



pennsylvania
DEPARTMENT OF HUMAN SERVICES

FEB 09 2018

Mr. Michael J. Laffey
Esquire
Laffey and Associates, P.C.
Attorneys at Law
415 Chartiers Avenue
Carnegie, Pennsylvania 15106

RE: Victoria Manor Personal Care Home
100 Rose Court
Oakdale, Pennsylvania 15071

Dear Mr. Laffey:

This is to acknowledge receipt of your request to appeal the Department's decision to issue a fine for Victoria Manor Personal Care Home. Your request has been forwarded to the Department of Human Services, Bureau of Hearings and Appeals. You will be contacted regarding the date and time of the hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Rowe".

Jacqueline L. Rowe
Director

cc: Gene Cuccarese (West), Office of General Counsel

Laffey & Associates, P.C.

ATTORNEYS AT LAW

RECEIVED

FEB 08 2018

415 Chartiers Avenue
Carnegie, PA 15106

800-827-8276
412-429-7079

Fax: 412-429-7078

mloffey@subrogation.com

Michael J. Laffey ESQ.

Human Services Licensing

January 30, 2018

Attn: Brent Southerland, Director
PA Dept. of Human Services
Western Regional Office
11 Stanwix Street, Room 230
Pittsburgh, PA 15222-1210

Re: Victoria Manor Personal Care Home
License #: 446421

RECEIVED
FEB 02 2018
WESTERN REGIONAL OFFICE
HUMAN SERVICES LICENSING

Dear Director Southerland:

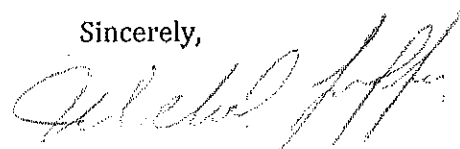
I am writing on behalf of Victoria Manor Personal Care Home who has received a Class III violation of 55 Pa. Code Ch. 2600.85a. This violation relates to individual use of glucometers. The facility administrator Kathleen Krise has met with the DHS reviewer and this issue has been resolved as a plan of action has been put into place.

My concern arises regarding the fine assessed. The section of the Pa. Code violated 85a states "*each resident who is prescribed insulin must have his or her own....glucometer*". Section 2600 (F) regarding Class III violations provides that "(d) There shall be no monetary penalty for Class III Violations unless the provider fails to correct the Class III violation within fifteen days. Failure to correct the violation within fifteen days may result in an assessment of up to three (\$3) dollars per resident per day for each Class III violation, retroactive to the date of the citation."

This letter is a request for reconsideration of the fine methodology (\$3 per day x 37 residents for census at the time of inspection). Sections 2600 (F) regarding fines specifically provides for an assessment for up to \$3 per resident per day effected by each violation. In this particular instance Victoria Manor Personal Care Home only has seven (7) residents on glucometers and therefore the fine should be computed based upon the max number of people who could be affected by the violation. Those residents without glucometers (30) could not possibly be affected by this violation and should not be included for purposes of this fine. We propose that the fine be the number of persons on glucometers (7) x \$3 per day (21 days) in the offending period; totaling \$441.00.

Thank you for your review and consideration. Please do not hesitate to contact me directly with any questions.

Sincerely,



Michael J. Laffey, Esquire



pennsylvania
DEPARTMENT OF HUMAN SERVICES

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
MAILING DATE:

Ms Kathleen Krise, Administrator
Laffey Healthcare Services, LLC
801 Elm Spring Road
Pittsburgh, Pennsylvania 15243

JAN 19 2018

RE: Victoria Manor Personal Care Home
100 Rose Court
Oakdale, Pennsylvania 15071
License #: 446421

Dear Ms. Krise:

On December 21, 2017, the Department of Human Services (Department) issued a notice of its intent to assess a fine for regulatory violations with 55 Pa.Code Ch. 2600 (relating to personal care homes) for the above personal care home.

Pursuant to 62 P.S. §§ 1085-1087 and 55 Pa.Code §§ 2600.261-268 (relating to enforcement), the Department hereby assesses a fine for the following uncorrected violations.

55 Pa.Code Chapter 2600 Section no.	Class of Violation	Census at Inspection	Fine Per resident X Per day	Calculated Fine = Per day	Initial Fine Assessment
185a	III	37	\$3	\$111	<u>\$2,331</u>

Total Fine Assessment for period December 22, 2017 through January 11, 2018 = \$2,331.00.

The enclosed Invoice for Personal Care Home Fine specifies the total amount of the fines for the period following the Department's notice of intent to assess a fine. The invoice is payable within 30 days from the mailing date of this letter. The fines will continue to accumulate and will be recalculated at the end of each month until all violations are fully corrected. You must notify the Department's Regional Human Services Licensing office in writing as soon as each violation is fully corrected and submit written documentation of each correction. Even if you pay the full amount of this invoice, fines will continue to accumulate for each violation until you have provided written notice of full correction and the Department has verified that the violations are fully corrected.

LIS
Western Regional office 412-565-5614
5616
11 Starkey St. Room 230
15222-1910
Bureau of Human Services Licensing
625 Forster Street, Room 631 | Harrisburg, PA 17120 | 717.783.3670 | F 717.783.5662 | www.dhs.state.pa.us
Direct Subcontract 412-565-5635

62 P.S. § 1086 § 1086. Penalties Effective: October 23, 2007 (a) The department shall assess a penalty for each violation of this subarticle or regulations of the department. Penalties shall be assessed on a daily basis from the date on which the citation was issued until the date such violation is corrected except in the case of Class II violations. In the case of Class II violations, assessment of a penalty shall be suspended for a period of five days from the date of citation provided that, except for good cause, the provider has corrected the violation. If the violation has not been corrected within the five-day period, the fine shall be retroactive to the date of citation. 62 P. S. §§ 1001—1087 (X of the Public Welfare Code) (b) The department shall assess a penalty of twenty dollars (\$20) per resident per day for each Class I violation. (c) The department shall assess a minimum penalty of five dollars (\$5) per resident per day, up to a maximum of fifteen dollars (\$15) per resident per day, for each Class II violation. (d) There shall be no monetary penalty for Class III violations unless the provider fails to correct the Class III violation within fifteen days. Failure to correct the violation within fifteen days may result in an assessment of up to three dollars (\$3) per resident per day for each Class III violation, retroactive to the date of the citation. (e) A personal care home or assisted living residence found to be operating without a license shall be assessed a penalty of five hundred dollars (\$500). If, after fourteen days, a provider cited for operating without a license fails to file an application for a license, the department shall assess an additional twenty dollars (\$20) for each resident for each day in which the home or residence fails to make such application. (f) Any provider charged with violation of this act shall have thirty days to pay the assessed penalty in full, or, if the provider wishes to contest either the amount of the penalty or the fact of the violation, the party shall forward the assessed penalty, not to exceed five hundred dollars (\$500), to the Secretary of Public Welfare for placement in an escrow account with the State Treasurer. If, through administrative hearing or judicial review of the proposed penalty, it is determined that no violation occurred or that the amount of the penalty shall be reduced, the secretary shall within thirty days remit the appropriate amount to the provider with any interest accumulated by the escrow deposit. Failure to forward the payment to the secretary within thirty days shall result in a waiver of rights to contest the fact of the violation or the amount of the penalty. The amount assessed after administrative hearing or a waiver of the administrative hearing shall be payable to the Commonwealth of Pennsylvania and shall be collectible in any manner provided by law for the collection of debts. If any provider liable to pay such penalty neglects or refuses to pay the same after demand, such failure to pay shall constitute a judgment in favor of the Commonwealth in the amount of the penalty, together with the interest and any costs that may accrue. (g) Money collected by the department under this section shall be placed in a special restricted receipt account and shall be first used to defray the expenses incurred by residents relocated under this act. Any moneys remaining in this account shall annually be remitted to the department for enforcing the provisions of this subarticle. Fines collected pursuant to this act shall not be subject to the provisions of 42 Pa.C.S. § 3733 (relating to deposits into account). (h) The department shall promulgate regulations necessary for the implementation of this section in order to ensure uniformity and consistency in the application of penalties. Credits 1967, June 13, P.L. 31, No. 21, art. 10, § 1086, added 1988, Dec. 21, P.L. 1883, No. 185, § 7, imd. effective. Amended 2007, July 25, P.L. 402, No. 56, § 7, effective in 90 days [Oct. 23, 2007]. Editors' Notes 62 P. S. §§ 1001—1087 (X of the Public Welfare Code) REPEALED IN PART 62 P.S. § 1086, PA ST 62 P.S. § 1086 Current through end of the 2014 Regular Session 62 P.S. §

2630
2/13
1/10

Heat Sources

84

2600.84 - Heat sources, such as steam and hot heating pipes, water pipes, fixed space heaters, hot water heaters and radiators exceeding 120°F that are accessible to the resident must be equipped with protective guards or insulation to prevent the resident from coming in contact with the heat source.

Discussion: This regulation applies to areas accessible to residents. Cooking equipment in the kitchen that is not accessible to residents is not subject to this requirement.

Homes that use cooking fuels like Sterno, steam tables or other heating devices during food preparation and delivery should take care that hot surfaces are insulated or equipped with protective guards.

Cooking fuels should also be stored in a manner consistent with § 2600.125(a) and § 2600.125(b).

Inspection Procedures: Inspectors will examine heat sources that are accessible to residents and determine if they are insulated or equipped with protective guards.

Primary Benefit: Minimizes the risk that residents will suffer burns by coming into contact with exposed heat sources.

Sanitation

85a

2600.85(a) - Sanitary conditions shall be maintained.

Discussion: "Sanitary conditions" can include many different situations in a personal care home. While unsanitary conditions will often be determined on a case-by-case basis, they generally include the following:

- Feces, human or animal
- Urine, human or animal
- Bodily fluids, such as blood, mucus, vomit, or semen
- Rotten or spoiled foods
- The presence of mold or mildew
- Pungent odors
- Extremely unclean surfaces

According to the Centers for Disease Control (CDC), insulin vials and penlet devices should not be used for more than one resident. These precautions help to prevent the transmission of the Hepatitis B virus, Hepatitis C virus, and HIV. Each resident who is prescribed insulin must have his/her own insulin vial, syringe, lancets, testing strips, and glucometer. It is recommended that these items be labeled with the resident's name or stored in a container that is labeled with the resident's name.

Inspection Procedures: Inspectors will examine all areas of the home to determine if unsanitary conditions exist. Inspectors will interview the administrator and staff regarding universal precautions. Inspectors will examine staff during the course of the inspection for the implementation of universal precautions.

Primary Benefit: Greatly minimizes the risk of resident illness, rodent and insect infestation, and provides dignified living conditions for residents.

306

184c continued

Primary Benefit: Ensures that all sample prescription medications will be properly labeled to avoid any confusion as to what the medication is, the dosage, when the medication was prescribed, how to administer the medication or to whom it belongs.

Accountability of Medication and Controlled Substances

185a

2600.185(a) - The home shall develop and implement procedures for the safe storage, access, security, distribution and use of medications and medical equipment by trained staff persons.

Discussion: Medical equipment should be regarded in the same manner as medications, as follows:

- Medical equipment should be stored in a safe and secure manner.
- Staff should be properly trained in the use of medical equipment.
- Medical equipment should be maintained and cleaned as per the manufacturer's instructions.
- Medical equipment should be accessible to the resident at all times, and should only be used by the particular resident that it is recommended for.

Inspection Procedures: Inspectors will review the home's procedures to determine if the home has developed and implemented the required procedures.

Primary Benefit: Reduces the risk that medications and medical equipment will be misplaced, lost, or misused.

185b

2600.185(b) - At a minimum, the procedures in § 2600.185(a) shall include:
(1) Documentation of the receipt of controlled substances and prescription medications.
(2) A process to investigate and account for missing medications and medication errors.
(3) Limited access to medication storage areas.
(4) Documentation of the administration of prescription medications, OTC medications and CAM for residents who receive medication administration services or assistance with self-administration. This requirement does not apply to a resident who self-administers medication without the assistance of a staff person and stores the medication in his room.

Discussion: "Controlled substances" means any Schedule 2, 3, or 4 medication. The Department recommends that it be part of the home's policy to call the police if there are missing medications and if there is suspicion of theft or other criminal activity. It is also recommended that all controlled substances be double-locked and counted each shift, with the count documented by 2 staff persons and a supervisor.

Inspection Procedures: Inspectors will review the home's procedure to determine if all the requirements of this regulation are included.

Primary Benefit: Reduces the risk that medications and medical equipment will be misplaced, lost, or misused.

Prescription Medications

186a

2600.186(a) - Each prescription medication must be prescribed in writing by an authorized prescriber. Prescription orders shall be kept current.

Discussion: This regulation requires medications to be prescribed by someone legally permitted to do so. "Prescription orders shall be kept current" means that homes must follow the most current prescription orders for a resident (i.e. dosage changes, changes in administration times, etc).

Inspection Procedures: Inspectors will review the orders for the prescription medications to determine if they are current and if they were prescribed in writing by an authorized prescriber.

Primary Benefit: Ensures that medications are prescribed by a person authorized to do so, and that residents receive medications in accordance with current orders.



pennsylvania
DEPARTMENT OF HUMAN SERVICES

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
MAILING DATE:

Ms Kathleen Krise, Administrator
Laffey Healthcare Services, LLC
801 Elm Spring Road
Pittsburgh, Pennsylvania 15243

JAN 19 2018

RE: Victoria Manor Personal Care Home
100 Rose Court
Oakdale, Pennsylvania 15071
License #: 446421

Dear Ms. Krise:

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In accordance with §2600.268 (relating to notice of violations), the personal care home administrator shall immediately post this written notice in a conspicuous and public place in the home, if this notice includes a Class I violation.

If you disagree with the decision to assess a fine, you have the right to appeal through hearing before the Bureau of Hearings and Appeals, Department of Human Services in accordance with 1 Pa.Code Part II, Chs. 31-35 and 62 P.S. §1086(f). If you decide to appeal, a written request for an appeal with a check made payable to the "Commonwealth of Pennsylvania" for the total monthly fine amount or \$500, whichever is less, must be received within 30 days of the mailing date of this letter by:

Jill Kachmar, Acting Fines Manager
Bureau of Human Services Licensing
Department of Human Services
Room 631, Health and Welfare Building
625 Forster Street
Harrisburg, Pennsylvania 17120

This decision to assess a fine is final 31 days from the date of this letter, or if you decide to appeal, upon issuance of a decision by the Bureau of Hearings and Appeals.

If you have any questions regarding this invoice please contact Jill Kachmar, Human Services Licensing, at 717-425-5349.

Sincerely,



Jacqueline L. Rowe
Director

Enclosure
Personal Care Home Fine Invoice

Personal Care Home Invoice

PA Department of Human Services
 Bureau of Human Services Licensing
 Room 631, Health and Welfare Building
 625 Forster Street
 Harrisburg, Pennsylvania 17120
 Phone: 717-783-3670 Fax: 717-783-6662

Assessment #: W000247

Invoice Date:

JAN 19 2018

Bill To:

Laffey Health Care Services LLC
 801 Elm Spring Road
 Pittsburgh, PA 15243

Re: Victoria Manor Personal Care Home
 100 Rose Court
 Oakdale, PA 15071

Contact Name Kathleen Krise, Administrator

License Number 446421

Fine/Appeal	Description - 65 Pa.Code § 2600	From:	To:	Fine Imposed	Line Total
Class III	185a	12/22/2017	1/11/2018	\$2,331.00	\$2,331.00
Invoice Total				\$2,331.00	

 Please remit this portion with payment to ensure proper credit

Laffey Health Care Services LLC
 801 Elm Spring Road
 Pittsburgh, PA 15243

Assessment #: W000247

Re: Victoria Manor Personal Care Home
 100 Rose Court
 Oakdale, PA 15071

Please make checks payable to:
Commonwealth of Pennsylvania
Bureau of Human Services Licensing
Room 631, Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120

Total Due \$2,331.00

Payment Enclosed

cc: file - Open Fines