

VERMONT LEGAL AID

Long Term Care Ombudsman Project

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December 13, 2016
Alfred Gobeille, Chair
Green Mountain Care Board
89 Main Street
Third floor, City Center
Montpelier, VT 05620

Re: GMCB020-15con
Proposed Purchase of Rowan Court Nursing and Rehabilitation Center

Dear Chair Gobeille and 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 because we are concerned about the impact this sale will have on the lives of the current and future residents at Rowan Court, as well as those living in the numerous other facilities in 11 other states owned by the proposed buyers. Rowan Court is a historically poor performing facility that just graduated from the CMS designation as a Special Focus Facility. We do not support this purchase or the proposed purchases of four other VT nursing homes by the same proposed buyers of Rowan Court.

Of the 37 facilities operated by PHG and listed on ([Revised Tab U Table 1 \(Application\)](#), 9/28/16), more than 70% are below or very below average as rated on the CMS Nursing Home Compare website (<https://www.medicare.gov/nursinghomecompare>). Although these homes were acquired over the last three years, there is no substantiated proof that conditions have improved. These poor performing facilities suffer not only from numerous health and safety violations, but also poor staffing and quality measure indicators. There are many citations for actual harm happening to residents, and some immediate jeopardy citations. The average number of deficiencies for nursing homes in Vermont is 4.4 health deficiencies and 0 to 2 fire safety deficiencies. With very few exceptions, the nursing homes currently owned or managed by the proposed buyers have at least double the Vermont average of health deficiencies, including numbers as high as 25, 28, 32, 42. And while almost all of Vermont’s homes have no

fire safety deficiencies, the ones currently owned by the proposed buyers have many, which include non-working sprinkler systems, doors and walls that cannot withstand fire for a prescribed period of time, and more. How can we be sure that Rowan Court will be kept in good working order when so many of these other homes owned by the proposed buyers are not getting the upgrades they need until a deficiency is cited? While Mr. Gamzeh and Mr. Glatzer will be managing Rowan Court, what will the other proposed buyers offer? How will Rowan Court be different from the other homes they currently own but are not improving?

During the public hearing on December 1, 2016 regarding this CON, Mr. Gamzeh and Mr. Glatzer pointed out that their direct involvement is only with nursing homes owned or managed under Priority Healthcare Group (PHG), a company they formed in June/July 2015. Those nursing homes are listed on their website (<http://phg-us.com/>) and are also on the list referred to above, with the exception of a facility they refer to as Fitchburg Gardens. Upon researching this facility it is still listed on Nursing Home Compare as Valley Stream Rehab and Healthcare and owned by different entities. What is PHG's involvement in this facility? Another facility, Holliswood, a nursing home in NY, still lists Mr. Glatzer as managing employee. This is a facility described in the original CON application (item 30) as having been a five-star facility under his administration. It is now only a three-star facility despite his continued involvement. This is a clear indication that, while Mr. Gamzeh, Mr. Glatzer and Mr. Lerner may have had success while directly employed as administrators in nursing homes, under a management only situation conditions decline and residents suffer.

Further, the rapidly expanding scope of the holdings of Priority Healthcare Group is cause for concern. PHG, whose founding and managing members are Mr. Gamzeh and Mr. Glatzer, in August 2016 purchased 11 nursing homes in Pennsylvania and also took on the management of three more. This brings their direct ownership or involvement to 18 facilities since July of last year. Again, 13 of these facilities are below or very below average performers based on data found on Nursing Home Compare.

Nursing Home Compare considers three sets of data in determining a facilities star rating: Survey and complaint deficiencies, staffing, and quality measures. During the public hearing, Mr. Glatzer stated that the Nursing Home Compare information is often very dated. To the contrary, each of these facilities have had surveys during 2016 which are currently posted on Nursing Home Compare. So while we may not be aware of how current the other two sets of data are, the survey and complaint deficiencies are clearly current. Thus the star ratings are not likely to be inaccurate.

Overall, the quality indicator information contained within the CON documents submitted by the proposed buyers is distressing. High rates of above average antipsychotic medication use (not only for the homes with behavioral programs), high incidences of pressure ulcers above average and above average re-hospitalization rates are only a few of the many concerns gleaned from these tables.

Mr. Gamzeh, Mr. Glatzer and Mr. Lerner all have proposed to spend at least one 8 hour day per week at Rowan Court. None are moving to Vermont, yet the same promise has been made in the

proposals to buy four other Vermont nursing homes, and we do not know the promises made in the recent purchase of the 11 facilities in Pennsylvania. Mr. Gamzeh and Mr. Glatzer say that PHG staff members work as a team and named two other individuals who are now involved. However, even with the additional of these two individuals, it will be impossible for them to be in this many places as often as promised. Additionally, there are new Federal Nursing Home regulations with which they must comply, along with becoming familiar with Vermont's Nursing Home Regulations (none of the PHG team members have administrator licenses in VT). It is incomprehensible as to how they can achieve the quality they state they stand for given the work already on their plate.

Finally, when asked by Ombudsman Alice Harter at the public hearing if they had spoken with residents at Rowan Court about what they want for their nursing home, the proposed purchasers stated that they had not yet met with the resident council, but would in the future. PHG has been managing Rowan Court since August 2016. It does seem they should have taken the time to talk to residents by now, especially since it appears they have spoken to staff. Under the new Federal Nursing Home Regulations, "person-centered care means to focus on the resident as the locus of control and support the resident in making their own choices and having control over their daily lives" (42CFR §483.5). PHG cannot provide person-centered care without even speaking to residents.

Conclusion

We are concerned that the purchase of Rowan Court does not offer a path toward better care for the residents who reside there. Accordingly:

1. We recommend that PHG continue to manage Rowan Court under their current contract with the current owners for at least one year. During this period, PHG should be required to submit quarterly reports to the Board establishing their ability to improve the quality of care and quality of life at Rowan Court. The reports should include:
 - a. The total number of licensed nursing staff hours per resident per day for each month in the reporting period and how this compares to the state and national average;
 - b. The total number of CNA hours per resident per day for each month in the reporting period and how this compares to the state and national average;
 - c. Any plans for changing the staffing pattern and the basis for the change;
 - d. Survey results issued during the reporting period and plans of correction approved during the period;
 - e. The facility's Five Star Rating each month;
 - f. The percentage of residents who meet the following quality measures and how these compare to the state and national average for each measure; and
 - i. Long stay residents who lose too much weight;
 - ii. Long stay residents with a urinary tract infection; and
 - iii. Long and short stay residents who self report moderate to severe pain;
 - iv. High risk long stay residents with pressure ulcers;
 - v. Long stay residents who received an antipsychotic medication;

- vi. Long stay residents whose need for help with ADLs has increased; and
 - vii. Long Stay residents with a Catheter inserted and left in their bladder.
 - viii. Long stay residents Self report a higher percentage of residents that exhibit depressive symptoms.
 - g. An assessment of the effectiveness of Rowan Court's care protocols and its QAPI approach to improving a facility's quality measures that are at or below the state average.
- 2. The first implementation report shall include a plan for how PHG will bring the current Rowan Court Admission Criteria into compliance with Section 504 of the rehabilitation Act of 1973.
 - 3. A list of any improvements made at Rowan Court regarding care of residents with dementia and behavior problems.

Sincerely,

s/ Alice S. Harter
Local Long Term Care Ombudsman

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

cc: Shirleen Hart