



FOR IMMEDIATE RELEASE

HUMAN RIGHTS AUTHORITY - PEORIA REGION
REPORT OF FINDINGS

Case #15-090-9018

Cornerstone Rehabilitation and Healthcare

INTRODUCTION

The Human Rights Authority (HRA) opened an investigation after receiving a complaint of possible rights violations at Cornerstone Rehabilitation and Healthcare, a facility operated by Petersen Health Care. The complaints alleged the following:

- 1. Inadequate treatment, including insufficient staffing levels, lack of hot water at the facility and retaliation against residents who voice grievances.**

If found substantiated, the allegations would violate the Skilled Nursing and Intermediate Care Facilities Code (77 Il Admin Code 300.3210) and Center for Medicare and Medicaid Services (CMS) Requirements for Long-term Care Facilities (42 CFR 483).

The facility is a long-term, skilled nursing home that has more than 90 staff members. At the time of the interview, there were 68 residents in the facility that has capacity for 98. The facility provides services for individuals in the Peoria, East Peoria and Pekin area. To investigate the allegations, HRA team members interviewed Cornerstone Rehab and Healthcare staff members and reviewed documentation that is pertinent to the investigation.

COMPLAINT STATEMENT

The complaint states that there is a lack of staffing and an inappropriate amount of personnel per shift. Allegedly, there was an ownership change and many experienced staff left the facility. Additionally, there is turnover with newly hired staff. Also, in February there were several days that the entire home had no hot water. The complaint also alleged that the staff mistreat patients with grievances about their care.

INTERVIEW WITH STAFF (5.6.15)

Staff began by admitting that the hot water heater did stop working in January. During that time, staff made sure residents had meals and water. The residents were washed with Theraworks, which is like a wet wipe and they also could use hand sanitizers. The Illinois Department of Public Health (IDPH) investigated the situation and were in the building the day that the part arrived for the hot water heater. The facility was without hot water for 4 or 5 days

because they had to wait for a part to fix the water heater. Only certain areas of the building were affected and there was still water in the kitchen. The shower room was affected and some of the resident's rooms. The facility has two water heaters and maintenance checks the water with a thermometer on a daily basis. The water is not allowed to be hotter than 110 degrees and colder than 90 degrees. The maintenance crew checks every wing, shower rooms, and random faucets. They did not receive many complaints about the situation and there were no issues caring for residents.

The facility has a grievance process and the residents can contact the activities or social service staff to relay their issues. Usually a grievance is taken to a department head who documents the concern. If residents have complaints about a hot water issue, residents could present it to the activity director and then the complaint would flow to the maintenance department. The complaint is taken to the department of concern. Once a month there is a resident council meeting where they can voice concerns and a resident is the council president. Concerns are presented to department heads and are reviewed at the next meeting. Most of the grievances that they receive do not identify the resident.

Staff have an in-service on respecting resident's rights, respecting residents, and abuse. Also at the resident council meeting rights are reviewed. Additionally, the facility reviews the rights annually and there is a resident rights handbook. Family can make a grievance like the residents and they can speak with whoever they feel comfortable. If the issue is not resolved, they can speak with the home office. During the staff orientation, they discuss the residents' rights and respecting the home of residents. They believe that the residents feel comfortable with staff. There is no retaliation policy, but they do have a code of conduct for staff. They have a strict abuse policy that is taken seriously and includes inappropriate discussions or comments. It is regulated that abuse training is semi-annual (with a 2 year minimum) but sometimes they train quarterly. The training explains what is not tolerated and how residents should be treated.

Staff explained that Peterson Healthcare purchased the facility and no staff were terminated. There were some issues because the facility changed from nonprofit to profit and because of the change, some people were going to be unhappy. Some of the staff chose to stay with the previous employer because they were offered positions. The facility is staffed to serve moderate acuity residents. They have 3 nurses on days, 3 on seconds and 2 on third and they can be RNs or LPNs. They give direct patient care and they do not have any aides. Staff explained that they have had times when they have been challenged by staffing levels. If they are short staffed, the facility requests overtime from the staff and will mandate overtime until they can obtain other coverage. They also contract with another agency and request help for sister agencies. Staff will call in saying they cannot work their shift and also staff do not show up for work resulting in discipline. They have advertisements for employment and on the Peterson Healthcare website. They also have an employee referral program and a recruitment and retention team. At the time of the interview, 3 or 4 staff were starting orientation the next week. The facility is hiring two more LPNs and they have enough RNs and CNAs. They need to build up the nursing staff and are currently trying to overstaff with CNAs. They stated that turnover is pretty high. Also, they said that they are trying to hold staff accountable for their work at the facility.

The recruitment and retention program consists of 5 CNAs whose objective is to work on staff-related issues like calling in sick. Staff are gathering the numbers and pulling together data on why there is a retention issue. In the past, staff have called in sick for the entire weekend, but now if that occurs, those staff members have to work the next weekend. The facility has excused and unexcused absences and if a staff member has multiple unexcused absences, they can be terminated. They currently have staff in the disciplinary process. There have been times when the facility is understaffed, and when that occurs, the evening shift stays over. The facility has been providing morale boosters, like having a \$50 drawing when staff receive their checks. When working extra shifts, they also give gift cards and then they provide free meals. Staff are now being held accountable for following policy, for example not taking breaks all at once or failing to alert staff that they are taking a break. Additionally there was an issue with staff not following policy regarding the residents' showering. The facility stated that it follows state regulations for staffing. They stated that previously they were not able to follow regulations and the IDPH tagged them with the violation and the issue was just cleared by the state.

Complaint #1 - Inadequate treatment, including insufficient staffing levels, lack of hot water at the facility and retaliation against residents who voice grievances.

The HRA reviewed two separate IDPH investigation reports regarding staffing. A report dated 4/7/2015 provides examples of lack of staff leading to inadequate care. One example was a CNA entered a resident's room and stated that they only had time to empty a urinal but they were supposed to help the resident wash and dress. Another resident stated they liked to get out of bed and in their wheelchair by 6-6:30am but one day the resident was not in the wheelchair until 11am. The report also quotes a family member who stated that the facility lacks staff and the current staff is "working themselves to death." Staff interviewed stated that there were issues with staff and because of staffing they may not be able to complete all their tasks. The report also determined that the calculations for minimum staff were not fulfilled and reads "The Minimum Daily Staffing Calculation sheet documents the facility required 18.69 hours of Registered Nurses, and 140.18 hours of Direct Care (CNA) hours. The Nursing Staff Hours sheet documents the actual Registered Nurse hours worked on 4/05/15 was 8.0 hours, and CNA hours were 89.16. Using the Minimum Staff Calculation Sheet the facility required 140.175 CNA hours on 4/4/15 but the Nursing Staff Hours documenting the actual hours worked indicates there were only 89.16 hours of CNA staff." In the report, staff stated that they are still low on RNs and have increased call offs on the weekends. Staff responded with corrective actions that were approved. The corrections stated that all off-duty staff were contacted to cover open shifts and resident needs were prioritized and additional staff were contacted to assist with non-critical issues. Additionally, staff received education on attendance policy, call in procedure, mandated overtime, and waiting to leave until your replacement arrives. Also employees were hired and they initiated staff incentives and contacted outside agencies to assist them. Another IDPH report dated 6/10/2015 also finds that the facility failed to provide appropriate nursing staff for residents. The report cites a schedule lacking nursing during a shift and residents not receiving medications and treatments on time. The facility response was accepted and stated that that staff was in-serviced about staffing regulations, calculations, and then measures were taken to assure the practice does not recur and measures were taken to monitor the situation.

The HRA reviewed the daily assignment sheets and saw that “C/O” was written by staff which indicated that they called off from work. There were times when replacement staff were written in and other times they were not. The HRA counted 46 call offs from 2/1/2015 through 4/6/2015. 22 instances of call offs had names of replacement staff and 24 did not. There were also “No call, no shows” documented in the sheet. The HRA requested calculations and staff hours but the facility stated that there is no minimum daily staffing calculation sheet but they would provide the staffing hours per shift per day. The facility provided the actual staffing hours per shift and also a sheet which indicated the amount of staff each shift was to have per day. The HRA compared those to the daily assignment sheets for 2/1/2015 through 4/6/2015. On 3/16/2015, it appeared that the second shift was to have 6 CNA staff and 3 nurses but there were only 3 staff and on 3/17/2015 it appears that a nurse is missing from the shift because there were to be 3 but only two were on the assignment sheet. On 3/21/2015 there were only 7 CNAs but there should have been 8 on the 1st shift and on the 3rd shift there were 3 CNAs but there should have been 6. On 3/22/2015 the 2nd shift was to have 6 CNAs but there were only 5. On 3/24/2015 the 3rd shift had 3 staff but there should have been 4. On 3/28/2015 the 3rd shift was to have 5 CNAs but there were only 4 and on 3/29/2015 there were supposed to be 6 but there were only 4 staffed. On 3/30/2015 the 3rd shift was also short and there were 3 when there should have been 5. On 3/31/2015, the 2nd shift had 5 staff when there should have been 6 and the 3rd shift had 4 staff when there should have been 6. On 4/2/2015 there were 5 staff on 2nd shift when there should have been 6. The facility stated that they do not keep the calculations for the daily staffing and if the census of the building does not change, then they do not change. The HRA was told that there was not a specific plan to provide personnel coverage in the absence of regular staff.

The HRA reviewed a resident council meeting from April 2015, and the notes from the meeting read “The residents reacted positively to Nursing addressing their past concerns of short staffing by Nursing changing their policy on those staff members that call off on the weekend and for Nursing using Agency help in emergencies and in Nursing establishing a retention QI Team.” Notes for the March resident council meeting read “The residents saw improvements in the overall care given them by Nursing in the month of March and though there were days in March that the residents considered staffing to be too low, they thanked the Director of Nursing for hiring a lot of new CNAs and new nurses. Several of the residents commented on the quality of some of the new hires ... Though the residents saw improvements, the residents wanted the Nursing Department to continue to address their concerns about getting their showers on time, getting ice water passed each shift, getting their call lights answered timely, getting snacks offered each night and having their beds being made early in the day. The residents stated that they still thought these concerns and issues were only being done on a hit and miss basis.”

Regarding the hot water, the facility provided a water temperature control policy which states the water temperature should be between 100 and 110 degrees Fahrenheit. The policy reads “Two times each week a maintenance person will take and record water temperatures from two taps supplied by each water heater (supply area). If a supply area serves more than one bath or shower room temperature should be taken in separate rooms, one of which should be a tap most distant from the water heater.” To test the water, staff are to turn on the tap for 1 minute, hold the thermometer under the faucet for 2 minutes and then adjustments will be made at the temperature control valve or at the water heater. The policy also indicates how to calibrate the

thermometer and water temperature control valve maintenance. The HRA reviewed the water temperature log for 2/5/2015 through 4/7/2015 and 7/2/2015 through 8/25/2015 and the temperatures were always within the 100-110 temperature range. The HRA did see that the testing did not occur during a 4 day span from 7/24/2015 to 7/27/2015.

The facility provided a policy from the disaster plan titled "Water Heating or Boiler System Failure and Procedure" which reads that "It is the Policy of Petersen Health Care to provide continuing, safe, hygienic and comfortable care to its residents in the event the facility's hot water source becomes non-operational or the facility water heating or boiler system fails. If the facility water heating systems fails facility personnel shall take the following action." The policy states that if there is a redundant water heating source in an area that is not affected, it will be used to provide showers and bathing, staff will proceed under the direction of the "Emergency Water Plan," and if the failure lasts longer than 5 days, the IDPH, physicians, families, and responsible parties will be notified as required by statute. The policy states maintenance will contact the Administrator and possibly the Corporate Director of Maintenance as well as coordinate the repair of the situation as directed by the corporate office. The policy also states that nursing must take some considerations for bathing and personal hygiene and those include using alcohol or other approved disinfectants for hand washing, use boiled water, bathe residents only when necessary, bathe residents with skin excoriation or other potential infectious sites as necessary, use pre-moistened towelettes for personal care as appropriate, use heatable Bed Bathing wipes and no-rinse bed bathing products. The HRA reviewed the facility emergency water plan which states "It is the policy of Peterson Health Care that each facility shall enter into an agreement for the provision and delivery of potable water in the event that the normal source of potable water is interrupted for extended periods of time. The purpose of the plan is to provide a general guide for all departments in the event that an emergency water situation should occur." The procedure indicates that the Administrator is responsible for declaring the activation of the water plan and the maintenance department and housekeeping department should be involved in traffic control for transporting water and ice to the facility. There are specific plans for resident meals that state it may not be possible to observe normal meal procedures or hours but they will be as close as possible. Also all dietary orders will be followed as closely as possible even if there are meal changes. All diet and menu changes will be reviewed by the facility's dietitian. There are also general considerations for nursing, which include; using alcohol or other approved disinfectants for hand washing, using sterile water for moistening suction catheters, using ice only when necessary, limiting the use of bedpans, closing off all but a few restrooms and bathrooms on each unit, bathe residents only when necessary, use pre-moistened towelettes. The procedure also states that water from water heater tanks will be used for flushing toilets and resident bathing. The plan states that "Once the water heater tanks have been exhausted, [company name] will coordinate the supply of an additional 500 gallons of non-potable water. Non-potable water will be stored in a central location as determined by the Administrator or designee and will be clearly labeled 'Non-Potable Water.' Water can be dispensed with empty 5 gallon chemical/detergent buckets since water will not be for consumption."

The Illinois Department of Public Health conducted an investigation regarding the hot water, and the report for the investigation indicates that the facility Maintenance Director measured the hot water in a west hallway shower room and, after 5 minutes, the temperature was

98 degrees and after 7 minutes, the water temperature was 95.2 degrees. Staff said that the water would not become hotter if it was run longer. Additionally, the report stated that one resident mentioned that the water was cold in that shower and another resident indicated that they take a shower at 11:30pm or 12am so that they can have hot water and then older residents can have more hot water in the morning for their showers. In the facility's response, it reads that the issue was a faulty shower handle and the repairs were made on 4/6/2015. They also stated that they will audit the shower rooms, the resident council meetings notes will be reviewed, water temperature logs will be reviewed, and any further issues will be discussed with the Administrator and Maintenance. The facility provided a receipt for a plastic tub/shower repair kit with a purchase date of 4/7/2015. The HRA reviewed resident council meeting notes from March and April 2015. The March notes indicated the issue was being addressed but one shower was still too cold and the April meeting notes indicated there were no temperature issues reported for the month. The HRA requested clarification from the facility on whether the issue was with the shower handle or if it was with the hot water heater. The facility stated there were two separate issues. The facility provided the HRA with an invoice dated of 5/1/2015 and a due date of 5/31/2015 that indicates a hot water heater was purchased. There was also a second invoice with the price of the hot water heater plus an additional charge which is also dated 5/1/2015. There was also a voided check for the entire amount of the hot water heater dated 6/10/2015.

The resident grievances program 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." Also the HRA reviewed the Resident's Rights for People in Long-term Care Facilities pamphlet which is given to residents, and reads "Your facility **may not** threaten or punish you in any way for asserting your rights or presenting grievances."

The HRA reviewed in-service training attendance sheets. One was dated 3/25/2015 on abuse prevention, another on 5/9/2015 on safety training and resident rights, and another on 7/22/2015 on abuse prevention. The HRA reviewed resident council meeting notes from April 2015 that read "2 residents present at the meeting brought up that they were treated rudely by the CNA's this month over call light concerns. The residents thanked Nursing for having in-services with their staff on how to treat residents in their home here at Cornerstone."

The HRA reviewed the facility's code of conduct which states "This Code of Conduct has been adopted by Peterson Health Care (the "Company") to provide Standards by which employees of the Company will conduct themselves in order to protect and promote organization-wide integrity and to enhance the Company's ability to achieve its mission of dedication to assisting those in need recover, achieve and maintain the highest possible quality of life ... The Company is committed to providing quality care to its residents to continuously strive to provide a safe, comfortable and caring environment that focuses on resident dignity, self-determination, and quality health care. The company consistently and fully complies with federal and State laws and regulations pertaining to the treatment, services, and needs of a resident to attain or maintain the resident's highest practicable physical, mental and psychological well-being. The Company works closely with its residents, as well as their families, to resolve concerns and ensure satisfaction."

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. 9) Maintain all plumbing fixtures and piping in good repair and properly functioning" (77 Ill. Adm. Code 300.2210). 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. 5) Hot water available to residents at shower, bathing and handwashing facilities shall not exceed 110 degrees Fahrenheit." (77 Ill. Adm. Code 300.2930).

In regard to the complaint of retaliation against residents who make complaints, 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* (Section 2-112 of the Act)" (77 Ill. Adm. Code 300.3310). The CMS requirements also read "(f) Grievances. A resident has the right to—(1) Voice grievances without discrimination or reprisal. Such grievances include those with respect to treatment which has been furnished as well as that which has not been furnished; and (2) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents" (42 CFR 483.10).

The Skilled Nursing and Intermediate Care Facilities Code reads that "b) The number of staff who provide direct care who are needed at any time in the facility shall be based on the needs of the residents, and shall be determined by figuring the number of hours of direct care each resident needs on each shift of the day ... d) Each facility shall provide minimum direct care staff by: 1) Determining the amount of direct care staffing needed to meet the needs of its residents; and 2) Meeting the minimum direct care staffing ratios set forth in this Section ... i) The facility shall schedule nursing personnel so that the nursing needs of all residents are met ... 5) *Effective January 1, 2014, the minimum staffing ratios shall be increased to 3.8 hours of nursing and personal care each day for a resident needing skilled care and 2.5 hours of nursing and personal care each day for a resident needing intermediate care.* (Section 3-202.05(d) of the Act) ... 1) To determine the numbers of direct care personnel needed to staff any facility, the following procedures shall be used: 1) The facility shall determine the number of residents needing skilled or intermediate care. 2) The number of residents in each category shall be multiplied by the overall hours of direct care needed each day for each category. 3) Adding the hours of direct care needed for the residents in each category will give the total hours of direct care needed by all residents in the facility. 4) Multiplying the total minimum hours of direct care needed by 25% will give the minimum amount of licensed nurse time that shall be provided during a 24-hour period. Multiplying the total minimum hours of direct care needed by 10% will give the minimum amount of registered nurse time that shall be provided during a 24-hour period" (77 Il Admin Code 300.1230). The Skilled Nursing and Intermediate Care Facilities Code explains that "h) Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent" (77 Il Admin Code 300.650).

Complaint #1 - Conclusion

In reviewing the documentation provided, the HRA found that the facility has a proper grievance policy and resident rights information that do not allow retaliation. Even though there was an indication in the resident council meetings that the staff treated residents poorly, the HRA had no findings with respect to the retaliation complaint.

Assignment sheets provided by the facility indicate that there were times when the facility was not fully staffed. Staff stated in the interview that there were staffing issues that they were attempting to resolve and resident council meetings notes indicated that residents felt as though the facility was short staffed and this impacted their care in the areas of timely bathing, the provision of water, the timely answering of call lights, the provision of nightly snacks and room care. The HRA was told there is no facility plan providing personnel coverage when staff is absent, which is in violation of (77 II Admin Code 300.650). Also, the IDPH indicated that the facility had a staffing issue in April and the facility's response was accepted by IDPH but then the same, repeated issue resurfaced in another staffing complaint and IDPH findings in June 2015 which was also resolved with IDPH. Regarding the hot water, the facility admitted to having two separate issues with hot water but provided evidence indicating that the issues have been resolved and that there are policies and procedures regarding disaster preparedness and hot water in the facility. The HRA notes that the response provided to IDPH of changing the handle in April 2015 appeared not to have completely resolved the hot water issue and a new hot water heater was installed a month later.

Because of the lack of policy required for staff absence, evidence that the facility was short staff for a time period and because there were admitted hot water issues, the HRA finds the complaint **substantiated** and makes the following **recommendations**:

- **The HRA has strong concerns about staffing being a continuing issue considering that there were two separate reports from another agency found substantiated only months apart and the HRA also substantiated the complaint. The HRA feels that it is of utmost importance to maintain a full staff so that all residents receive the care that is needed and, because of this, the HRA is requesting documentation assuring that the facility is currently staffed appropriately and provide measures to assure that the staffing levels are maintained. In addition, the HRA requests copies of the last three resident council meeting minutes to review any resident feedback about staffing levels and care issues.**
- **Create and train staff on a coverage for absentee policy per long-term care facility regulations (77 II Admin Code 300.650).**

Although the hot water issue appears to have been resolved, the HRA also has some concern with the facility testing system due to the discrepancy between the testing with IDPH and the regular facility test of the hot water. The IDPH report indicates that the water was only warm for 7 minutes but facility policy states the thermometer is only held under the faucet for 2 minutes. This does not assure that a temperature between 100 and 110 degrees is being maintained (77 III. Adm. Code 300.2930) and **the HRA recommends that the facility adjust**

testing to assure that the water stays hot and provide the HRA with evidence that this testing is occurring.

There was also an indication in the resident council meeting that residents felt as though they were treated rudely by staff. The HRA **strongly suggests** that the facility emphasize its code of conduct and the importance of treating the residents with respect as well as to continue to provide in-service trainings that assure that this treatment is occurring. Consider other quality assurance mechanisms to address the concerns raised in this report, such as:

- Resident and family surveys.
- Specific follow-up to resident council concerns about timely bathing, timely answering of call lights, room care, the provision of nightly snacks and the provision of water. Consider a periodic audit of these very specific resident council reported items of concern.
- A Peterson Health Care telephone line for reporting concerns and accessible to residents, their families and staff.
- Recognition for employees' attendance records.
- A resident council nominated employee of the month.
- The sharing with residents/families of the newly passed legislation allowing electronic monitoring in nursing homes.