

Division of Health Improvement

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 2055	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 02/29/2012
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NAME OF PROVIDER OR SUPPLIER BROOKDALE VALENCIA	STREET ADDRESS, CITY, STATE, ZIP CODE 300 VALENCIA DRIVE SE ALBUQUERQUE, NM 87108
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A 000	Initial Comments A complaint investigation was completed for intake NM00028318 on 02/29/12 for the state requirements of 7 NMAC 8.2, Regulations for Assisted Living. The Complaint was substantiated with deficiencies cited.	A 000		
A 032	7 NMAC 8.2.32 Reporting of Incidents REPORTING OF INCIDENTS: A. The facility shall insure that all suspected cases or known incidents of resident abuse, neglect or exploitation are reported in accordance with 7.1.13 NMAC. (1) The facility shall also report any incident or unusual occurrence which has or could threaten the health, safety, or welfare of the residents and staff to the licensing authority complaint hotline within twenty-four (24) hours or by the next business day, if it is a weekend or a holiday. (2) The facility shall not delay a report to the complaint hotline while an internal investigation is conducted. B. The facility is responsible for conducting and documenting the investigation of all incidents within five (5) business days and shall submit a copy of the investigation report to the licensing authority. A copy of the report and the documentation, including the date and time that it was submitted to the licensing authority, shall be maintained on file at the facility. The investigation shall include the following: (1) a narrative description of the incident; (2) the result of the facility's investigation shall be recorded on the state approved incident report form for the current year, pursuant to 7.1.13 NMAC; and (3) plans for further actions in response to the incident. [7.8.2.32 NMAC - Rp, 7.8.2.32 NMAC,	A 032		

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LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE _____ TITLE _____ (X6) DATE _____

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A 032	<p>Continued From page 1</p> <p>01/15/2010]</p> <p>This REQUIREMENT is not met as evidenced by: Refer to 7.8.2.32 REPORTING OF INCIDENTS: A. The facility shall insure that all suspected cases or known incidents of resident abuse, neglect or exploitation are reported in accordance with 7.1.13 NMAC. (1) The facility shall also report any incident or unusual occurrence which has or could threaten the health, safety, or welfare of the residents and staff to the licensing authority complaint hotline within twenty-four (24) hours or by the next business day, if it is a weekend or a holiday. (2) The facility shall not delay a report to the complaint hotline while an internal investigation is conducted.</p> <p>Based on record review and interview the facility failed to report an incident of Abuse from a staff to a resident within twenty four (24) hours of the abuse (resident #1 and staff #101). This deficient practice has the potential to allow abuse to continue for all residents being abused. The findings are:</p> <p>A. Review of records revealed an Incident Report received at State Central Intake on 01/06/12. The date of the incident was recorded as 12/17/11; 14 days before the incident was reported.</p> <p>B. In an interview with the administrator on 02/29/12 at 4:00 pm, the administrator acknowledged the facility did not report the incident within twenty four (24) hours of the incident. The administrator stated, "I needed time</p>	A 032		

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A 032	Continued From page 2 to investigate."	A 032		
A 070	<p>7 NMAC 8.2.70 Incorporated and Related Rules and Codes</p> <p>INCORPORATED AND RELATED RULES AND CODES: The facilities that are subject to this rule are also subject to other rules, codes and standards that may, from time to time, be amended. This includes the following:</p> <p>A. Health Facility Licensure Fees and Procedures, New Mexico Department of Health, 7.1.7 NMAC.</p> <p>B. Health Facility Sanctions and Civil Monetary Penalties, New Mexico Department of Health, 7.1.8 NMAC.</p> <p>C. Adjudicatory Hearings for Licensed Facilities, New Mexico Department of Health, 7.1.2 NMAC.</p> <p>D. Caregiver's Criminal History Screening Requirements, 7.1.9 NMAC.</p> <p>E. Employee Abuse Registry 7.1.12 NMAC.</p> <p>F. Incident Reporting, Intake Processing and Training Requirements 7.1.13 NMAC.</p> <p>[7.8.2.70 NMAC - N, 01/15/2010]</p> <p>This REQUIREMENT is not met as evidenced by: 7.1.13.8 INCIDENT MANAGEMENT SYSTEM REPORTING REQUIREMENTS FOR LICENSED HEALTH CARE FACILITIES:</p> <p>A. Duty To Report:</p> <p>(1) All licensed health care facilities shall immediately report abuse, neglect or misappropriation of property to the adult protective services division.</p> <p>(2) All licensed health care facilities shall report</p>	A 070		

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A 070	<p>Continued From page 3</p> <p>abuse, neglect, misappropriation of property, and injuries of unknown sources to the division within a twenty-four (24) hour period.</p> <p>(3) All licensed health care facilities shall ensure that the reporter with direct knowledge of an incident has immediate access to the division incident report form to allow the reporter to respond to, report, and document incidents in a timely and accurate manner.</p> <p>B. Notification:</p> <p>(1) Incident Reporting: Any consumer, employee, family member or legal guardian may report an incident either independently or through the licensed health care facility to the division by telephone call, written correspondence or other forms of communication utilizing the division ' s incident report form. The incident report form and instructions for the completion and filing are available at the division's website, http://dhi.health.state.nm.us/elibrary/ironline/ir.php or may be obtained from the department by calling the toll free number (insert toll free number).</p> <p>(2) Division Incident Report Form and Notification by Licensed Health Care Facilities: The licensed health care facility shall report incidents utilizing the division ' s incident report form consistent with the requirements of the division ' s incident management system guide and CMS regulations as applicable. The licensed health care facility shall ensure all incident report forms alleging abuse, neglect or misappropriation of consumer property submitted by a reporter with direct knowledge of an incident are completed on the division ' s incident report form and received by the division within twenty-four (24) hours of an incident or allegation of an incident or the next business day if the incident occurs on a weekend or a holiday. The licensed health care facility shall ensure that the reporter with the most</p>	A 070		

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A 070	<p>Continued From page 4</p> <p>direct knowledge of the incident prepares the incident report form.</p> <p>C. Incident Policies: All licensed health care facilities shall maintain policies and procedures which describes the licensed health care facility ' s immediate response to all reported allegations of incidents involving abuse, neglect, misappropriation of consumer property, injuries of unknown sources, and deaths, as applicable.</p> <p>D. Retaliation: Any individual who, without false intent, reports an incident or makes an allegation of abuse, neglect or exploitation will be free of any form of retaliation.</p> <p>F. Quality Improvement System for Licensed Health Care Facilities: The licensed health care facility shall establish and implement a quality improvement system for reviewing alleged complaints and incidents. The incident management system shall include written documentation of corrective actions taken. The provider shall maintain documented evidence that all alleged violations are thoroughly investigated, and shall take all reasonable steps to prevent further incidents. [7.1.13.8 NMAC - N, 02/28/06]</p> <p>Refer to 7.1.13.8 A. (2) (2) All licensed health care facilities shall report abuse, neglect, misappropriation of property, and injuries of unknown sources to the division within a twenty-four (24) hour period.</p> <p>Also refer to 7.8.2.32 REPORTING OF INCIDENTS: A. The facility shall insure that all suspected cases or known incidents of resident abuse, neglect or exploitation are reported in accordance with 7.1.13 NMAC.</p>	A 070		

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A 070	<p>Continued From page 5</p> <p>(1) The facility shall also report any incident or unusual occurrence which has or could threaten the health, safety, or welfare of the residents and staff to the licensing authority complaint hotline within twenty-four (24) hours or by the next business day, if it is a weekend or a holiday.</p> <p>(2) The facility shall not delay a report to the complaint hotline while an internal investigation is conducted.</p> <p>Based on record review and interview the facility failed to report an incident of abuse from a staff to a resident within twenty four (24) hours of the abuse (resident #1 and staff #101). This deficient practice has the potential to allow abuse to continue for all residents being abused. The findings are:</p> <p>A. Review of records revealed an Incident Report received at State Central Intake on 01/06/12. The date of the incident was recorded as 12/17/11; 14 days before the incident was reported.</p> <p>B. In an interview with the administrator on 02/29/12 at 4:00 pm, the administrator acknowledged the facility did not report the incident within twenty four (24) hours of the incident. The administrator stated, "I needed time to investigate."</p> <p>7.1.9.8 CAREGIVER AND HOSPITAL CAREGIVER EMPLOYMENT REQUIREMENTS: A. General: The responsibility for compliance with the requirements of the act applies to both the care provider and to all applicants, caregivers and hospital caregivers. All applicants for employment to whom an offer of employment is made or caregivers and hospital caregivers employed by</p>	A 070		

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A 070	<p>Continued From page 6</p> <p>or contracted to a care provider must consent to a nationwide and statewide criminal history screening, as described in Subsections D, E and F of this section, upon offer of employment or at the time of entering into a contractual relationship with the care provider. Care providers shall submit all fees and pertinent application information for all applicants, caregivers or hospital caregivers as described in Subsections D, E and F of this section. Pursuant to Section 29-17-5 NMSA 1978 (Amended) of the act, a care provider ' s failure to comply is grounds for the state agency having enforcement authority with respect to the care provider to impose appropriate administrative sanctions and penalties.</p> <p>B. Exception: A caregiver or hospital caregiver applying for employment or contracting services with a care provider within twelve (12) months of the caregiver ' s or hospital caregiver ' s most recent nationwide criminal history screening which list no disqualifying convictions shall only apply for a statewide criminal history screening upon offer of employment or at the time of entering into a contractual relationship with the care provider.</p> <p>At the discretion of the care provider a nationwide criminal history screening, additional to the required statewide criminal history screening, may be requested.</p> <p>C. Conditional Employment: Applicants, caregivers, and hospital caregivers who have submitted all completed documents and paid all applicable fees for a nationwide and statewide criminal history screening may be deemed to have conditional supervised employment pending receipt of written notice given by the department as to whether the applicant , caregiver or hospital caregiver has a disqualifying conviction.</p> <p>D. Application: In order for a nationwide criminal</p>	A 070		

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A 070	<p>Continued From page 7</p> <p>history record to be obtained and processed, the following shall be submitted to the department on forms provided by the department.</p> <p>(1) A form containing personal identification which has a photograph of the person and which meets the requirements for employment eligibility in accordance with the immigration and nationality act as amended. A reasonable xerographic copy of a drivers license photograph will suffice under Subsection D of 7.1.9.8 NMAC.</p> <p>(2) A signed authorization for release of information form.</p> <p>(3) Three (3) complete sets of readable fingerprint cards or other department approved media acceptable to the department of public safety and the federal bureau of investigation submitted using black ink.</p> <p>(4) The fee specified by the department for the nationwide and statewide criminal history screening investigation shall not exceed seventy-four (\$74) dollars. Of which, twenty-four (\$24) dollars shall be applied for the federal bureau of investigation nationwide criminal history screening, seven (\$7) dollars shall be applied for the statewide criminal history screening. The remaining application fee shall be applied to cover costs incurred by the Department to support activities required by the Act and these rules. The fees will not be applied to any other activity or expense undertaken by the Department.</p> <p>(5) If the applicant, caregiver or hospital caregiver must submit another readable set of fingerprint cards upon notice that the fingerprint cards previously submitted were found unreadable, as determined by the federal bureau of investigation or department of public safety, the submission of a second set of fingerprint cards is required, a separate fee will not be charged. A fee shall be charged for submission of a third and subsequent</p>	A 070		

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A 070	<p>Continued From page 8</p> <p>fingerprint sets.</p> <p>(6) If the applicant, caregiver or hospital caregiver has a physical or medical condition which prevents the applicant, caregiver or hospital caregiver from producing readable fingerprints using commonly available fingerprinting techniques, the applicant, caregiver or hospital caregiver shall submit the fingerprint cards with a notarized affidavit signed by the applicant, caregiver, hospital caregiver, returned to the department within fourteen (14) calendar days, as determined by the postmark, which provides:</p> <p>(a) identification of the applicant, caregiver or hospital caregiver;</p> <p>(b) an explanation of, or a statement describing, the applicant ' s, caregiver ' s or hospital caregiver ' s good faith efforts to supply readable fingerprints; and</p> <p>(c) the physical or medical reason that prevents the applicant, caregiver or hospital caregiver from producing readable fingerprints using commonly available fingerprinting techniques.</p> <p>(d) An applicant, caregiver or hospital caregiver meeting the conditions of this paragraph and who has resided in the state of New Mexico for less than ten (10) years must also submit a ten (10) year work history in addition to the required affidavits.</p> <p>(7) All documentation submitted to the department for the purposes of criminal history screening and for the purposes set forth in 7.1.9.9 NMAC and 7.1.9.10 NMAC shall become the sole property of the department with the exception of fingerprint cards which shall be destroyed upon clearance by both the federal bureau of investigation and department of public safety. All other submitted documentation shall be retained by the department for a period of one year from the final date of closure and thereafter shall be archived.</p>	A 070		

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A 070	<p>Continued From page 9</p> <p>E. Fees: The federal bureau of investigation has a mandatory processing fee with no exceptions. The department and department of public safety impose a state processing and administrative fee. The fee payment must accompany the fingerprint application, or otherwise be credited to the department prior to or at the same time with the department ' s receipt of the application documents. The manner of payment of the fee is by bank cashier check or money order payable to the New Mexico department of health or other method of funds transfer acceptable to the department. Business checks will be accepted unless the business tendering the check has previously tendered a check to the department unsupported by sufficient funds. Neither cash nor personal checks will be accepted. The fee may be paid by the care provider or by the applicant , caregiver or hospital caregiver. The department will set a fee in addition to the fees imposed by department of public safety and the federal bureau of investigation that will fully and completely cover costs incurred by the department to support activities required by the act and these rules. The fees will not be applied to any other activity or expense undertaken by the department.</p> <p>F. Timely Submission: Care providers shall submit all fees and pertinent application information for all individuals who meet the definition of an applicant, caregiver or hospital caregiver as described in Subsections B, D and K of 7.1.9.7 NMAC, no later than twenty (20) calendar days from the first day of employment or effective date of a contractual relationship with the care provider.</p> <p>G. Maintenance of Records: Care providers shall maintain documentation relating to all employees and contractors evidencing compliance with the act and these rules.</p>	A 070		

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A 070	<p>Continued From page 10</p> <p>(1) During the term of employment, care providers shall maintain evidence of each applicant, caregiver or hospital caregiver ' s clearance, pending reconsideration, or disqualification.</p> <p>(2) Care providers shall maintain documented evidence showing the basis for any determination by the care provider that an employee or contractor performs job functions that do not fall within the scope of the requirement for nationwide or statewide criminal history screening. A memorandum in an employee ' s file stating " This employee does not provide direct care or have routine unsupervised physical or financial access to care recipients served by [name of care provider], " together with the employee ' s job description, shall suffice for record keeping purposes.</p> <p>Based on record review and interview the facility failed to send fingerprint cards, application information, and fees to the Criminal Criminal History Screening (CCHS) program for 1 of 4 staff files reviewed (staff #102). This deficient practice has the potential for the facility to hire staff with a criminal history disqualification. The findings are:</p> <p>A. Review of records for staff #102 revealed no CCHS Clearance Letter or evidence fingerprint cards, application information, and fees had ever been sent to the CCHS program.</p> <p>B. In a telephone interview with the administrator on 03/01/12 at 4:13 pm, the administrator acknowledged fingerprint cards, application information, and fees had never been sent to the CCHS program for staff #102.</p>	A 070		