigation and notification on the grievance/complaint form. The Social Service Director is responsible to notify the family and resident representative of the resolution." The policy finishes by stating that the process is finished by the Social Service Director and the Administrator discussing the grievance with all involved parties. The facility administrator stated that when a resident complains, they will come to the Administrator with a complaint. She said that she will ask the resident if they took the complaint to the charge nurse. The Administrator will then write down the complaint and take it to the staff member whom the complaint was brought up against. If it is a situation where it's one person's word against another person's word, she will bring them both in and discuss the situation. She said that there is no written complaint unless it involves abuse, resident-to-resident abuse or staff to staff abuse. The

facility has a complaint form for missing items but not for situational complaints. She said that social services staff will document the complaint and it becomes part of the resident's chart.

The HRA finds that complaint that the residents do not know their rights and that the staff take retaliatory action towards the residents **unsubstantiated** due to lack of evidence and offers the following suggestions:

- Ensure that staff follow the grievance policy that has been laid out by the facility.
- Differentiate between a grievance that needs addressed and a complaint that a resident lost personal property and assure that the resident's are aware of the difference and the means for pursuing both concerns.

Complaint #7 - Staff is not adequately maintaining the Center.

The complaint states that the staff are not adequately maintaining the facility. Examples are that toilets are broken and flooded, and the facility boiler was broken from May 30th until June 7th, leaving the facility with no hot water and residents had to take cold showers. The facility administrator admitted that the boiler did break down once over Memorial Day weekend and they ordered a new boiler as promptly as they could. The Administrator was unsure as to whether it was Saturday or Sunday of Memorial Day Weekend and the facility did not have documentation of the exact day. The HRA viewed an invoice from a plumbing company that states the new boiler was installed on 6/3, which would make the period that there was not hot water 3 or 4 days. The maintenance director stated that the boiler had intermittent hot water, and the facility only went without hot water for 2 ½ days. The facility also stated that they do not have a disaster policy regarding the boiler. The Skilled Nursing and Intermediate Care Facilities Code requires that "Each facility shall have policies covering disaster preparedness, including a written plan for staff, residents and others to follow" (77 Ill. Adm. Code 300.670) and the Code defines "Disaster" as "For the purpose of this Section only, 'disaster' means an occurrence, as a result of a natural force or mechanical failure such as water, wind or fire, or a lack of essential resources such as electrical power, that poses a threat to the safety and welfare of residents, personnel, and others present in the facility" (77 Ill. Adm. Code 300.670). The Code also states "Hot water distribution systems shall be arranged to provide hot water of at least 100 degrees Fahrenheit at each hot water outlet at all times" (77 Ill. Adm. Code 300.2930). The Code also states that "Upon the occurrence of any disaster requiring hospital service, police, fire department or coroner, the facility administrator or designee must provide a preliminary report to the Department either by using the nursing home hotline or by directly contacting the appropriate Department Regional Office during business hours . . . If the disaster will not require direct Departmental assistance, the facility shall provide the preliminary report within 24 hours after the occurrence. Additionally, the facility shall submit a full written account to the Department within seven days after the occurrence, which includes the information specified in subsection (i)(1) of this Section and a statement of actions taken by the facility after the preliminary report" (77 IL ADC 300.670). The Facility provided no evidence of contacting the Illinois Department of Public Health regarding the situation. The HRA toured the facility and did not see broken or backed up toilets at the time of the tour. Due to the fact that the facility did not have a back-up policy in place regarding the boiler, and also because the facility did go without hot water at times throughout a possible 2 ½ to 4 day period, the HRA finds this complaint **substantiated**.

The HRA did not see evidence that the toilets were not being maintained and does not substantiate the complaint regarding the toilets. The HRA offers the following **recommendations**:

- Create policy and procedures to assure the facility is in compliance with 77 Illinois Administrative Code 300.2930 regarding hot water.
- Create policy and procedures in covering preparedness in the event of mechanical failure.
- Educate staff in documenting and reporting mechanical failures in accordance with Illinois Administrative Code 77 IL ADC 300.670.

During the investigation, the HRA also learned that, according to the Administrator, the staff is not receiving any ongoing training and they are in discussion with the administration about continuing training. In accordance with the Skilled Nursing and Intermediate Care Facilities Code "2) All employees, except student interns shall attend in-service training programs pertaining to their assigned duties at least annually. These in-service training programs shall include the facility's policies, skill training and ongoing education to enable all personnel to perform their duties effectively . . . Written records of program content for each session and of personnel attending each session shall be kept" (77 Ill. Adm. Code 300.650). The facility's current training situation is in direct violation of the Skilled Nursing and Intermediate Care Facilities code and the HRA asks that the facility begin trainings immediately to adhere with the Code.

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

Mr. Gene Seaman
Guardian and Advocacy Commission
5407 N. University Ave.
Peoria, IL 61614

March 3, 2011

Re: Case # 10-090-9034

Dear Mr. Seaman:

In response to your request to provide a response to the substantiated claims as identified in your faxed letter to me dated January 31, 2011, I offer the following: We have reviewed your findings, and have implemented the recommendations as stated.

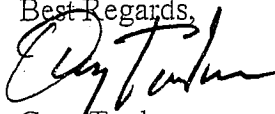
Specifically, we have instructed all individuals in our facility that it is our policy in accordance with State Law, that smoking is prohibited within (15) feet of the building.

Additionally, we have, and will continue to implement the proper maintenance and associated training involved with our facility with respect to: the provision of hot water, disaster preparedness in the event of mechanical system failure, and the related continuing education regarding these issues.

Currently, we have implemented, and document in-service training on a bi-monthly basis for our employees in an effort to provide on going education relating to their duties within our facility.

Thank you for the opportunity to address your concerns, and please contact our office should you have any questions or require additional information.

Best Regards,



Gary Toubeau
Administrator
El Paso Health Care Center
850 E. Second St.
El Paso, IL 61738