

Lueders email to Woods, others, June 2, 2022, 9:35 a.m.

Dear Mr. Woods, DHS staff, media reps, members of Legislature, and others:

I am addressing this to Otis Woods, administrator of the Division of Quality Assurance within DHS, because we have [previously corresponded](#), in response to my [April 27 letter](#) to Secretary Designee Timberlake. I am sharing it with the same group of others to whom I sent links to my story yesterday in the [Wisconsin Examiner](#), [Isthmus](#), and [The Progressive](#).

In response to the appearance of this story, about my discovery of a fraudulent document in the case involving the eviction of my mother, one of my journalist colleagues asked whether I had asked anyone from the Division of Quality Assurance or DHS "why they did this." My colleague wondered: "Did they at least provide some kind of answer, no matter how far-fetched?"

While I sense that any explanation from you for why someone did this would in fact be far-fetched, the reason I didn't ask is that I did not think you would respond, as you did not to my last email.

But my colleagues' point is well-taken: Can you explain why someone in DHS and presumably your division replaced a [document](#) that said a Nov. 8, 2021, inspection by a surveyor from the Division of Quality Assurance identified two deficiencies and concluded "The complaint was substantiated" with a [fraudulent document](#) that claims the Nov. 8 inspection identified "no deficiencies" and "The complaint was noted substantiated"?

It's okay if your answer is far-fetched. I just wanted to ask, for the record, about this latest development.

I will gladly include your response in my next article.

I would point out that none of my [fairly extensive reporting](#) on the eviction of my mother and subsequent developments has been challenged on factual grounds. But I don't claim to be an objective observer of these events. I am not likely to be persuaded that you were right to alter the public record to

suggest that the Division of Quality Assurance inspector reached conclusions directly contrary to those she in fact reached.

But, my journalist colleague is right: Someone should ask you for an explanation. Consider yourself asked.

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Bill Lueders
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Woods' reply, June 2, 6:01 p.m

Dear Mr. Lueders,

This letter responds to your June 2, 2022 email, in which you suggested that the Statement of Deficiency currently published regarding Pro Health Care Regency Senior Community New Berlin is "fraudulent." There is nothing fraudulent about this document.

Pursuant to standard practice, at the conclusion of an onsite survey or complaint investigation, the Division of Quality Assurance (DQA) sends the results of the review to the provider on a document called a Statement of Deficiencies (SOD). If there is a violation of state or federal regulations, the SOD identifies them. If there are no deficiencies, the SOD states that fact. DQA strives to ensure that the published SOD provides an accurate and current status of the facility's compliance with the regulations reviewed.

At the conclusion of the complaint investigation conducted of Pro Health Care Regency Senior Community New Berlin, DQA identified two deficiencies, which were documented in an SOD. Consistent with standard practice, that SOD was posted on the DHS website. After the facility initiated an appeal, it was determined that those deficiencies did not meet the threshold for a regulatory citation. As a result, the deficiencies were rescinded by DQA. Once the deficiencies were rescinded, the initial SOD was removed, and the new SOD was posted, according to DQA's practice that the published SOD accurately reflect the current results of a survey.

DQA stands by its determination that the conduct of the facility with respect to this resident did not meet the threshold for a regulatory violation. The assessment done by the facility was sufficient. Wis. Stat. § 50.01 (6d) defines a Residential Care Apartment Complex (RCAC) as an independent apartment complex. Residents who live on their own in a RCAC are generally independent. The resident's declining condition and resulting escalating series of falls made

placement at a resident care apartment complex inappropriate, and continued placement there would likely have resulted in danger to the resident.

Otis L. Woods, Administrator
Division of Quality Assurance

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Lueders to Woods, June 3, 8:02 a.m.

Dear Mr. Woods,

Thanks for this response. I am sharing it, along with my reply, with the cc-ed recipients of my other emails to you, as well as to the members of the media and state lawmakers who were bcc-ed recipients.

I find your response wholly disingenuous and inadequate. Any document that says no deficiencies were found in the Nov. 8, 2021, inspection is fraudulent, given that, by your own admission, two deficiencies were identified. The fact that you later backed down and decided to wink at violations of your own rules does not change the fact that the deficiencies were, as a matter of fact, identified, and that they led to fines being levied.

To replace a [document](#) that says two deficiencies were found and "The complaint was substantiated" with [one that says](#) no deficiencies were found and "The complaint was not substantiated" is the epitome of deception. It's like saying that because O.J. Simpson was found not guilty, the historical record should be changed to say he was never charged. If your rules allow this, your rules need to change. (By the way, recipients of this email should know that DHS has, in the last two days, also purged the ["Notice and Order"](#) imposing fines in this case from its online complaint portal; now what comes up is an [error message](#).)

Your reply includes the first substantive explanation your office has provided regarding the reasons for my mom's eviction: "The resident's declining condition and resulting escalating series of falls made placement at a resident care apartment complex inappropriate, and continued placement there would likely have resulted in danger to the resident."

But readers of this exchange should know that the Regency made this same argument to your inspector and the inspector, on review of the evidence, determined it was untrue. This is all documented in the [12-page inspection report](#) that you have removed from public view (see link for cached copy). The inspector's findings were upheld in several layers of review over a period of nearly three months. I doubt very much that the inspector and others in your division changed their minds; their findings and conclusions were simply overruled. This happened because of institutional cowardice, not because these excuses from the Regency suddenly made more sense.

In your [earlier response](#) to my [April 27 letter](#) to Secretary-Designee Timberlake and here, you have decided to ignore our contention that the Regency made multiple claims about our mother's required level of care that were demonstrably untrue, such as that she required more than 28 hours of direct care per week—a level far greater than she ever received at the Regency or has ever received to this day, at her new facility.

Even if a change in placement was appropriate, we should not have been told, one day to the next, that our mother was being evicted. The danger to which she was subjected by being forced to spend 19 days in a facility in COVID-19 lockdown was far greater than she faced if she had been allowed to stay at the Regency for a few more weeks.

That's why state administrative code [requires](#) 30 days advance notice and consultation with families before a residency can be terminated. Now that rule has been rendered next to meaningless because of your capitulation. That is an outcome that will embolden this provider and others to disregard the state's rules, causing unnecessary harm to others—perhaps someday even somebody you care about.

Please inform me of the available avenues for appealing the actions you have taken with regard to the [grievance](#) we filed on November 5, 2021. Surely, providers found to have broken the law aren't the only ones here who are entitled to due process.

Bill Lueders blueders@gmail.com (608) 669-4712

Diane Roth (via Lueders), June 3, 9:17 a.m.

My sister, Diane, has asked me to share her thoughts on this:

Mr. Otis Woods:

Now you are hearing from Elaine Benz's daughter, Diane Roth. You need to know the Regency is lying to you! They lied when they said she needs a two-person transfer. They lied when they say she needs 28 hours per week care. They lied when they claimed they kicked her out because it was an emergency.

Do you want to hear the truth?

I visit mom every day. I have been there early enough on several occasions and witnessed **one** caregiver assist mom out of bed, to the bathroom, help getting dressed and in her wheelchair. One caregiver was a young, small girl weighing no more than 120 pounds. It took no more than 15 minutes, it takes me longer to put on my makeup!

I begged Mara Henningsen, Regency campus administrator, to not move mom out of her room #146 when she runs out of money. She assured me she wouldn't – so she found another way!

I've seen other friends of mom's at the Regency that have fallen, one looked like she was in a car accident - she's still there!

No matter what they tell you, no one notified me that she was in any danger – if I visit her daily, don't you think I would be alarmed at that information?! I love her, my brothers love her, she's a gentle lady that causes no problems – the staff at Layton Terrace assure me she's very sweet.

Why will no one listen to the truth?

Diane Roth