Division of Health Improvement

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	2160	A. BUILDING 01 - NIGHT N GAIL ASSISTANT LIV B. WING _____	01/31/2011

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
NIGHT N GAIL ASSISTED LIVING	7621 PROSPECT AVENUE ALBUQUERQUE, NM 87110

(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 The following deficiencies are cited as a result of a complaint survey related to intake #27904 conducted on January 31, 2011, for the New Mexico State Requirements for Assisted Living Facilities for Adults 7 NMAC 8.2	A 000	Ed Reviewed 03-30-31 The following is in response to deficiencies cited as a result of Survey related to intake #27904 conducted on **January 31, 2011.**	
A 008	7 NMAC 8.2.8 General Licensing Requirements GENERAL LICENSING REQUIREMENTS: A. Licensure is required. No person or entity shall establish, maintain or operate an assisted living facility without first obtaining a license. B. Application for licensure. An initial or renewal application shall be made on the forms prescribed by and available from the licensing authority. The issuance of an application form is not a guarantee that the completed application will be accepted, or that the department will issue a license. Information provided by the facility and used by the licensing authority for the licensing process shall be accurate and truthful. The licensing authority will not issue a new license if the applicant has had a health facility license revoked or renewal denied or has surrendered a license under threat of revocation or denial of renewal. The licensing authority may not issue a new license if the applicant has been cited repeatedly for violations of applicable rules found to be class A or class B deficiencies as defined in Health Facility Sanctions and Civil Monetary Penalties, 7.1.8 NMAC or has been non-compliant with plans of correction. The licensing authority will not issue a license until the applicant has supplied all of the information that is required by this rule. Any facility that fails to participate in good faith by falsifying information presented in the licensing process shall be denied licensure by the department. The following information shall be submitted to the licensing	A 008	**7 NMAC 8.2.8** General Licensing Requirements I have read and understood the General Licensing requirement and agree to comply in a truthful and timely manner. I will comply with all corrections cited in your Survey conducted **January 31, 2011.** The life safety code portion of the New Mexico State regulation governing requirements for Assistant Living Facility 7.8.2 NMAC, NFPA 101. Completion date of all requirements will be **May 15, 2011.**	

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE TITLE Manager/Owner (X6) DATE 3-24-11

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A 008	Continued From page 1 authority for approval: (1) a letter of intent that includes the proposed physical address, the primary population of the facility and a summary of the proposed services; after the letter of intent has been received, an application packet including; the application form, fee schedule and the licensing rule will be issued to the applicant by the licensing authority; (2) the completed and notarized application and the appropriate non-refundable fee(s); (3) a program narrative identifying and detailing the geographic service area, the primary population including any special needs requirements, along with a full description of the services that the applicant proposes to provide including: (a) a description of the characteristics of the proposed population of the facility; (b) a description of the services and care that will be provided to the residents; (c) a description of the anticipated professional services to be offered to the residents; and (d) a description of the facility ' s relationship to other services and related programs in the service area and how the applicant will collaborate with them to achieve a system of care for the residents. (4) policies and procedures annotated to this rule; (5) evidence to establish that the applicant has sufficient financial assets to permit operation of the facility for a period of six (6) months; the evidence shall include a credit report from one of the three recognized credit bureaus with a minimum credit score of six-hundred fifty (650) or above; (6) copies of organizational documents to include the following list of items: (a) the names of all persons or business entities that have at least five percent (5%) ownership interest in the facility, whether direct or indirect	A 008		

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A 008	Continued From page 2 and whether in profits, land or building; this includes the owners of any business entity which owns all or part of the land or building; (b) the identities of all creditors that hold a security interest in the premises, whether land or building; (c) any changes in ownership or management shall be reported to the department within thirty (30) days; (7) building plans as required at 7.8.2.41 NMAC of this rule; (8) fire authority approval as required at 7.8.2.60 NMAC of this rule; (9) a letter of approval or exemption from the local health authority having jurisdiction for the food service and the kitchen facility; (10) a copy of liquid waste disposal and treatment system permit from local health authority having jurisdiction; (11) approval from local zoning authority; (12) building approval (certificate of occupancy); and (13) any other information that the applicant wishes to provide or that the licensing authority may request. C. Application for amended license. A licensee shall submit an application for an amended license and the required non-refundable fee to the licensing authority prior to a change with the facility. An amended license is required for a change of: location, administrator, facility name, capacity or any modification or addition to the building. (1) An application for a change of the facility administrator or change of the administrator ' s name shall be submitted to the licensing authority within ten (10) business days of the change. (2) An application for increase in capacity shall be accompanied by a building plan pursuant to 7.8.2.41 NMAC of this rule. A facility shall not	A 008		

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A 008	Continued From page 3 increase census until the licensing authority has reviewed and approved the increase and has issued a new license that reflects the approved increase in capacity. D. Application for license renewal. Each facility shall apply for a renewal of the annual license within thirty (30) business days prior to the license expiration date by submitting the following items: (1) an application and the required fee; (2) an updated program narrative, if the facility has changed the program or the focus of services; (3) the annual fire inspection report; and (4) the licensing authority may not issue a new license if the applicant has been cited repeatedly for violations of this rule or has been noncompliant with plans of correction or payment of civil monetary penalties. E. License. Any person or entity that establishes, maintains or operates an assisted living facility shall obtain a license as required in this rule before accepting residents for care or providing services. (1) Each facility that provides care or treatment shall obtain a separate license. The license is non-transferable and is only valid for the facility to which it is originally issued and for the owner or operator to whom it is issued. It shall not be sold, reassigned or transferred. (2) The maximum capacity specified on the license shall not be exceeded. (3) If the facility is closed and the residents are removed from the facility, the license shall be returned to the licensing authority. Written notification shall be issued to all residents or the residents ' surrogate decision maker and the licensing authority at least thirty (30) calendar days prior to the closure. F. Temporary license. (1) A temporary license may be issued to a new	A 008		

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A 008	Continued From page 4 facility before residents are admitted provided that the facility has met all of the life safety code requirements as stated in this rule and policies and procedures for the facility have been reviewed and approved. (2) Upon receipt of a temporary license, the facility may begin to admit up to three (3) residents. (3) After the facility has admitted up to three (3) residents, the facility operator or owner shall request an initial health survey from the licensing authority. (4) Following a determination of compliance with this rule by the licensing authority, an annual license will be issued. The renewal date of the annual license is based on the initial date of the first temporary license. (5) The licensing authority has the right to determine compliance or noncompliance. (6) A temporary license shall cover a period of time, not to exceed one hundred twenty (120) calendar days. (7) No more than two (2) consecutive temporary licenses shall be issued. If a second temporary license is issued, an additional non-refundable fee is required. If all requirements are not met within the two hundred forty (240) day time frame, the applicant shall repeat the application process. G. Annual license. An annual license is issued for one (1) year for a facility that has met all the requirements of this rule. H. Display of license. The facility shall display the license in a conspicuous public place that is visible to residents, staff and visitors. I. Unlicensed facilities. Any person or entity that opens or maintains an assisted living facility without a license is subject to the imposition of civil monetary penalties by the licensing authority. Failure to comply with the licensure requirements of this rule within ten (10) days of notice by the	A 008		

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A 008	Continued From page 5 licensing authority may result in the following penalties pursuant to Health Facility Sanctions and Civil Monetary Penalties, 7.1.8 NMAC. (1) A civil monetary penalty not to exceed five-thousand dollars ($5,000) per day. (2) A base civil monetary penalty, plus a per-day civil monetary penalty, plus the doubling of penalties as applicable, that continues until the facility is in compliance with the licensing requirements in this rule. (3) A cease and desist order to discontinue operation of a facility that is operating without a license. (4) Additional criminal penalties may apply and shall be imposed as necessary. [7.8.2.8 NMAC - Rp, 7.8.2.8 NMAC, 01/15/2010] This REQUIREMENT is not met as evidenced by: (7) No more than two (2) consecutive temporary licenses shall be issued. If a second temporary license is issued, an additional non-refundable fee is required. If all requirements are not met within the two hundred forty (240) day time frame, the applicant shall repeat the application process. G. Annual license. An annual license is issued for one (1) year for a facility that has met all the requirements of this rule. H. Display of license. The facility shall display the license in a conspicuous public place that is visible to residents, staff and visitors. Based on observation the facility failed to post the facility license in an obvious or conspicuous place. This deficient practice had the potential to affect all residents, visitors and staff within the facility. The licensed capacity of the facility is 3 residents. The findings are:	A 008		

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A 008	Continued From page 6 On January 31, 2011 during a tour of the facility with the Administrator, the Life Safety Code Surveyor observed the following. The findings are: 1. At 2:40 pm, the surveyor did not see or observe the license posted in a public place or area.	A 008		
A 013	7 NMAC 8.2.13 Grounds for Revocatio, Suspension or Denial GROUNDS FOR REVOCATION, SUSPENSION OR DENIAL OF INITIAL OR RENEWAL OF LICENSE, OR THE IMPOSITION OF SANCTIONS OR CIVIL MONETARY PENALTIES: A. When the licensing authority determines that an application for the renewal of a license will be denied or that a license will be revoked, the licensing authority shall provide written notification to the facility, the residents and the surrogate decision makers for the residents. B. After notice to the facility and an opportunity for a hearing, the department may deny an initial or renewal application, revoke or suspend the license of a facility or may impose an intermediate sanction and a civil monetary penalty as provided in accordance with the Public Health Act, Section 24-1-5.2 NMSA 1978. C. Grounds for implementing these penalties may be based on the following: (1) failure to comply with any provision of this rule; (2) failure to allow a survey by authorized representatives of the licensing authority; (3) the hiring or retaining of any staff or permitting any private duty attendant or volunteer to work with residents that has a disqualifying conviction	A 013	**7 NMAC 8.2.13** Grounds for Revocation Suspension or Denial. I am presently in process of reducing my resident population to 3. So far I have found alternate accommodation for two (2) residents and will be in full compliance with respect to residents by **March 31, 2011.**	

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A 013	Continued From page 7 under the requirements of the Caregiver ' s Criminal History Screening Program, 7.1.9 NMAC; (4) the misrepresentation or falsification of any information on the application forms or other documents provided to the licensing authority; (5) repeat violations of this rule; (6) failure to maintain or provide services as required by this rule; (7) exceeding licensed capacity; (8) failure to provide an acceptable plan of correction within the time period established by the licensing authority; (9) failure to correct deficiencies within the time period established by the licensing authority; (10) failure to comply with the incident reporting requirements pursuant to Incident Reporting, Intake Processing and Training Requirements, 7.1.13 NMAC; and (11) failure to pay civil monetary penalties pursuant to Health Facility Sanctions and Civil Monetary Penalties, 7.1.8 NMAC. [7.8.2.13 NMAC - Rp, 7.8.2.13 NMAC, 01/15/2010] This REQUIREMENT is not met as evidenced by: GROUNDS FOR REVOCATION, SUSPENSION OR DENIAL OF INITIAL OR RENEWAL OF LICENSE, OR THE IMPOSITION OF SANCTIONS OR CIVIL MONETARY PENALTIES: A. When the licensing authority determines that an application for the renewal of a license will be denied or that a license will be revoked, the licensing authority shall provide written notification to the facility, the residents and the surrogate decision makers for the residents. B. After notice to the facility and an opportunity	A 013		

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A 013	Continued From page 8 for a hearing, the department may deny an initial or renewal application, revoke or suspend the license of a facility or may impose an intermediate sanction and a civil monetary penalty as provided in accordance with the Public Health Act, Section 24-1-5.2 NMSA 1978. C. Grounds for implementing these penalties may be based on the following: (1) failure to comply with any provision of this rule; (2) failure to allow a survey by authorized representatives of the licensing authority; (3) the hiring or retaining of any staff or permitting any private duty attendant or volunteer to work with residents that has a disqualifying conviction under the requirements of the Caregiver ' s Criminal History Screening Program, 7.1.9 NMAC; (4) the misrepresentation or falsification of any information on the application forms or other documents provided to the licensing authority; (5) repeat violations of this rule; (6) failure to maintain or provide services as required by this rule; (7) exceeding licensed capacity; (8) failure to provide an acceptable plan of correction within the time period established by the licensing authority; (9) failure to correct deficiencies within the time period established by the licensing authority; (10) failure to comply with the incident reporting requirements pursuant to Incident Reporting, Intake Processing and Training Requirements, 7.1.13 NMAC; and (11) failure to pay civil monetary penalties pursuant to Health Facility Sanctions and Civil Monetary Penalties, 7.1.8 NMAC. [7.8.2.13 NMAC - Rp, 7.8.2.13 NMAC, 01/15/2010]	A 013		

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A 013	Continued From page 9 This is a repeat deficiency of surveys dated 4/1/10, 5/25/10, 7/6/10 and a complaint 2/1/11. Based on observation and staff interview the facility failed to maintain the licensed capacity. This deficient practice had the potential to affect all residents residing in the facility. The licensed capacity of the facility is 3 residents. The findings are: On January 31, 2011, during a tour of the facility with the Administrator, the Life Safety Code Surveyor observed the following: 1. At 2:30 pm, the surveyor counted 6 residents in the facility. a. When asked, how many residents live in the facility, the Administrator stated. "I have 6 residents." b. The Administrator acknowledged the above findings at the exit conference at 4:45 pm. 2. On February 2, 2011 during records review of the facility file. The records indicated the facility was licensed for a maximum of 3 residents.	A 013		
A 040	7 NMAC 8.2.40 Capacity of building CAPACITY OF BUILDING(S): No facility shall house more residents than the maximum bed capacity for which it is licensed. A. Each individual building containing resident activities, services or sleeping rooms on the premises shall be separately licensed. B. Buildings on the grounds of the licensed facility and all rooms within the licensed buildings that are used by the residents of the facility shall be subject to inspection for health and safety standards. C. All facilities shall comply with the state building	A 040	**7NMAC 8.2.40** Capacity of Building I am in the process of reducing my resident population to (3). This will be accomplished by **March 31, 2011** My Facility has been inspected by both Health and Fire departments and did pass the inspections. Fire Alarm System will be installed by **May 15, 2011**	

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A 040	Continued From page 10 code and fire codes, pursuant to 14.7 NMAC. (1) Facilities with sixteen (16) residents or fewer are classified as " group R. " (2) Facilities with more than sixteen (16) residents are classified as " group I-1. " (3) Facilities with more than five (5) residents who are not capable of self-preservation are classified as " group I-2. " D. Facilities shall provide separate sleeping quarters for male and female residents unless they are married or the arrangement is consensual. [7.8.2.40 NMAC - Rp, 7.8.2.40 NMAC, 01/15/2010] This REQUIREMENT is not met as evidenced by: This is a repeat deficiency of surveys dated 4/1/10, 5/25/10, 7/6/10 and a complaint 2/1/11. Based on observation and staff interview the facility failed to maintain the licensed capacity. This deficient practice had the potential to affect all residents residing in the facility. The licensed capacity of the facility was 3 residents. The findings are: On January 31, 2011 during a tour of the facility with the Administrator, the Life Safety Code Surveyor observed the following: 1. At 2:30 pm, the surveyor counted 6 residents in the facility. a. When asked, how many residents live in the facility, the Administrator stated, "I have 6 residents." b. The Administrator acknowledged the above findings at the exit conference at 4:45 pm.	A 040		

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A 040	Continued From page 11 2. On February 2, 2011 during records review of the facility file. The records indicate the facility is licensed for a maximum of 3 residents.	A 040		