

Agency for Health Care Administration

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: AL11969002	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____		(X3) DATE SURVEY COMPLETED R 07/17/2023
NAME OF PROVIDER OR SUPPLIER THE ROSE GARDEN OF FT MYERS			STREET ADDRESS, CITY, STATE, ZIP CODE 2117 EARL RD FORT MYERS, FL 33901		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)		(X5) COMPLETE DATE
{A 000}	Initial Comments An unannounced second revisit survey was conducted on _____ at The Rose Garden of Fort Myers, an assisted living facility in Fort Myers, Florida. The follow-up was in response to the complaint survey completed on _____ and complaint survey revisit completed on _____ This survey was completed in conjunction with a new complaint survey NXDR11. The complaint survey had allegations substantiated at A 200 which is a re-citation in this revisit survey. The following is description of the deficiencies found at the time of the visit.	{A 000}			
{A 180} SS=D	59A-36.019(1) FAC Emergency Management (1) EMERGENCY PLAN COMPONENTS. Pursuant to Section 429.41, F.S., each facility must prepare a written comprehensive emergency management plan in accordance with the "Emergency Management Criteria for Assisted Living Facilities," dated _____, which is incorporated by reference and available at http://www.flrules.org/Gateway/reference.asp?No=Ref-04010 . This document is available from the local emergency management agency. The emergency management plan must, at a minimum, address the following: (a) Provision for all hazards; (b) Provision for the care of residents remaining in the facility during an emergency, including pre-disaster or emergency preparation; protecting the facility; supplies; emergency power; food and water; staffing; and emergency equipment; (c) Provision for the care of residents who must be evacuated from the facility during an emergency including identification of such	{A 180}			

AHCA Form 3020-0001
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

TITLE

(X6) DATE

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{A 180}	Continued From page 1 residents and transfer of resident records; evacuation transportation; sheltering arrangements; supplies; staffing; emergency equipment; and medications; (d) Provision for the care of additional residents who may be evacuated to the facility during an emergency including the identification of such residents, staffing, and supplies; (e) Identification of residents with _____'s or related _____, and residents with mobility limitations who may need specialized assistance either at the facility or in case of evacuation; (f) Identification of and coordination with the local emergency management agency; (g) Arrangement for post-disaster activities including responding to family inquiries, obtaining medical intervention for residents, transportation, and reporting to the local emergency management agency the number of residents who have been relocated, and the place of relocation; and, (h) The identification of staff responsible for implementing each part of the plan. This Statute or Rule is not met as evidenced by: Based on record review and interviews, the facility failed to have a comprehensive emergency management plan which included a viable contract for wheelchair _____ accessible transportation for wheelchair dependent residents. The findings included: On _____ at 8:30 a.m. in an interview, request was made to the Administrator for a list of residents that are wheelchair dependent. The Administrator stated there are 8 residents who	{A 180}		

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{A 180}	Continued From page 2 are wheelchair dependent and would not be able to go up the steps of the passenger bus during evacuation. The Administrator stated she still has the agreement with GulfCare Transport but is still trying to get a contract with another . . . for the wheelchair dependent residents. She stated she has contracts with herself and some staff members to transport wheelchair dependent residents in their personal vehicles. Reviewed contract with Southwest Florida Patient Care LLC, doing business as (DBA), GulfCare Transport, dated . . . , an agreement to supply . . . accessible transportation to the Rose Garden of Fort Myers to accommodate 15-20 residents in case of emergency and or evacuation. Further review of the contract revealed the transport company services many facilities on a first come first basis and their capacity is based on limited resources and cannot guarantee availability. Further review revealed a contract dated . . . , signed by the Sales and Marketing Director, Business Office Director, and Administrator indicated they, individually, will transport 5 wheelchair residents, 4 wheelchair residents, and 4 wheelchair residents respectively. On . . . at 11:03 a.m. in an interview, the Sales and Marketing Director confirmed she signed the contract indicating she will transport 5 wheelchair dependent residents to the receiving facility they will use during evacuation. The Sales and Marketing Director stated she is not sure which residents she will be transporting and has not tried to place any of the current wheelchair dependent residents into her vehicle. She said she does not have a wheelchair lift and can't say for certain that she will be able to transport residents. Sales and Marketing Director stated	{A 180}			

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{A 180}	Continued From page 3 she would have to be trained to make sure she can transport the wheelchair dependent residents. On at 11:17 a.m., Business Office Director (BOD) confirmed she signed an agreement indicating she will transport 4 wheelchair dependent residents in the event of a hurricane evacuation. BOD confirmed she was never officially trained and has not transported any of the listed wheelchair dependent residents. BOD said some of the listed wheelchair dependent residents can't walk and stated she is not sure she would be able to transport these residents. On at 11:30 a.m., the Administrator reviewed the list of residents that are wheelchair dependent and confirmed none of the 8 residents can walk. The Administrator confirmed the employees that signed the agreements to transport the wheelchair dependent residents have not been trained to place the residents in their vehicles for transportation. She said she can't say at this time that the employees who signed the agreements are capable of transporting wheelchair dependent residents. The Administrator acknowledged the facility currently does not have a viable transportation agreement to transport wheelchair dependent residents in the event of an emergency requiring evacuation. Class III	{A 180}			
{A 200} SS=D	59A-36.025 FAC Emergency Environmental Control	{A 200}			

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{A 200}	Continued From page 4 59A-36.025 Emergency Environmental Control for Assisted Living Facilities. (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: (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. 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 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	{A 200}			

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STREET ADDRESS, CITY, STATE, ZIP CODE

THE ROSE GARDEN OF FT MYERS

**2117 EARL RD
FORT MYERS, FL 33901**

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{A 200}	Continued From page 5 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. 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. 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	{A 200}		

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{A 200}	Continued From page 6 described in the emergency power plan. 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. (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. 1. Facilities must store minimum amounts of fuel onsite as follows: a. A facility with a licensed capacity of 16 beds or less must store 48 hours of fuel onsite. b. A facility with a licensed capacity of 17 or more beds must store 72 hours of fuel onsite. 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. 3. Piped natural gas is an allowable fuel source and meets the onsite fuel supply requirements under this rule. 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	{A 200}			

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{A 200}	Continued From page 7 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. (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. (d) The acquisition and maintenance of a monoxide alarm. (2) SUBMISSION OF THE PLAN. (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. (b) Each new assisted living facility shall submit the plan required under this rule prior to obtaining a license. (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. (3) APPROVED PLANS. (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	{A 200}			

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{A 200}	Continued From page 8 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. (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. (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. (4) IMPLEMENTATION OF THE PLAN. (a) Each assisted living facility licensed prior to the effective date of this rule shall, no later than _____, have implemented the plan required under this rule. (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	{A 200}		

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{A 200}	Continued From page 9 occur beyond the initial extension date, the assisted living facility may request a waiver pursuant to section 120.542, F.S. (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. 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. 2. An assisted living facility located in an evacuation zone pursuant to chapter 252, F.S. must either: a. Fully and safely evacuate its residents prior to the arrival of the event; or 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. (d) Each new assisted living facility shall implement the plan required under this rule prior to obtaining a license. (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	{A 200}			

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{A 200}	Continued From page 10 concurrent with any such additions, modifications, alterations, refurbishment, renovations or reconstruction. (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. (5) POLICIES AND PROCEDURES. (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: 1. The use of cooling devices and equipment; 2. The use of refrigeration and freezers to produce ice and appropriate temperatures for the maintenance of medicines requiring refrigeration; 3. Wellness checks by assisted living facility staff to monitor for signs of _____ and heat injury; and 4. A provision for obtaining medical intervention from emergency services for residents whose life safety is in jeopardy. (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	{A 200}			

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{A 200}	Continued From page 11 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. (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. (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. (7) COMPREHENSIVE EMERGENCY MANAGEMENT PLAN. (a) Assisted living facilities whose comprehensive emergency management plan is to evacuate must comply with this rule. (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. (8) NOTIFICATION. (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: 1. Upon submission of the plan to the local emergency management agency that the plan has been submitted for review and approval;	{A 200}			

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{A 200}	Continued From page 12 2. Upon final implementation of the plan by the assisted living facility. (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. This Statute or Rule is not met as evidenced by: Based on record review and interview the facility failed to have an operational generator on site at the facility, for use in the event of the loss of primary electrical power, which could affect the resident's, health, safety, welfare, and comfort in the facility. The facility failed to maintain a detailed Emergency Power Plan approved by the local emergency management agency for implementation in the event of loss of primary electrical power. The findings included: Record review of facility CEMP binder revealed evidence of an approval letter dated, indicating the facility's Emergency Power Plan is in compliance with 58A-5.036 and is approved through . The letter further instructed that going forward, the Emergency Power Plan must be included in the annual CEMP submission as an annex/addendum. The CEMP binder also contained an approval letter dated, indicating the facility's CEMP plan is approved through . The letter stated a copy of the	{A 200}			

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FORT MYERS, FL 33901**

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
{A 200}	Continued From page 13 plan should be provided to the County Emergency Management office before each year for review. Further review revealed documentation of a rejection letter for the facility CEMP that was submitted on _____ and did not meet the Emergency Management criteria requirements set forth by the Agency for Health Care Administration. The letter requested a corrected plan be submitted within 30 days. The facility also received a rejection letter for the CEMP resubmitted on _____ stating the Emergency Management criteria was not met and requesting a corrected plan within 30 days. During an interview on _____ at 8:45 a.m., the Administrator confirmed the 30 days for resubmission has passed. She stated she has not resubmitted a CEMP as she currently does not have everything required for the emergency plan. She said she needs to get an approved Emergency Power Plan (EPP) prior to submitting the CEMP. The Administrator said the emergency generator has not been completely installed which is required to submit the EPP. The Administrator confirmed that currently she has no operational alternative power source on site at the facility that can power the facility in the event of loss of power. Class III	{A 200}		