

Tony Evers
Governor



Kirsten L. Johnson
Secretary

State of Wisconsin
Department of Health Services

DIVISION OF QUALITY ASSURANCE

BUREAU OF ASSISTED LIVING
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May 8, 2023

ELECTRONIC MAIL

SOD #YNKK11

NOTICE OF NONCOMPLIANCE

COMPLIANCE REQUIREMENT

NOTICE OF RIGHT TO APPEAL

Kristen Hutchison
1740 Condor Lane
Green Bay WI 54313

C/O Operator: Sonida Senior Living INC

Re: The Waterford at Fitchburg (14814)
5440 Caddis Bend
Fitchburg, WI 53711

Dear Mrs./Ms. Hutchison:

This letter is a NOTICE of NONCOMPLIANCE on the registrant of The Waterford at Fitchburg located at 5440 Caddis Bend, Fitchburg WI 53711. This regulatory action is taken by the Department of Health Services (Department) pursuant to Wis. Stat. § 50.034, and Wis. Admin. Code ch. DHS 89.

NOTICE OF NONCOMPLIANCE

On 03/07/2023, a compliance visit was concluded for The Waterford at Fitchburg by the Division of Quality Assurance, Bureau of Assisted Living, to verify that the above-referenced facility was in compliance with Wis. Stat. ch. 50 or Wis. Admin. Code ch. DHS 89, or both, which set forth requirements for the administration and operation of a registered residential care apartment complex (RCAC). The Statements of Noncompliance are as follows:

Statement of Noncompliance #1:

Wis. Admin. Code § DHS 89.23 (2)(c), requires that sufficient nursing services of health monitoring be provided to any tenant who develops a need for those services.

Based on record review and interview, the provider did not ensure the minimum required nursing services of health monitoring were provided to Tenant 1 who developed a need for that service.

SUMMARY:

From 12/21/2022 to 12/23/2022, Tenant 1 was consistently witnessed by staff to be sitting on the toilet.

On the evening of 12/21/2022, Tenant 1 was found sitting in the dark on the toilet and was administered PRN (as needed) medication for diarrhea related to irritable bowel syndrome. Tenant 1 was not witnessed leaving the toilet that evening.

The morning of 12/22/2022, Tenant 1 was found on the toilet and requested his/her scheduled anti-diarrhea medication be administered first due to diarrhea. On the evening of 12/22/2022, Tenant 1 was found on the toilet by staff. Tenant 1 who is normally independent with dressing and activities of daily living requested assistance getting dressed that evening.

On the morning of 12/23/2022, Caregiver B called Family Member E and notified him/her that Tenant 1 was too weak to get off the toilet on his/her own, appeared confused, and appeared to be ingesting soiled incontinence care products. When Family Member E arrived at facility s/he observed Tenant 1 to be too weak to get up from the toilet and confused. Family Member E then called Tenant 1's clinic nurse and reported Tenant 1's changes in condition. The clinic nurse instructed Family Member E to call 911. Tenant 1 was sent to an emergency room (ER) via emergency medical services (EMS). While at the ER Tenant 1 was treated for dehydration, increased weakness, and pressure wounds the shape of the toilet seat to his/her buttocks and upper thighs. Tenant 1 was admitted to an inpatient hospital unit from 12/23/2022 to 12/28/2022. Tenant 1 was discharged from the hospital to a rehabilitation center.

The facility nurse was not updated on Tenant 1's condition from 12/22/2022 to 12/23/2022.

FINDINGS INCLUDE:

On 01/30/2023, The Department received a complaint concerning adequate care at facility from 12/21/2022 to 12/23/2022.

On 03/07/2023 at 9:00 AM, Surveyor arrived at facility for a complaint investigation.

RECORD REVIEW:

On 03/07/2023, Surveyor reviewed Tenant 1's facility facesheet. Tenant 1 was admitted to the facility on 06/15/2022.

On 03/07/2023, Surveyor reviewed Tenant 1's facility service plan dated 11/07/2022. Under the subsection, "Mobility/Ambulation," the service plan states, "[Tenant 1] is independent with mobility/ambulation." Under the subsection, "Dressing," the service plan states, "[Tenant 1] does not require assistance with dressing." Under the subsection, "Meals," the service plans states, "REMINDERS ONLY ...3 time(s) daily." Under the subsection, "Toileting," the service plan states, "[Tenant 1] does not require assistance with toileting." Under the subsection,

“Neurocognitive,” the service plan states, “Orientation: Mild Impairment [Tenant 1] has occasional disorientation to person, place, time or situation that does not interfere with functioning in familiar surroundings. May require some direction and reminding from other at times...Medications will be provided per physician orders.”

On 03/07/2023, Surveyor reviewed Tenant 1’s annual comprehensive assessment dated 11/07/2022. Tenant 1 is diagnosed with but not limited to: irritable bowel syndrome with diarrhea. Under the subsection, “Skin Evaluation,” the comprehensive assessment states Tenant 1’s skin is normal. Under the subsection, “Neurocognitive,” the comprehensive assessment states Tenant 1’s is oriented to person, place, time, and situation with, “Mild Impairment: [Tenant 1] has occasional disorientation to person, place, time or situation that does not interfere with functioning in familiar surroundings. MAY REQUIRE SOME DIRECTION AND REMINDING FROM OTHERS AT TIMES.” Under the subsection, “Mobility/Ambulation,” the comprehensive assessment states that Tenant 1 is independent with mobility and ambulation and is full weight bearing. Under the subsection, “Medications,” the comprehensive assessment states Tenant 1 is to receive assistance with medications.

On 03/07/2023, Surveyor reviewed an email sent from Wellness Director F to Administrator A on 11/18/2022. The email states the following, “Ladies , (sic.) I spoke with [Tenant 1’s] 321 [family member], (sic.) last week [s/he] had an appointment and [s/he] had a Memory test done . (sic.) After all the tests [s/he] was diagnosed with White (sic.) Metter (sic.) Disease (sic.) that means that [s/he] has problem with [his/her] memory ,(sic.) balance and mobility .(sic.)”

On 03/07/2023, Surveyor reviewed Tenant 1’s December 2022 medication administration record (MAR). Tenant 1 is prescribed scheduled medications in the morning (7:00 AM to 8:00 AM) and evening (7:00 PM to 8:00 PM). Tenant 1 is prescribed scheduled Alosetron HCL 1 mg once daily for irritable bowel syndrome with diarrhea. Tenant 1 is prescribed scheduled Floragen Capsule once daily for irritable bowel syndrome. Tenant 1 is prescribed as needed (PRN) Loperamide 2 mg capsule as needed up to 3 times daily for diarrhea related to irritable bowel syndrome. Tenant 1 is prescribed Alosetron HCL 1 mg PRN once daily for diarrhea related to irritable bowel syndrome. In December 2022 Caregiver B administered 2 PRN doses of Alosetron HCL 1 mg for diarrhea: on 12/21/2022 at 9:03 PM and on 12/23/2022 at 11:04 AM. Both PRN doses of Alosetron HCL 1 mg were documented as effective.

On 03/07/2023, Surveyor reviewed Tenant 1’s caregiver notes. On 12/21/2022 at 9:00 PM, Caregiver B documented the following, “[Tenant 1] was brought [his/her] pills around 7pm but was sitting in the dark on the toilet staff waited in room for 10 minutes before telling [him/her] that they would be back. Staff went back up around 8:40pm and resident was still sitting in the dark on toilet. Resident stated [s/he] had been sitting there the entire time so staff contacted [Family Member E].” On 12/23/2022 at 12:00 PM, Caregiver G documented the following, “[Tenant 1] was on the toilet for hours and ate a depend. Staff was not (sic.) able to get [him/her] up. [Family Member E] & doctor were called and recommended to get sent out.” On 12/23/2022 at 12:30 PM, Caregiver B documented the following, “[Family Member E] called 911 to have [Tenant 1] ealed (sic.). Discovered a wound to [his/her] bottom due to sitting there for a while. Will be held in the hospital over the weekend.”

On 03/07/2023, Surveyor reviewed the facility's December 2022 staff schedule. On 12/21/2022, Caregiver B passed evening medications to Tenants. On 12/22/2022, Caregiver D passed morning medications to Tenants. On 12/22/2022, Caregiver C passed evening medications to Tenants. On 12/23/2022, Caregiver B passed morning medications to Tenants.

On 03/08/2023, Surveyor reviewed the EMS (emergency medical services) report. EMS was contacted about Tenant 1 on 12/23/2022 at 11:37 AM. EMT (emergency medical technician) H documented the following, "...dispatched to the [Facility] with FFD (fire department) for a (male/female) subject with an altered mental status...Crew was met by family who directed crew to pt (patient) who was found on the toilet...Pt's family states pt has had diarrhea x 3-4 days and has not been eating or drinking well over that time. They report they arrived today and found [him/her] with an altered mental status outside of [his/her] baseline dementia. Per family, [s/he] was "not acting [himself/herself]" and was confused, weak, and unable to stand on [his/her] own. Staff additionally reported pt had been found attempting to eat the contents of [his/her] soiled brief this morning...Vital signs obtained in position pt found. Pt was A&O x 3 (alert and oriented to person, place & time) with confusion to event...skin was pale, warm and dry with poor turgor (elasticity). Pt unable to stand x 2 person assist so [s/he] was lifted from toilet and carried to cot where [s/he] was secured for transport x 5. When pt was lifted to cot, it was noted that pt had wound to the L-buttock/upper thigh area that was red, appeared to be open, and fairly new and was likely skin breakdown due to prolonged time on the toilet with diarrhea."

On 03/08/2023, Surveyor reviewed Tenant 1's hospital records. On 12/23/2022 at 12:29 pm, ED Provider J documented that the ER final impression was, "1. Diarrhea, unspecified type 2. Traumatic Rhabdomyolysis...3. Weakness." Tenant 1 was treated for mild traumatic rhabdomyolysis as known as 'crush syndrome.' According to the CDC (Center for Disease Control) website, "Rhabdomyolysis (often called rhabdo) is a serious medical condition that can be fatal or result in permanent disability. Rhabdo occurs when damaged muscle tissue releases its proteins and electrolytes into the blood. These substances can damage the heart and kidneys and cause permanent disability or even death. In the workplace, causes of rhabdo include heat exposure, physical exertion or overuse, and direct trauma (e.g., crush injury from a fall) ... Early treatment can prevent serious medical problems and increase your chances of a quick recovery and return to work without any lasting negative health effects." (Source: The CDC Website, Rhabdomyolysis, February 08, 2023, <https://www.cdc.gov/niosh/topics/rhabdo/default.html> (retrieval date - March 10, 2023).) On 12/24/2023 at 12:02 PM, Hospitalist K documented that Tenant 1 was on an inpatient unit and, "Hoyer lift (mechanical lift) with 2 assist...Erythema of buttocks (redness). Covered skin tear on left buttocks with mepilex. Blisters to right buttock. Toilet ring shaped redness noted. Wound care consult has been placed." On 12/27/2022 at 10:06 AM, Physical Therapist M documented, "[Tenant 1] demonstrating consistent need for physical assist with all mobility tasks. Additional session spent on toileting/hygiene needs. Recommend SNF (skilled nursing facility) rehab." Physical Therapist M documented that Tenant 1 was a 1 assist with transfers and required a 2-wheeled walker for ambulation. On 12/29/2022 at 11:59 PM, Nurse Practitioner L documented that Tenant 1 had been discharged from the hospital to the SNF on 12/28/2022, with the following diagnoses: FTT (failure to thrive), chronic irritable bowel syndrome, MCI (mild cognitive impairment), dehydration, mild rhabdomyolysis, buttock

skin tear and buttock pressure injury. Tenant 1 was discharged with orders to continue wound care to injuries to buttock.

INTERVIEWS:

On 03/07/2023 at 10:50 AM, Surveyor interviewed Tenant 2. Tenant 2 stated s/he had been worried about Tenant 1 who had recently been moved out of the facility. Tenant 2 stated staff left Tenant 1 on the toilet for 3 days. Tenant 2 stated s/he could hear staff knocking on Tenant 1's door and hearing Tenant 1 yelling, "I'm on the toilet." Then staff would check on Tenant 1 and leave Tenant 1 alone. Tenant 2 stated on the third day Tenant 1 left the facility in an ambulance and never returned.

On 03/07/2023 at 11:10 AM, Surveyor interviewed Caregiver B. Caregiver B stated that on 12/21/2022 s/he was passing evening medications. When s/he entered Tenant 1's room, Tenant 1 was sitting on his/her toilet and told Caregiver B, "I'm on the toilet." Caregiver B stated s/he waited approximately 10 minutes for Tenant 1 to get out of the bathroom and when it appeared Tenant 1 would be on the toilet for a while. Caregiver B told Tenant 1 that s/he was going to pass medications to the other tenants and would be back to administer Tenant 1's medications afterwards. Caregiver B stated it took approximately 90 minutes for him/her to finish passing medications to the other tenants before s/he returned to Tenant 1's room. When Caregiver B returned to Tenant 1's room s/he observed Tenant 1 to still be sitting on the toilet. Caregiver B stated s/he was concerned Tenant 1 was constipated and called Family Member E. Family Member E told Caregiver B that it was most likely diarrhea and to administer a PRN medication to help stop Tenant 1's diarrhea. Caregiver B stated s/he administered the PRN anti-diarrhea pill to Tenant 1 with his/her other scheduled nighttime medications while Tenant 1 was on the toilet. Caregiver B stated s/he did not work with Tenant 1 on 12/22/2022. Caregiver B stated s/he passed morning medications to Tenant 1 on 12/23/2022. Caregiver B stated s/he went to Tenant 1's room between 8:00 AM and 9:00 AM. When Caregiver B entered the room s/he found Tenant 1 to still be sitting on the toilet with shredded depends in a trash bin in front of him/her. Caregiver B stated that Tenant 1 had pieces of soiled depend (incontinence care product) in his/her mouth. Caregiver B gave Tenant 1 a sip of water and encouraged Tenant 1 to spit out the contents of his/her mouth. Tenant 1 was able to take a sip of water and spit out the water with little pieces of depends. Caregiver B stated s/he moved the soiled depends away from Tenant 1. Caregiver B stated Tenant 1 is normally strong enough to stand up from the toilet with assistance of his/her cane, but Tenant 1 was not strong enough to stand up from the toilet on his/her own that morning. Caregiver B stated s/he changed Tenant 1's clothes while Tenant 1 was sitting on the toilet. Caregiver B stated Tenant 1 seemed, "out of it," not giving complete answers to questions. Caregiver B stated Tenant 1's call light pendant was sitting on the bathroom countertop, and that Tenant 1 would not have been able to reach the call light from a sitting position on the toilet. Caregiver B called Wellness Director F to come and assess Tenant 1. Caregiver B stated Wellness Director F is not a licensed nurse. Caregiver B stated s/he called Family Member E and reported Tenant 1's condition. Caregiver B stated it took approximately an hour for Family Member E to get to the facility.

On 03/07/2023 at 3:15 PM, Surveyor interviewed Caregiver C. Caregiver C stated s/he administered Tenant 1's medications the evening of 12/22/2022. Caregiver C stated that at approximately 5:00 pm s/he prompted Tenant 1's for dinner. Caregiver C stated Tenant 1 was on the toilet when s/he prompted Tenant 1 for dinner. Tenant 1 refused to go to dining room for dinner. Caregiver C stated s/he prepared a frozen dinner and Tenant 1 was able to come into the main area of his/her apartment to eat dinner. Caregiver C stated s/he administered Tenant 1's evening medications later that evening. Caregiver C stated when s/he brought Tenant 1 his/her evening medication Tenant 1 was sitting in a chair in the main area of the apartment. Caregiver C stated Tenant 1 requested help changing into his/her nighttime clothes. Caregiver C stated Tenant 1 was usually independent with dressing, so it was unusual for Tenant 1 to request assistance with dressing. Caregiver C stated s/he helped Tenant 1 get into his/her nighttime clothes.

On 03/08/2023 at 11:00 AM, Surveyor discussed the above concerns with Administrator A. Administrator A acknowledged that Tenant 1 had been diagnosed with Leukoencephalopathy (white matter disease) which can cause impaired memory, mobility and balance after the service plan and comprehensive assessment had been completed. Administrator A acknowledged that staff had consistently witnessed Tenant 1 sitting on the toilet from 12/21/2022 to 12/23/2022. Administrator A stated due to Tenant 1's diagnosis of irritable bowel syndrome it was not unusual for staff to witness Tenant 1 on the toilet for extended periods of time. Administrator A acknowledged that on the evening of 12/22/2022 Tenant 1 who is normally independent with dressing requested assistance from Caregiver C to change into his/her nighttime clothes. Administrator A acknowledged the facility nurse was not made aware of Tenant 1's request for assistance with changing his/her clothing or being found on the toilet by staff multiple times from 12/21/2022 to 12/22/2023. Administrator A acknowledged that on the morning of 12/23/2022 between 8:00 AM and 9:00 AM Tenant 1 was witnessed by staff to be too weak to stand from the toilet, to have increased confusion, and to be ingesting soiled depends. Administrator A acknowledged that the facility nurse was not made aware of Tenant 1's changes in condition and Tenant 1 was assessed by Wellness Director F. Administrator A acknowledged that Wellness Director F is not a licensed nurse. Administrator A acknowledged that it wasn't until Family Member E arrived that EMS was called at 11:37 AM to administer emergency assistance. Administrator A acknowledged that Tenant 1 was too weak to get up from the toilet and EMS had needed 2 people to lift Tenant 1 from the toilet. Administrator A acknowledged that Tenant 1 had developed bruising and wounds in the shape of the toilet seat on his/her buttocks and upper thighs due to a prolonged period of sitting on the toilet. Administrator A acknowledged that Tenant 1 had been ambulating independently with a cane before 12/23/2022.

On 03/08/2023 at 12:30 PM, Administrator A called Surveyor and stated s/he had Caregiver D with him/her. Caregiver D spoke through the speaker phone and stated s/he passed morning medications to Tenant 1 on 12/22/2022. Caregiver D stated that when s/he entered Tenant 1's room that morning Tenant 1 was in the bathroom with his/her door locked. Caregiver D asked Tenant 1 if s/he could come into the bathroom and Tenant 1 told Caregiver D, "I'll be out shortly." Caregiver D stated s/he left Tenant 1's room and returned at approximately 8:30 AM to administer Tenant 1's morning medications. Caregiver D stated that when s/he returned Tenant 1 was still sitting on the toilet but had opened the bathroom door. Caregiver D stated s/he administered Tenant 1's medications while Tenant 1 was still sitting on the toilet. Caregiver D

stated that Tenant 1 requested to take his/her scheduled anti-diarrhea pill first because s/he was having diarrhea. Tenant 1 then asked to eat breakfast in his/her room. Caregiver D stated s/he brought Tenant 1 a breakfast tray to his/her room. Caregiver D stated when s/he returned to Tenant 1's room to pick up the breakfast tray. The breakfast was partially eaten, and Tenant 1 was back in the bathroom. Caregiver D asked Tenant 1 if s/he was having one of his/her IBS (irritable bowel syndrome) episodes again. Tenant 1 confirmed s/he was having issues with his/her IBS again.

On 03/08/2023 at 2:30 PM, Surveyor interviewed Family Member E. Family Member E stated Tenant 1 continues to use a 2 wheeled walker for ambulation, and that s/he doubts Tenant 1 will gain the strength to ambulate with a cane in the future. Family Member E stated Tenant 1's wound care to his/her buttocks and upper thighs were recently completed, but that Tenant 1 has permanent scarring to his/her buttocks/upper thighs. Family Member E stated wound care for Tenant 1's skin tears were initiated during his/her inpatient hospital stay at the end of December 2022. Family Member E stated by the end of December Tenant 1 was discharged to a SNF (skilled nursing facility). Family Member E stated that Tenant 1 received wound care during the entirety of his/her stay at the SNF, and that Tenant 1 was discharged from the SNF on 01/22/2023. Family Member E stated Tenant 1 was discharged to a memory care unit and a home health agency continued to provide wound care on the memory care unit.

Family Member E stated that on 12/23/2022, s/he received a phone call from Caregiver B. Family Member E stated Caregiver B had been the caregiver to call them about Tenant 1 on 12/21/2022. Caregiver B told Family Member E that Tenant 1 was still sitting on the toilet. Caregiver B asked Family Member E what they should do for Tenant 1. Family Member E told Caregiver B that s/he would come straight to the facility. Caregiver B then told Family Member E that s/he thought Tenant 1 was eating soiled depends and seemed confused. Caregiver B stated Tenant 1 was too weak to get off the toilet. Family Member E stated after getting off the phone with Caregiver B s/he picked up Family Member I. Family Member E stated they arrived around 10:00 AM, and s/he has a key, so s/he and Family Member I were able to go directly to Tenant 1's room. Once in Tenant 1's room Family Member E witnessed Tenant 1 on the toilet and Tenant 1 stated, "I have diarrhea." Family Member E stated Tenant 1 was not speaking normally and not responding to questions like usual. Family Member E and Family Member I tried to help Tenant 1 off the toilet, but they did not have the strength to get Tenant 1 off the toilet. While Family Member E and Family Member I were attempting to help Tenant 1 off the toilet they heard Tenant 1 say, "ouch". Family Member E stated Tenant 1's skin appeared to be sticking to the toilet seat. Family Member E then called Tenant 1's clinic and talked to a nurse. Family Member E told the clinic nurse that Tenant 1 was too weak to stand up, confused, and had possibly ingested soiled depends. The clinic nurse told Family Member E to call 911. Family Member I helped direct the EMTs to Tenant 1's room. Family Member E stated that 2 of the EMTs tried to assist Tenant 1 off the toilet but Tenant 1 was too weak to stand. So, the 2 EMTs had to lift Tenant 1 off the toilet by his/her arms and legs. Family Member E stated that is when s/he heard one of the EMTs state that they saw wounds on Tenant 1's bottom and legs. Family Member E stated s/he observed the call light pendant on the bathroom counter and since Tenant 1 could not get off the toilet s/he would not have been able to reach the call light pendant on the bathroom counter. Family Member E stated that Tenant 1 was treated for dehydration with IV

(intravenous) fluids in the ER and was admitted to the hospital for increased weakness and wound care.

COMPLIANCE REQUIREMENT

According to Wis. Admin. Code § DHS 89.43(3), at any time, you shall be able to verify compliance with the applicable provisions of Wis. Stat. ch. 50, and Wis. Admin. Code ch. DHS 89. An area of noncompliance has been identified in this NOTICE, consequently, you should review the Statement of Noncompliance and make the necessary changes to your operation to ensure full compliance.

Please note the Statement of Noncompliance in this NOTICE do not affect the registration of The Waterford at Fitchburg at this time; however, continued noncompliance may result in additional action, including registration revocation, jeopardizing the status of The Waterford at Fitchburg as a registered RCAC.

NOTICE OF RIGHT TO APPEAL

According to Wis. Stat. § 50.034(8)(c) and Wis. Admin. Code § DHS 89.45, you may request an administrative hearing of the Department's action. To notify the Department of your request for a hearing, your written request **must be filed with the Division of Hearings and Appeals (DHA) within ten (10) days after receipt of this NOTICE**. Please note, according to Wis. Admin. Code § DHS 89.45(2), an appeal is filed on the date that it is received by the Division of Hearings and Appeals. Send your request for a hearing to:

RCAC APPEAL
DHA
P.O. BOX 7875
MADISON, WI 53707-7875

Include in your written request for a hearing ALL of the following:

- ✓ The name and address of the facility;
- ✓ A description of the action being appealed (attach a copy of this NOTICE to your appeal);
- ✓ The effective date of the action;
- ✓ A concise statement of the reasons for objecting to the action;
- ✓ What type of relief you are seeking; and
- ✓ The name and address of any person who may be expected to appear on behalf of the facility.

YOUR APPEAL MAY BE DENIED OR DISMISSED IF YOUR REQUEST IS INCOMPLETE OR NOT TIMELY FILED.

The Waterford at Fitchburg

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May 8, 2023

* * *

If you have any questions about this letter, please contact Hillary Holman, Assisted Living Regional Director, at (608) 266-8339.

Sincerely,

A handwritten signature in black ink that reads "Kathleen D. Lyons". The signature is written in a cursive style with a large initial 'K' and a decorative flourish at the end.

Kathleen D. Lyons, Interim Assisted Living Director
Bureau of Assisted Living
Division of Quality Assurance

Enclosure
KDL/SS