

VERMONT LEGAL AID

Long Term Care Ombudsman Project

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January 6, 2017

Green Mountain Care Board
89 Main Street
Third floor, City Center
Montpelier, VT 05620

Re: GMCB-013-16con
Proposal to undertake renovations at The Pines at Rutland Center for Nursing and Rehabilitation

Dear Members of the Green Mountain Care Board,

The Long Term Care Ombudsman Project is participating in the above captioned CON as an interested party. The Project has a mandate under state and federal law to monitor and comment on governmental actions “that pertain to the health, safety, welfare and rights of residents, with respect to the adequacy of long term care facilities and services in the state.” 42 U.S.C. § 3058g (a)(3)(G)(i). See also 33 VSA §7503(2).

We chose to participate in this proceeding due to our concern that the existing four-bed bedrooms in The Pines at Rutland Center will not be renovated in accordance with recent regulations. In the 11/10/2016 Project Narrative, the applicant proposes to modify the “four existing 4-bed bedrooms (2 on each floor) by constructing full height partitions that will split each bedroom in two in order to afford a bit more resident privacy. The proposed configuration will create two semi-private zones within each of the existing 4-bed bedroom spaces.”

During a recent visit to the facility, Ombudsmen observed that partitions put into place a few years ago to divide the 4-bed bedrooms on the second floor are not full height partitions. In addition, all four residents on the second floor still have to share a bathroom. However, recent regulations preclude the proposed renovations from being the same as what was put into place a few years ago.

Those new Federal Nursing Home Regulations, effective November 28, 2016, include the following requirements:

[42 CFR §483.90 (e)]

(1) Bedrooms must-

- (i) Accommodate no more than four residents. For facilities that receive approval of construction or reconstruction plans by State and local authorities or are newly certified after November 28, 2016, bedrooms must accommodate no more than two residents.
- (ii) Measure at least 80 square feet per resident in multiple resident bedrooms, and at least 100 square feet in single resident rooms;
- (iii) Have direct access to an exit corridor;
- (iv) Be designed or equipped to assure full visual privacy for each resident; [and]
- (v) In facilities initially certified after March 31, 1992, except in private rooms, each bed must have ceiling suspended curtains, which extend around the bed to provide total visual privacy in combination with adjacent walls and curtains.

In addition, 42 CFR §483.90(a)(7) requires that every sleeping room have an outside window or outside door. Finally, regarding bathroom facilities, 42 CFR §483.90(f) requires:

Each resident room must be equipped with or located near toilet and bathing facilities. *For facilities that receive approval of construction from State and local authorities or are newly certified after November 28, 2016, each residential room must have its own bathroom equipped with at least a commode and sink.* (emphasis added).

We request that the Board ask the applicant to specify how the renovations proposed will comply with these new regulations.

Thank you for your consideration of this matter.

Sincerely,

s/ Alice S Harter
Local Long Term Care Ombudsman

s/ Eric Avildsen
Acting Director of the Long Term Care Ombudsman Project

cc: Shireen Hart