



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
PO BOX 2675
HARRISBURG, PENNSYLVANIA 17105-2675

ADULT RESIDENTIAL LICENSING

PHONE: (717) 783-3670
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CERTIFIED MAIL – RETURN RECEIPT REQUESTED
MAILING DATE: MAR 06 2012

Mr. Richard D. Irwin, President & Chief Executive Officer
6600 Brooktree Court, Suite 1000
Wexford, Pennsylvania 15090

RE: Newhaven Court at Clearview
100 Newhaven Lane
Butler, Pennsylvania 16001

Dear Mr. Irwin:

The Department of Public Welfare (Department) is in receipt of your February 6, 2012 letter relating to a violation of 55 Pa.Code § 2600.42(y) (relating to resident rights) found during the Department's November 19, 2011 inspection of the above personal care home.

We have reviewed the inspection findings and the materials you submitted with your letter. Based on our analysis, we have determined that your establishment of a uniform procedure of medication administration through the Opti-Pak system does not violate a resident's right to choose a health care provider because use of the Opti-Pak system is not a requirement for residency at the above personal care home, and because residents are provided with information about other area pharmacies that distribute medication in accordance with the home's medication administration procedure from which residents may choose to receive services. The violation will therefore be removed from the November 19, 2011 violation report.

If you have any questions, please contact the Department at (717) 783-3670 or via electronic mail at jherzing@pa.gov.

Sincerely,

Ronald Melusky
Director

VIOLATION REPORT
PERSONAL CARE HOMES - 55 Pa.Code Chapter 2600

NAME AND ADDRESS OF PERSONAL CARE HOME NEWHAVEN COURT AT CLEARVIEW, 100 NEWHAVEN LANE BUTLER, PA 16001		CURRENT LICENSE NUMBER 423460	
INSPECTION DATES (Include all dates of the inspection) 11/19/2011		REGIONAL REPRESENTATIVE D. McConnell, J. Kimberland, D. McConnell	
PRINTED NAME AND TITLE OF LEGAL ENTITY REPRESENTATIVE SIGNING PLAN OF CORRECTION (Required on FIRST PAGE only unless multiple representatives produce the plan)			
SIGNATURE OF LEGAL ENTITY <i>Brenda J. Aubrey</i>	DATE 12/29/11	REGIONAL LICENSING APPROVAL OF PLAN OF CORRECTION <i>[Signature]</i>	DATE 1/30/12

REGULATION 55 Pa.Code §2600	VIOLATION	DATE COMPLIANCE VERIFIED BY	PLAN OF CORRECTION (include a step-by-step plan to correct the specific violation, as well as a plan to assure the violation does not recur)	DATE COMPLIANCE VERIFIED BY
42c A resident shall be treated with dignity and respect.	On 11/16/11, direct care staff person A told resident #1 to get out of bed in a disrespectful and derogatory manner. <div style="text-align: center; font-weight: bold; font-size: 1.2em;">RECEIVED</div> <div style="text-align: center;">3 Western Field Office Adult Residential Licensing</div>	Compliance Verified immediately. Further education provided on 12/2/11.	On 11/16/11 a violation of resident's rights occurred. The incident was reported to the POA, DPW, and Area Agency on Aging on this day as required. Residents Rights/Elder Abuse training was scheduled with the Area Agency on Aging and was conducted on 12/2/11. (See Attachment #1 Training Sign in Sheets). We will continue to conduct annual training on Resident Rights/Elder Abuse and also, each manager will include these topics as further education in their monthly department meetings in January.	<i>h</i> 1/30/12

VIOLATION REPORT
PERSONAL CARE HOMES - 55 Pa.Code Chapter 2600

NAME AND ADDRESS OF PERSONAL CARE HOME NEWHAVEN COURT AT CLEARVIEW, 100 NEWHAVEN LANE BUTLER, PA 16001		CURRENT LICENSE NUMBER 423460	
INSPECTION DATES (Include all dates of the inspection) 11/19/2011		REGIONAL REPRESENTATIVE D. McConnell, J. Kimberland, D. McConnell	
PRINTED NAME AND TITLE OF LEGAL ENTITY REPRESENTATIVE SIGNING PLAN OF CORRECTION (Required on FIRST PAGE only unless multiple representatives produce the plan)			
SIGNATURE OF LEGAL ENTITY <i>Brenda Daubner</i>	DATE <i>12/29/11</i>	REGIONAL LICENSING APPROVAL OF PLAN OF CORRECTION <i>[Signature]</i>	DATE <i>1/30/12</i>

REGULATION 55 Pa.Code §2600	VIOLATION	DATE COMPLIANCE VERIFIED BY	PLAN OF CORRECTION (include a step-by-step plan to correct the specific violation, as well as a plan to assure the violation does not recur)	DATE COMPLIANCE VERIFIED BY
42y A resident has the right to choose his own health care providers without limitation by the home. This includes the right to select the resident's own pharmacist provided that the pharmacy agrees to supply medications in a way that is compatible with the home's system for handling and assisting with the self administration of resident medications.	The home charges residents \$100.00 per month for residents who choose to use a pharmacy that does not package medications in the manner that the home uses. <div style="text-align: center; font-weight: bold; font-size: 1.2em;">RECEIVED</div> <div style="text-align: center;">PA 3</div> <div style="text-align: center; font-size: 0.8em;">Western Field Office Adult Residential Licensing</div>	<i>2/28/12</i>	See Attachment <i>PAGE 2A</i> <i>The home will not charge a fee for residents who do not use the home's medication packaging. The resident may choose a pharmacy provided that the pharmacy supplies medication in a way that is compatible with the home's system for handling medications.</i>	<i>Steps have been taken to correct violation; full compliance is not verifiable</i> <i>1/30/12</i> Date <i>[Signature]</i> Initials (EPW)

[Signature]

Attachment #2

We respectfully contest this citation on the basis of two primary factors: 1) Residents DO maintain their right to choose pharmacies which utilize the Opti-Pak medication packaging system; and 2) that we are not in violation of 2600.42(y) as it is written in the regulations – a.k.a. “the pink book” and that the new RCG interpretation inadvertently narrows the regulation. Achieving a standardized packaging system has been a multi-year long process which involved due diligence to source optimal packaging and pricing for our consumers in an effort to meet regulatory requirements of 2600, HB 2034 for VA medications, storage and control issues relative to 2600.183 (b) and new laws relating to health care initiative of avoiding the wasting of surplus medications (pharmacy law). Our approach in communicating all changes to our Residents and families was consistent with the requirement of 2600.25 (c)10, through November/December 2010, and included communication and rationale for the Pharmacy Fee, which considered and incorporated 2600.42(y) from the inception. Please see attached communication.

A source list of opti-pak providers and contact information will be provided to our Residents & families by 1/13/12 from which they might continue to exercise their right to choice. See Attachment #3.

We considered the language in 42(y), specifically referencing the provision of pharmacy services, as consistent with the Department’s view and support of Providers’ operational needs to require consistent packaging as a safety measure for effective medication management and administration assistance. The regulation specifically indicates choice of pharmacist “provided” that the choice-pharmacy is able to supply meds consistent with the home’s system. Contending with multiple pharmacies with a myriad of delivery systems (packaging) has been detrimental to Resident safety, effective training, and has resulted in a non-system for everybody, not to mention medication errors. We view the Pharmacy Coordination Service Fee in the citation as disclosing those charges associated with additional resources consumed to communicate, document, and follow up on medications received outside the parameters of the institutional pharmacy provider facilitating the Resident’s right to exercise their right of choice. We respectfully request the right to communicate openly about charges that reflect the costs associated with this accommodation of preferences.