Agency for Health Care Administration

| STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION | (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: | (X2) MULTIPLE CONSTRUCTION | (X3) DATE SURVEY COMPLETED |
|---|---|---|---|
| | AL11969002 | A. BUILDING: _____ B. WING _____ | 08/12/2020 |

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| THE ROSE GARDEN OF FT MYERS | 2117 EARL RD FORT MYERS, FL 33901 |

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| A 000 | Initial Comments<br><br>An unannounced complaint survey for complaint #2020005985 & 2020005901 as well as a control focus survey and generator monitoring visit was conducted at The Rose Garden, an assisted living facility in Fort Myers, Florida.<br><br>Complaint #2020005985 was unsubstantiated. Complaint #2020005901 was substantiated at A200.<br><br>The following is description of the deficiency. | A 000 | | |
| A 200 | 59A-36.025 FAC Emergency Environmental Control<br><br>59A-36.025 Emergency Environmental Control for Assisted Living Facilities.<br>(1) DETAILED EMERGENCY ENVIRONMENTAL CONTROL PLAN. Each assisted living facility shall prepare a detailed plan ("plan") to serve as a supplement to its Comprehensive Emergency Management Plan, to address emergency environmental control in the event of the loss of primary electrical power in that assisted living facility which includes the following information:<br>(a) The acquisition of a sufficient alternate power source such as a generator(s), maintained at the assisted living facility, to ensure that current licensees of assisted living facilities will be equipped to ensure air temperatures will be maintained at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours in the event of the loss of primary electrical power.<br>1. The required temperature must be maintained in an area or areas, determined by the assisted living facility, of sufficient size to maintain residents safely at all times and that is appropriate for resident care needs and life safety | A 200 | | |

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| A 200 | Continued From page 1 | A 200 | | |

requirements. For planning purposes, no less than twenty (20) net square per resident must be provided. The assisted living facility may use eighty percent (80%) of its licensed bed capacity as the number of residents to be used in the to determine the required square footage. This may include areas that are less than the entire assisted living facility if the assisted living facility's comprehensive emergency management plan includes allowing a resident to congregate when he or she desires in portions of the building where temperatures will be maintained and includes procedures for monitoring residents for signs of heat related injury as required by this rule. This rule does not prohibit a facility from acting as a receiving provider for evacuees when the conditions stated in section 408.821, F.S. and subsection 59A-36.019(5), F.A.C., are met. The plan shall include information regarding the area(s) within the assisted living facility where the required temperature will be maintained.
2. The alternate power source and fuel supply shall be located in an area(s) in accordance with local zoning and the Florida Building Code.
3. Each assisted living facility is unique in size; the types of care provided; the physical and mental capabilities and needs of residents; the type, frequency, and amount of services and care offered; and staffing characteristics. Accordingly, this rule does not limit the types of systems or equipment that may be used to achieve temperatures at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours in the event of the loss of primary electrical power. The plan shall include information regarding the systems and equipment that will be used by the assisted living facility and the fuel required to operate the systems and equipment.

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| A 200 | Continued From page 2<br>a. An assisted living facility in an evacuation zone pursuant to chapter 252, F, S. must maintain an alternative power source and fuel as required by this subsection at all times when the assisted living facility is occupied but is permitted to utilize a mobile generator(s) to enable portability if evacuation is necessary.<br>b. Assisted living facilities located on a single campus with other facilities under common ownership, may share fuel, alternative power resources, and resident space available on the campus if such resources are sufficient to support the requirements of each facility's residents, as specified in this rule. Details regarding how resources will be shared and any necessary movement of residents must be clearly described in the emergency power plan.<br>c. A multistory facility, whose comprehensive emergency management plan is to move residents to a higher floor during a flood or surge event, must place its alternative power source and all necessary additional equipment so it can safely operate in a location protected from flooding or storm surge damage.<br>(b) The acquisition of sufficient fuel, and safe maintenance of that fuel at the facility, to ensure that in the event of the loss of primary electrical power there is sufficient fuel available for the alternate power source to maintain temperatures at or below 81 degrees Fahrenheit for a minimum of ninety-six (96) hours after the loss of primary electrical power during a declared state of emergency. The plan must include information regarding fuel source and fuel storage.<br>1. Facilities must store minimum amounts of fuel onsite as follows:<br>a. A facility with a licensed capacity of 16 beds or less must store 48 hours of fuel onsite. | A 200 | | |

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| A 200 | Continued From page 3<br>b. A facility with a licensed capacity of 17 or more beds must store 72 hours of fuel onsite.<br>2. An assisted living facility located in an area in a declared state of emergency area pursuant to section 252.36, F.S. that may impact primary power delivery must secure ninety-six (96) hours of fuel. The assisted living facility may utilize portable fuel storage containers for the remaining fuel necessary for ninety-six (96) hours during the period of a declared state of emergency.<br>3. Piped natural gas is an allowable fuel source and meets the onsite fuel supply requirements under this rule.<br>4. If local ordinances or other regulations limit the amount of onsite fuel storage for the assisted living facility's location, then the assisted living facility must develop a plan that includes maximum onsite fuel storage allowable by the ordinance or regulation and a reliable method to obtain the maximum additional fuel at least 24 hours prior to depletion of onsite fuel.<br>(c) The acquisition of services necessary to maintain, and test the equipment and its functions to ensure the safe and sufficient operation of the alternate power source maintained at the assisted living facility.<br>(d) The acquisition and maintenance of a . . . monoxide alarm.<br>(2) SUBMISSION OF THE PLAN.<br>(a) Each assisted living facility licensed prior to the effective date of this rule shall submit its plan to the local emergency management agency for review within 30 days of the effective date of this rule. Assisted living facility plans previously submitted and approved pursuant to emergency rule 58AER17-1 will require resubmission only if changes are made to the plan.<br>(b) Each new assisted living facility shall submit the plan required under this rule prior to obtaining | A 200 | | |

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| A 200 | Continued From page 4<br><br>a license.<br>(c) Each existing assisted living facility that undergoes any additions, modifications, alterations, refurbishment, renovations or reconstruction that require modification of its systems or equipment affecting the facility's compliance with this rule shall amend its plan and submit it to the local emergency management agency for review and approval.<br>(3) APPROVED PLANS.<br>(a) Each assisted living facility must maintain a copy of its approved plan in a manner that makes the plan readily available at the licensee's physical address for review by a legally authorized entity. If the plan is maintained in an electronic format, assisted living facility staff must be readily available to access and produce the plan. For purposes of this section, "readily available" means the ability to immediately produce the plan, either in electronic or paper format, upon request.<br>(b) Within two (2) business days of the approval of the plan from the local emergency management agency, the assisted living facility shall submit in writing proof of the approval to the Agency for Health Care Administration.<br>(c) The assisted living facility shall submit a consumer-friendly summary of the emergency power plan to the Agency. The Agency shall post the summary and notice of the approval and implementation of the assisted living facility emergency power plans on its website within ten (10) business days of the plan's approval by the local emergency management agency and update within ten (10) business days of implementation.<br>(4) IMPLEMENTATION OF THE PLAN.<br>(a) Each assisted living facility licensed prior to the effective date of this rule shall, no later than | A 200 | | |

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| A 200 | Continued From page 5<br>. . . . , . . . ., have implemented the plan required under this rule.<br>(b) The Agency shall allow an extension up to . . . to providers in compliance with paragraph (c) below and who can show delays caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes. Assisted living facilities shall notify the Agency that they will utilize the extension and keep the Agency apprised of progress on a quarterly basis to ensure there are no unnecessary delays. If an assisted living facility can show in its quarterly progress reports that unavoidable delays caused by necessary construction, delivery of ordered equipment, zoning or other regulatory approval processes will occur beyond the initial extension date, the assisted living facility may request a waiver pursuant to section 120.542, F.S.<br>(c) During the extension period, an assisted living facility must make arrangements pending full implementation of its plan that provides the residents with an area or areas to congregate that meets the safe indoor air temperature requirements of subsection (1) (a) for a minimum of ninety-six (96) hours.<br>1. An assisted living facility not located in an evacuation zone must either have an alternative power source onsite or have a contract in place for delivery of an alternative power source and fuel when requested. Within twenty-four (24) hours of the issuance of a state of emergency for an event that may impact primary power delivery for the area of the assisted living facility, it must have the alternative power source and no less than ninety-six (96) hours of fuel stored onsite.<br>2. An assisted living facility located in an evacuation zone pursuant to chapter 252, F.S. must either: | A 200 | | |

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| A 200 | Continued From page 6<br>a. Fully and safely evacuate its residents prior to the arrival of the event; or<br>b. Have an alternative power source and no less than ninety-six (96) hours of fuel stored onsite, within twenty-four (24) hours of the issuance of a state of emergency for the area of the assisted living facility.<br>(d) Each new assisted living facility shall implement the plan required under this rule prior to obtaining a license.<br>(e) Existing assisted living facilities that undergo any additions, modifications, alterations, refurbishment, renovations or reconstruction that require modification of the systems or equipment affecting the assisted living facility's compliance with this rule shall implement its amended plan concurrent with any such additions, modifications, alterations, refurbishment, renovations or reconstruction.<br>(f) The Agency for Health Care Administration may request cooperation from the State Fire Marshal to conduct inspections to ensure implementation of the plan in compliance with this rule.<br>(5) POLICIES AND PROCEDURES.<br>(a) Each assisted living facility shall develop and implement written policies and procedures to ensure that the assisted living facility can effectively and immediately activate, operate and maintain the alternate power source and any fuel required for the operation of the alternate power source. The procedures shall ensure that residents do not experience complications from fluctuations in air temperatures inside the facility. Procedures must address the care of residents occupying the facility during a declared state of emergency, specifically, a description of the methods to be used to mitigate the potential for heat related injury including: | A 200 | | |

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| A 200 | Continued From page 7<br>1. The use of cooling devices and equipment;<br>2. The use of refrigeration and freezers to produce ice and appropriate temperatures for the maintenance of medicines requiring refrigeration;<br>3. Wellness checks by assisted living facility staff to monitor for signs of , and heat injury; and<br>4. A provision for obtaining medical intervention from emergency services for residents whose life safety is in jeopardy.<br>(b) Each assisted living facility shall maintain the written policies and procedures in a manner that makes them readily available at the licensee's physical address for review by a legally authorized entity. If the policies and procedures are maintained in an electronic format, assisted living facility staff must be readily available to access the policies and procedures and produce the requested information. For purposes of this section, "readily available" means the ability to immediately produce the policies and procedures, either in electronic or paper format, upon request.<br>(c) The written policies and procedures must be readily available for inspection by each resident; each resident's legal representative, designee, surrogate, guardian, attorney in fact, or case manager; each resident's estate; and such additional parties as authorized in writing or by law.<br>(6) REVOCATION OF LICENSE, FINES OR SANCTIONS. For a violation of any part of this rule, the Agency for Health Care Administration may seek any remedy authorized by chapter 429, part I, or chapter 408, part II, F.S., including, but not limited to, license revocation, license suspension, and the imposition of administrative fines.<br>(7) COMPREHENSIVE EMERGENCY MANAGEMENT PLAN. | A 200 | | |

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| A 200 | Continued From page 8<br><br>(a) Assisted living facilities whose comprehensive emergency management plan is to evacuate must comply with this rule.<br>(b) Each facility whose plan has been approved shall submit the plan as an addendum with any future submissions for approval of its comprehensive emergency management plan.<br>(8) NOTIFICATION.<br>(a) Within five (5) business days, each assisted living facility must notify in writing, unless permission for electronic communication has been granted, each resident and the resident's legal representative:<br>1. Upon submission of the plan to the local emergency management agency that the plan has been submitted for review and approval;<br>2. Upon final implementation of the plan by the assisted living facility.<br>(b) Each assisted living facility must maintain a copy of each notification set forth in paragraph (a) above in a manner that makes each notification readily available at the licensee's physical address for review by a legally authorized entity. If the notifications are maintained in an electronic format, facility staff must be readily available to access and produce the notifications. For purposes of this section, "readily available" means the ability to immediately produce the notifications, either in electronic or paper format, upon request.<br><br>This Statute or Rule is not met as evidenced by:<br>Based on observation, staff interview, and record review the facility failed to develop and implement written policies and procedures to ensure the facility could effectively and immediately activate, operate and maintain the alternate power source. The facility also failed to have a procedure to address the use of refrigeration and freezers to produce ice and appropriate temperatures for the | A 200 | | |

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| A 200 | Continued From page 9<br>maintenance of medicines requiring refrigeration.<br><br>The findings included:<br><br>On review of the document that describes electrical services it says: If power is lost to the building, staff will make rounds on all residents to see if they have a light source and are safe. If power remains off longer than 15 minutes staff should invite residents to come to the center area of the building for support. If power remains off for a significant length of time and the temperature in the building is not at an appropriate level, evacuation procedures will begin, and residents will be transported to the Rose Garden of Orlando.<br><br>The Emergency Management Plan (EMP) says:<br>If primary power is lost at the building the maintenance director will record the initial temperature in the designated area and connect the electrical cable from the facility's installed emergency power electrical box to the generator then turn on the generator.<br>Residents to remain at the building will be assisted to the ballroom and or dining room within 30 minutes.<br><br>Other portions of the emergency power plan says: The cooler in the kitchen will be stocked with 100 bags of ice for resident use, medication storage, and dietary. The department will maintain adequate food storage via the EMP section provided in the manual.<br><br>On at 12:22 p.m., during an observation of the facility's generator, the generator was located on the west side of the building in a parking space on a mobile cart. The generator would have to be moved around the facility to the | A 200 | | |

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| A 200 | Continued From page 10 | A 200 | | |

. . . which is approximately a 3 minute walk around the building. The generator could not be moved without the assistance of a tow vehicle. The generator was not equipped with cable lines and the maintenance director said the cables were kept inside the facility. After walking to the . . . side of the facility, the maintenance director showed the surveyor a small box that would be opened and the cables would be attached there and then to the generator.

On at 12:22 p.m., in an interview with the maintenance director, he said if the power goes out he would immediately go around and hook up the portable power generator to the power box in the and it would then power the dining room/ballroom air conditioners. When asked how long the power has to be out before he would hook up the generator, he said he would do it right away, but he did not know if there was a specific time. He said he was the only person trained to hook it up. He said if he was not at the facility, he could be there within 45 minutes to one hour.

On at 2:27 p.m., in an interview with the business office manager she said the maintenance director is the only one who has been trained to hook up the generator to the power supply if there is a power outage. She said she does not think there is a timeline on how long the power is to be out before the generator is to be hooked up but she will put it in because they have not gotten their EMP approved for this year yet. She said if the power outage happened at night, or on a weekend it would take the maintenance man at least 45 minutes to come hook it up. The business office manager also said the person who moved the generator would have to have a truck with a hitch to be able to

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| A 200 | Continued From page 11<br><br>move the generator from the spot it was on one side of the building over to the other side of the building to hook it up to the electrical box. She also acknowledged the emergency power does not power the refrigerator and freezer in the kitchen.<br><br>On at 2:33 p.m., in an interview with the food service director, he said the emergency power from the generator did not power anything in his kitchen. He said his refrigerator and freezer would be safe for four hours without power. He said that all emergency supplies did not need refrigeration, but there was no place to refrigerate anything in an emergency.<br><br>The facility failed to produce a written copy and failed to develop and implement written policies and procedures to ensure the facility could effectively and immediately activate, operate and maintain the alternate power source. The business office manager said the facility did not have a written policy and procedure.<br><br>Class II | A 200 | | |