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
	AL11969746	A. BUILDING: _____ B. WING _____	02/06/2023

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
PROMENADE THE	10730 US HWY 1 SEBASTIAN, FL 32958

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A 000	Initial Comments An unannounced Complaint (#2022013931, #2022016084, and #2022018368) survey and a Generator Monitoring survey were conducted on [redacted] at The Promenade. The facility had a deficiency identified related to Complaint #2022013931 at the time of the survey.	A 000		
A 030	59A-36.007(5) FAC; 429.28( ) FS 429.27 Resident Care - Rights & Facility Procedures 59A-36.007 (5) RESIDENT RIGHTS AND FACILITY PROCEDURES. (a) A copy of the Resident Bill of Rights as described in Section 429.28, F.S., or a summary provided by the Long-Term Care Ombudsman Program must be posted in full view in a freely accessible resident area, and included in the admission package provided pursuant to Rule 59A-36.006, F.A.C. (b) In accordance with Section 429.28, F.S., the facility must have a written grievance procedure for receiving and responding to resident complaints and a written procedure to allow residents to recommend changes to facility policies and procedures. The facility must be able to demonstrate that such procedure is implemented upon receipt of a complaint. (c) The telephone number for lodging complaints against a facility or facility staff must be posted in full view in a common area accessible to all residents. The telephone numbers are: the Long-Term Care Ombudsman Program, 1(888)831-0404; [redacted], Rights Florida, 1(800)342-0823; the Agency Consumer Hotline 1(888)419-3456, and the statewide toll-free telephone number of the Florida Hotline, 1(800)96- or 1(800)962-2873. The telephone numbers must be posted in close	A 030		

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A 030	Continued From page 1	A 030		

proximity to a telephone accessible by residents and the text must be a minimum of 14-point font.
(d) The facility must have a written statement of its house rules and procedures that must be included in the admission package provided pursuant to Rule 59A-36.006, F.A.C. The rules and procedures must at a minimum address the facility's policies regarding:
1. Resident responsibilities;
2. and tobacco use;
3. Medication storage;
4. Resident elopement;
5. Reporting resident , neglect, and , ;
6. Administrative and housekeeping schedules and requirements;
7. control, sanitation, and standard precautions;
8. The requirements for coordinating the delivery of services to residents by third party providers;
9. Assistive devices; and
10. Physical .
(e) Residents may not be required to perform any work in the facility without compensation. Residents may be required to clean their own sleeping areas or apartments if the facility rules or the facility contract includes such a requirement. If a resident is employed by the facility, the resident must be compensated in compliance with state and federal wage laws.
(f) The facility must provide residents with convenient access to a telephone to facilitate the resident's right to unrestricted and private communication, pursuant to Section 429.28(1)(d), F.S. The facility must allow unidentified telephone calls to residents. For facilities with a licensed capacity of 17 or more residents in which residents do not have private telephones, there must be, at a minimum, a readily accessible

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A 030	Continued From page 2 telephone on each floor of each building where residents reside. 429.28 Resident bill of rights.- (1) No resident of a facility shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of the United States as a resident of a facility. Every resident of a facility shall have the right to: (a) Live in a safe and decent living environment, free from and neglect. (b) Be treated with consideration and respect and with due recognition of personal dignity, individuality, and the need for privacy. (c) Retain and use his or her own clothes and other personal property in his or her immediate living quarters, so as to maintain individuality and personal dignity, except when the facility can demonstrate that such would be unsafe, impractical, or an infringement upon the rights of other residents. (d) Unrestricted private communication, including receiving and sending unopened correspondence, access to a telephone, and visiting with any person of his or her choice, at any time between the hours of 9 a.m. and 9 p.m. at a minimum. Upon request, the facility shall make provisions to extend visiting hours for caregivers and out-of-town guests, and in other similar situations. (e) Freedom to participate in and benefit from community services and activities and to pursue the highest possible level of independence, autonomy, and interaction within the community. (f) Manage his or her financial affairs unless the resident or, if applicable, the resident's representative, designee, surrogate, guardian, or attorney in fact authorizes the administrator of the	A 030		

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A 030	Continued From page 3 facility to provide safekeeping for funds as provided in s. 429.27. (g) Share a room with his or her spouse if both are residents of the facility. (h) Reasonable opportunity for regular exercise several times a week and to be outdoors at regular and frequent intervals except when prevented by inclement weather. (i) Exercise civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, nor any attendance at religious services, shall be imposed upon any resident. (j) Assistance with obtaining access to adequate and appropriate health care. For purposes of this paragraph, the term "adequate and appropriate health care" means the management of medications, assistance in making , , for health care services, the provision of or arrangement of transportation to health care ..., and the performance of health care services in accordance with s. 429.255 which are consistent with established and recognized standards within the community. (k) At least 45 days' notice of relocation or termination of residency from the facility unless, for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care or the resident engages in a pattern of conduct that is harmful or offensive to other residents. In the case of a resident who has been adjudicated mentally ..., the guardian shall be given at least 45 days' notice of a nonemergency relocation or residency termination. Reasons for relocation must be set forth in writing and provided to the resident or the resident's legal representative. The notice must state that the resident may contact the State Long-Term Care	A 030		

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A 030	Continued From page 4 Ombudsman Program for assistance with relocation and must include the statewide toll-free telephone number of the program. In order for a facility to terminate the residency of an individual without notice as provided herein, the facility shall show good cause in a court of competent jurisdiction. (l) Present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing officials, or any other person without , interference, coercion, discrimination, or reprisal. Each facility shall establish a grievance procedure to facilitate the residents' exercise of this right. This right includes access to ombudsman volunteers and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups. (2) The administrator of a facility shall ensure that a written notice of the rights, , and prohibitions set forth in this part is posted in a prominent place in each facility and read or explained to residents who cannot read. The notice must include the statewide toll-free telephone number and e-mail address of the State Long-Term Care Ombudsman Program and the telephone number of the local ombudsman council, the Elder Hotline operated by the Department of Children and Families, and, if applicable, , Rights Florida, where complaints may be lodged. The notice must state that a complaint made to the Office of State Long-Term Care Ombudsman or a local long-term care ombudsman council, the names and identities of the residents involved in the complaint, and the identity of complainants are kept confidential pursuant to s. 400.0077 and that retaliatory action cannot be taken against a resident for presenting grievances or for	A 030		

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A 030	Continued From page 5 exercising any other resident right. The facility must ensure a resident's access to a telephone to call the State Long-Term Care Ombudsman Program or local ombudsman council, the Elder . . . . . Hotline operated by the Department of Children and Families, and , Rights Florida. 429.27 Property and personal affairs of residents.- (1)(a) A resident shall be given the option of using his or her own belongings, as space permits; choosing his or her roommate; and, whenever possible, unless the resident is adjudicated . . . . , ... or . . , ... under state law, managing his or her own affairs. (b) The admission of a resident to a facility and his or her presence therein shall not confer on the facility or its owner, administrator, employees, or representatives any authority to manage, use, or dispose of any property of the resident; nor shall such admission or presence confer on any of such persons any authority or responsibility for the personal affairs of the resident, except that which may be necessary for the safe management of the facility or for the safety of the resident. This Statute or Rule is not met as evidenced by: Based on observations, interviews and record review, the facility failed to demonstrate that their grievance procedure for receiving and responding to resident complaints was implemented and effective for 1 out of 3 sampled residents (Resident #1); and failed to ensure 1 out of 3 residents (Resident #1) was provided a decent living environment.	A 030		

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A 030	Continued From page 6 The findings included: A. On [redacted] at 11:20 AM, Resident #1's apartment was observed with a foul odor of [redacted]. The Administrator was notified at this time of the odor and toured the apartment, confirming that the resident received assistance with toileting by staff. The resident's right to a decent living environment was not adhered to. B. Resident #1 was admitted to the facility on [redacted] with diagnoses including [redacted] and [redacted]. Her Health Assessment (AHCA Form 1823) dated [redacted] notes that she has "[redacted], agitation controlled in past with medication and that she requires "staff to assist with toileting". It is documented that she is "independent with ambulation and transferring". During an interview conducted with Resident #1's representative on [redacted] at 11:31 AM, she stated she had verbally reported that Resident #1's assistance with toileting had not been completed as needed every few hours on a few occasions, and that she had filed a written grievance about a specific incident on [redacted]. A copy of the facility's Grievance Policy and Procedure and the Grievance Log was reviewed on [redacted]. There were no documented grievances in the binder for 2023. The policy notes that if a grievance is not resolved by verbally reporting it, it should be submitted in writing with a written response required by the facility within 7 days. If the grievance is not resolved after this submission, the written grievance shall be submitted to the Director of Operations who will respond in writing to the resident or resident's representative within 7 days.	A 030		

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A 030	Continued From page 7 During an interview conducted with the Administrator at 11:45 AM on [redacted], she confirmed that a written grievance was received from Resident #1's representative and presented a grievance form that noted, " -my mother was found at approximately 10:00 AM today sitting in her chair wearing clothing from [redacted] and wearing the diaper I placed on her at 3:30 PM previous day. She was of /clothing soaked to her [redacted]. Was not changed since I changed her 19 hours previously. Mom's care plan is to be changed every few hours and to apply as needed...". On the [redacted] of the Grievance Form, there were notes written by the Administrator with no documentation showing resolution of the grievance or a written response to the representative within 7 days as directed by the facility's policy and procedure. The Administrator stated the response to the grievance was to review the resident's plan of care and discussion with the representative on [redacted], including recommended move of the resident to the secured unit where "more rounds are done". The notes on the of the form were reported to have been a result of the meeting. During an interview conducted with Care Partner Staff A on at 12:30 PM, he stated that the resident is able to walk to the bathroom with minimal assistance of one staff member and sit on the toilet with stand by assistance provided. He stated that the resident needs encouragement at times, including coaxing with a snack or a mealtime reminder. During review of the Progress Notes from [redacted] to [redacted] for the resident, there was one note on indicating that the resident refused assistance with an activity of daily living (ADL), "refused shower today".	A 030		

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A 030	Continued From page 8 The resident's Service Received log was reviewed and showed " . . . . . care, . times a shift" was to be provided for three shifts per day, 7:00 AM to 3:00 PM, 3:00 PM to 11:00 PM and 11:00 PM to 7:00 AM. The log provided one opportunity to document care provided in the "AM" (7:00 AM to 3:00 PM shift) and one opportunity to document care was provided in the "PM" during the 3:00 PM to 11:00 PM shift. The log was reviewed for dates of service from through with the following omissions identified: a. No AM care documented for the 7:00 AM to 3:00 PM shift on . b. No AM care documented for the 7:00 AM to 3:00 PM shift on . c. No AM care documented for the 7:00 AM to 3:00 PM shift on . d. No night care documented for the 11:00 PM to 7:00 AM shift on . e. One of 3 to 4 required night care opportunities documented at 11:00 PM on . f. No AM care documented for the 7:00 AM to 3:00 PM shift on . g. No PM care documented for the 7:00 AM to 3:00 PM shift on . h. No AM or PM care documented for the 7:00 AM to 3:00 PM and 3:00 PM to 11:00 PM shift on . . . . . . The facility did not show that their grievance procedure was followed and effective by not responding with identification of the lack of assistance provided and documented as completed by Care Partners, by reassessing the toileting frequency needs of the resident, and by revising the plan of care and ensuring staff responsible for the provision of the service are	A 030		

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A 030	Continued From page 9 doing so. Additionally, there was no resolution to the grievance documented and provided to Resident #1's representative. The Administrator was notified of these findings on at 2:00 PM. The facility provided no additional information for review at this time. Class III	A 030		