STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	0014201	A. BUILDING: _____ B. WING _____	C 08/06/2024

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
HERITAGE ASSISTED LIVING MIDDLETON	6234 MAYWOOD AVE MIDDLETON, WI 53562

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U 000	INITIAL COMMENTS From 08/06/2024 to 08/07/2024, Surveyor conducted a complaint investigation at Heritage Assisted Living Middleton, a RCAC in Middleton. One deficiency was identified. The complaint was substantiated. Census: 21	U 000		
U 232	89.29(3)(a)5. ADMISSION & RETENTION OF TENANTS (3) TERMINATION OF CONTRACT. (a) Reasons. A residential care apartment complex may terminate its contract with a tenant when any of the following conditions apply: 5. The tenant's behavior or condition poses an immediate threat to the health or safety of self or others. Mere old age, eccentricity or physical disability, either singly or together, are insufficient to constitute a threat to self or others. This Rule is not met as evidenced by: Based on record review and interview, the provider issued a 30-day notice to terminate a tenant's contract due to the tenant's behavior allegedly posing an immediate threat to his/her health and safety; however, record review and interviews did not support the threat. Findings include: From 08/06/2024 to 08/07/2024, Surveyor conducted a complaint investigation alleging the	U 232		

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

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
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U 232	Continued From page 1	U 232		

provider issued a 30-day termination of contract without proper justification.

On 08/06/2024 at approximately 9:00 a.m., Surveyor reviewed Tenant 1's record. Tenant 1 was admitted to the provider's complex on 03/07/2022 with diagnosis of alcohol dependence. Tenant 1 was his/her own decision maker and managed his/her own medications. Tenant 1's record included 2 separate risk agreements related to Tenant 1's alcohol consumption and self-administration of medications. Tenant 1's progress notes, dated 03/12/2024 to 08/06/2024, including the following notes in relation to alcohol:

- 03/12/2024: Observed with a bottle of booze in a plastic bag. Tenant appeared sober.
- 06/16/2024: Tenant observed drinking alcohol and being drunk Tenant tearful but ate meals and watched television with good effect.
- 03/18/2024: Care staff reported tenant drank alcohol throughout the weekend. Tenant called staff at various times to "talk" reporting s/he was lonely.
- 04/04/2024: Tenant having an alcoholic beverage. Education provided regarding risk vs benefits of abstaining from alcohol consumption especially after an ER visit related to elevated blood pressure. Tenant voiced understanding.
- 04/05/2024: Tenant noted to be intoxicated. Blood pressure slightly elevated. Tenant declined being seen for blood pressure as s/he stated it was only up due to drinking. Tenant verbalized understanding of risk factors with drinking.
- 04/08/2024: LPN educated resident on risk of mixing schedule 2 narcotics with alcohol. Tenant stated s/he would never mix the medications with alcohol and voiced understanding of the risk. Tenant declined provider's offer to manage

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U 232	Continued From page 2	U 232		

medications.
- 04/15/2024: Tenant drinking continually over the weekend.
- 04/17/2024: Tenant contacted therapist Sunday evening while intoxicated. Care staff had not reported any concerns.
- 04/20/2024: Tenant drinking throughout the day, coherent and making his/her needs known.
- 05/13/2024: Tenant did not receive his/her shower on Saturday AM due to being intoxicated and unsafe to shower.
- 05/17/2024: Tenant had an unwitnessed fall. Strong odor of alcohol detected. Tenant with slurred speech, uncoordinated body movement and heavy eye lids. No injuries noted.
- 05/19/2024: Tenant reported to be intoxicated.
- 05/20/2024: Alert and intoxicated.
- 05/23/2024: Tenant intoxicated.
- 06/04/2024: Tenant mixing Lorazepam with alcohol. LPN reached out to PCP and notified PCP that tenant has obtained prescriptions that PCP did not prescribe. LPN would like PCP's support to take over managing tenant's medications out of concern for tenant's safety. PCP prefers to respect tenant's right and continue to allow tenant to manage his/her medications and had no high alerts over tenant's behaviors.
- 06/05/2024: LPN notified RN/DON to all matters and interactions with tenant pertaining to tenant mixing narcotics with alcohol. LPN was advised to have administrator send out a 30-day notice.
- 07/15/2024: Tenant intoxicated and asking care staff to talk with him/her. Tenant verbalizing that s/he has been thrown out and where was s/he supposed to go. LPN addressed statements with tenant and stated care staff cannot provide any type of 1:1 care.
- 08/03/2024: Tenant intoxicated throughout the day.

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	0014201	A. BUILDING: _____ B. WING _____	C 08/06/2024

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U 232	Continued From page 3	U 232		

- 08/04/2024: Tenant intoxicated but responsive to verbal and tactile stimuli.
- 08/05/2024: Tenant appears intoxicated. Care staff unable to give shower today due to intoxication.

Tenant 1's record included the following letters:

- Termination of Contract, dated 06/12/2024, which stated, "This letter serves as a written 30-DAY notice of termination of contract for [Tenant 1] due to the tenant's behavior posing an immediate threat to the health and safety of self, pursuant to DHS 89.29(3) and the service agreement. [Tenant 1]'s non-compliance with medication management and alcohol abuse puts [him/her] at risk for adverse reactions, injuries, illness, and death. [The provider] has made attempts to find a solution, but [Tenant 1] has declined these."
- Tenant 1's appeal, dated 07/02/2024, which stated s/he appealed the termination of contract. Tenant 1 explained s/he was an alcoholic at the time of admission and if his/her alcoholism was problematic, s/he should have had his/her contract terminated before using all his/her private pay funds for his/her care. Tenant 1 found the timing of the termination to coincide with his/her switch to public funds in March 2024. The appeal letter stated the termination of contract based on alcoholism was a violation of the Americans with Disabilities Act. In the appeal letter, Tenant 1 offered resolutions of the provider rescinding the eviction, allowing the provider's staff to manage Tenant 1's medications and Tenant 1 attending counseling.
- Provider's Response to Appeal, dated 07/31/2024, which stated upon reviewing the request and the provider's unsuccessful interventions, the 30-day notice was upheld.

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U 232	Continued From page 4 On 08/06/2024 at approximately 10:30 a.m., Surveyor entered Tenant 1's room. Surveyor observed a clean apartment, Tenant 1 with good hygiene and Tenant 1 interacting respectfully with a caregiver and resident. Surveyor interviewed Tenant 1 regarding his/her 30-day notice. Tenant 1 stated s/he had been an alcoholic since prior to his/her acceptance to the provider's complex years ago and that his/her behaviors had not changed. Tenant 1 admitted to drinking at the complex but stated s/he obtained the alcohol on his/her own using public transportation and was not disruptive when intoxicated. Tenant 1 acknowledged a couple times that s/he became lonely while drinking and asked to speak with staff. Tenant 1 explained, "The alcohol may have helped cause those tears, but I am also truly lonely. I can't walk. My vision is getting worse. I'm lonely." Surveyor asked Tenant 1 if s/he mixed psychotropic medications or narcotic pain medications with alcohol. Tenant 1 replied, "No," and allowed Surveyor to review his/her medications which did not include any psychotropic medications or narcotics. Tenant 1 informed Surveyor s/he would now be willing for the provider to manage his/her medications but denied these services in the past due to trying to preserve his/her private funds. On 08/06/2024 at approximately 10:50 a.m., Surveyor interviewed Caregiver B. Caregiver B stated Tenant 1 was known to drink, but not disruptive while drinking. Caregiver B stated Tenant 1 might decline cares while intoxicated, but ultimately kept to him/herself and didn't bother others when intoxicated. Caregiver B expressed no safety concerns regarding Tenant 1's drinking. On 08/06/2024 at approximately 11:00 a.m.,	U 232		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
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U 232	Continued From page 5 Surveyor interviewed Administrator A and Regional Director C. Regional Director C confirmed the provider's complex did not have a "House Rule" prohibiting drinking on campus. Surveyor discussed concern that Tenant 1 was accepted by the provider with diagnosis of alcohol dependence and that his/her behaviors had not appeared to change in the past 4.5 months to warrant a termination of contract. Regional Director C replied, "Did you see the notes from this weekend?" Surveyor reviewed notes, which documented Tenant 1 was intoxicated over the weekend and caregivers were unable to give him/her a shower. Documentation did not indicate Tenant 1 was a safety risk to him/herself or others or disruptive. Administrator A added, "What about [his/her] use of an electric scooter in the community? Isn't that a liability?" Surveyor shared that documentation did not indicate there was a history of Tenant 1 using his/her electric scooter in the community while intoxicated. Surveyor commented that the termination of contract appeared to be due to the combination of Tenant 1's alcohol consumption and managing his/her own medications and asked if the provider had offered to administer Tenant 1's medications now that Tenant 1 was agreeable. Regional Director C did not respond. Administrator A replied, "That would be a liability for us. What if [s/he] drinks when we have administered medications?" Surveyor then reviewed that Tenant 1's physician had been made aware of Tenant 1's drinking and did not have any "high alerts" regarding this behavior. Surveyor asked Administrator A and Regional Director C if they had any additional questions or information for Surveyor. Regional Director C provided behavior assessments, dated 04/30/2024 to 08/06/2024, that documented 5 occurrences of care staff not aiding with showers due to Tenant 1 being intoxicated. The	U 232		

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U 232	Continued From page 6	U 232		

assessments did not document any retaliation or negative reaction from Tenant 1. Notes indicated Tenant 1 had washed him/herself up at the sink when scheduled showers with care staff did not occur. The provider had no additional information to provide related to Tenant 1's alleged behavior that posed an immediate threat to his/her health and safety.

On 08/07/2024 at approximately 11:15 a.m., Surveyor interviewed Former Activities Staff D, who ended his/her employment with the provider mid-June 2024. Former Activities Staff D described Tenant 1 as the most articulate man/woman that everyone liked. Former Activities Staff A stated Tenant 1 would engage in activities, such as exercise, bingo and social evenings when s/he was sober. Former Activities Staff D stated Tenant 1 did have occurrences of intoxication, which could last a couple days, but that Tenant 1 would remain in his/her room during those occurrences and was not disruptive to others. Former Activities Staff D stated Tenant 1 was not known to operate his/her electric scooter in the community while intoxicated. Former Activities Staff D expressed sadness with the provider's recent notice to terminate Tenant 1's contract.

The provider issued a 30-day termination of contract to Tenant 1 for alleged behavior that posed an immediate threat to his/her health and safety; however, record review and interviews did not corroborate that Tenant 1's behavior was an immediate risk to his/her health and safety or that the behaviors had changed since admission. Tenant 1 appealed the decision and agreed to have the provider manage his/her medication, part of the concern with the alleged behavior; however, the provider did not reexplore this

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U 232	Continued From page 7 option with Tenant 1.	U 232		