

Division of Health Improvement

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROV DER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 2266	(X2) MULT PLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 12/23/2021
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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS, CITY, STATE, ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 000	<p>Initial Comments</p> <p>The following deficiencies were cited during a Complaint survey completed on 12/23/21, for the state requirements of 7 NMAC 8.2, Regulations for Assisted Living Facilities:</p> <p>Complaint #NM50772 was unsubstantiated with deficiencies cited. Complaint #NM51385 was unsubstantiated with no deficiencies cited. Complaint #NM53871 was unsubstantiated with deficiencies cited Complaint #NM51934 was unsubstantiated with no deficiencies cited. Complaint #NM51418 was substantiated with deficiencies cited. Complaint #NM51389 was unsubstantiated with deficiencies cited.</p>	A 000		
A 016	<p>7 NMAC 8.2.16 Staff Qualifications</p> <p>STAFF QUALIFICATIONS: A facility shall employ staff with the following qualifications. A. Administrator, director, operator: an assisted living facility shall be supervised by a full-time administrator. Multiple facilities that are located within a forty (40) mile radius may have one full-time administrator. The administrator shall: (1) be at least twenty-one (21) years of age; (2) have a high school diploma or its equivalent; (3) comply with the requirements of the New Mexico Caregivers Criminal History Screening Act, 7.1.9 NMAC; (4) complete a state approved certification program for assisted living administrators; (5) be able to communicate with the residents in the language spoken by the majority of the residents; (6) not work while under the influence of alcohol or illegal drugs;</p>	A 016	<p>Plan of correction for 7NMAC 8.2.16 Staff Qualifications</p> <p>Administrator at Desert Peaks Assisted Living will complete all on boarding paperwork to ensure that:</p> <ul style="list-style-type: none"> All The Direct Care Staff (DCS) received clearances from the Employee Abuse Registry (EAR) prior to hire and Employees had their applications and fingerprints for the Caregivers Criminal History Screening Program (CCHSP) submitted within 20 days of hire. <p>Wellness Director will follow up with Administrator prior to orientation of any new hire to ensure proper paperwork has been done and the direct care staff is clear to work.</p>	2/12/2022

Division of Health Improvement
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

Amanda Santel

TITLE

Regional Director

(X6) DATE

02/12/2022

Division of Health Improvement

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A 016	<p>Continued From page 1</p> <p>(7) have evidence of education and experience to prove the ability to administer, direct and operate an assisted living facility; the evidence of education and experience shall be directly related to the services that are provided at the facility;</p> <p>(8) provide three (3) notarized letters of reference from persons unrelated to the applicant; and</p> <p>(9) comply with the pre-employment requirements pursuant to the Employee Abuse Registry, 7.1.12 NMAC.</p> <p>B. Direct care staff:</p> <p>(1) shall be at least eighteen (18) years of age;</p> <p>(2) shall have adequate education, relevant training, or experience to provide for the needs of the residents;</p> <p>(3) shall comply with the pre-employment requirements pursuant to the Employee Abuse Registry, 7.1.12 NMAC; and</p> <p>(4) shall comply with the current requirements of reporting and investigating incidents pursuant to Incident Reporting, Intake Processing and Training Requirements, 7.1.13 NMAC;</p> <p>(5) if a facility provides transportation for residents, the employees of the facility who drive vehicles and transport residents shall have copies of the following documents on file at the facility:</p> <p>(a) a valid New Mexico driver's license with the appropriate classification for the vehicle that is used to transport residents;</p> <p>(b) documentation of training in transportation safety for the elderly and disabled, including safe vehicle operation;</p> <p>(c) proof of insurance; and</p> <p>(d) documentation of a clean driving record;</p> <p>(6) any person who provides direct care who is not employed by an agency that is covered by the requirements of the Caregivers Criminal History Screening Requirements, 7.1.9 NMAC, shall</p>	A 016		

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A 016	<p>Continued From page 2</p> <p>provide current (within the last 6 months) proof of the caregivers criminal history screening to the facility; the facility shall maintain and have proof of such screening readily available; and (7) employers shall comply with the requirements of the Caregivers Criminal History Screening Requirements, 7.1.9 NMAC. [7.8.2.16 NMAC - Rp, 7.8.2.16 NMAC, 01/15/2010]</p> <p>This REQUIREMENT is not met as evidenced by: Refer to 7.1.12 EMPLOYEE ABUSE REGISTRY</p> <p>7.1.12.8 REGISTRY ESTABLISHED; PROVIDER INQUIRY REQUIRED: Upon the effective date of this rule, the department has established and maintains an accurate and complete electronic registry that contains the name, date of birth, address, social security number, and other appropriate identifying information of all persons who, while employed by a provider, have been determined by the department, as a result of an investigation of a complaint, to have engaged in a substantiated registry-referred incident of abuse, neglect or exploitation of a person receiving care or services from a provider. Additions and updates to the registry shall be posted no later than two (2) business days following receipt. Only department staff designated by the custodian may access, maintain and update the data in the registry.</p> <p>A. Provider requirement to inquire of registry. A provider, prior to employing or contracting with an employee, shall inquire of the registry whether the individual under consideration for employment or contracting is listed on the registry.</p>	A 016		

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A 016	<p>Continued From page 3</p> <p>B. Prohibited employment. A provider may not employ or contract with an individual to be an employee if the individual is listed on the registry as having a substantiated registry-referred incident of abuse, neglect or exploitation of a person receiving care or services from a provider.</p> <p>C. Applicant's identifying information required. In making the inquiry to the registry prior to employing or contracting with an employee, the provider shall use identifying information concerning the individual under consideration for employment or contracting sufficient to reasonably and completely search the registry, including the name, address, date of birth, social security number, and other appropriate identifying information required by the registry.</p> <p>D. Documentation of inquiry to registry. The provider shall maintain documentation in the employee's personnel or employment records that evidences the fact that the provider made an inquiry to the registry concerning that employee prior to employment. Such documentation must include evidence, based on the response to such inquiry received from the custodian by the provider, that the employee was not listed on the registry as having a substantiated registry-referred incident of abuse, neglect or exploitation.</p> <p>E. Documentation for other staff. With respect to all employed or contracted individuals providing direct care who are licensed health care professionals or certified nurse aides, the provider shall maintain documentation reflecting the individual's current licensure as a health care professional or current certification as a nurse aide.</p> <p>F. Consequences of noncompliance. The department or other governmental agency having regulatory enforcement authority over a provider may sanction a provider in accordance with</p>	A 016		

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A 016	<p>Continued From page 4</p> <p>applicable law if the provider fails to make an appropriate and timely inquiry of the registry, or fails to maintain evidence of such inquiry, in connection with the hiring or contracting of an employee; or for employing or contracting any person to work as an employee who is listed on the registry. Such sanctions may include a directed plan of correction, civil monetary penalty not to exceed five thousand dollars (\$5000) per instance, or termination or non-renewal of any contract with the department or other governmental agency. [7.1.12.8 NMAC - N, 01/01/2006]</p> <p>7.8.2.16. B (3) (7)</p> <p>Based on record review and interview, the facility failed to ensure that;</p> <ol style="list-style-type: none"> 1. The Direct Care Staff, (DCS) received clearances from the Employee Abuse Registry (EAR) prior to hire. 2. Employees had their applications and fingerprints for the Caregivers Criminal History Screening Program (CCHSP) submitted within 20 days of hire. <p>These deficient practices could likely negatively affect the safety and welfare of the 36 (R #s 1-36) residents identified on the census provided by the Health and Wellness Director on 12/20/21 if;</p> <ol style="list-style-type: none"> 1. Residents are being provided care by staff who may have a previous history of abusing, neglecting, and/or exploiting residents. 2. Residents are being provided care by staff who may have a previous criminal history. <p>Findings related to EAR clearance:</p>	A 016		

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A 016	<p>Continued From page 5</p> <p>A. Record review of DCS # 3's employee file (date of hire 01/30/18) revealed. no documentation of receiving clearance from the EAR prior to hire.</p> <p>B. Record review of DCS #4's employee file (date of hire 02/13/19) revealed, no documentation of receiving clearance from the EAR prior to hire.</p> <p>C. Record review of DCS #8's employee file (date of hire 12/01/20) revealed, no documentation of receiving clearance from the EAR prior to hire.</p> <p>D. Record review of Administrator #1's employee file (date of hire 06/30/20) revealed, the EAR research and clearance date was not until 07/17/20.</p> <p>E. On 12/23/21 at 9:00 am, during an interview with Administrator #1, she confirmed that herself and DCS #'s 3, 4, and 8, did not have documentation of receiving clearances from the EAR prior to hire.</p> <p>Findings related to CCHSP fingerprint clearance:</p> <p>F. Record review of DCS # 3's employee file (date of hire 01/30/18) revealed, no documentation of having their application and fingerprints for the Caregivers Criminal History Screening Program (CCHSP) submitted within 20 days of hire.</p> <p>G. Record review Record review of DCS #8's employee file (date of hire 12/01/20) revealed, no documentation of having their application and fingerprints for the Caregivers Criminal History Screening Program (CCHSP) submitted within 20</p>	A 016		

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A 017	<p>Continued From page 7</p> <p>(4) confidentiality of records and resident information; (5) infection control; (6) resident rights; (7) reporting requirements for abuse, neglect or exploitation in accordance with 7.1.13 NMAC; (8) smoking policy for staff, residents and visitors; (9) methods to provide quality resident care; (10) emergency procedures; (11) medication assistance, including the certificate of training for staff that assist with medication delivery; and (12) the proper way to implement a resident ISP for staff that assist with ISPs.</p> <p>D. If a facility provides transportation to residents, employees of the facility who drive vehicles and transport residents shall have training in transportation safety for the elderly and disabled, including safe vehicle operation. [7.8.2.17 NMAC - Rp, 7.8.2.17 NMAC, 01/15/2010]</p> <p>This REQUIREMENT is not met as evidenced by: 7.8.2.17 A C</p> <p>Based on record review and interview, the facility failed to ensure that the Direct Care Staff (DCS) had received:</p> <ol style="list-style-type: none"> 16 hours of supervised training prior to providing unsupervised care. 12 hours of orientation and annual training required by regulation. <p>This deficient practice could likely result in harm or injury for the 36 (R #s 1-36) residents identified on the census provided by the Health and Wellness Director on 12/20/21, if the DCS providing care have not received all required</p>	A 017	We will put a regular training schedule in place, so going forward we will be in compliance.	

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A 017	<p>Continued From page 8</p> <p>training and do not know how to properly care for residents. The findings are:</p> <p>Findings related to 16 hours of supervised training prior to providing unsupervised care:</p> <p>A. Record review of DCS #4's employee file (date of hire 02/13/19) revealed, no documentation of receiving 16 hours of supervised training prior to providing unsupervised care.</p> <p>B. Record review of DCS #8's employee file (date of hire 12/01/20) revealed, no documentation of receiving 16 hours of supervised training prior to providing unsupervised care.</p> <p>C. On 12/23/21 at 9:00 am, during an interview with Administrator #1, she confirmed that DCS #'s 4 and 8 had no documentation of receiving 16 hours of supervised training prior to providing unsupervised care.</p> <p>Findings related to 12 hours of orientation and annual training required by regulation:</p> <p>D. Record review of DCS #3's employee file (date of hire 01/30/18) revealed, no documentation of 12 hours of annual training required by regulation for the following trainings:</p> <ul style="list-style-type: none"> (1) fire safety and evacuation training. (2) first aid. (3) safe food handling practices (for persons involved in food preparation), to include: <ul style="list-style-type: none"> (a) instructions in proper storage, (b) preparation and serving of food, (c) safety in food handling. (d) appropriate personal hygiene. 	A 017		

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A 017	<p>Continued From page 9</p> <p>(e) infectious and communicable disease control.</p> <p>(4) confidentiality of records and resident information,</p> <p>(5) infection control,</p> <p>(6) resident rights,</p> <p>(7) reporting requirements for abuse, neglect or exploitation in accordance with 7.1.13 NMAC.</p> <p>(8) smoking policy for staff, residents and visitors,</p> <p>(9) methods to provide quality resident care,</p> <p>(10) emergency procedures.</p> <p>E. Record review of DCS #4's employee file (date of hire 02/13/19) revealed, no documentation of 12 hours of annual training required by regulation for the following trainings:</p> <p>(1) fire safety and evacuation training.</p> <p>(2) first aid.</p> <p>(3) safe food handling practices (for persons involved in food preparation), to include:</p> <p>(a) instructions in proper storage,</p> <p>(b) preparation and serving of food.</p> <p>(c) safety in food handling.</p> <p>(d) appropriate personal hygiene.</p> <p>(e) infectious and communicable disease control.</p> <p>(4) confidentiality of records and resident information.</p> <p>(5) infection control.</p> <p>(6) resident rights;</p> <p>(7) reporting requirements for abuse, neglect or exploitation in accordance with 7.1.13 NMAC.</p> <p>(8) smoking policy for staff, residents and visitors.</p> <p>(9) methods to provide quality resident</p>	A 017		

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A 017	<p>Continued From page 10</p> <p>care.</p> <p>(10) emergency procedures.</p> <p>F. Record review of DCS #8's employee file (date of hire 12/01/20) revealed, no documentation of 12 hours of annual training required by regulation for the following trainings:</p> <p>(1) fire safety and evacuation training,</p> <p>(2) first aid,</p> <p>(3) safe food handling practices (for persons involved in food preparation), to include.</p> <p>(a) instructions in proper storage,</p> <p>(b) preparation and serving of food;</p> <p>(c) safety in food handling,</p> <p>(d) appropriate personal hygiene.</p> <p>(e) infectious and communicable disease control.</p> <p>(4) confidentiality of records and resident information,</p> <p>(5) infection control.</p> <p>(6) resident rights,</p> <p>(7) reporting requirements for abuse, neglect or exploitation in accordance with 7.1.13 NMAC.</p> <p>(8) smoking policy for staff, residents and visitors.</p> <p>(9) methods to provide quality resident care.</p> <p>(10) emergency procedures.</p> <p>G. Record review of DCS #13's employee file (date of hire 10/09/18) revealed, no documentation of 12 hours of annual training required by regulation for the following trainings:</p> <p>(1) fire safety and evacuation training.</p> <p>(2) first aid.</p> <p>(3) safe food handling practices (for persons involved in food preparation), to include:</p> <p>(a) instructions in proper storage.</p>	A 017		

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A 017	<p>Continued From page 11</p> <p>(b) preparation and serving of food.</p> <p>(c) safety in food handling.</p> <p>(d) appropriate personal hygiene.</p> <p>(e) infectious and communicable disease control.</p> <p>(4) confidentiality of records and resident information.</p> <p>(5) infection control.</p> <p>(6) resident rights.</p> <p>(7) reporting requirements for abuse, neglect or exploitation in accordance with 7.1.13 NMAC.</p> <p>(8) smoking policy for staff, residents and visitors.</p> <p>(9) methods to provide quality resident care.</p> <p>(10) emergency procedures.</p> <p>H. On 12/23/21 at 9:00 am, during an interview with Administrator #1, she confirmed that the above listed staff had not received all their annual trainings. She stated she conducts a first aid training occasionally, but does not have documentation of those trainings.</p> <p>I. On 12/23/21 at 9:00 am, during an interview with Administrator #2, he confirmed that the facility is working on getting a training database set up so staff can complete the required annual trainings.</p>	A 017		
A 020	<p>7 NMAC 8.2.20 Admissions and Discharge</p> <p>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</p>	A 020		

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A 020	<p>Continued From page 12</p> <p>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.</p> <p>A. Admission agreement. The admission agreement shall include the following information:</p> <ol style="list-style-type: none"> (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 resident, under the following circumstances: <ol style="list-style-type: none"> (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; (b) the resident has failed to pay for a stay at the facility as defined in the admission agreement; (c) the facility ceases to operate or is no longer able to provide services to the resident; (d) the resident's health has improved sufficiently and therefore no longer requires the services of the facility; 	A 020	<p>Plan of Correction for 7 NMAC 8.2.20</p> <p>Desert Peaks has revised their Admissions and Discharge Agreement to reflect the following:</p> <ul style="list-style-type: none"> • Admission/Discharge Agreements included a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20. <p>We have updated our admission agreement to include a Refund upon Death policy that is in compliance with the Senate Bill 0335-2013 and the regulations for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>We are sending an addendum out to all other current residents to sign and add to their file. They are being sent via USPS and email, we will follow up with families if we do not receive them back in a timely fashion. This will be completed by 03/31/22.</p>	<p>02/12/2022</p> <p>03/03/2022</p>

Division of Health Improvement

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROV DER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 2266	(X2) MULT PLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 12/23/2021
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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS CITY STATE ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFIC ENCS (EACH DEFIC ENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENT FY NG INFORMATION)	D PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
A 020	<p>Continued From page 13</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> <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</p>	A 020		

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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS CITY STATE ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 020	<p>Continued From page 14</p> <p>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> <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</p>	A 020		

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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS, CITY, STATE, ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 020	<p>Continued From page 15</p> <p>other residents; and (d) include an independent advocate such as a certified ombudsman if requested by the resident, the family or the facility. (3) The team recommendation shall be maintained on site in the resident ' s file. (4) When a resident is discharged, the facility shall record where the resident was discharged to and what medications were released with the resident. D. Coordination of care. (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. (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. [7.8.2.20 NMAC - Rp, 7.8.2.19 NMAC & 7.8.2.20 NMAC, 01/15/2010]</p> <p>This REQUIREMENT is not met as evidenced by: 7.8.2.20 A (5)</p> <p>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</p>	A 020		

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STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROV DER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 2266	(X2) MULT PLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 12/23/2021
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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS, CITY, STATE, ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 020	<p>Continued From page 16</p> <p>LEGISLATURE OF THE STATE OF NEW MEXICO:</p> <p>SECTION 1. A new section of the Public Health Act is enacted to read:</p> <p>"ASSISTED LIVING FACILITIES CONTRACTS--LIMIT ON CHARGES AFTER RESIDENT DEATH.--</p> <p>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.</p> <p>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 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</p>	A 020		

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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS, CITY, STATE, ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 020	<p>Continued From page 17</p> <p>the public peace, health and safety that this act take effect immediately.</p> <p>Based on record review, observation, and interview the facility failed to ensure for 10 (R #s 1-10) of 10 (R #s 1-10) resident's, that the Admission/Discharge Agreements included a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>This deficient practice could likely result in the resident's estate to be at risk of not receiving monies owed and/or not being aware of additional charges that may be incurred, if the Refund Upon Death policy is missing from the Admission/Discharge Agreement. The findings are:</p> <p>A. Record review of R #1's Admission and Discharge agreements (date of admission [REDACTED]/20) revealed it did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>B. Record review of R #2's Admission and Discharge agreements (date of admission [REDACTED]/18) revealed it did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>C. Record review of R #3's Admission and Discharge agreements (date of admission [REDACTED]/21) revealed it did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations</p>	A 020		

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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS, CITY, STATE, ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 020	<p>Continued From page 18</p> <p>for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>D. Record review of R #4's Admission and Discharge agreements (date of admission [REDACTED] 18) revealed it did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>E. Record review of R #5's Admission and Discharge agreements (date of admission [REDACTED] /21) revealed it did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>F. Record review of R #6's Admission and Discharge agreements (date of admission [REDACTED] /20) revealed it did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>G. Record review of R #7's Admission and Discharge agreements (date of admission [REDACTED] /20) revealed it did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>H. Record review of R #8's Admission and Discharge agreements (date of admission [REDACTED] /20) revealed it did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20.</p> <p>I. Record review of R #9's Admission and Discharge agreements (date of admission [REDACTED] /20) revealed it did not include a Refund</p>	A 020		

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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CARE	STREET ADDRESS, CITY, STATE, ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 020	Continued From page 19 upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20. J. Record review of R #10's Admission and Discharge agreements (date of admission [REDACTED]/21) revealed it did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20. M. On 12/23/20 at 9:00 am, during an interview with Administrator #1, she confirmed that the Admission and Discharge agreements for R #s 1-10 did not include a Refund upon Death policy that was in compliance with Senate Bill (SB) 0335 - 2013 and the Regulations for Assisted Living Facility's 7 NMAC 8.2.20.	A 020		
A 026	7 NMAC 8.2.26 Individual Service Plan INDIVIDUAL SERVICE PLAN (ISP): An ISP shall be developed and implemented within ten (10) calendar days of admission for each resident residing in the facility. A. The ISP shall address those areas of need as identified in the resident evaluation and through staff observation. (1) The ISP shall detail the services that are provided by the facility as well as the services to be provided by other agencies. (2) The resident evaluation and the ISP shall be reviewed and if needed revised by a licensed practical nurse, registered nurse or a physician extender. (3) The ISP shall be reviewed and or revised at a minimum of every six (6) months or when there is a significant change in the resident's health status.	A 026	Plan of Correction for 7NMAC 8.2.26 Individual Service Plan Executive Director will Coordinate with the Wellness Director to ensure: <ul style="list-style-type: none"> INDIVIDUAL SERVICE PLAN (ISP): An ISP shall be developed and implemented within ten (10) calendar days of admission for each resident residing in the facility. Desert Peaks has hired an additional nurse who will help with developing the ISP in a timely manner. Our assessment RN started last week, she will do assessments and care plans for all memory care residents. All Care Plans are caught up at this time and going forward the Wellness Director will complete them according to regulations. This will be monitored by the executive director.	03/03/2021

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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS CITY STATE ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 026	<p>Continued From page 20</p> <p>B. The ISP shall include the following:</p> <ol style="list-style-type: none"> (1) a description of identified needs as noted in the resident evaluation; (2) a written description of all services to be provided; (3) who will provide the services; (4) when or how often the services will be provided; (5) how the services will be provided; (6) where the services will be provided; (7) expected goals and outcomes of the services; (8) documentation of the facility ' s determination that it is able to meet the needs of the resident; (9) the level of assistance that the resident will require with activities of daily living and with medications; (10) a crisis prevention/intervention plan when indicated by diagnosis or behavior; and (11) current orders for all medications, including those authorized for PRN usage. <p>[7.8.2.26 NMAC - Rp, 7.8.2.26 NMAC, 01/15/2010]</p> <p>This REQUIREMENT is not met as evidenced by: 7.8.2.26 A (3)</p> <p>Based on record review and interview, the facility failed to ensure for 1 (R #2) of 7 (R #s 1-7) residents whose Individual Service Plans (ISPs) were reviewed for compliance were updated at a minimum of every 6 months. This deficient practice could likely negatively affect the safety and welfare of the residents, if the ISPs have not been reviewed and updated to reflect the current needs of the residents. The findings are:</p> <p>A. Record review of R #2's ISP dated 05/15/21</p>	A 026	<p>Executive Director, Wellness Director and DCS will discuss any changes and concerns about residents 5 days a week in our morning meeting and when changes are noted the care plans will be updated by the Wellness Director, this will be monitored by the Executive Director.</p>	
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A 032	<p>Continued From page 22</p> <p>[7.8.2.32 NMAC - Rp, 7.8.2.32 NMAC, 01/15/2010]</p> <p>This REQUIREMENT is not met as evidenced by: Surveyor: Fresquez, Aspen</p> <p>7.8.2.32 A (1)</p> <p>7.1.13 INCIDENT REPORTING, INTAKE, PROCESSING AND TRAINING REQUIREMENTS</p> <p>Refer to 7.1.13.7 W. & 8 B. (2)</p> <p>W. " Reportable incident " means possible abuse, neglect, exploitation, injuries of unknown origin and other events including but not limited to falls which cause injury, unexpected death, elopement), medication error which causes or is likely to cause harm, failure to follow a doctor 's order or an ISP or any other incident which may evidence abuse, neglect, or exploitation .</p> <p>B. (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 that all incident report forms alleging abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents are submitted by a reporter with direct knowledge of an incident, are completed on the bureau's incident report form and received by the</p>	A 032		

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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS, CITY, STATE, ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 032	<p>Continued From page 23</p> <p>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 direct knowledge of the incident assists with the preparation of the incident report form.</p> <p>Based on record review and interview, the facility failed to ensure for 4 (R #s 4, 7, 9 & 10) of 10 (R #s 1-10) residents whose files, including Internal Incident Reports were reviewed for compliance, that incidents of possible abuse, neglect, or exploitation, were reported to the Licensing Authority within 24 hours or the next business day, if it is a weekend or a holiday.</p> <p>This deficient practice could likely result in the residents to be at risk of harm, injury, and/or death, if incidents occur and there is no oversight by the Licensing Authority. The findings are:</p> <p>Findings for R #4:</p> <p>A. Record review of an Internal Incident Report for R #4 dated 10/24/20 revealed:</p> <div data-bbox="170 1365 706 1680" style="background-color: black; width: 100%; height: 150px; margin: 5px 0;"></div> <p>B. On 12/23/21 at 9:00 am, during an interview with the Administrator, she confirmed that the</p>	A 032		

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A 032	<p>Continued From page 24</p> <p>facility did not report R #4's unwitnessed fall with injury to the Licensing Authority.</p> <p>Findings for R#7:</p> <p>C. Record review of an Observation Report for R #7, dated 06/08/21 revealed:</p> <ol style="list-style-type: none"> 1. The Resident had become more combative and aggressive with the Direct Care Staff (DCS) and other residents. 2. A meeting with R #7's [REDACTED] was scheduled for [REDACTED]/21 to discuss changes in the resident's behavior. 3. The facility contacted R #7's physician requesting an order to test for a [REDACTED] 4. There was no further documentation regarding the the meeting with R #7's [REDACTED] or outcome of request from the doctor. 5. There was no documentation that the incident was reported to the Licensing Authority. <p>D. On 12/23/21 at 9:00 am, during an interview with the Administrator, she confirmed that the facility did not report R #7's incident of being combative and aggressive with the DCS and other residents to the Licensing Authority.</p> <p>E. Record review of R #7's Observation Report dated 08/17/21, revealed an unusual occurrence between R #7 and another resident (unknown) where:</p> <ol style="list-style-type: none"> 1. The resident became combative and hit the resident (unknown) twice. 2. The resident hit an unknown DCS with a broom stick, which resulted in a unknown injury to the DCS. 3. There was no documentation of further action taken regarding R #7's agitation and abuse 	A 032		

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NAME OF PROVIDER OR SUPPLIER DESERT PEAKS ASSISTED LIVING AND MEMORY CA	STREET ADDRESS, CITY, STATE, ZIP CODE 5525 COTTONBLOOM COURT LAS CRUCES, NM 88005
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A 032	<p>Continued From page 25</p> <p>incident on 09/17/21</p> <p>4. There was no documentation that the incident was reported to the Licensing Authority.</p> <p>F. Record review of Complaint Intake NM #53871, dated 08/18/2021, revealed that:</p> <p>1. On 8/13/21, R #7's [REDACTED] was informed by the facility that the resident had [REDACTED]</p> <p>2. On 08/15/22 R #7's [REDACTED] was informed by the facility that ha [REDACTED]</p> <p>3. There was no documentation that the incident was reported to the Licensing Authority.</p> <p>G. Record review of R #7's Observation Report dated 08/18/21 and 08/19/21, revealed the following:</p> <p>1. On 08/18/21 at 11:30 am, The Nurse observed R #7 sitting with [REDACTED] and that the resident arms appeared to be a [REDACTED] Nurse sent a fax to [REDACTED] physician to see if the [REDACTED] could be the result of [REDACTED]</p> <p>2. On 08/19/21 at 12:00 PM, R #7's physician responded stating that the resident has a diagnosis of [REDACTED] There has been no recommendation for any therapy and to avoid any [REDACTED]</p> <p>H. Record review of R #7's Observation Report dated 08/20/21, revealed an unusual occurrence where R #7 became [REDACTED] with the DCS and punched an Office of the Medical Investigator (OMI) staff in the face while taking care of R #7's roommate revealed.</p> <p>1. R #7 punched an unknown DCS in the</p>	A 032		

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A 032	<p>Continued From page 26</p> <p>breast multiple times and kicked her knee several times which caused swelling.</p> <p>2. R #7 sustained an injury during this incident, leading to a skin tear being re-opened.</p> <p>3. There was no documentation that the incident was reported to the Licensing Authority.</p> <p>4. At 9:30 am, a fax was sent to the resident's physician informing him of the above incident.</p> <p>5. At 1:00 pm, R #7's physician called and gave a telephone order to increase [REDACTED] due to the the resident's low platelet count and to give [REDACTED]</p> <p>I. On 12/23/21 at 9:00 am, during an interview with the Administrator, she confirmed that the incidents involving R #7's aggressive/combatative behaviors were not reported to the Licensing Authority within 24-hours or the next business day if a holiday or weekend.</p> <p>Findings for R #9</p> <p>J. Record review of R #9's Observation Report dated 03/15/21, revealed that the resident had a [REDACTED] that required emergency medical services and transport/Admission.</p> <p>K. Record review of R #9's hospital emergency room notes dated 03/15/21, revealed that there was no obstruction found and no need to admit the resident at that time and he was discharged back to the facility.</p> <p>L. Record review of R #9's resident records revealed, no documentation that the 03/15/21 [REDACTED] was reported to the Licensing Authority within 24 hours or the next business day if a holiday or weekend.</p>	A 032		

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A 032	<p>Continued From page 27</p> <p>M. Record review of R #9's Event Report dated 03/16/21 revealed:</p> <ol style="list-style-type: none"> 1. The resident had an unwitnessed (by DCS) fall and was found sitting in [REDACTED] R #7 stated that [REDACTED] was trying to go to the bathroom. 2. The Resident was checked for injuries and stated that [REDACTED] 3. The resident's vitals were taken and they were all within normal range. 4. DCS notified R #9's physician and ordered a x-ray to be taken right away and to give [REDACTED] 5. There was no documentation that the incident was reported to the Licensing Authority . <p>N. On 12/23/21 at 9:00 am, during an interview with the Administrator, she confirmed that the incidents listed above for R #9 were not reported to the Licensing Authority within 24-hours or the next business day if a holiday or weekend.</p> <p>Findings for R #10:</p> <p>O. Record review of R #10's Internal Incident report dated 04/15/21, revealed that at 5:11 am, the resident had an [REDACTED] the resident:</p> <ol style="list-style-type: none"> 2. Was transferred to the hospital. Residents's [REDACTED] and home health provider was notified. 	A 032		

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A 032	<p>Continued From page 28</p> <p>3. Record review of R #10's hospital emergency room records dated 04/15/21, revealed the the resident was diagnosed with a [REDACTED] suffered a [REDACTED]</p> <p>4. There was no documentation that the incident was reported to the Licensing Authority.</p> <p>P. Record review of R #10's Observation Notes dated 04/25/21, revealed the following:</p> <p>1. At 2:45 am, R #10 told the DCS that while being transferred to [REDACTED]</p> <p>2. The resident reported [REDACTED]</p> <p>4. The resident was sent out to the hospital and [REDACTED]</p> <p>5. There was no documentation of available for review regarding his emergency room visit or admission, however, it was noted in R #10's Observation Notes dated 04/27/21, that the resident back at the facility.</p> <p>6. There was no documentation that the incident was reported to the Licensing Authority.</p> <p>Q. On 12/21/21 at 1:49 pm, during an interview with the Administrator, she confirmed that there was no documentation to show that incidents listed above for R #10 had been reported to the Licensing Authority.</p>	A 032	Plan of Correction for 7NMAC 8.2.33 Resident Rights	02/12/2022
A 033	<p>7 NMAC 8.2.33 Resident Rights</p> <p>RESIDENT RIGHTS: All licensed facilities shall understand, protect and respect the rights of all residents.</p> <p>A. Prior to admission to a facility, a resident and</p>	A 033	Executive Director and Wellness Director will provide a safe and sanitary living environment for the residents by ensuring staff are wearing an N-95 or K-N95 mask at all times when inside the facility while there are positive Covid-19 cases. This will be posted in the community and in-services will be provided for all staff on the importance of proper PPE.	

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A 033	<p>Continued From page 29</p> <p>legal representative shall be given a written description of the legal rights of the resident, translated into another language, if necessary, to meet the resident ' s understanding.</p> <p>B. If the resident has no legal representative and is incapable of understanding his or her legal rights, a written copy of the resident's legal rights shall be provided to the most significant responsible party in the following order:</p> <ol style="list-style-type: none"> (1) the resident's spouse; (2) significant other; (3) any of the resident's adult children; (4) the resident's parents; (5) any relative the resident has lived with for six or more months before admission; (6) a person who has been caring for, or paying benefits on behalf of the resident; (7) a placing agency; (8) resident advocate; or (9) the ombudsman. <p>C. The resident rights shall be posted in a conspicuous public place in the facility and shall include the telephone numbers for the incident management hotline and for the state ombudsman program.</p> <p>D. To protect resident rights, the facility shall:</p> <ol style="list-style-type: none"> (1) treat all residents with courtesy, respect, dignity and compassion; (2) not discriminate in admission or services based on gender, sexual orientation, resident's age, race, religion, physical or mental disability, or nationality; (3) provide residents written information about all services provided by the facility and their costs and give advance written notice of any changes; (4) provide residents with a safe and sanitary living environment; (5) provide humane care for all residents; (6) provide the right to privacy, including privacy 	A 033		

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A 033	Continued From page 30 during medical examinations, consultations and treatment; (7) protect the confidentiality of the resident's medical record; (8) protect the right to personal privacy, including privacy in personal hygiene; privacy during visits with a spouse, family member or other visitor; and privacy in the resident's own room; (9) protect the right to communicate privately and freely with any person, including private telephone conversations and private correspondence; and the right to receive visits from family, friends, lawyers, ombudsmen and community organizations; (10) prohibit the use of any and all physical and chemical restraints; (11) ensure that residents: (a) are free from physical and emotional abuse neglect and misappropriation/or exploitation; (b) are free from financial abuse and misappropriation by facility staff or management; (c) are free to participate in religious, social, community and other activities and freely associate with persons in and out of the facility; (d) are free to leave the facility and return without unreasonable restriction; (e) are given a fifteen (15) calendar day, written notice before room transfers or discharge from the facility unless there is immediate danger to self or others in the facility; (f) have an environment that fosters social interaction and avoids social isolation; (g) or their surrogate decision makers, are informed of and consent to the services provided by the facility; (h) have the right to voice grievances to the facility staff, public officials, the ombudsmen, any state agency, or any other person, without fear of reprisal or retaliation;	A 033		

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A 033	<p>Continued From page 31</p> <p>(i) have the right to have their complaints addressed within fourteen (14) calendar days or sooner;</p> <p>(j) have the right to participate in the development of their care plan/ISP;</p> <p>(k) have the right to choose a doctor, pharmacist and other health care provider(s);</p> <p>(l) have the right to participate in medical treatment decisions and formulate advance directives such as living wills and powers of attorney;</p> <p>(m) have the right to keep and use personal possessions without loss or damage;</p> <p>(n) have the right to manage and control their personal finances;</p> <p>(o) have the right to freely organize and participate in a resident association that may recommend changes in the facility's policies, services and management;</p> <p>(p) shall not be required to work for the facility; and</p> <p>(q) are protected from unjustified room transfers or discharge.</p> <p>E. The resident's rights shall not be restricted unless this restriction is for the health and safety of the resident, agreed to by the resident or the resident ' s surrogate decision maker and outlined in the resident ' s individual service plan. [7.8.2.33 NMAC - Rp, 7.8.2.34 NMAC, 01/15/2010]</p> <p>This REQUIREMENT is not met as evidenced by: 7.8.2.33 D (4)</p> <p>Definition: COVID-19 (SARS-CoV-2) : A virus known as COVID-19, a mild to severe illness that is caused by a novel corona virus which is</p>	A 033		

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A 033	<p>Continued From page 32</p> <p>thought to be transmitted person to person chiefly by contact with infectious material (such as respiratory droplets), and is characterized especially by fever, cough, sore throat, shortness of breath, blood clots, mental fog, and other symptoms that may progress to pneumonia, respiratory failure etc.</p> <p>Based on observation and interview, the facility failed to ensure that staff were providing a safe and sanitary living environment for the residents by ensuring staff were wearing an N-95 or K-N95 mask at all times when inside the facility while there were positive Covid-19 cases.</p> <p>This deficient practice could likely result in the 36 (R #s 1 -36) residents identified on the census provided by the Health and Wellness Director on 12/20/21, being at risk of exposure to COVID 19, becoming ill, and possibly dying as a result of contracting the COVID 19 virus.</p> <p>The findings are:</p> <p>A. On 12/21/21 at 3:37 pm, during a tour of the facility, multiple staff were observed wearing disposable masks instead of the required N-95 or K-95 masks while there are positive Covid-19 cases.</p> <p>B. Record review of the Revised Letter of Direction for Nursing Homes and Assisted Living Facilities dated 12/14/21 revealed, "All recommended COVID-19 Personal Protective Equipment (PPE) should be worn during care of residents under observation, which includes use of an N95 or higher-level respirator."</p> <p>C. On 12/22/21 at 10:35 am, during an interview with Administrator #1, she confirmed that not all</p>	A 033		

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A 033	Continued From page 33 staff were wearing an N95 or higher level mask.	A 033		