

DEPARTMENT OF DISABILITIES, AGING AND INDEPENDENT LIVING

Division of Licensing and Protection
103 South Main Street, Ladd Hall
Waterbury VT 05671-2306
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Voice/TTY (802) 871-3317
To Report Adult Abuse: (800) 564-1612
Fax (802) 871-3318

March 6, 2014

Mr. Daniel Daly, Administrator
Kindred Transitional Care & Rehab
43 Starr Farm Rd
Burlington, VT 05408-1321

VIA FAX (802) 865-4516 AND FIRST CLASS MAIL

Provider ID #: 475003

Dear Mr. Daly:

The Division of Licensing and Protection completed a survey at your facility on **February 24, 2014**. The purpose of the survey was to determine if your facility was in compliance with Federal participation requirements for nursing homes participating in the Medicare and Medicaid programs. This survey found the most serious deficiency in your facility to be a pattern of deficiencies that constitute no actual harm with potential for more than minimal harm that is not immediate jeopardy as evidenced by the attached CMS-2567 whereby corrections are required. All references to regulatory requirements contained in this letter are found in Title 42, Code of Federal Regulations.

Plan of Correction (POC)

A POC for the deficiencies, which is your allegation of compliance, must be received by **March 18, 2014**. Failure to submit an acceptable POC by **March 18, 2014** may result in imposition of remedies or termination of your provider certification. Your POC must contain the following:

- What corrective action will be accomplished for those residents found to have been affected by the deficient practice;
- How you will identify other residents having the potential to be affected by the same deficient practice and what corrective action will be taken;
- What measures will be put into place or what systemic changes you will make to ensure that the deficient practice does not recur; and,
- How the corrective actions will be monitored to ensure the deficient practice will not recur, i.e., what quality assurance program will be put into place.
- The dates corrective action will be completed.

The remedies, which will be imposed if substantial compliance has not been achieved by **March 24, 2014**, will include the following:

Denial of Payment for New Admissions effective **May 24, 2014**

An Enforcement Cycle has been initiated based on the citation of deficiencies at a "D" level or greater at your facility. All statutory/mandatory enforcement remedies are effective based on the beginning survey of the Enforcement Cycle. Your Enforcement Cycle began with the **February 24, 2014**, survey. All surveys conducted after **February 24, 2014**, with deficiencies at a "D" level or greater become a part of this Enforcement Cycle. The enforcement cycle will not end until substantial compliance is achieved for all deficiencies from all surveys within an enforcement cycle. Facilities are expected to achieve and maintain continuous substantial compliance. If you do not achieve substantial compliance, the CMS Regional Office and/or State Medicaid Agency must deny payments for new admissions. We are also recommending to the CMS Regional Office and/or State Medicaid Agency that your provider agreements be terminated on **August 24, 2014** if substantial compliance is not achieved by that time. A change in the seriousness of the deficiencies on **March 24, 2014** may result in a change in the remedy selected.

Allegation of Compliance

If you believe these deficiencies have been corrected, you may contact Frances L. Keeler, RN, MSN, DBA, Assistant Division Director, Division of Licensing and Protection with your written credible allegation of compliance. If you choose and so indicate, the POC may constitute your allegation of compliance. We may accept the written allegation of compliance and presume compliance until substantiated by a revisit or other means. In such a case, the recommended remedy listed above would not be imposed at that time.

If, upon the subsequent revisit, your facility has not achieved substantial compliance, a civil money penalty may be imposed by the CMS Regional Office beginning on the last day of survey and continue until substantial compliance is achieved. Additionally, the CMS Regional Office will impose the other remedies indicated above or revised remedies, if appropriate.

Informal Dispute Resolution

In accordance with §488.331, you have one opportunity to question cited deficiencies through an informal dispute resolution process. To be given such an opportunity, you are required to send your written request, along with the specific deficiencies being disputed, and an explanation of why you are disputing those deficiencies, to Frances L. Keeler, RN, MSN, DBA, Assistant Division Director, Division of Licensing and Protection. **This written request must be received by this office by March 18, 2014.** An incomplete informal dispute resolution process will not delay the effective date of any enforcement action.

Opportunity for Independent Informal Dispute Resolution (IIDR)

If you have already requested an Informal Dispute Resolution (IDR) from the State Agency, your request for IIDR will only be allowed if it is made before the State's IDR is completed. If you chose to request an IIDR with an Independent Panel, your written request for an IIDR must be sent to Frances L. Keeler, RN, MSN, DBA, State Survey Agency Director. The State Survey Agency will forward your request to the IIDR Panel, and they will inform you when and how the IIDR will be conducted. Your request for IIDR must be made no later than **10 calendar days** from the date of your receipt of this letter.

Sincerely,

Handwritten signature of Pamela M. Cota RN in cursive script.

Pamela M. Cota, RN
Licensing Chief

Enclosure:

cc: State Medicaid Agency