DEPARTMENT OF HEALTH

Protecting, Maintaining and Improving the Health of All Minnesotans

November 28, 2022

Administrator
Ecumen Duluth The Shores
4000 London Road
Duluth, MN 55804

RE: Project Number(s) SL30492015

Dear Administrator:

On November 23, 2022, the Minnesota Department of Health completed a follow-up evaluation of your facility to determine if orders from the October 5, 2022, evaluation were corrected. This follow-up evaluation verified that the facility is in substantial compliance.

It is your responsibility to share the information contained in this letter and the results of this visit with the President of your facility's Governing Body. You are encouraged to retain this document for your records.

Please feel free to call me with any questions.

Sincerely,

Casey DeVries, Supervisor
Health Regulation Division
State Evaluation Team
85 East Seventh Place, Suite 220
P.O. Box 3879
St. Paul, MN 55101-3879
Email: casey.devries@state.mn.us
Phone: 651-201-5917 Fax: 651-215-6894

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Electronically Delivered

October 18, 2022

Administrator
Ecumen Duluth The Shores
4000 London Road
Duluth, MN 55804

RE: Project Number(s) SL30492015

Dear Administrator:

The Minnesota Department of Health completed an evaluation on October 5, 2022, for the purpose of evaluating and assessing compliance with state licensing statutes. At the time of the evaluation, the Minnesota Department of Health noted violations of the laws pursuant to Minnesota Statute, Chapter 144G, Minnesota Food Code, Minnesota Rules Chapter 4626, Minnesota Statute 626.5572 and/or Minnesota Statute Chapter 260E.

The enclosed State Form documents the state licensing orders. The Department of Health documents state licensing correction orders using federal software. Tag numbers are assigned to Minnesota state statutes for Assisted Living Facilities. The assigned tag number appears in the far left column entitled "ID Prefix Tag." The state statute number and the corresponding text of the state statute out of compliance are listed in the "Summary Statement of Deficiencies" column. This column also includes the findings that are in violation of the state statute after the statement, "This MN Requirement is not met as evidenced by . . ."

IMPOSITION OF FINES
In accordance with Minn. Stat. § 144G.31, Subd. 4, fines and enforcement actions may be imposed based on the level and scope of the violations and imposed immediately with no opportunity to correct the violation first as follows:

Level 1: no fines or enforcement.
Level 2: a fine of $500 per violation, in addition to any enforcement mechanism authorized in § 144G.20 for widespread violations;
Level 3: a fine of $3,000 per violation per incident, in addition to any enforcement mechanism authorized in § 144G.20.
Level 4: a fine of $5,000 per incident, in addition to any enforcement mechanism authorized in § 144G.20.

In accordance with Minn. Stat. § 144G.20, Subd. 4 (a)(5), the Department of Health imposes fine amounts of either $1,000 or $5,000 to licensees who are found to be responsible for maltreatment. The Department of Health imposes a fine of $1,000 for each substantiated maltreatment violation

that consists of abuse, neglect, or financial exploitation according to Minn. Stat. § 626.5572, Subds. 2, 9, 17. The Department of Health also may impose a fine of $5,000 for each substantiated maltreatment violation consisting of sexual assault, death, or abuse resulting in serious injury.

In accordance with Minn. Stat. § 144G.31, Subd. 4 (a)(5)(b), when a fine is assessed against a facility for substantiated maltreatment, the commissioner shall not also impose an immediate fine under this chapter for the same circumstance.

Therefore, in accordance with Minn. Stat. §§ 144G.01 to 144G.9999, the following fines are assessed pursuant to this evaluation:

St - 0 - 2070 - 144g.81 Subd. 4 - Awake Staff Requirement - $3,000.00

The total amount you are assessed is $3,000.00. You will be invoiced after 15 days of the receipt of this notice, subject to appeal.

DOCUMENTATION OF ACTION TO COMPLY
Per Minn. Stat. § 144G.30, Subd. 5(c), the licensee must document any action taken to comply with the correction order by the correction order date. A copy of the provider's records documenting those actions may be requested for follow-up evaluations. The licensee is not required to submit a plan of correction for approval.

The correction order documentation should include the following:

- Identify how the area(s) of noncompliance was corrected related to the resident(s)/employee(s) identified in the correction order.
- Identify how the area(s) of noncompliance was corrected for all of the provider's resident(s)/employees that may be affected by the noncompliance.
- Identify what changes to your systems and practices were made to ensure compliance with the specific statute(s).

CORRECTION ORDER RECONSIDERATION PROCESS
In accordance with Minn. Stat. § 144G.32, Subd. 2, you may challenge the correction order issued, including the level and scope, and any fine assessed through the correction order reconsideration process. The request for reconsideration must be in writing and received by the Department of Health within 15 calendar days of the correction order receipt date.

A state licensing order under Minn. Stat. § 144G.91, Subd. 8, Free from Maltreatment is associated with a maltreatment determination by the Office of Health Facility Complaints. If maltreatment is substantiated, you will receive a separate letter with the reconsideration process under Minn. Stat. § 626.557. Please email general reconsideration requests to: **Health.HRD.Appeals@state.mn.us**.

Please address your cover letter for general reconsideration requests to:
Reconsideration Unit
Health Regulation Division
Minnesota Department of Health
P.O. Box 64970
85 East Seventh Place
St. Paul, MN 55164-0970

Free from Maltreatment reconsideration requests should be addressed to:
Reconsideration Unit
Health Regulation Division
Minnesota Department of Health
P.O. Box 64970
85 East Seventh Place
St. Paul, MN 55164-0970

REQUESTING A HEARING
Alternatively, in accordance with Minn. Stat. § 144G.31, Subd. 5(d), an assisted living provider that has been assessed a fine under this subdivision has a right to a reconsideration or a hearing under this section and chapter 14. Pursuant to Minn. Stat. § 144G.20, Subd. 14 and Subd. 18, a request for a hearing must be in writing and received by the Department of Health within 15 business days of the correction order receipt date. Requests for hearing may be emailed to **Health.HRD.Appeals@state.mn.us**.

To appeal fines via reconsideration, please follow the procedure outlined above. Please note that you may request a reconsideration **or** a hearing, but not both.

You are encouraged to retain this document for your records. It is your responsibility to share the information contained in this letter and the results of this visit with the President of your organization's Governing Body. If you have any questions, please contact me.

Sincerely,

Casey DeVries, Supervisor
Health Regulation Division
State Evaluation Team
85 East Seventh Place, Suite 220
P.O. Box 3879
St. Paul, MN 55101-3879
Email: casey.devries@state.mn.us
Phone: 651-201-5917 Fax: 651-215-6894

HHH

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	30492	A. BUILDING: _____ B. WING _____	10/05/2022

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ECUMEN DULUTH THE SHORES	4000 LONDON ROAD DULUTH, MN 55804

(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
0 000	Initial Comments Initial comments ******ATTENTION****** ASSISTED LIVING PROVIDER LICENSING CORRECTION ORDER(S) In accordance with Minnesota Statutes, section 144G.08 to 144G.95, these correction orders are issued pursuant to a survey. Determination of whether violations are corrected requires compliance with all requirements provided at the Statute number indicated below. When Minnesota Statute contains several items, failure to comply with any of the items will be considered lack of compliance. INITIAL COMMENTS: SL30492015-0 On October 3, 2022, to October 5, 2022, the Minnesota Department of Health conducted a survey at the above provider, and the following correction orders are issued. At the time of the survey, there were 56 residents; 45 of whom received services under the provider's Assisted Living with Dementia Care license. An immediate correction order was identified on October 4, 2022, issued for SL30492015-0, tag identification 2070. On October 4, 2022, the immediacy of correction order 2070 was removed, however, non-compliance remained at a level 3, widespread violation.	0 000	Minnesota Department of Health is documenting the State Licensing Correction Orders using federal software. Tag numbers have been assigned to Minnesota State Statutes for Assisted Living License Providers. The assigned tag number appears in the far-left column entitled "ID Prefix Tag." The state Statute number and the corresponding text of the state Statute out of compliance is listed in the "Summary Statement of Deficiencies" column. This column also includes the findings which are in violation of the state requirement after the statement, "This Minnesota requirement is not met as evidenced by." Following the surveyors' findings is the Time Period for Correction. PLEASE DISREGARD THE HEADING OF THE FOURTH COLUMN WHICH STATES,"PROVIDER'S PLAN OF CORRECTION." THIS APPLIES TO FEDERAL DEFICIENCIES ONLY. THIS WILL APPEAR ON EACH PAGE. THERE IS NO REQUIREMENT TO SUBMIT A PLAN OF CORRECTION FOR VIOLATIONS OF MINNESOTA STATE STATUTES. The letter in the left column is used for tracking purposes and reflects the scope and level issued pursuant to 144G.31 subd. 1, 2, and 3.	
0 480 SS=F	144G.41 Subd 1 (13) (i) (B) Minimum requirements	0 480		

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0 480	Continued From page 1 (13) offer to provide or make available at least the following services to residents: (i) at least three nutritious meals daily with snacks available seven days per week, according to the recommended dietary allowances in the United States Department of Agriculture (USDA) guidelines, including seasonal fresh fruit and fresh vegetables. The following apply: (B) food must be prepared and served according to the Minnesota Food Code, Minnesota Rules, chapter 4626; and This MN Requirement is not met as evidenced by: Based on observation, interview, and record review, the licensee failed to ensure food was prepared according to the Minnesota Food Code. This had the potential to affect all residents. This practice resulted in a level two violation (a violation that did not harm a resident's health or safety but had the potential to have harmed a resident's health or safety, but was not likely to cause serious injury, impairment, or death), and was issued at a widespread scope (when problems are pervasive or represent a systemic failure that has affected or has potential to affect a large portion or all of the residents). The findings include: Please refer to the additional documentation included in the Food and Beverage Establishment Inspection Reports, dated October 3, 2022.	0 480		

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0 480	Continued From page 2 TIME PERIOD FOR CORRECTION: Twenty-one (21) days	0 480		
0 730 SS=D	144G.43 Subd. 3 Contents of resident record Contents of a resident record include the following for each resident: (1) identifying information, including the resident's name, date of birth, address, and telephone number; (2) the name, address, and telephone number of the resident's emergency contact, legal representatives, and designated representative; (3) names, addresses, and telephone numbers of the resident's health and medical service providers, if known; (4) health information, including medical history, allergies, and when the provider is managing medications, treatments or therapies that require documentation, and other relevant health records; (5) the resident's advance directives, if any; (6) copies of any health care directives, guardianships, powers of attorney, or conservatorships; (7) the facility's current and previous assessments and service plans; (8) all records of communications pertinent to the resident's services; (9) documentation of significant changes in the resident's status and actions taken in response to the needs of the resident, including reporting to the appropriate supervisor or health care professional; (10) documentation of incidents involving the resident and actions taken in response to the needs of the resident, including reporting to the appropriate supervisor or health care	0 730		

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0 730	Continued From page 3 professional; (11) documentation that services have been provided as identified in the service plan; (12) documentation that the resident has received and reviewed the assisted living bill of rights; (13) documentation of complaints received and any resolution; (14) a discharge summary, including service termination notice and related documentation, when applicable; and (15) other documentation required under this chapter and relevant to the resident's services or status. This MN Requirement is not met as evidenced by: Based on interview and record review, the licensee failed to ensure the resident's record included a discharge summary for one of one discharged resident (R1). This practice resulted in a level two violation (a violation that did not harm a resident's health or safety but had the potential to have harmed a resident's health or safety) and was issued at an isolated scope (when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the residents). The findings include: R1 was admitted to the facility on May 28, 2020. R1's MN Discharge or Deceased Resident Roster indicated the licensee discharged R1 on August 16, 2022. R1's record lacked a discharge summary.	0 730		

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0 730	Continued From page 4 On October 4, 2022, at approximately 1:00 p.m., director of nursing (DON)-E acknowledged R1's record lacked a discharge summary. DON-E stated the licensee transferred R1 to respite care (different care level/license type located on the same campus as the licensee) per the family request when the family was unavailable to assist with R1. While at respite, R1 declined and was admitted to hospice. Family requested R1 remain at respite until resident passed. DON-E stated a discharge summary was not completed under the licensee's assisted living with dementia care electronic health record. The licensee's Discharge Summary policy dated August 1, 2021, indicated a discharge summary with required content would be completed for each resident at the time of discharge. No further information provided. TIME PERIOD FOR CORRECTION: Twenty-one (21) days	0 730		
0 970 SS=C	144.50 Subd. 5 Waivers of liability prohibited The contract must not include a waiver of facility liability for the health and safety or personal property of a resident. The contract must not include any provision that the facility knows or should know to be deceptive, unlawful, or unenforceable under state or federal law, nor include any provision that requires or implies a lesser standard of care or responsibility than is required by law. This MN Requirement is not met as evidenced by: Based on interview and record review, the	0 970		

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0 970	Continued From page 5 licensee failed to ensure the assisted living contract did not include language waiving the facility's liability for health, safety, or personal property of a resident. This had the potential to affect all residents. This practice resulted in a level one violation (a violation that has no potential to cause more than a minimal impact on the resident and does not affect health or safety) and was issued at a widespread scope (when problems are pervasive or represent a systemic failure that has affected or has potential to affect a large portion or all of the residents). The findings include: On October 3, 2022, licensed assisted living director (LALD)-D provided the surveyor with a blank Resident Contract and indicated the contract was used by licensee for all residents who received services. The Resident Contract included section 31. indemnification which read, "Resident will indemnify and hold harmless the Community, its employees and agents from and against any and all claims, actions, damages, and liabilities and expenses in connection with loss of life, personal injury or damage to property, arising from or out of the use by Resident of the Apartment or any other part of the Community's property, or caused wholly or in part by an act or omission of Resident or Resident's guests or agents." On October 4, 2022, at approximately 10:07 a.m., LALD-D and director of nursing (DON)-E acknowledged the licensee's assisted living contract included a waiver of liability for health and safety or personal property. LALD-D stated the licensee would contact their lawyer to review	0 970		

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0 970	Continued From page 6 the section listed above. No further information provided. TIME PERIOD FOR CORRECTION: Twenty-One (21) days	0 970		
0 980 SS=C	144G.51 ARBITRATION (a) An assisted living facility must clearly and conspicuously disclose, in writing in an assisted living contract, any arbitration provision in the contract that precludes, limits, or delays the ability of a resident from taking a civil action. (b) An arbitration requirement must not include a choice of law or choice of venue provision. Assisted living contracts must adhere to Minnesota law and any other applicable federal or local law. This MN Requirement is not met as evidenced by: Based on interview and record review, the licensee failed to ensure an arbitration agreement did not include a choice of venue provision. This had the potential to affect all residents. This practice resulted in a level one violation (a violation that did not harm a resident's health or safety but had the potential to have harmed a resident's health or safety) and was issued at a widespread scope (when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the residents). The findings include:	0 980		

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0 980	Continued From page 7 The facility is located in Saint Louis County. On October 3, 2022, licensed assisted living director (LALD)-D provided the surveyor with a blank Resident Contract and indicated the contract was used by licensee for all residents who received services. The blank Resident Contract included section 34. mandatory dispute resolution which read, "The arbitration will take place before a single arbitrator in the County of Ramsey, Minnesota, or at such other place as is mutually agreed to by the Parties. If the Parties cannot mutually select an arbitrator, the selection process will be governed by the AAA rules. The arbitrator shall be bound by judicial principles. If a Party has a claim for injunctive relief, the Party may apply for such relief to the state or federal courts In the County of Ramsey, State of Minnesota." On October 4, 2022, at approximately 10:07 a.m., LALD-D and director of nursing (DON)-E acknowledged the licensee's assisted living contract limited the choice of venue for arbitration. LALD-D stated the licensee would contact their lawyer to review the section listed above. No further information provided. TIME PERIOD FOR CORRECTION: Twenty-one (21) days	0 980		
01440 SS=D	144G.62 Subd. 4 Supervision of staff providing delegated nurs (a) Staff who perform delegated nursing or therapy tasks must be supervised by an appropriate licensed health professional or a	01440		

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01440	Continued From page 8 registered nurse according to the assisted living facility's policy where the services are being provided to verify that the work is being performed competently and to identify problems and solutions related to the staff person's ability to perform the tasks. Supervision of staff performing medication or treatment administration shall be provided by a registered nurse or appropriate licensed health professional and must include observation of the staff administering the medication or treatment and the interaction with the resident. (b) The direct supervision of staff performing delegated tasks must be provided within 30 calendar days after the date on which the individual begins working for the facility and first performs the delegated tasks for residents and thereafter as needed based on performance. This requirement also applies to staff who have not performed delegated tasks for one year or longer. This MN Requirement is not met as evidenced by: Based on observation, interview, and record review, the licensee failed to ensure the registered nurse (RN) completed supervision of a ULP within 30 calendar days of beginning to provide delegated tasks for one of one unlicensed personnel ((ULP)-B). This practice resulted in a level two violation (a violation that did not harm a resident's health or safety but had the potential to have harmed a resident's health or safety) and was issued at an isolated scope (when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the residents). The findings include:	01440		

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01440	Continued From page 9 ULP-B was hired on June 28, 2018. ULP-B's Master Orientation Checklist dated July 11, 2018, indicated medication administration was a task delegated to ULP-B. Documentaion of a 30-day supervision of a delegated task by the RN was due on or before August 10, 2018. On October 4, 2022, at approximately 7:55 a.m., the surveyor observed ULP-B providing medication administration to R2 in the licensee's secured memory care unit. On October 4, 2022, at approximately 8:45 a.m., director of nursing (DON)-E acknowledged ULP-B's record lacked documentation of a 30-day supervision by a registered nurse for a delegated task. DON-E indicated ULP-B was hired prior to the licensee switching to an all-digital tracking system and documentation of the 30-day supervision was most likely lost during the transition. The licensee's Supervision of Licensed and Unlicensed Personnel policy dated August 1, 2021, indicated an RN would conduct supervision of all delegated tasks within 30 calendar days after the task was delegated and documentation of the supervision would be included in the personnel file. No further information provided. TIME PERIOD FOR CORRECTION: Twenty-one (21) days	01440		

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01650	Continued From page 10	01650		
01650 SS=F	144G.70 Subd. 4 (f) Service plan, implementation and revisions to (f) The service plan must include: (1) a description of the services to be provided, the fees for services, and the frequency of each service, according to the resident's current assessment and resident preferences; (2) the identification of staff or categories of staff who will provide the services; (3) the schedule and methods of monitoring assessments of the resident; (4) the schedule and methods of monitoring staff providing services; and (5) a contingency plan that includes: (i) the action to be taken if the scheduled service cannot be provided; (ii) information and a method to contact the facility; (iii) the names and contact information of persons the resident wishes to have notified in an emergency or if there is a significant adverse change in the resident's condition, including identification of and information as to who has authority to sign for the resident in an emergency; and (iv) the circumstances in which emergency medical services are not to be summoned consistent with chapters 145B and 145C, and declarations made by the resident under those chapters. This MN Requirement is not met as evidenced by: Based on interview and record review, the licensee failed to ensure residents' revised service plans were authenticated by the resident or resident's representative for four of four residents (R2, R3, R4, and R5).	01650		

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(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
01650	Continued From page 11 This practice resulted in a level two violation (a violation that did not harm a resident's health or safety but had the potential to have harmed a resident's health or safety) and was issued at a widespread scope (when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the residents). The findings include: R2 R2 admitted on February 23, 2021. R2's The Shores Service Plan was signed on August 3, 2022. R2's The Shores Service Plan with Effective Date of October 4, 2022, included 27 services with an Effective Date after August 3, 2022. No authentication or signature from R2 or R2's designated representative was included on the revised service plan. R3 R3 admitted on February 25, 2021. R3's The Shores Service Plan was signed on June 23, 2022. R3's The Shores Service Plan with Effective Date of October 4, 2022, included 28 services with an Effective Date after June 23, 2022. No authentication or signature from R3 or R3's designated representative was included on the revised service plan. R4 R4 admitted on February 23, 2021.	01650		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	30492	A. BUILDING: _____ B. WING _____	10/05/2022

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
ECUMEN DULUTH THE SHORES	4000 LONDON ROAD DULUTH, MN 55804

(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
01650	Continued From page 12 R4's The Shores Service Plan was signed on March 21, 2022. R4's The Shores Service Plan with Effective Date of October 4, 2022, included eleven (11) services with an Effective Date after March 21, 2022. No authentication or signature from R4 or R4's designated representative was included on the revised service plan. R5 R5 admitted on July 25, 2022. R5's The Shores Service Plan was signed on July 28, 2022. R5's The Shores Service Plan with Effective Date of October 4, 2022, included seven (7) services with an Effective Date after July 28, 2022. No authentication or signature from R5 or R5's designated representative was included on the revised service plan. On October 4, 2022, at approximately 1:00 p.m., director of nursing (DON)-E and licensed assisted living director (LALD)-D acknowledged revised residents' service plans lacked authentication or signature from the resident or the resident's representative. LALD-D stated the licensee's electronic health record generates the service plans and updates the effective date whenever any adjustment is made. LALD-D indicated the licensee did not believe a new signature was required on the revised service plans when minor revisions were made. The licensee's Contents of Service Plans policy dated August 1, 2021, read, "Service plans and any revisions to services plans will have a signature or other authentication by the facility	01650		

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	30492	A. BUILDING: _____ B. WING _____	10/05/2022

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01650	Continued From page 13 and by the resident." No further information provided. TIME PERIOD FOR CORRECTION: Twenty-one (21) days	01650		
01890 SS=F	144G.71 Subd. 20 Prescription drugs A prescription drug, prior to being set up for immediate or later administration, must be kept in the original container in which it was dispensed by the pharmacy bearing the original prescription label with legible information including the expiration or beyond-use date of a time-dated drug. This MN Requirement is not met as evidenced by: Based on observation, interview, and record review, the licensee failed to discard expired medication for one of ten residents (R3) and failed to ensure time sensitive medications were labeled with the date opened for four of five residents (R7, R8, R9, R10). This practice resulted in a level two violation (a violation that did not harm a resident's health or safety but had the potential to have harmed a resident's health or safety, but was not likely to cause serious injury, impairment, or death), and was issued at a widespread scope (when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the residents). The findings include: EXPIRED MEDICATIONS	01890		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	30492	A. BUILDING: _____ B. WING _____	10/05/2022

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
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01890	Continued From page 14 On October 4, 2022, at approximately 7:26 a.m., the surveyor observed the memory care unit medication cart and observed the following expired medications: - R3's acetaminophen 325 milligrams (mg) with an expiration date of September 21, 2022. On October 4, 2022, at approximately 7:48 a.m., unlicensed personnel (ULP)-B verified R3's medication was expired. ULP-B stated when medication is administered, staff are supposed to check the expiration date, and if a medication was expired, staff should remove medication from the medication cart to dispose of. On October 4, 2022, at approximately 10:03 a.m., registered nurse (RN)-A stated staff looked at medication expiration dates prior to medication administration, and if a medication was observed to be expired the staff would provide the medication to the nurse to dispose of. TIME SENSITIVE MEDICATIONS On October 4, 2022, at approximately 7:26 a.m., the surveyor observed the memory care unit medication cart and observed the following time sensitive medications were opened without a date opened label: - R7's two bottles of Refresh Optive eye drops; - R8's Xalatan 0.005 % eye drop; - R9's latanoprost 0.005 % eye drop and Alphagan 0.2 % eye drop; and - R10's Combigan ophthalmic 0.2 % / 0.5 % eye drop. On October 4, 2022, at approximately 7:50 a.m., ULP-B verified R6, R7, R8, R9 and R10's eyedrops were not labeled with the date opened. ULP-B stated eye drops "do not always get labeled when opened." In addition, ULP-B stated	01890		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	30492	A. BUILDING: _____ B. WING _____	10/05/2022

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
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01890	Continued From page 15 they used the date filled on the prescription label to determine when to discard eye drops. On October 4, 2022, at approximately 10:03 a.m., RN-A stated staff used the expiration date on the eye drop bottle to know when to discard medication. The surveyor inquired if staff labeled eye drops with a date open label. RN-A stated they were not aware if staff labeled eye drops however, staff labeled insulins once opened. The manufacturer's instruction for the use of Alphagan 0.2 % dated June 22, 2022, directed the eye drop to be discarded 4 weeks after date opened. The manufacturer's instructions for the use of lantanoprost 0.005 % dated August 2011, directed the eye drop to be discarded 6 weeks after date opened. The manufacturer's instructions for the use of Combigan ophthalmic 0.2 % / 0.5 % dated January 2017, directed the eye drop to be discarded 4 weeks after date opened. The licensee's Storage of Medications policy dated August 1, 2021, indicated until a medication is set up for immediate administration it must be kept in its original container bearing the original prescription including expiration date of a time-dated drug. No further information provided. TIME PERIOD FOR CORRECTION: Seven (7) days	01890		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	30492	A. BUILDING: _____ B. WING _____	10/05/2022

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01910	Continued From page 16	01910		
01910 SS=D	144G.71 Subd. 22 Disposition of medications (a) Any current medications being managed by the assisted living facility must be provided to the resident when the resident's service plan ends or medication management services are no longer part of the service plan. Medications for a resident who is deceased or that have been discontinued or have expired may be provided for disposal. (b) The facility shall dispose of any medications remaining with the facility that are discontinued or expired or upon the termination of the service contract or the resident's death according to state and federal regulations for disposition of medications and controlled substances. (c) Upon disposition, the facility must document in the resident's record the disposition of the medication including the medication's name, strength, prescription number as applicable, quantity, to whom the medications were given, date of disposition, and names of staff and other individuals involved in the disposition. This MN Requirement is not met as evidenced by: Based on interview and record review, the licensee failed to ensure the resident record included a disposition of medications for one of one discharged resident (R1). This practice resulted in a level two violation (a violation that did not harm a resident's health or safety but had the potential to have harmed a resident's health or safety) and was issued at a isolated scope (when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the residents).	01910		

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01910	Continued From page 17 The findings include: R1 was admitted on May 28, 2020. R1's Progress Note dated July 23, 2022, at 11:48 a.m., indicated R1 met with hospice nurse and family member and licensee would be managing R1's medications, "effective immediately." R1's MN Discharge or Deceased Resident Roster indicated the licensee discharged R1 on August 16, 2022. R1's record lacked a disposition of medications managed by the licensee. On October 4, 2022, at approximately 1:00 p.m., director of nursing (DON)-E acknowledged R1's record lacked a disposition of medications. DON-E stated the licensee transferred R1 to respite care (different care level/license type located on the same campus as the licensee) per the family request when the family was unavailable to assist with R1. While at respite, R1 declined and was admitted to hospice. Family requested R1 remain at respite until resident passed. DON-E stated a disposition of medications was not completed under the licensee's assisted living with dementia care electronic health record. The licensee's Disposition or Disposal of Medications policy dated August 1, 2021, indicated a disposition of medications with all the required content would be completed for each resident at the time of discharge. No further information provided. TIME PERIOD FOR CORRECTION: Twenty-one	01910		

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01910	Continued From page 18 (21) days	01910		
02070 SS=I	144G.81 Subd. 4 Awake staff requirement An assisted living facility with dementia care providing services in a secured dementia care unit must have an awake person who is physically present in the secured dementia care unit 24 hours per day, seven days per week, who is responsible for responding to the requests of residents for assistance with health and safety needs, and who meets the requirements of section 144G.41, subdivision 1, clause (12). This MN Requirement is not met as evidenced by: Based on observation, interview, and record review, the licensee failed to ensure one or more persons were physically present and available 24 hours a day, seven days a week, who were responsible for responding to requests of residents for assistance in the secured dementia care (memory care) unit. This resulted in an immediate correction order issued on October 4, 2022. This practice resulted in a level three violation (a violation that harmed a resident's health or safety, not including serious injury, impairment, or death, or a violation that has the potential to lead to serious injury, impairment, or death), and was issued at a widespread scope (when problems are pervasive or represent a systemic failure that has affected or has potential to affect a large portion or all of the residents). The findings include: The licensee's Direct Care Staffing Plan and	02070	On October 4, 2022, the immediacy of correction order 2070 was removed, however, non-compliance remained at a level 3, widespread violation.	

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
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02070	Continued From page 19 Evaluation dated August 9, 2022, indicated the memory care unit and the assisted living unit would each have one unlicensed personnel (ULP) for every night shift to provide services to the residents. On October 3, 2022, at approximately 10:00 a.m., during the entrance conference, director of nursing (DON)-E stated from 10:30 p.m. to 7:00 a.m., there was one ULP scheduled in the memory care unit and one ULP in the assisted living unit. DON-E stated no residents in the assisted living unit required a two-person assist and a ULP was always present in the memory care unit. DON-E stated although the campus was large and comprised of multiple units with different license types, it was not allowable for other staff working elsewhere in the facility under a different license to provide services in the assisted living areas. On October 3, 2022, approximately 11:00 a.m., during a facility tour, licensed assisted living director (LALD)-D identified floor one as the secured memory care unit, and floors two and three as the assisted living units. The licensee's Daily Staffing form dated September 29, 2022, through October 2, 2022, indicated one ULP was scheduled to work in the memory care unit and one ULP was scheduled to work in the assisted living unit each night shift. On October 3, 2022, during the survey, the licensee's census was 45 residents, 36 of whom received services in the assisted living unit, and 20 of whom received services in the memory care unit. The licensee's current Resident Roster dated	02070		

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02070	Continued From page 20 October 3, 2022, indicated R5 resided in the assisted living unit on the third floor. R5's Resident Incident Report dated September 30, 2022, at 3:20 a.m., indicated R5 sustained a fall and was assisted from the floor by a 2-person assisted lift transfer during a time when only one ULP was present on each unit. On October 4, 2022, at approximately 6:52 a.m., ULP-B stated if a fall occurred in the assisted living unit during the night when only one ULP was present on each unit, the ULP in the secured memory care unit would be required to leave the memory care unit to assist the ULP in the assisted living unit. ULP-B stated there would be no ULP in the memory care unit during that time. On October 4, 2022, ULP-G, ULP-H and ULP-I each acknowledged the licensee had two ULPs for the overnight shift, one in the assisted living and one in the memory care unit. Each ULP stated the expectation, if a fall occurred during the overnight hours in the assisted living unit, was the memory care unit ULP would leave the memory care unit and assist with the fall. Each ULP acknowledged during that time, there would be no staff member available in the memory care unit for the duration it took to assist with the resident fall in the assisted living unit. On October 4, 2022, at approximately 8:38 a.m., the surveyor inquired about which staff assisted R5 off the floor on September 30, 2022, because the incident report indicated R5 was lifted of the floor by an assist of two. DON-E stated they would have to investigate how R5 was lifted off the floor. The licensee's Fall Response in Assisted Living	02070		

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02070	Continued From page 21 dated 2020, indicated if a mechanical lift was deemed necessary during a fall, two staff must assist when a mechanical lift is used. The licensee's Mechanical Lift competency training dated December 20, 2013, indicated a mechanical lift required two staff for operation. The licensee's Staffing, Direct-Care Staffing Plan & Daily Schedule policy dated August 1, 2022, indicated two direct-care staff would be scheduled and available to assist at all times whenever a resident required the assistance of two. In addition, the staffing plan addressed the ability to meet the residents' scheduled and reasonably unforeseeable unscheduled needs given the physical layout of the facility premises. No further information was provided. TIME PERIOD FOR CORRECTION: Immediate	02070		

Minnesota Department of Health
Minnesota Department of Health
PO Box 64975
St. Paul, MN 55164-0975
651-201-4500

Type: Full
Date: *10/03/22*
Time: 10:30:00
Report: 8010221186

Food and Beverage Establishment Inspection Report

Location:
Ecumen Lakeshore
4002 London Road
Duluth, MN55804
St. Louis County, 69

Establishment Info:
ID #: 0035210
Risk: High
Announced Inspection: No

License Categories:

Expires on: / /

Operator:
Ecumen

Phone #: 2186257100
ID #: 41708

The violations listed in this report include any previously issued orders and deficiencies identified during this inspection. Compliance dates are shown for each item.

The following orders were issued during this inspection.

4-300 Equipment Numbers and Capacities

4-302.14 ** Priority 2 **

MN Rule 4626.0715 Provide an appropriate test kit to accurately measure sanitizing solutions.

QUATERNARY AMMONIUM SANITIZER WAS BEING USED FOR WIPING CLOTH BUCKETS. THERE WERE NO QUATERNARY AMMONIUM TEST STRIPS ON SITE TO TEST THE QUATERNARY AMMONIUM SANITIZER CONCENTRATION. A SERVICE CALL WAS MADE TO THE DISTRIBUTER.

Comply By: 10/03/22

3-300B Protection from Contamination: cross-contamination, eggs

3-302.12

MN Rule 4626.0240 Properly label all working containers holding food or food ingredients that are removed from orginal packages with the common name of the food. Label the food in English and any other languages used by employees who handle food.

THERE WERE NO FOOD LABELS ON THE WORKING CONTAINERS OF FOOD THICKENER AND THE FLOUR BIN. FOOD LABELS WERE ADDED TO EACH CONTAINER.

Corrected on Site

Surface and Equipment Sanitizers

Quaternary Ammonia: = 400 PPM at Degrees Fahrenheit
Location: WIPING CLOTH BUCKET
Violation Issued: No

Hot Water: = at Degrees Fahrenheit
Location: DISHWASHER SANITIZING CYCLE-TURNED TEMP TAPE BLACK
Violation Issued: No

Food and Equipment Temperatures

Process/Item: Hot Holding
Temperature: 151 Degrees Fahrenheit - Location: GREEN BEANS
Violation Issued: No

Process/Item: Hot Holding
Temperature: 162 Degrees Fahrenheit - Location: MASHED POTATOES
Violation Issued: No

Process/Item: Hot Holding
Temperature: 169 Degrees Fahrenheit - Location: GRAVY
Violation Issued: No

Process/Item: Hot Holding
Temperature: 157 Degrees Fahrenheit - Location: CREAMY SPINACH SOUP
Violation Issued: No

Process/Item: Re-Heating
Temperature: 184 Degrees Fahrenheit - Location: PORK LOIN SLICES
Violation Issued: No

Process/Item: Cooling
Temperature: 63 Degrees Fahrenheit - Location: MACARONI NOODLES IN WALKIN @ 1 HR
Violation Issued: No

Process/Item: Prep Cooler
Temperature: 39 Degrees Fahrenheit - Location: SLICED TOMATOES-TOP
Violation Issued: No

Process/Item: Prep Cooler
Temperature: 38 Degrees Fahrenheit - Location: PICO-TOP
Violation Issued: No

Process/Item: Prep Cooler
Temperature: 40 Degrees Fahrenheit - Location: PRECOOKED MEATBALLS-TOP
Violation Issued: No

Process/Item: Prep Cooler
Temperature: 40 Degrees Fahrenheit - Location: SLICED HAM-BOTTOM
Violation Issued: No

Process/Item: Drawer
Temperature: 35 Degrees Fahrenheit - Location: PHILLY STEAK-TOP
Violation Issued: No

Process/Item: Drawer
Temperature: 38 Degrees Fahrenheit - Location: PRECOOKED CHICKEN BREAST-TOP
Violation Issued: No

Process/Item: Drawer
Temperature: 35 Degrees Fahrenheit - Location: SALMON-BOTTOM
Violation Issued: No

Process/Item: Drawer
Temperature: 36 Degrees Fahrenheit - Location: RAW HAMBURGER PATTY
Violation Issued: No

Process/Item: Upright Cooler
Temperature: 39 Degrees Fahrenheit - Location: EGG SALAD-RANDELL
Violation Issued: No

Process/Item: Upright Cooler
Temperature: 39 Degrees Fahrenheit - Location: CUT MELON/MIXED FRUIT-RANDELL
Violation Issued: No

Process/Item: Upright Cooler
Temperature: 34 Degrees Fahrenheit - Location: MILK
Violation Issued: No

Process/Item: Walk-In Cooler
Temperature: 36 Degrees Fahrenheit - Location: DICED TOMATOES
Violation Issued: No

Process/Item: Walk-In Cooler
Temperature: 39 Degrees Fahrenheit - Location: CARTON MILK
Violation Issued: No

Process/Item: Walk-In Cooler
Temperature: 35 Degrees Fahrenheit - Location: ITALIAN SOUP
Violation Issued: No

Process/Item: Walk-In Cooler
Temperature: 38 Degrees Fahrenheit - Location: CHICKEN KIEV
Violation Issued: No

Process/Item: Walk-In Cooler
Temperature: 35 Degrees Fahrenheit - Location: SCALLOPED POTATOES
Violation Issued: No

Process/Item: Upright Freezer
Temperature: Degrees Fahrenheit - Location: FOODS FROZEN-RANDELL
Violation Issued: No

Process/Item: Undercounter Freezer
Temperature: Degrees Fahrenheit - Location: FOODS FROZEN
Violation Issued: No

Process/Item: Walk-In Freezer
Temperature: Degrees Fahrenheit - Location: FOODS FROZEN
Violation Issued: No

Food and Beverage Establishment Inspection Report

Total Orders In This Report	Priority 1	Priority 2	Priority 3
	0	1	1

COMMENTS:

DISCUSSED THE EXCLUSION OF EMPLOYEES ILL WITH VOMITING OR DIARRHEA FROM THE FOOD ESTABLISHMENT FOR 24 HOURS AFTER SYMPTOMS ARE GONE WITH THE PERSON IN CHARGE.

REVIEWED THE EMPLOYEE ILLNESS LOG SHEET THAT WAS ON SITE.

ESTABLISHMENT IS USING PASTEURIZED LIQUID AND SHELL EGGS.

NOTE: Plans and specifications must be submitted for review and approval prior to new construction, remodeling or alterations.

I acknowledge receipt of the Minnesota Department of Health inspection report number 8010221186 of 10/03/22.

Certified Food Protection Manager: John Barnstorf

Certification Number: FM70872 Expires: 05/09/24

Inspection report reviewed with person in charge and emailed.

Signed: _____

Frank Peckron
Person in Charge

Signed: _____

8010

651-201-4500
health.foodlodging@state.mn.us

Report #: 8010221186

Food Establishment Inspection Report

DEPARTMENT OF HEALTH

Minnesota Department of Health
Minnesota Department of Health
PO Box 64975
St. Paul, MN 55164-0975

No. of RF/PHI Categories Out	0	**Date**	10/03/22
No. of Repeat RF/PHI Categories Out	0	**Time In**	10:30:00
Legal Authority MN Rules Chapter 4626		**Time Out**	

Ecumen Lakeshore	**Address** 4002 London Road	**City/State** Duluth, MN	**Zip Code** 55804	**Telephone** 2186257100
License/Permit # 0035210	**Permit Holder** Ecumen	**Purpose of Inspection** Full	**Est Type**	**Risk Category** H

FOODBORNE ILLNESS RISK FACTORS AND PUBLIC HEALTH INTERVENTIONS

Circle designated compliance status (IN, OUT, N/O, N/A) for each numbered item — Mark "X" in appropriate box for COS and/or R

IN= in compliance **OUT=** not in compliance **N/O=** not observed **N/A=** not applicable **COS=** corrected on-site during inspection **R=** repeat violation

Compliance Status					COS	R
Supervision						
1	(IN)	OUT		PIC knowledgeable; duties & oversight		
2	(IN)	OUT	N/A	Certified food protection manager, duties		
Employee Health						
3	(IN)	OUT		Mgmt/Staff;knowledge,responsibilities&reporting		
4	(IN)	OUT		Proper use of reporting, restriction & exclusion		
5	(IN)	OUT		Procedures for responding to vomiting & diarrheal events		
Good Hygenic Practices						
6	(IN)	OUT	N/O	Proper eating, tasting, drinking, or tobacco use		
7	(IN)	OUT	N/O	No discharge from eyes, nose, & mouth		
Preventing Contamination by Hands						
8	(IN)	OUT	N/O	Hands clean & properly washed		
9	(IN)	OUT	N/A N/O	No bare hand contact with RTE foods or pre-approved alternate pprocedure properly followed		
10	(IN)	OUT		Adequate handwashing sinks supplied/accessible		
Approved Source						
11	(IN)	OUT		Food obtained from approved source		
12	IN	OUT	N/A (N/O)	Food received at proper temperature		
13	(IN)	OUT		Food in good condition, safe, & unadulterated		
14	IN	OUT	(N/A) N/O	Required records available; shellstock tags, parasite destruction		
Protection from Contamination						
15	(IN)	OUT	N/A N/O	Food separated and protected		
16	(IN)	OUT	N/A	Food contact surfaces: cleaned & sanitized		
17	(IN)	OUT		Proper disposition of returned, previously served, reconditioned, & unsafe food		

Compliance Status					COS	R
Time/Temperature Control for Safety						
18	IN	OUT	N/A (N/O)	Proper cooking time & temperature		
19	(IN)	OUT	N/A N/O	Proper reheating procedures for hot holding		
20	(IN)	OUT	N/A N/O	Proper cooling time & temperature		
21	(IN)	OUT	N/A N/O	Proper hot holding temperatures		
22	(IN)	OUT	N/A	Proper cold holding temperatures		
23	(IN)	OUT	N/A N/O	Proper date marking & disposition		
24	IN	OUT	(N/A) N/O	Time as a public health control: procedures & records		
Consumer Advisory						
25	IN	OUT	(N/A)	Consumer advisory provided for raw/undercooked food		
Highly Susceptible Populations						
26	(IN)	OUT	N/A	Pasteurized foods used; prohibited foods not offered		
Food and Color Additives and Toxic Substances						
27	IN	OUT	(N/A)	Food additives: approved & properly used		
28	(IN)	OUT		Toxic substances properly identified, stored, & used		
Conformance with Approved Procedures						
29	IN	OUT	(N/A)	Compliance with variance/specialized process/HACCP		

Risk factors (RF) are improper practices or proceedures identified as the most prevalent contributing factors of foodborne illness or injury. **Public Health Interventions** (PHI) are control measures to prevent foodborne illness or injury.

GOOD RETAIL PRACTICES

Good Retail Practices are preventative measures to control the addition of pathogens, chemicals, and physical objects into foods.

Mark "X" in box if numbered item is **not** in compliance — Mark "X" in appropriate box for COS and/or R — **COS=** corrected on-site during inspection **R=** repeat violation

				COS	R
Safe Food and Water					
30	(IN)	OUT	N/A	Pasteurized eggs used where required	
31				Water & ice obtained from an approved source	
32	IN	OUT	(N/A)	Variance obtained for specialized processing methods	
Food Temperature Control					
33				Proper cooling methods used; adequate equipment for temperature control	
34	IN	OUT	N/A (N/O)	Plant food properly cooked for hot holding	
35	IN	OUT	N/A (N/O)	Approved thawing methods used	
36				Thermometers provided & accurate	
Food Identification					
37	X			Food properly labled; original container	X
Prevention of Food Contamination					
38				Insects, rodents, & animals not present	
39				Contamination prevented during food prep, storage & display	
40				Personal cleanliness	
41				Wiping cloths: properly used & stored	
42				Washing fruits & vegetables	

			COS	R
Proper Use of Utensils				
43		In-use utensils: properly stored		
44		Utensils, equipment & linens: properly stored, dried, & handled		
45		Single-use/single service articles: properly stored & used		
46		Gloves used properly		
Utensil Equipment and Vending				
47		Food & non-food contact surfaces cleanable, properly designed, constructed, & used		
48	X	Warewashing facilities: installed, maintained, & used; test strips		
49		Non-food contact surfaces clean		
Physical Facilities				
50		Hot & cold water available; adequate pressure		
51		Plumbing installed; proper backflow devices		
52		Sewage & waste water properly disposed		
53		Toilet facilities: properly constructed, supplied, & cleaned		
54		Garbage & refuse properly disposed; facilities maintained		
55		Physical facilities installed, maintained, & clean		
56		Adequate ventilation & lighting; designated areas used		
57		Compliance with MCIAA		
58		Compliance with licensing & plan review		

Food Recalls:

Person in Charge (Signature) **Date:** 10/03/22

Inspector (Signature)