| STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION | (X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: | (X2) MULTIPLE CONSTRUCTION | (X3) DATE SURVEY COMPLETED |
|---|---|---|---|
| | IL6006761 | A. BUILDING: _____ B. WING _____ | C 04/05/2024 |

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| HOPE CREEK NURSING & REHAB | 4343 KENNEDY DRIVE EAST MOLINE, IL 61244 |

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| S 000 | Initial Comments<br><br>Complaint Survey: 2421854/IL170639 | S 000 | | |
| S9999 | Final Observations<br><br>Statement of Licensure Violations<br><br>300.610a)<br>300.1210b)<br>300.3210t)<br><br>Section 300.610 Resident Care Policies<br><br>a) The facility shall have written policies and procedures governing all services provided by the facility. The written policies and procedures shall be formulated by a Resident Care Policy Committee consisting of at least the administrator, the advisory physician or the medical advisory committee, and representatives of nursing and other services in the facility. The policies shall comply with the Act and this Part. The written policies shall be followed in operating the facility and shall be reviewed at least annually by this committee, documented by written, signed and dated minutes of the meeting.<br><br>Section 300.1210 General Requirements for Nursing and Personal Care<br><br>b) The facility shall provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychological well-being of the resident, in accordance with each resident's comprehensive resident care plan. Adequate and properly supervised nursing care and personal care shall be provided to each resident to meet the total nursing and personal care needs of the resident. | S9999 | | |

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| S9999 | Continued From page 1<br><br>Section 300.3210 General<br><br>t) The facility shall ensure that residents are not subjected to physical, verbal, sexual or psychological abuse, neglect, exploitation, or misappropriation of property.<br><br>These Requirements were NOT MET as evidenced by:<br><br>Based on interview and record review the facility failed to develop a system to assess and evaluate residents for capacity to consent to sexual activity, failed to ensure two cognitively impaired residents (R1, R2) who engaged in a sexual act had the capacity to consent, and failed to prevent two cognitively impaired residents (R1, R2) who didn't have the capacity to consent, from engaging in a sexual act resulting in (R1) experiencing psychosocial harm as any reasonable person would be affected in a total sample of four resident reviewed for abuse.<br><br>Findings include:<br><br>Facility Policy Abuse Prevention Program dated 3/1/21 documents:<br>As part of the social history evaluation and MDS (Minimum Data Set) assessments, staff will identify residents with increased vulnerability for abuse, neglect, exploitation, mistreatment, or who have needs and behaviors that might lead to conflict.<br>Abuse: The willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm or pain or mental anguish or deprivation by an individual, including caretaker, of goods or services that are necessary to attain or maintain physical, mental | S9999 | | |

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| S9999 | Continued From page 2 | S9999 | | |

psychosocial well-being. Willful, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.
Sexual Abuse: Including, but not limited to, sexual harassment, sexual coercion, or sexual assault.

Facility Assessment of Resident Capacity to Consent Sexual activity Policy (undated) documents:
Purpose: To protect and ensure safety, health, and well-being of residents of (the ""Facility") who engages in sexual activity.
Policy: It is the facility's policy to recognize and support each resident's right to engage in sexual activity, so long as the Facility is certain that there is consent among all parties to the sexual activity. This policy applies to all residents who are able to demonstrate consent by words and/or affirmative actions, even if the resident is non-verbal or is suffering from Dementia or some other cognitive deficit.
Capacity to engage in sexual activity is defined as:
I. The ability to understand information relevant to a decision to engage in sexual activity, and
II. the ability to appreciate the reasonably foreseeable consequences of such a decision or lack of a decision.
Capacity to consent to sexual activity has four key components:
I. The ability to communicate a decision to engage in sexual activity.
II. The ability to understand a decision to engage in sexual activity, consistent with an individual's values.
III. The ability to appreciate the potential consequences of a decision to engage in sexual activity, including risks and benefits.
IV. The ability to rationalize and reason the

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process utilized to reach the decision to engage in sexual activity, free from undue influence or coercion.

Facility Incident Report dated 3/13/24 indicates on 3/13/24 at 1:00am V3, CNA (Certified Nurse Assistant) found R1 standing on the side of R2's bed with R1's penis in R2's mouth.
Room Census Report indicates on 3/13/24 R1 and R2 were roommates at that time.

Current MDS (Minimum Data Set)/BIMS (Brief Interview for Mental Status) indicate both R1 and R2 are severely cognitively impaired and unable to give consent.

On 4/2/24 at 11:40am R1's spouse (V5) who visits R1 every day, stated prior to R1 becoming cognitively impaired, R1 was very cognizant of boundaries, never experimented sexually "like that" and he would have been "devastated" to have been found in that situation. V5 stated she absolutely believes R1 had no idea what he was doing or who he was doing it with. V5 stated "(R1) is no longer a reasonable person, but when he was a reasonable person, this would have never happened."

On 4/2/24 at 9:14am V11, R2's Family stated R2 was bisexual and would not have had any trauma related to this incident.

On 4/2/24 at 3:15pm V1, Administrator stated that they concluded the investigation and found the sexual act between R1 and R2 was consensual. V1 stated that the facility does have an assessment to determine ability to consent for non-cognitive impaired residents, however it was not utilized due to R1 and R2's cognitive impairments.

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| S9999 | Continued From page 4<br><br>No assessment was completed to confirm R1 or R2's ability to consent to sexual activity was performed prior to the incident or after the incident.<br><br>Consensual Sexual Relationship Agreement (undated) indicates the resident will be assessed by the professional staff to be alert, aware, coherent and capable of making decisions supporting their own choices and welfare. Agreement states residents are to be counseled regarding safe sex practices/behavior and to engage only with other residents who have decisional capacity AND consent to the relationship.<br><br>On 4/2/24 at 3;21pm V12, Medical Director stated that with (BIMS) scores like that, neither R1 nor R2 would be able to consent. V12 stated R1 and R2 would not be able to understand the consequences of their actions due to their level of cognitive impairments. V12 stated the facility needs to focus on how to prevent this from happening in the future.<br><br>(A) | S9999 | | |