

## LOCKING ROOMS OF MEMORY CARE CLIENTS

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### **CALA thanks Jack Witter and his team at The Village at Sydney Creek for allowing us to share their story.**

The Village at Sydney Creek, a memory care RCFE, had a longstanding practice of locking the rooms of some of its residents who were disturbed when other residents entered their rooms. Any rooms that were locked were done so at the request of and in consultation with the resident's responsible person.

In April of 2007, the Village at Sydney Creek received a Type A deficiency under Regulation Section 87572(a)(6) pertaining to resident rights (this Section is now Section 87468(a)(6)). An appeal was submitted. The appeal pointed out that the Regulation in question provides each resident with a personal right "to leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night." Nothing in that Regulation states or even suggests that it is a violation of Title 22 Regulations for an RCFE to lock the door of a memory care resident who is not in his or her room.

The initial appeal was denied. The Department did not address the fact that the Regulation in question did not support the issuance of the citation in question. Nor did the Department point to any other Regulation that states that an RCFE cannot lock a resident's door when the resident is outside his or her room. Instead, the Department responded by introducing entirely new allegations that were not mentioned or even suggested in the initial Complaint Investigation Report. Without offering any factual support, the Department maintained that clients were being denied access back into their rooms and at times were required to sleep in common areas during the day.

Following receipt of the letter denying the appeal, our office submitted a second level appeal to Regional Manager, Kit Chan. We pointed out that, because The Village at Sydney Creek is a memory care community, some of its residents have a propensity to wander inadvertently into other resident rooms and disturb the resident or take their belongings. We pointed out that Section 87572 does not preclude an RCFE from locking the door of a resident room when the resident is outside the room, and that no other Regulation was violated. We noted that in non-dementia RCFE settings, many residents choose to lock their rooms in order to maintain their privacy and that The Village at Sydney Creek was simply affording its residents this same opportunity, and that rather than violating resident rights, this would appear to enhance

resident rights. We further pointed out that The Village at Sydney Creek has very high staffing ratios to ensure that any resident who wishes to get into his or her room when it is locked can do so promptly. We quoted the Department's own investigation findings in the Complaint Investigation Report:

"Approximately three residents carry their own keys and are capable of unlocking their door independently. Some residents either ask or gesture to get into their rooms. Some residents are not alert enough to comprehend that they can return to their room. If residents request to nap in their room they are allowed. Otherwise, residents are encouraged to remain in the common area (when not involved in activities) so that they can be observed by staff."

We argued that none of the foregoing in any way suggested any violation of any Regulation. There was no evidence in the Complaint Investigation Report that any resident was unable to get into his or her room when he or she desired to do so. Rather, we argued that the Report suggested that The Village at Sydney Creek is a well-run community in which residents are encouraged to socialize and not isolate themselves, yet are afforded the opportunity to be alone in their rooms when they so desire.

Finally, in response to the new allegations contained in the letter denying our appeal, we noted that the Department offered no evidence to support these allegations and stated that it was difficult to understand why, if the LPA had determined that residents were being denied access to their rooms and being required to sleep in common areas, this would not have appeared in the initial Complaint Investigation Report.

In August of 2008, we received a response to our second level appeal. Ms. Chan stated:

"Since there is no indication that any resident was locked into any room, the Department will be rescinding the deficiency ..... The allegation that there is a personal rights violation in which doors are being locked to resident rooms is deemed unfounded."

Ms. Chan then offered some poignant observations that are important for providers to take into account when considering whether to follow a practice similar to that of The Village at Sydney Creek. Ms. Chan noted:

“Many residents at our facilities fall asleep on the couch while resting in common areas and the Department would not see that as a personal rights violation unless we uncovered the fact that a resident slept overnight or frequently for a long duration in a common area. This would then become a licensing issue because the resident should not be using the common area as a sleeping room.”

She stated that it is important for staff that are monitoring residents to know the sleeping pattern of residents.

“If [residents] are just taking a catnap, and are not creating a disturbance to other residents, such as loud snoring noise; and they are decently dressed in the common areas without any indecent exposure, then no harm is done to anyone under the care of the Licensee. It is advisable to [have discussions] with the authorized representatives [of these residents] since they may have a preference to not have their loved ones even nap in the common area. If that is the wish of the resident or the authorized representative, then I am sure your client will direct staff to escort the resident back to his/her room for the nap.”

Ms. Chan further noted that,

“For those residents with moderate or severe dementia who could not identify their own rooms, but could gesture and signal that they wish to leave the common area, it is critical for staff to be able to escort the residents back to their rooms if warranted as they are currently doing. For those clients [who can go] back to their rooms on their own, it is also of the utmost importance that staff is readily available to unlock their rooms.”

Ms. Chan also observed that it is important to obtain a complete pre-placement appraisal on each resident that focuses on the sleeping habits and social factors of the resident. She stated, “ This will provide additional insight from the authorized representative as to whether a particular resident will prefer to remain in his/her room most of the time ... or his/her social preference of being in a group setting.” Ms. Chan also noted that it is critical to communicate with the authorized representatives of residents to make sure that there is a common understanding as to whether or not resident doors will be locked so that representatives will not view this as a personal rights violation.

In sum, the experience of The Village at Sydney Creek is a good example of the importance of providers availing themselves of their appeal rights and being willing to submit higher level appeals when an initial appeal is denied. However, providers should not think that they have carte blanche approval from DSS to lock resident rooms. Ms. Chan's suggestions and admonitions are well thought-out and provide useful guidance to providers that wish to lock the doors of memory care residents.