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
	AL11910486	A. BUILDING: _____ B. WING _____	10/04/2023

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
MERRILL GARDENS AT BARKLEY PLACE	36 BARKLEY CIRCLE FORT MYERS, FL 33907

(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 complaint survey #2023014702 was conducted on [redacted] through [redacted] at Merrill Gardens at Barkley Place, an assisted living facility in Fort Myers Florida. Complaint #2023014702 was substantiated at Class I level deficiencies at A0030, A0077, A0079 and Class III level deficiency at A0165. The following is a description of the deficiencies:	A 000		
A 030 SS=J	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	A 030		

AHCA Form 3020-0001

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE | TITLE | (X6) DATE

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A 030	Continued From page 1 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 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	A 030		

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A 030	Continued From page 2	A 030		

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 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.

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A 030	Continued From page 3 (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 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	A 030		

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A 030	Continued From page 4 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 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	A 030		

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A 030	Continued From page 5 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 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 record review, review of facility policies and procedures, and interview, the facility failed to provide health care services which are consistent with established and recognized standards within the community for a resident	A 030		

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A 030	Continued From page 6 who required emergency care. The facility failed to implement their policy to provide [illegible] ( ) for residents who do not have a [illegible] thus not honoring the resident's right to have , , performed for 1 (Resident #1) of 3 residents reviewed for care at the end of life. All residents without a [illegible] are at risk of the staff not implementing needed emergency care. Due to the potential for severe harm or [illegible] this deficient practice has a severity level of Class 1. The findings included: Facility Medical Emergencies policy revised [illegible]. Policy Purpose: All medical situations, emergency or non-emergency are treated according to procedures set forth in accredited certification programs in [illegible] ( ) and First Aid, by person possessing credentials for having completed those programs. Merrill Gardens team members will possess at a minimum and in compliance with state regulation, current first aid cards and /or from an accredited program. Major Medical Emergency Procedures: A major medical emergency is one in which there is potential for loss of life, , or sight. All such emergency situations will be evaluated and treated by team members who possess certification in and First Aide or by a licensed team if present. 1. Stay calm. 2. In all major medical emergencies dial 911 to summon Emergency Medical Personnel at the same time that First Aide and or are being performed. Efforts to effectively preserve life, or sight should be continued until the arrival of competent professional emergency medical technicians or a	A 030		

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A 030	Continued From page 7 physician is present to assume control of the situation. Airway: An obstructed airway is the most life threatening of circumstances. Efforts to help an apparently and person include: 4. If breathing and , have stopped, begin immediately unless the resident has a valid order and your state permits honoring it in that situation. Facility Policy Advance Directives- /POLST revised , Reviewed . Policy Purpose: Residents have the choice of requesting a in case of a medical emergency. Merrill gardens respects this personal choice and maintains this information in strict confidence. However, in a medical emergency the community is required by law to perform basic first aid and treatment until paramedics arrive. Always call 911 unless the resident has a Hospice plan that indicates the Hospice should be called instead. Initiate in the absence of a valid /POLST form and continue and first aid until paramedics or other qualified medical professionals (example: LPN, MD, NP) arrive. A review of the facility records for showed the facility had a census of 54 residents, of whom 40 are Full Code (Residents are to receive in the event of a life-threatening event). Record review for Resident #1 revealed an admission date of , with a diagnosis of (low), (, built up in), (excess fat in), type II, rhabdomyolysis (breakdown which causes a release of a protein which can damage	A 030		

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A 030	Continued From page 8 (build-up of fluid between the tissues lining the), (damage to making it difficult to breathe), sleep , , history of , history of (irregular heartbeat), mild . There was no documentation in Resident #1's record of a . Resident #1 was designated as Full Code. Resident #1 was found in bed unresponsive on at 8:30 a.m. was not initiated by facility staff. Resident #1 was pronounced by the EMTs in consultation with a physician. Review of the adverse incident report dated revealed, "Front desk requested a caregiver wake up for Resident #1 as he was not up for breakfast yet. When Staff A went into Resident #1's room and tried to wake him from the bed at 8:30 a.m., he would not wake. Resident #1 appeared to be safe in his bed and no obvious occurred. The staff called 911 immediately. Daughter was called around 8:35 a.m. The GM [General Manager] was called at 8:41 a.m. was not started by the facility staff and the staff were not directed by the 911 operator to start. Resident #1 did not have a order." On at 9:42 a.m., during an interview, Caregiver Staff A stated she was the staff on duty the morning of that went to Resident #1's room to check on him as requested by the front desk. She was told a caller tried to reach him via the phone with no answer. Staff A stated when she entered the room and called Resident #1's name she received no answer. When she got to his bed, she found Resident #1 lying in bed unresponsive. Resident #1's were to touch, his , were blue, and she called 911.	A 030		

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A 030	Continued From page 9 Staff A recited the facility policy; if a resident is a full code and does not have a , is to be performed if resident found unresponsive. Staff A confirmed Resident #1 was a full code and said, "I should have started per the facility policy." Staff A stated the facility staffing schedule does not indicate which staff members are certified and she does not know which of her coworkers are certified in . On , a review of Caregiver/Med Tech Staff A's personnel record revealed documentation of certification completed on and expired on . On at 11:27 a.m., during an interview, the Resident Care Director (RCD) stated if staff finds an unresponsive resident that does not have a order, they are required to call 911 and start immediately. RCD confirmed Staff A should have performed when she found Resident #1 unresponsive. RCD confirmed the staff schedule does not indicate which staff members are certified in . On at 11:45 a.m., the General Manager confirmed Resident #1 was a Full Code and as per the facility policy, Staff A should have started . The GM said the facility staff are to follow the Florida regulations and the facility policy that should be given until arrives or until a practitioner is present. On at 12:05 p.m., the GM stated the staffing schedule does not indicate which staff members have certification and acknowledged staff who are not certified would not know who to call to perform if a resident is found unresponsive or having sudden .	A 030		

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A 030	Continued From page 10 On at 1:00 p.m., the Activity Director stated she was sent to Resident #1's room by the Business Office Manager to assist Staff A. Activity Director stated when she got to the room, Resident #1 was lying in bed. She touched his under the bed sheet. She said his were and had no color. The Activity Director stated she is certified and confirmed she did not perform . During an interview on at 4:30 p.m., Caregiver Staff D stated she worked the 11 p.m. - 7 a.m. shift on but did not see Resident #1 that night; she did not go into his room. Staff D stated she is not sure what a full code is and does not know which of her co-workers are certified as it is not indicated on the schedule or anywhere in the facility. Staff D said she has never seen the facility policies and procedures on what to do if she finds a resident unresponsive. She stated she did not receive training on how to use the machine (Automated External Defibrillator). On , review of Caregiver Staff D's personnel record revealed there was no documentation of certification. A review of the current staffing schedule for to found the schedule did not identify the staff members on each shift who were currently certified. The staffing schedule for , morning shift (7:00 a.m. - 3:00 p.m.), afternoon/evening shift (3:00 p.m. - 11:00 p.m.), and night shift (10:30 p.m. - 6:30 a.m.) had no staff members with valid certification. On the staffing schedules for - on the afternoon/evening shift, and night shift there were no staff members with valid certification	A 030		

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A 030	Continued From page 11 scheduled. A review of the personnel files found only 2 of 15 current "Care Team" staff have documentation of valid . . certification. On . . . . at 9:00 a.m., the GM confirmed there are only 4 staff with valid certification. The GM stated he is now aware there would be days coming up with no staff having valid certification on the schedule. The GM could not be sure that would be initiated for residents experiencing a . . . . . emergency. On at 10:30 a.m., the RCD said he does the schedule for the caregivers and med techs. He reviewed the schedule and confirmed there would be days coming up on which no staff with valid . . were scheduled. Class I .	A 030		
A 077 SS=J	429.176 FS; 429.52( ),59A-36.01(1) FAC Staffing Standards - Administrators 429.176 Notice of change of administrator.-If, during the period for which a license is issued, the owner changes administrators, the owner must notify the agency of the change within 10 days and provide documentation within 90 days that the new administrator meets educational requirements and has completed the applicable core educational requirements under s. 429.52. A facility may not be operated for more than 120 consecutive days without an administrator who has completed the core educational requirements.	A 077		

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A 077	Continued From page 12 429.52 (4) A facility administrator must complete the required core training, including the competency test, within 90 days after the date of employment as an administrator. Failure to do so is a violation of this part and subjects the violator to an administrative fine as prescribed in s. 429.19. Administrators licensed in accordance with part II of chapter 468 are exempt from this requirement. Other licensed professionals may be exempted, as determined by the agency by rule. (5) Administrators are required to participate in continuing education for a minimum of 12 contact hours every 2 years. 59A-36.010 (1) ADMINISTRATORS. Every facility must be under the supervision of an administrator who is responsible for the operation and maintenance of the facility including the management of all staff and the provision of appropriate care to all residents as required by chapters 408, part II, 429, part I, F.S., and rule chapter 59A-35, F.A.C., and this rule chapter. (a) An administrator must: 1. Be at least [illegible]; 2. If employed on or after [illegible], have, at a minimum, a high school diploma or G.E.D.; 3. Be in compliance with Level 2 background screening requirements pursuant to sections 408.809 and 429.174, F.S.; 4. Complete the core training and core competency test requirements pursuant to rule 59A-36.011, F.A.C., no later than 90 days after becoming employed as a facility administrator. Administrators who attended core training prior to [illegible], are not required to take the competency test unless specified elsewhere in	A 077		

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A 077	Continued From page 13 this rule; and, 5. Satisfy the continuing education requirements pursuant to rule 59A-36.011, F.A.C. Administrators who are not in compliance with these requirements must retake the core training and core competency test requirements in effect on the date the non-compliance is discovered by the agency or the department. (b) In the event of extenuating circumstances, such as the of a facility administrator, the agency may permit an individual who otherwise has not satisfied the training requirements of subparagraph (1)(a)4. of this rule, to temporarily serve as the facility administrator for a period not to exceed 90 days. During the 90 day period, the individual temporarily serving as facility administrator must: 1. Complete the core training and core competency test requirements pursuant to rule 59A-36.011, F.A.C.; and, 2. Complete all additional training requirements if the facility maintains licensure as an extended congregate care or limited mental health facility. (c) Administrators may supervise a maximum of either three assisted living facilities or a group of facilities on a single campus providing housing and health care Administrators who supervise more than one facility must appoint in writing a separate manager for each facility. However, an administrator supervising a maximum of three assisted living facilities, each licensed for 16 or fewer beds and all within a 15 mile of each other, is only required to appoint two managers to assist in the operation and maintenance of those facilities. (d) An individual serving as a manager must satisfy the same qualifications, background screening, core training and competency test requirements, and continuing education	A 077		

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	AL11910486	A. BUILDING: _____ B. WING _____	10/04/2023

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A 077	Continued From page 14 requirements as an administrator pursuant to paragraph (1)(a) of this rule. Managers who attended the core training program prior to , , are not required to take the competency test unless specified elsewhere in this rule. In addition, a manager may not serve as a manager of more than a single facility, except as provided in paragraph (1)(c) of this rule, and may not , serve as an administrator of any other facility. (e) Pursuant to section 429.176, F.S., facility owners must notify the Agency Central Office within 10 days of a change in facility administrator on the Notification of Change of Administrator form, AHCA Form 3180-1006, , which is incorporated by reference and available online at: http://www.flrules.org/Gateway/reference.asp?No =Ref-09393. This Statute or Rule is not met as evidenced by: Based on record review, and interview, the administrator failed to responsibly manage all staff and ensure appropriate care was provided to all residents as required. The administrator failed to ensure staff followed state regulations and facility policies for emergency care and honor the resident's right to have , performed for 1 (Resident #1) of 3 resident reviewed for life ending events. The administrator failed to schedule a staff member in the facility at all times who has completed courses in First Aid and , ( ) and holds a currently valid card documenting completion of such courses. Failure to ensure a First Aid/ trained staff member was on the premises, identified to other staff members, and having the expectation of	A 077		

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A 077	Continued From page 15 service in an emergency, has the potential for severe harm or of a resident found unresponsive by not receiving life preserving care. The findings included: Review of job description for General Manager signed and dated ..... General Manager Supervisory relationships: Supervises: All departments report to the General Manager. Basic Function: The General Manager is responsible for the overall operations of the community. These responsibilities include human resources management. Essential duties and responsibilities: Maintain HR compliance by overseeing personnel records of all employees, including proper and complete documentation for all new hires, and ongoing training documentation. Implements and enforces all policies and procedures of the operation manual, team member handbook and state licensing regulations. Investigates and manages all accidents, incidents, and emergencies. Facility Medical Emergencies policy revised Policy Purpose: All medical situations, emergency or non-emergency are treated according to procedures set forth in accredited certification programs in , , ( ) and First Aid, by person possessing credentials for having completed those programs. Merrill Gardens team members will possess at a minimum and in compliance with state regulation, current first aid cards and /or from an accredited program. Major Medical Emergency Procedures: A major medical emergency is one in which there is	A 077		

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A 077	Continued From page 16 potential for loss of life, , or sight. All such emergency situations will be evaluated and treated by team members who possess certification in and First Aide or by a licensed team if present. 1. Stay calm. 2. In all major medical emergencies dial 911 to summon Emergency Medical Personnel at the same time that First Aide and or are being performed. Efforts to effectively preserve life, or sight should be continued until the arrival of competent professional emergency medical technicians or a physician is present to assume control of the situation. Airway: An obstructed airway is the most life threatening of circumstances. Efforts to help an apparently and , person include: 4. If breathing and , have stopped, begin immediately unless the resident has a valid order and your state permits honoring it in that situation. Facility Policy Advance Directives- /POLST revised , Reviewed . Policy Purpose: Residents have the choice of requesting a in case of a medical emergency. Merrill gardens respects this personal choice and maintains this information in strict confidence. However, in a medical emergency the community is required by law to perform basic first aid and treatment until paramedics arrive. Always call 911 unless the resident has a Hospice plan that indicates the Hospice should be called instead. Initiate in the absence of a valid /POLST form and continue and first aid until paramedics or other qualified medical professionals (example: LPN, MD, NP) arrive. Record review for Resident #1 revealed an admission date of . There was no	A 077		

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A 077	Continued From page 17 documentation in Resident #1's record of a . Resident #1 was designated as Full Code (Residents are to receive in the event of a life-threatening , event). Resident #1 was found in bed unresponsive on at 8:30 a.m. was not initiated by facility staff. On at 9:42 a.m., during an interview, Caregiver Staff A stated she was the staff on duty the morning of that went to Resident #1's room to check on him as requested by the front desk. Staff A stated when she entered the room and called Resident #1's name she received no answer. When she got to his bed, she found Resident #1 lying in bed unresponsive. Resident #1's were to touch, his , were blue, and she called 911. Staff A recited the facility policy; if a resident is a full code and does not have a , is to be performed if found unresponsive. Staff A confirmed Resident #1 was a full code and said, "I should have started per the facility policy." Staff A stated the facility staffing schedule does not indicate which staff members are certified and she does not know which of her coworkers are certified in . A review of Caregiver/Med Tech Staff A's personnel record revealed documentation of certification completed on and expired on . On at 11:27 a.m., during an interview, the Resident Care Director (RCD) stated if staff finds an unresponsive resident that does not have a order, they are required to call 911 and start immediately. RCD confirmed Staff A should have performed when she found Resident #1 unresponsive. RCD confirmed the staff schedule does not indicate which staff members are certified in .	A 077		

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A 077	Continued From page 18 On at 11:45 a.m., the General Manager confirmed Resident #1 was a Full Code and as per the facility policy, Staff A should have started . . The GM said the facility staff are to follow the Florida regulations and the facility policy that . should be given until . arrives or until a practitioner is present. On at 12:05 p.m., the GM stated the staffing schedule does not indicate which staff members have certification and acknowledged staff who are not . certified would not know who to call to perform if a resident is found unresponsive or having sudden . . On at 1:00 p.m., the Activity Director stated she was sent to Resident #1's room by the Business Office Manager to assist Staff A. The Activity Director stated when she got to the room, Resident #1 was lying in bed. She touched his . . under the bed sheet. She said his . . were and had no color. The Activity Director stated she is . certified and confirmed she did not perform . During an interview on at 4:30 p.m., Caregiver Staff D stated she worked the 11 p - 7 a shift on but did not see Resident #1 that night; she did not go into his room. Staff D stated she is not sure what a full code is and does not know which of her co-workers are . certified as it is not indicated on the schedule or anywhere in the facility. Staff D said she has never seen the facility policies and procedures on what to do if she finds a resident unresponsive. She stated she did not receive training on how to use the machine (Automated External Defribrillator). A review of Caregiver Staff D's personnel record	A 077		

Agency for Health Care Administration

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A 077	Continued From page 19 revealed there was no documentation of certification. A review of the current staffing schedule for to found the schedule did not identify the staff members on each shift who were currently certified. The staffing schedule for , morning shift (7:00 a.m. - 3:00 p.m.), afternoon/evening shift (3:00 p.m. - 11:00 p.m.), and night shift (10:30 p.m. - 6:30 a.m.) had no staff members scheduled to work who have valid certification. On the staffing schedules for - on the afternoon/evening shifts, and night shifts there were no staff members with valid certification scheduled. A review of the personnel files found only 2 of 15 current "Care Team" staff have documentation of valid certification. On at 9:00 a.m., the GM confirmed there are only 4 staff with valid certification. The GM stated he is now aware there would be days coming up with shifts that have no staff with valid certification on the schedule. The GM could not be sure that would be initiated for residents experiencing a , emergency. On at 10:30 a.m., the RCD said he does the schedule for the caregivers and med techs. He reviewed the schedule and confirmed there would be days coming up on which there are no staff scheduled with valid . Class I .	A 077		

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A 079	Continued From page 20	A 079		
A 079 SS=J	59A-36.010(3) FAC Staffing Standards - Levels	A 079		

(3) STAFFING STANDARDS.
(a) Minimum staffing:
1. Facilities must maintain the following minimum staff hours per week:

Number of Residents, Day Care Participants, and Respite Care Residents	Staff Hours/Week
0-5	168
[illegible]	212
16-25	253
26-35	294
36-45	335
46-55	375
56-65	416
66-75	457
76-85	498
86-95	539

For every 20 total combined residents, day care participants, and respite care residents over 95 add 42 staff hours per week.
2. Independent living residents, as referenced in subsection 59A-36.015(3), F.A.C., who occupy beds included within the licensed capacity of an assisted living facility but do not receive personal, limited nursing, or extended congregate care services, are not counted as residents for purposes of computing minimum staff hours.
3. At least one staff member who has access to facility and resident records in case of an emergency must be in the facility at all times when residents are in the facility. Residents serving as paid or volunteer staff may not be left solely in charge of other residents while the facility administrator, manager or other staff are absent from the facility.
4. In facilities with 17 or more residents, there

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A 079	Continued From page 21 must be at least one staff member awake at all hours of the day and night. 5. A staff member who has completed courses in First Aid and ( ) and holds a currently valid card documenting completion of such courses must be in the facility at all times. a. Documentation of attendance at First Aid or courses pursuant to subsection 59A-36.011(5), F.A.C., satisfies this requirement. b. A nurse is considered as having met the course requirements for First Aid. An emergency medical technician or paramedic currently certified under chapter 401, part III, F.S., is considered as having met the course requirements for both First Aid and . 6. During periods of temporary absence of the administrator or manager of more than 48 hours when residents are on the premises, a staff member who is at least must be physically present and designated in writing to be in charge of the facility. No staff member shall be in charge of a facility for a consecutive period of 21 days or more, or for a total of 60 days within a calendar year, without being an administrator or manager. 7. Staff whose duties are exclusively building or grounds maintenance, clerical, or food preparation do not count towards meeting the minimum staffing hours requirement. 8. The administrator or manager's time may be counted for the purpose of meeting the required staffing hours, provided the administrator or manager is actively involved in the day-to-day operation of the facility, including making decisions and providing supervision for all aspects of resident care, and is listed on the facility's staffing schedule. 9. Only on-the-job staff may be counted in	A 079		

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A 079	Continued From page 22	A 079		

meeting the minimum staffing hours. Vacant positions or absent staff may not be counted.
(b) Notwithstanding the minimum staffing requirements specified in paragraph (a), all facilities, including those composed of apartments, must have enough qualified staff to provide resident supervision, and to provide or arrange for resident services in accordance with the residents' scheduled and unscheduled service needs, resident contracts, and resident care standards as described in rule 59A-36.007, F.A.C.
(c) The facility must maintain a written work schedule that reflects its 24-hour staffing pattern for a given time period. Upon request, the facility must make the daily work schedules of direct care staff available to residents or their representatives.
(d) The facility must provide staff immediately when the agency determines that the requirements of paragraph (a) are not met. The facility must immediately increase staff above the minimum levels established in paragraph (a), if the agency determines that adequate supervision and care are not being provided to residents, resident care standards described in rule 59A-36.007, F.A.C., are not being met, or that the facility is failing to meet the terms of residents' contracts. The agency will consult with the facility administrator and residents regarding any determination that additional staff is required. Based on the recommendations of the local fire safety authority, the agency may require additional staff when the facility fails to meet the fire safety standards described in rule chapter 69A-40, F.A.C., until such time as the local fire safety authority informs the agency that fire safety requirements are being met.
1. When additional staff is required above the

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A 079	Continued From page 23 minimum, the agency will require the submission of a corrective action plan within the time specified in the notification indicating how the increased staffing is to be achieved to meet resident service needs. The plan will be reviewed by the agency to determine if it sufficiently increases the staffing levels to meet resident needs. 2. When the facility can demonstrate to the agency that resident needs are being met, or that resident needs can be met without increased staffing, the agency may modify staffing requirements for the facility and the facility will no longer be required to maintain a plan with the agency. (e) Facilities that are co-located with a nursing home may use shared staffing provided that staff hours are only counted once for the purpose of meeting either assisted living facility or nursing home minimum staffing ratios. (f) Facilities holding a limited mental health, extended congregate care, or limited nursing services license must also comply with the staffing requirements of rules 59A-36.020, 59A-36.021 or 59A-36.022, F.A.C., respectively. This Statute or Rule is not met as evidenced by: Based on record review, and interview, the facility failed to ensure a staff member who has completed a course in , , , ( ) and First Aid and holds a currently valid card is in the facility at all times and identified on the facility schedule. There is no evidence of training or currently valid certification for 13 (Staff A, B, D, E, F, G, H, I, J, K, L, M, and N) of 15 current "Care Team" staff on the facility roster. The facility failed to ensure staff are trained in and failed to ensure staff implement the facility policy to	A 079		

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A 079	Continued From page 24 perform for residents without a honoring the resident's right to emergency care including for 1 (Resident #1) of 3 residents reviewed for life ending events. The resident without receiving life saving care from facility staff. All residents without a are at risk of or sever harm due to staff not providing needed emergency care. The findings included: Facility Policy Advance Directives- /POLST revised , Reviewed . Policy Purpose: Residents have the choice of requesting a in case of a medical emergency. Merrill gardens respects this personal choice and maintains this information in strict confidence. However, in a medical emergency the community is required by law to perform basic first aid and treatment until paramedics arrive. Always call 911 unless the resident has a Hospice plan that indicates the Hospice should be called instead. Initiate in the absence of a valid /POLST form and continue and first aid until paramedics or other qualified medical professionals (example: LPN, MD, NP) arrive. A review of the facility records for showed the facility had a census of 54 residents, of whom 40 are Full Code (Residents are to receive in the event of a life-threatening event). Record review for Resident #1 revealed an admission date of . There was no documentation in Resident #1's record of a . Resident #1 was designated as Full Code (Residents are to	A 079		

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A 079	Continued From page 25 receive . in the event of a life-threatening , , event). Resident #1 was found in bed unresponsive on . . . . at 8:30 a.m. was not initiated by facility staff. On at 9:42 a.m., during an interview, Caregiver Staff A stated she was on duty the morning of and was sent to Resident #1's room to check on him. She said she found Resident #1 at 8:30 a.m. lying in bed unresponsive and she called 911. Staff A recited the facility policy; if a resident is a full code and does not have a . , . is to be performed if resident found unresponsive. Staff A confirmed Resident #1 was a full code and said, " I should have started per the facility policy." Staff A said the facility staffing schedule does not indicate which staff members are certified and she does not know which of her coworkers are certified in . On at 11:27 a.m., during an interview, the Resident Care Director (RCD) stated if staff finds an unresponsive resident that does not have a order, they are required to call 911 and start immediately. RCD confirmed Staff A should have performed . when she found Resident #1 unresponsive. RCD confirmed the staff schedule does not indicate which staff members are certified in . On at 11:45 a.m., the General Manager confirmed Resident #1 was a Full Code and as per the facility policy, Staff A should have started . . The GM said the facility staff are to follow the Florida regulations and the facility policy that . should be given until . . arrives or until a practitioner is present. On at 12:05 p.m., the GM stated the	A 079		

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A 079	Continued From page 26 staffing schedule does not indicate which staff members have certification and acknowledged staff who are not certified would not know who to call to perform if a resident is found unresponsive or having sudden . On at 1:33 p.m., Caregiver Staff C stated she does not know what a full code means and does not know what it means when the resident has a on the of their room door; and did not receive training on how to use the machine (Automated External Defibrillator). On at 4:30 p.m., Caregiver Staff D stated she worked the 11 p - 7 a shift on but did not see Resident #1 that night; she did not go into his room. Staff D stated she is not sure what a full code is and does not know which of her co-workers are certified as it is not indicated on the schedule or anywhere in the facility. Staff D said she has never seen the facility policies and procedures on what to do if she finds a resident unresponsive. She stated she did not receive training on how to use the machine. On a review of the personnel files found only 2 of 15 current "Care Team" staff have documentation of valid certification. Caregiver/Med Tech Staff A's personnel record revealed documentation of certification completed on and expired on . Caregiver Staff B's personnel record revealed there was no documentation of certification. Caregiver Staff D's personnel record revealed there was no documentation of certification. Caregiver/Med Tech Staff E's personnel record revealed documentation of certification completed through HIS American Safety Health	A 079		

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	AL11910486	A. BUILDING: _____ B. WING _____	10/04/2023

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A 079	Continued From page 27 Institute on . . . . . which is not valid for Assisted Living Facilities and does not meet regulations. Move-in Coordinator Staff F's personnel record revealed documentation of certification completed on . . . . . and expired . . . . . . Caregiver Staff G's personnel record revealed documentation of . certification completed on with an expiration date of . Further review revealed the . certification was completed online which does not meet the regulations and is not valid for Assisted Living Facilities. Caregiver/Med tech Staff H's personnel record revealed documentation of certification completed on . . . . . and expired on . . . . . . Caregiver Staff I's personnel record revealed there was no documentation of . certification. Caregiver Staff J's personnel record revealed there was no documentation of . certification. Caregiver Staff K's personnel record revealed there was no documentation of . certification. Caregiver Staff L's personnel record revealed there was no documentation of . certification. Caregiver Staff M's personnel record revealed there was no documentation of . certification. Caregiver Staff N's personnel record revealed there was no documentation of . certification. A review of the current staffing schedule for to found the schedule did not identify the staff members on each shift who were currently . certified. The staffing schedule for . . . . . , morning shift (7:00 a.m. - 3:00 p.m.), afternoon/evening shift (3:00 p.m. - 11:00 p.m.), and night shift (10:30 p.m. - 6:30 a.m.) did not include any staff members with valid certification. On the staffing schedules for . . . . . - on the afternoon/evening shifts, and night shifts there were no staff members with valid certification scheduled.	A 079		

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A 079	Continued From page 28 On at 9:00 a.m., the GM confirmed there are only 4 staff, 2 caregivers and 2 managers, with valid certification. The GM stated he is now aware there would be days coming up with shifts that have no staff with valid certification on the schedule. The GM could not be sure that would be initiated for residents experiencing a emergency. On at 10:30 a.m., the RCD said he does the schedule for the caregivers and med techs. He reviewed the schedule and confirmed there would be days coming up on which there are no staff with valid scheduled. On at 12:02 p.m., Caregiver Staff O stated she does not know which staff in the facility are certified as it is not indicated on the schedule or anywhere in the facility. On at 3:03 p.m., Caregiver Staff K stated she is not certified and has not received training on how to use the machine. Staff K stated it is not indicated anywhere in the facility which staff are certified and would not know which of her coworkers have certification unless they told her. On at 4:05 p.m., Med tech/caregiver Staff H stated she is certified but her card has expired and has been expired for about 2 months now. She said she does not know where the machine is kept. She said she does not know which of her coworkers are certified as it not indicated anywhere in the building or on the schedule. Class I	A 079		

Agency for Health Care Administration

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A 165 SS=D	429.23(&) FS Risk Mgmt & QA 429.23 Internal risk management and quality assurance program; adverse incidents and reporting requirements.- (1) Every facility licensed under this part may, as part of its administrative functions, voluntarily establish a risk management and quality assurance program, the purpose of which is to assess resident care practices, facility incident reports, deficiencies cited by the agency, adverse incident reports, and resident grievances and develop plans of action to correct and respond quickly to identify quality differences. (2) Every facility licensed under this part is required to maintain adverse incident reports. For purposes of this section, the term, "adverse incident" means: (a) An event over which facility personnel could exercise control rather than as a result of the resident's condition and results in: 1. ; 2. or , damage; 3. Permanent ; 4. or of bones or joints; 5. Any condition that required medical attention to which the resident has not given his or her consent, including failure to honor advanced directives; 6. Any condition that requires the transfer of the resident from the facility to a unit providing more acute care due to the incident rather than the resident's condition before the incident; or 7. An event that is reported to law enforcement or its personnel for investigation; or (b) Resident elopement, if the elopement places the resident at risk of harm or injury. (3) Licensed facilities shall provide within 1 business day after the occurrence of an adverse incident, through the agency's online portal, or if	A 165		

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A 165	Continued From page 30	A 165		

the portal is offline, by electronic mail, a preliminary report to the agency on all adverse incidents specified under this section. The report must include information regarding the identity of the affected resident, the type of adverse incident, and the status of the facility's investigation of the incident.
(4) Licensed facilities shall provide within 15 days, through the agency's online portal, or if the portal is offline, by electronic mail, a full report to the agency on all adverse incidents specified in this section. The report must include the results of the facility's investigation into the adverse incident.
(6) . . . . . , neglect, or . . . . . must be reported to the Department of Children and Families as required under chapter 415.
(7) The information reported to the agency pursuant to subsection (3) which relates to persons licensed under chapter 458, chapter 459, chapter 461, chapter 464, or chapter 465 shall be reviewed by the agency. The agency shall determine whether any of the incidents potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 apply. The agency may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. The agency shall review each incident and determine whether it potentially involved conduct by a health care professional who is subject to disciplinary action, in which case the provisions of s. 456.073 apply.
(8) If the agency, through its receipt of the adverse incident reports prescribed in this part or through any investigation, has reasonable belief that conduct by a staff member or employee of a licensed facility is grounds for disciplinary action

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A 165	Continued From page 31 by the appropriate board, the agency shall report this fact to such regulatory board. (9) The adverse incident reports and preliminary adverse incident reports required under this section are confidential as provided by law and are not discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the agency or appropriate regulatory board. (10) The agency may adopt rules necessary to administer this section. This Statute or Rule is not met as evidenced by: Based on record review, and interview, the facility failed to follow its policies and procedures for Quality Assurance and oversight in assessing incident reports. The facility reporting an adverse incident failed to investigate, develop plans of actions, and respond quickly to establish practices to meet the standards. The findings included: Reviewed the facility policy, Quality Assurance and Oversight - Internal Audit Process Revised Reviewed . Policy Purpose: The Merrill gardens internal audit process consists of an evaluation of operational processes to help make sure the services provided in each community meet the standards set by the residents, regulatory agencies and Merrill Gardens. The process is designed to assist communities with identifying their areas of compliance and needed improvement to help facilitate achievement of desired operations and health services goals. The goal is to be proactive and establish practices that meet standards in addition to correcting practices that fail to meet standards before problems occur.	A 165		

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A 165	Continued From page 32 Action plan: Detailed plan for resolving noncompliant issues that include: Action plan to be taken; Persons responsible to take that action; Timeline for completion; and Verification that an action has been completed. Record review for Resident #1 revealed an admission date of . . . . . There was no documentation in Resident #1's record of a . . . . . Resident #1 was designated as Full Code (Residents are to receive . . in the event of a life-threatening , , event). Resident #1 was found in bed unresponsive on . . . . . at 8:30 a.m. was not initiated by facility staff. Review of the adverse incident report dated . . . . . revealed, "Front desk requested a caregiver wake up for Resident #1 as he was not up for breakfast yet. When Staff A went into Resident #1's room and tried to wake him from the bed at 8:30 a.m., he would not wake. Resident #1 appeared to be safe in his bed and no obvious . . . . . occurred. The staff called 911 immediately. Daughter was called around 8:35 a.m. The GM [General Manager] was called at 8:41 a.m. . . was not started by the facility staff and the staff were not directed by the 911 operator to start. Resident #1 did not have a order." On . . . . . at 11:27 a.m., during an interview, the Resident Care Director (RCD) stated if staff finds a resident that has no . . order unresponsive they are required to call 911 and start immediately. RCD confirmed Staff A should have performed when she found Resident #1 unresponsive. RCD confirmed the staff schedule does not indicate which staff members are	A 165		

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A 165	Continued From page 33 certified in . On at 11:45 a.m., the General Manager stated per the facility policy Staff A should have started as the facility staff are to follow the Florida regulations and should be given until arrives or a provider is present. The general manager confirmed Resident #1 was a full code and did not have a order. The GM stated when he received the call from Staff A he did not instruct her to start . On at 11:50 a.m., the GM stated he started to investigate the event by interviewing staff but has no documentation of their statements. The GM was unable to provide documentation that an investigation of the incident was started. On at 12:05 p.m., the GM confirmed the staff schedule does not indicate which staff has certification. He acknowledged that a staff member who is not certified in would not know who to call to perform on a resident found unresponsive or having sudden . On at 9:00 a.m., the GM confirmed there are only 4 staff with valid certification. The GM stated he is now aware there would be days coming up with shifts that have no staff on the schedule with valid certification. The GM could not be sure that would be initiated for residents experiencing a emergency. Class III .	A 165		