

Division of Health Improvement

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>5827</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>02/04/2020</b>
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NAME OF PROVIDER OR SUPPLIER  <b>TOUCHED BY A WHITE DOVE ASSISTED LIVING</b>	STREET ADDRESS, CITY, STATE, ZIP CODE <b>1605 CARDENAS DRIVE NE ALBUQUERQUE, NM 87110</b>
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A 000	Initial Comments  The following deficiencies were cited during a Full-Onsite survey completed on 02/04/20 for the state requirements of 7 NMAC 8.2, Regulations for Assisted Living Facilities.	A 000		
A 020	7 NMAC 8.2.20 Admissions and Discharge  ADMISSIONS AND DISCHARGE: The facility shall complete an admission agreement for each resident. The administrator of the facility or a designee responsible for admission decisions shall meet with the resident or the resident ' s surrogate decision maker prior to admission. No resident shall be admitted who is below the age of eighteen (18) or for whom the facility is unable to provide appropriate care. A. Admission agreement. The admission agreement shall include the following information: (1) the parties to the agreement; (2) the program narrative; (3) the facility's rules; (4) the cost of services and the method of payment; (5) the refund provision in case of death, transfer, voluntary or involuntary discharge; (6) information to formulate advance directives; (7) a written description of the legal rights of the residents translated into another language, if necessary; (8) the facility's staffing ratio; (9) written authorization for staff to assist with medications; (10) notification of rights and responsibilities pursuant to the Incident Reporting Intake, Processing and Training Requirements, 7.1.13 NMAC; (11) the facility ' s bed hold policy; and (12) the admission agreement may be terminated if an appropriate placement is found for the	A 020		

Division of Health Improvement LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE <b>02/25/20</b>
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A 020	<p>Continued From page 1</p> <p>resident, under the following circumstances:</p> <p>(a) there shall be a fifteen (15) day written notice of termination given to the resident or his or her surrogate decision maker, unless the resident requests the termination;</p> <p>(b) the resident has failed to pay for a stay at the facility as defined in the admission agreement;</p> <p>(c) the facility ceases to operate or is no longer able to provide services to the resident;</p> <p>(d) the resident ' s health has improved sufficiently and therefore no longer requires the services of the facility;</p> <p>(e) termination without prior notice is permitted in emergency situations for the following reasons:</p> <p>(i) the transfer or discharge is necessary for the resident's safety and welfare;</p> <p>(ii) the resident's needs cannot safely be met in the facility; or</p> <p>(iii) the safety and health of other residents and staff in the facility are endangered;</p> <p>(13) the facility shall provide a thirty (30) day written notice to residents regarding any changes in the cost or the material services provided; a new or amended admission agreement must be executed whenever services, costs or other material terms are changed; and</p> <p>(14) facilities representing their services as " specialized " must disclose evidence of staff specialty training to prospective residents.</p> <p>B. Restrictions in admission. The facility shall not admit or retain individuals that require twenty-four (24) hour continuous nursing care, refer to Subsection U of 7.8.2.7 NMAC Definitions. This rule does not apply to hospice residents who have elected to receive the hospice benefit. Conditions or circumstances that usually require continuous nursing care may include but are not limited to the following:</p> <p>(1) ventilator dependency;</p>	A 020		

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A 020	<p>Continued From page 2</p> <p>(2) pressure sores and decubitus ulcers (stage III or IV);</p> <p>(3) intravenous therapy or injections;</p> <p>(4) any condition requiring either physical or chemical restraints;</p> <p>(5) nasogastric tubes;</p> <p>(6) tracheostomy care;</p> <p>(7) residents that present an imminent physical threat or danger to self or others;</p> <p>(8) residents whose psychological or physical condition has declined and placement in the current facility is no longer appropriate as determined by the PCP;</p> <p>(9) residents with a diagnosis that requires isolation techniques;</p> <p>(10) residents that require the use of a Hoyer lift; and</p> <p>(11) ostomy (unless resident is able to provide self care).</p> <p>C. Exceptions to admission, readmission and retention. If a resident requires a greater degree of care than the facility would normally provide or is permitted to provide and the resident wishes to be re-admitted or remain in the facility and the facility wishes to re-admit or retain the resident. The facility shall comply with the following requirements.</p> <p>(1) Convene a team, comprised of:</p> <p>(a) the facility administrator and a facility health care professional if desired;</p> <p>(b) the resident or resident ' s surrogate decision maker; and</p> <p>(c) the hospice or home health clinician.</p> <p>(2) The team shall jointly determine if the resident should be admitted, readmitted or allowed to remain in the facility. Team approval shall be in writing, signed and dated by all team members and the approval shall be maintained in the resident's record and shall:</p>	A 020		

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A 020	<p>Continued From page 3</p> <p>(a) be based upon an individual service plan (ISP) which identifies the resident's specific needs and addresses the manner that such needs will be met;</p> <p>(b) ensure that if the facility is licensed for more than eight (8) residents and does not have complete fire sprinkler coverage, the facility shall maintain an evacuation rating score of prompt as determined by the fire safety equivalency system (FSSES);</p> <p>(c) evaluate and outline how meeting the specific needs of the resident will impact the staff and the other residents; and</p> <p>(d) include an independent advocate such as a certified ombudsman if requested by the resident, the family or the facility.</p> <p>(3) The team recommendation shall be maintained on site in the resident ' s file.</p> <p>(4) When a resident is discharged, the facility shall record where the resident was discharged to and what medications were released with the resident.</p> <p>D. Coordination of care.</p> <p>(1) Assisted living facilities shall have evidence of care coordination on an ISP for all services that are provided in the facility by an outside health care provider, such as hospice or home health providers.</p> <p>(2) Residents shall be given a list of providers, including hospice and home health if applicable, and have the right to choose their provider. If applicable, the referring party shall disclose any ownership interest in a recommended or listed provider.</p> <p>[7.8.2.20 NMAC - Rp, 7.8.2.19 NMAC &amp; 7.8.2.20 NMAC, 01/15/2010]</p>	A 020		

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A 020	<p>Continued From page 4</p> <p>This REQUIREMENT is not met as evidenced by: 7.8.2.20 A (5,7-8) (10) (12) (a)(c) (13)</p> <p>Refer to Senate Bill (SB) 0335 - 2013 AN ACT RELATING TO HEALTH CARE; REQUIRING CONTRACTS FOR ASSISTED LIVING FACILITIES TO CONTAIN A REFUND POLICY UPON TERMINATION OF A CONTRACT DUE TO THE DEATH OF THE RESIDENT; PROVIDING FOR STORAGE OF A RESIDENT'S BELONGINGS; DECLARING AN EMERGENCY. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:</p> <p>SECTION 1. A new section of the Public Health Act is enacted to read: "ASSISTED LIVING FACILITIES CONTRACTS--LIMIT ON CHARGES AFTER RESIDENT DEATH.-- A. The contract for each resident of an assisted living facility shall include a refund policy to be implemented at the time of a resident's death. The refund policy shall provide that the resident's estate or responsible party is entitled to a prorated refund based on the calculated daily rate for any unused portion of payment beyond the termination date after all charges have been paid to the licensee. For the purpose of this section, the termination date shall be the date the unit is vacated by the resident due to the resident's death and cleared of all personal belongings. B. If a resident's belongings are not removed within one week of the resident's death and the amount of belongings does not preclude renting the unit, the facility may clear the unit and charge the resident's estate for moving and storing the items at a rate equal to the actual cost</p>	A 020		

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A 020	<p>Continued From page 5</p> <p>to the facility, not to exceed ten percent of the regular rate for the unit; provided that the responsible party for the resident is given notice at least one week before the resident's belongings are removed. If the resident's belongings are not claimed within forty-five days after notification, the facility may dispose of them.</p> <p>C. For the purposes of this section, "assisted living facility" means a facility required to be licensed as an assisted living facility for adults by the department of health."</p> <p>SECTION 2. EMERGENCY. --It is necessary for the public peace, health and safety that this act take effect immediately.</p> <p>Based on record review and interview the facility failed to ensure for 2 (R #s 1-2) of 2 (R #s 1-2) residents whose Admission/Discharge Agreements were reviewed for compliance, included the following information required by regulation NMAC 7.8.2.20 and (SB) 0335 - 2013:</p> <ol style="list-style-type: none"> <li>1. A refund upon death policy that is in compliance with (SB) 0335 - 2013.</li> <li>2. A written description of the legal rights of the residents translated into another language, if necessary.</li> <li>3. The facility's staffing ratio.</li> <li>4. Notification of rights and responsibilities pursuant to the Incident Reporting Intake, Processing and Training Requirements, 7.1.13 NMAC.</li> <li>5. The admission/discharge agreement may be terminated by the facility "if" an appropriate placement has been found for the resident.               <ol style="list-style-type: none"> <li>a. There shall be a fifteen (15) day written notice of termination given to the resident/surrogate decision maker, unless the resident requests the termination, if:</li> <li>b. The facility ceases to operate or is no longer able to provide services to the resident.</li> </ol> </li> </ol>	A 020		

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A 020	<p>Continued From page 6</p> <p>6. The facility shall provide a thirty (30) day written notice to residents regarding any changes in the cost or the material services provided; a new or amended admission agreement must be executed whenever services, costs or other material terms are changed.</p> <p>These deficient practices could likely result in the residents:</p> <ol style="list-style-type: none"> <li>1. Estate not receiving monies owed to them and/or being aware of extra charges that could occur for storage of the resident's belongings.</li> <li>2. Being unable to understand their legal rights if not translated into in the resident's primary language, if necessary.</li> <li>3. Being misinformed regarding the number of Direct Care Staff (DCS) that will be available to assist residents on each shift.</li> <li>4. Not knowing their rights regarding incident reporting, processing and training requirements.</li> <li>5. Being discharged without proper notice and before an appropriate placement has been found.</li> <li>6. Emotional/financial hardship to the resident/legal representatives if charged for new/changed care services without the appropriate 30-day notice.</li> </ol> <p>The findings are:</p> <p>A. Record review of R #s 1-2 Admissions Agreement/Discharge revealed that the following information was not included:</p> <ol style="list-style-type: none"> <li>1. Refund policy upon death that is in compliance with (SB) 0335 - 2013.</li> <li>2. A written description of the legal rights of the residents translated into another language, if necessary.</li> <li>3. The facility's staffing ratio.</li> <li>4. Notification of rights and responsibilities</li> </ol>	A 020		

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A 020	<p>Continued From page 7</p> <p>pursuant to the Incident Reporting Intake, Processing and Training Requirements, 7.1.13 NMAC.</p> <p>5. The admission/discharge agreement can be terminated by the facility "if" an appropriate placement has been found for the resident.</p> <p>a. There shall be a fifteen (15) day written notice of termination given to the resident/surrogate decision maker, unless the resident requests the termination, if:</p> <p>b. The facility ceases to operate or is no longer able to provide services for the resident.</p> <p>6. The facility shall provide a thirty (30) day written notice to residents regarding any changes in the cost or the material services provided.</p> <p>B. On 02/04/20 at 10:36 am, during an interview with the Co-Owner, he confirmed the findings listed above for R #s 1-2 Admissions Agreements/Discharges.</p>	A 020		