Protecting, Maintaining and Improving the Health of All Minnesotans

Electronically delivered
July 20, 2022

Administrator
Benedictine Health Center
935 Kenwood Avenue
Duluth, MN 55811

RE: CCN: 245236
Cycle Start Date: June 1, 2022

Dear Administrator:

On June 13, 2022, we notified you a remedy was imposed. On July 13, 2022 the Minnesota Department of Health completed a revisit to verify that your facility had achieved and maintained compliance. We have determined that your facility has achieved substantial compliance as of June 20, 2022.

As authorized by CMS the remedy of:

- Mandatory denial of payment for new Medicare and Medicaid admissions effective September 1, 2022 did not go into effect. (42 CFR 488.417 (b))

In our letter of June 13, 2022, in accordance with Federal law, as specified in the Act at § 1819(f)(2)(B)(iii)(I)(b) and § 1919(f)(2)(B)(iii)(I)(b), we notified you that your facility was prohibited from conducting a Nursing Aide Training and/or Competency Evaluation Program (NATCEP) for two years from September 1, 2022 due to denial of payment for new admissions. Since your facility attained substantial compliance on June 20, 2022, the original triggering remedy, denial of payment for new admissions, did not go into effect. Therefore, the NATCEP prohibition is rescinded. However, this does not apply to or affect any previously imposed NATCEP loss.

The CMS Region V Office may notify you of their determination regarding any imposed remedies.

Feel free to contact me if you have questions.

Sincerely,

Joanne Simon, Compliance Analyst
Minnesota Department of Health
Health Regulation Division
Telephone: 651-201-4161 Fax: 651-215-9697
Email: joanne.simon@state.mn.us

cc: Licensing and Certification File

Electronically delivered

July 20, 2022

Administrator
Benedictine Health Center
935 Kenwood Avenue
Duluth, MN 55811

Re: Reinspection Results
Event ID: HX0T12

Dear Administrator:

On July 13, 2022 survey staff of the Minnesota Department of Health - Health Regulation Division completed a reinspection of your facility, to determine correction of orders found on the survey completed on June 1, 2022. At this time these correction orders were found corrected.

Please feel free to call me with any questions.

Sincerely,

Joanne Simon, Compliance Analyst
Minnesota Department of Health
Health Regulation Division
Telephone: 651-201-4161 Fax: 651-215-9697
Email: joanne.simon@state.mn.us

cc: Licensing and Certification File

Electronically Submitted
June 13, 2022

Administrator
Benedictine Health Center
935 Kenwood Avenue
Duluth, MN 55811

RE: CCN: 245236
Cycle Start Date: June 1, 2022

Dear Administrator:

On June 1, 2022, survey was completed at your facility by the Minnesota Department of Health and Public Safety to determine if your facility was in compliance with Federal participation requirements for skilled nursing facilities and/or nursing facilities participating in the Medicare and/or Medicaid programs.

Your facility was not in substantial compliance with the participation requirements and the conditions in your facility constituted **both substandard quality of care and immediate jeopardy** to resident health or safety. This survey found the most serious deficiencies in your facility to be isolated deficiencies that constituted immediate jeopardy (Level J) Because corrective action was taken prior to the survey, past non-compliance does not require a plan of correction (POC).

In addition, this survey also found the most serious deficiencies in your facility to be isolated deficiencies that constituted no actual harm with potential for more than minimal harm that was not immediate jeopardy (Level D), whereby corrections are required. The Statement of Deficiencies (CMS-2567) is being electronically delivered.

REMOVAL OF IMMEDIATE JEOPARDY

On May 31, 2022, the situation of immediate jeopardy to potential health and safety cited at F 600 was removed. It was determined that the facility had implemented actions to correct F 600 prior to the survey. As a result, the immediate jeopardy was cited as past noncompliance and does not require a plan of correction (POC)

REMEDIES

As a result of the survey findings and in accordance with survey and certification memo 16-31-NH, this Department recommended the enforcement remedy listed below to the CMS Region V Office for imposition: The CMS Region V Office concurs and is imposing the following remedy and has authorized this Department to notify you of the imposition:

• Mandatory denial of payment for new Medicare and Medicaid admissions, effective September 1, 2022, (42 CFR 488.417 (b)).

This Department is also recommending that CMS impose a civil money penalty (42 CFR 488.430 through 488.444). You will receive a formal notice from the CMS RO only if CMS agrees with our recommendation.

The CMS Region V Office will notify your Medicare Administrative Contractor (MAC) that the denial of payment for new admissions is effective September 1, 2022, (42 CFR 488.417 (b)), (42 CFR 488.417 (b)). They will also notify the State Medicaid Agency that they must also deny payment for new Medicaid admissions effective September 1, 2022, (42 CFR 488.417 (b)).

You should notify all Medicare/Medicaid residents admitted on, or after, this date of the restriction. The remedy must remain in effect until your facility has been determined to be in substantial compliance or your provider agreement is terminated. Please note that the denial of payment for new admissions includes Medicare/Medicaid beneficiaries enrolled in managed care plans. It is your obligation to inform managed care plans contracting with your facility of this denial of payment for new admissions.

NURSE AIDE TRAINING PROHIBITION

Please note that Federal law, as specified in the Act at §§ 1819(f)(2)(B) and 1919(f)(2)(B), prohibits approval of nurse aide training and competency evaluation programs and nurse aide competency evaluation programs offered by, or in, a facility which, within the previous two years, has operated under a § 1819(b)(4)(C)(ii)(II) or § 1919(b)(4)(C)(ii) waiver (i.e., waiver of full-time registered professional nurse); has been subject to an extended or partial extended survey as a result of a finding of substandard quality of care; has been assessed a total civil money penalty of not less than $11,292; has been subject to a denial of payment, the appointment of a temporary manager or termination; or, in the case of an emergency, has been closed and/or had its residents transferred to other facilities.

Therefore, your agency is prohibited from offering or conducting a Nurse Assistant Training/Competency Evaluation Programs or Competency Evaluation Programs for two years effective September 1, 2022. This prohibition is not subject to appeal. Under Public Law 105-15 (H.R. 968), you may request a waiver of this prohibition if certain criteria are met. Please contact the Nursing Assistant Registry at (800) 397-6124 for specific information regarding a waiver for these programs from this Department.

SUBSTANDARD QUALITY OF CARE

Your facility's deficiencies with with one or more of the following: §483.10, Residents Rights, §483.12, Freedom from Abuse, Neglect, and Exploitation, §483.15, Quality of Life and §483.25, Quality of Care, 483.40 Behavioral Health Services, §483.45 Pharmacy Services, §483.70 Administration, or §483.80 Infection control has been determined to constitute substandard quality of care as defined at

§488.301. Sections 1819(g)(5)(C) and 1919(g)(5)(C) of the Social Security Act and 42 CFR 488.325(h) require that the attending physician of each resident who was found to have received substandard quality of care, as well as the State board responsible for licensing the facility's administrator, be notified of the substandard quality of care. **If you have not already provided the following information, you are required to provide to this agency within ten working days of your receipt of this letter the name and address of the attending physician of each resident found to have received substandard quality of care.**

Please note that, in accordance with 42 CFR 488.325(g), your failure to provide this information timely will result in termination of participation in the Medicare and/or Medicaid program(s) or imposition of alternative remedies.

Federal law, as specified in the Act at Sections 1819(f)(2)(B) and 1919(f)(2)(B), prohibits approval of nurse assistant training programs offered by, or in, a facility which, within the previous two years, has been subject to an extended or partial extended survey as a result of a finding of substandard quality of care. Therefore, Benedictine Health Center is prohibited from offering or conducting a Nurse Assistant Training / Competency Evaluation Programs (NATCEP) or Competency Evaluation Programs for two years effective September 1, 2022. This prohibition remains in effect for the specified period even though substantial compliance is attained. Under Public Law 105-15 (H. R. 968), you may request a waiver of this prohibition if certain criteria are met. Please contact the Nursing Assistant Registry at (800) 397-6124 for specific information regarding a waiver for these programs from this Department.

ELECTRONIC PLAN OF CORRECTION (ePOC)

Within ten (10) calendar days after your receipt of this notice, you must submit an acceptable plan of correction (ePOC) for the deficiencies cited. An acceptable ePOC will serve as your allegation of compliance. Upon receipt of an acceptable ePOC, we will authorize a revisit to your facility to determine if substantial compliance has been achieved. The failure to submit an acceptable ePOC can lead to termination of your Medicare and Medicaid participation (42 CFR 488.456(b)).

To be acceptable, a provider's ePOC must include the following:

- How corrective action will be accomplished for those residents found to have been affected by the deficient practice.
- How the facility will identify other residents having the potential to be affected by the same deficient practice.
- What measures will be put into place, or systemic changes made, to ensure that the deficient practice will not recur.
- How the facility will monitor its corrective actions to ensure that the deficient practice is being corrected and will not recur.
- The date that each deficiency will be corrected.
- An electronic acknowledgement signature and date by an official facility representative.

DEPARTMENT CONTACT

Questions regarding this letter and all documents submitted as a response to the resident care deficiencies (those preceded by a "F" and/ or "E" tag), i.e., the plan of correction should be directed to:

Annette Winters, Rapid Response Unit Supervisor
Metro 1, Golden Rule Office
Licensing and Certification Program
Health Regulation Division
Minnesota Department of Health
85 East Seventh Place, Suite 220
P.O. Box 64900
Saint Paul, Minnesota 55164-0900
Email: annette.m.winters@state.mn.us
Mobile: (651) 558-7558

PRESUMPTION OF COMPLIANCE - CREDIBLE ALLEGATION OF COMPLIANCE

The facility's ePoC will serve as your allegation of compliance upon the Department's acceptance. In order for your allegation of compliance to be acceptable to the Department, the ePoC must meet the criteria listed in the plan of correction section above. You will be notified by the Minnesota Department of Health, Licensing and Certification Program staff and/or the Department of Public Safety, State Fire Marshal Division staff, if your ePoC for their respective deficiencies (if any) is acceptable.

VERIFICATION OF SUBSTANTIAL COMPLIANCE

Upon receipt of an acceptable ePoC, a Post Certification Revisit (PCR), of your facility will be conducted to validate that substantial compliance with the regulations has been attained in accordance with your verification.

If substantial compliance has been achieved, certification of your facility in the Medicare and/or Medicaid program(s) will be continued and remedies will not be imposed. Compliance is certified as of the latest correction date on the approved ePoC, unless it is determined that either correction actually occurred between the latest correction date on the ePoC and the date of the first revisit, or correction occurred sooner than the latest correction date on the ePoC.

FAILURE TO ACHIEVE SUBSTANTIAL COMPLIANCE BY THE SIXTH MONTH AFTER THE LAST DAY OF THE SURVEY

We will also recommend to the CMS Region V Office and/or the Minnesota Department of Human Services that your provider agreement be terminated by December 1, 2022 (six months after the identification of noncompliance) if your facility does not achieve substantial compliance. This action is mandated by the Social Security Act at Sections 1819(h)(2)(C) and 1919(h)(3)(D) and Federal regulations at 42 CFR Sections 488.412 and 488.456.

Please note that this notice does not constitute formal notice of imposition of alternative remedies or termination of your provider agreement. Should the Centers for Medicare & Medicaid Services determine that termination or any other remedy is warranted, it will provide you with a separate formal notification of that determination.

APPEAL RIGHTS DENIAL OF PAYMENT

If you disagree with this action imposed on your facility, you or your legal representative may request a hearing before an administrative law judge of the Department of Health and Human Services, Departmental Appeals Board (DAB). Procedures governing this process are set out in 42 C.F.R. 498.40, et seq. You must file your hearing request electronically by using the Departmental Appeals Board's Electronic Filing System (DAB E-File) at https://dab.efile.hhs.gov no later than sixty (60) days after receiving this letter. Specific instructions on how to file electronically are attached to this notice. A copy of the hearing request shall be submitted electronically to:

Tamika.Brown@cms.hhs.gov

Requests for a hearing submitted by U.S. mail or commercial carrier are no longer accepted as of October 1, 2014, unless you do not have access to a computer or internet service. In those circumstances you may call the Civil Remedies Division to request a waiver from e-filing and provide an explanation as to why you cannot file electronically or you may mail a written request for a waiver along with your written request for a hearing. A written request for a hearing must be filed no later than sixty (60) days after receiving this letter, by mailing to the following address:

Department of Health & Human Services
Departmental Appeals Board, MS 6132
Director, Civil Remedies Division
330 Independence Avenue, S.W.
Cohen Building – Room G-644
Washington, D.C. 20201
(202) 565-9462

A request for a hearing should identify the specific issues, findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. At an appeal hearing, you may be represented by counsel at your own expense. If you have any questions regarding this matter, please contact Tamika Brown, Principal Program Representative by phone at (312) 353-1502 or by e-mail at Tamika.Brown@cms.hhs.gov.

APPEAL RIGHTS NURSE AIDE TRAINING PROHIBITION

Pursuant to the Federal regulations at 42 CFR Sections 498.3(b)(13)(2) and 498.3(b)(15), a finding of substandard quality of care that leads to the loss of approval by a Skilled Nursing Facility (SNF) of its NATCEP is an initial determination. In accordance with 42 CFR part 489 a provider dissatisfied with an initial determination is entitled to an appeal. If you disagree with the findings of substandard quality of care which resulted in the conduct of an extended survey and the subsequent loss of approval to

conduct or be a site for a NATCEP, you or your legal representative may request a hearing before an administrative law judge of the Department of Health and Human Services, Department Appeals Board. Procedures governing this process are set out in Federal regulations at 42 CFR Section 498.40, et. Seq.

A written request for a hearing must be filed no later than 60 days from the date of receipt of this letter. Such a request may be made to the Centers for Medicare and Medicaid Services (formerly Health Care Financing Administration) at the following address:

Department of Health & Human Services
Departmental Appeals Board, MS 6132
Director, Civil Remedies Division
330 Independence Avenue, S.W.
Cohen Building – Room G-644
Washington, D.C. 20201

A request for a hearing should identify the specific issues and the findings of fact and conclusions of law with which you disagree. It should also specify the basis for contending that the findings and conclusions are incorrect. You do not need to submit records or other documents with your hearing request. The Departmental Appeals Board (DAB) will issue instructions regarding the proper submittal of documents for the hearing. The DAB will also set the location for the hearing, which is likely to be in Minnesota or in Chicago, Illinois. You may be represented by counsel at a hearing at your own expense.

INFORMAL DISPUTE RESOLUTION (IDR) / INDEPENDENT INFORMAL DISPUTE RESOLUTION (IIDR)

In accordance with 42 CFR 488.331, you have one opportunity to question cited deficiencies through an informal dispute resolution process. You are required to send your written request, along with the specific deficiencies being disputed, and an explanation of why you are disputing those deficiencies, to:

Nursing Home Informal Dispute Process
Minnesota Department of Health
Health Regulation Division
P.O. Box 64900
St. Paul, Minnesota 55164-0900

This request must be sent within the same ten days you have for submitting an ePoC for the cited deficiencies. All requests for an IDR or IIDR of federal deficiencies must be submitted via the web at: https://mdhprovidercontent.web.health.state.mn.us/ltc_idr.cfm

You must notify MDH at this website of your request for an IDR or IIDR within the 10 calendar day period allotted for submitting an acceptable plan of correction. A copy of the Department's informal dispute resolution policies are posted on the MDH Information Bulletin website at: https://www.health.state.mn.us/facilities/regulation/infobulletins/ib04_8.html

Please note that the failure to complete the informal dispute resolution process will not delay the dates specified for compliance or the imposition of remedies.

Feel free to contact me if you have questions.

Sincerely,

Joanne Simon, Compliance Analyst
Minnesota Department of Health
Health Regulation Division
Telephone: 651-201-4161 Fax: 651-215-9697
Email: joanne.simon@state.mn.us

cc: Licensing and Certification File

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	245236	A. BUILDING _____ B. WING _____	C 06/01/2022

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
BENEDICTINE HEALTH CENTER	935 KENWOOD AVENUE DULUTH, MN 55811

(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) COMPLETION DATE
F 000	INITIAL COMMENTS On 5/26/22, through 6/1/22, an abbreviated survey was completed at your facility by the Minnesota Department of Health. Your facility was found NOT IN compliance with the requirements of 42 CFR Part 483, Subpart B, and Requirements for Long Term Care Facilities. The following complaint was found to be SUBSTANTIATED: H52361930C (MN83826) with a deficiency cited at F600 past non-compliance, and F609 at current noncompliance. The following complaint was found to be UNSUBSTANTIATED: H52361799C (MN83688). Although the provider had implemented corrective action prior to survey, harm or immediate jeopardy was sustained prior to the correction. No plan of correction is required for a finding of past non-compliance; however, the facility must acknowledge receipt of the electronic documents.	F 000		
F 600 SS=J	Free from Abuse and Neglect CFR(s): 483.12(a)(1) §483.12 Freedom from Abuse, Neglect, and Exploitation The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart. This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms. §483.12(a) The facility must-	F 600		

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

Electronically Signed | 06/17/2022

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
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F 600	Continued From page 1 §483.12(a)(1) Not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion; This REQUIREMENT is not met as evidenced by: Based on interview and document review, the facility failed to ensure 1 of 1 residents (R1) was free from abuse when nursing assitant (NA)-A called R1 lazy and gestured his fists at R1 in a threatening manner. The IJ began on 5/26/22, at approximately 5:00 a.m. when indicated nursing assistant (NA)-A was assisting R1 to boost in bed. R1 was uncooperative and NA-A called R1 "lazy." R1 responded loudly that he was not lazy, and shook his fist at NA-A. NA-A subsequently raised and shook his fist at R1 and yelled back at him. No actual physical contact was made other than appropriate boost in bed with NA-B assisting. The administrator and the director of nursing (DON) were informed of the IJ on 6/1/22, at 2:15 p.m. The facility had implemented corrective action to prevent recurrence by 5/31/22 therefore F600 is being issued at past non-compliance. Findings include: R1's Face Sheet, undated and printed 6/1/22, indicated R1's diagnoses included schizophrenia, anxiety, depression, intellectual disabilities and absence of left foot. R1's care plan dated 3/9/22, indicated R1 was vulnerable to abuse from others and needed assistance to remain safe in the facility. R1's vulnerabilities included weakness, depression, mild cognitive impairment, intellectual disabilities and physical needs.	F 600	Past noncompliance: no plan of correction required.	

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F 600	Continued From page 2 R1's quarterly Minimum Data Set (MDS) dated 3/10/22, indicated R1's was mildly cognitively impaired and needed the extensive assistance of two staff with bed mobility. A Nursing Home Incident Report to the State Agency (SA) indicated on 5/26/22, at 7:35 a.m. NA-A was assisting R1 to boost in bed. R1 was uncooperative and NA-A called R1 "lazy." R1 responded loudly that he was not lazy and shook his fist at NA-A. NA-A subsequently raised and shook his fist at R1 and yelled back at R1. No actual physical contact was made other than appropriate boost in bed with NA-B assisting. On 5/31/22, at 12:35 p.m. R1 was interviewed. R1 stated he did not know NA-A's name but remembered the situation. R1 stated NA-A called him lazy and told R1 he could do it himself (boost himself up in bed). R1 stated he got upset and was getting ready to tell NA-A to get out of his room. R1 stated NA-A did not touch him. R1 stated NA-A did not help him boost up in bed, just left the room. R1 stated NA-B helped him move up in the bed. R1 stated NA-A had called him lazy other times before, and this makes him feel bad. R1 stated NA-A was disrespectful, and it made him feel like he was not wanted. R1 stated he has not seen NA-A since the incident. R1 stated he feels safe in the facility. On 5/31/22, at 1:26 p.m. NA-A was interviewed. NA-A stated the incident with R1 occurred 5/26/22, at approximately 4:45-5:00 a.m. NA-A stated NA-B was in with R1, and he went into the room to help. NA-A stated his voice was raised a little because R1 was falling off the bed. NA-A stated he had worked with R1 for a year and a	F 600		

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F 600	Continued From page 3 half, and R1 pretends he cannot do things. NA-A stated he told R1 now was not the time to be lazy. NA-A stated he was not mocking R1. NA-A stated R1 made a fist, and so he also made a fist, and moved his hand to the side to block if R1 tried to hit him. NA-A stated he had been assaulted by residents before. NA-A stated R1 then lowered his fist. Registered nurse (RN)-A came into the room, and NA-A stated he left the room. NA-A stated he went on to complete last rounds. NA-A stated he raised his voice and RN-A saw him with his hand by his side. NA-A stated he would not have hit R1, he was ready to block any punches R1 might make towards him. At 3:00 p.m. NA-A stated after he left R1's room, he gave a resident a shower, and no other staff assisted him. NA-A stated he was done with work at 6:40 a.m. On 5/31/22, at 1:51 p.m. the director of nursing (DON) was interviewed. The DON stated R1 could be difficult and was often resistive to cares. The DON stated NA-A called R1 lazy in a derogatory fashion. The DON stated when R1 put his fists up, NA-A put his fists up in the same manner. The DON stated he suspended NA-A that same day due to NA-A's verbal abuse toward R1. The DON stated he interviewed other residents to see if they had abuse concerns with NA-A, and none of them had. The DON stated no other staff had concerns with NA-A. On 5/31/22, at 3:04 p.m. RN-A was interviewed. RN-A stated the day of the incident, she heard a sound of someone yelling out. RN-A stated she investigated and went into R1's room. RN-A stated NA-A and N-B were in R1's room, and R1 was quiet. RN-A stated she felt R1 was not the one yelling out, and when she walked in the room everything was calm and quiet. RN-A stated she	F 600		

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F 600	Continued From page 4 did tell NA-B that she wanted to talk with her before she left for the day. RN-A stated she did talk with NA-B, who told her R1 yelled at NA-A, and NA-A yelled back. NA-B also told her R1 showed his fists to NA-A, who showed a fist back to R1. RN-A stated she did not question NA-A about what happened and did not follow him with cares the rest of the morning or have anyone follow him with cares. RN-A stated she did report the incident to RN-B at about 7:00 a.m. On 5/31/22, at 2:12 p.m. NA-B was interviewed. NA-B stated she was in helping R1 boost up in bed. NA-B stated NA-A came into the room, and NA-A was upset. NA-A told R1 there were only two staff working, and R1 can't be lazy. NA-B stated R1 muttered, and NA-A started mocking him. NA-B stated R1 raised his fists, NA-A bent down toward R1, pulled his own arm back and had his hand in a fist "like he was going to punch [R1] in the face." NA-B stated R1 told NA-A to leave the room twice, and NA-A told him no. NA-B stated RN-A heard the yelling and came in the room. NA-B stated she told NA-A she would finish with R1, he could leave. NA-A stated she is new (one month) and others think she's slow so they will come in to try to hurry thing s along. NA-B stated R1 was very upset, told NA-A he wanted to sue him and never wanted to see him again. On 6/1/22, at 8:51 a.m. RN-A further stated she asked NA-B what had happened but NA-A was still in R1's room and RN-A could not understand NA-B. RN-A stated she needed to talk to NA-B when she was alone and out of R1's room. RN-A got busy doing cares, answering call lights of which were non-stop and helped another resident in the bathroom. RN-A stated it was just the three	F 600		

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F 600	Continued From page 5	F 600		

of them at the time. RN-A was not sure who was yelling and wanted to make sure everything was okay and wanted NA-B to tell her what was going on. There were no signs of abuse when RN-A entered R1's room and R1 would normally tell her if something was wrong. Felt the residents would be safe with NA-A. as they know him and he is a regular staff.

On 6/1/22, at 9:00 a.m. NA-B further stated she viewed the incident as abuse. RN-A asked her about the incident right after it happened but NA-B did not want to talk it because NA-A was present. NA-B waited until after her shift ended and NA-A had gone home. NA-B's shift ended at 6:00 a.m.

On 6/1/22, at approximately 11:00 a.m. RN-B provided the sequence of text messages with RN-A.
The text messages consisted of the following:
On 5/26/22, at 7:31 a.m. RN-A sent a text message stating, I just want to tell you that NA-A told R1 last night that he was lazy because he wouldn't move to help boost himself (which R1 normally does when he's behavioral), that made R1 upset and yelled out once and showed his fist to NA-A. NA-A yelled back to R1 and showed his fist to him too. R1 was calm after that. It was witnessed by the other aid NA-B because she was also there doing the care with NA-A. It was uneventful but I just wanted to let you know.
RN-B read the text message at 8:24 a.m. and responded back to RN-A, thank you.
At 9:54 a.m. RN-B sent a text to RN-A stating the DON would be calling her, probable report as verbal abuse.

On 6/1/22, at 11:50 a.m. the DON stated the

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	245236	A. BUILDING _____ B. WING _____	C 06/01/2022

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
BENEDICTINE HEALTH CENTER	935 KENWOOD AVENUE DULUTH, MN 55811

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F 600	Continued From page 6 incident occurred on 5/26/22, around 5:00 a.m. The DON reported it as soon as he became aware. The DON further stated needed to know immediately when incidents occur so he can ensure the safety of all residents. The facility's Abuse Prevention Plan dated 8/14/20, indicated the definition of abuse included the willful infliction of unreasonable confinement, intimidation or punishment of which resulted in physical harm, pain or mental anguish. This included verbal abuse. The past noncompliance IJ began on 5/26/22. The IJ was removed and the deficient practice corrected on 5/31/22 after the facility interviewed all interviewable residents who worked with NA-A to see if they had any abuse concerns of which none had. The facility interviewed all staff who worked with NA-A to see if they are aware of any allegations of abuse of which none had. The facility reviewed their abuse policy. The facility re-educated all staff on their abuse policy, including how to recognize alleged abuse, what to do when alleged abuse occurs, protection of residents after allegations of abuse, and when to report alleged abuse. This was verified through interviews and document review.	F 600		
F 609 SS=D	Reporting of Alleged Violations CFR(s): 483.12(c)(1)(4) §483.12(c) In response to allegations of abuse, neglect, exploitation, or mistreatment, the facility must: §483.12(c)(1) Ensure that all alleged violations involving abuse, neglect, exploitation or mistreatment, including injuries of unknown	F 609		6/20/22

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F 609	Continued From page 7 source and misappropriation of resident property, are reported immediately, but not later than 2 hours after the allegation is made, if the events that cause the allegation involve abuse or result in serious bodily injury, or not later than 24 hours if the events that cause the allegation do not involve abuse and do not result in serious bodily injury, to the administrator of the facility and to other officials (including to the State Survey Agency and adult protective services where state law provides for jurisdiction in long-term care facilities) in accordance with State law through established procedures. §483.12(c)(4) Report the results of all investigations to the administrator or his or her designated representative and to other officials in accordance with State law, including to the State Survey Agency, within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken. This REQUIREMENT is not met as evidenced by: Based on interview and document review, the facility failed to ensure an allegation of abuse was reported immediately, within two hours, to the State Agency (SA) for 1 of 3 residents (R1) reviewed for allegations of abuse. Findings include: R1's Face Sheet, undated and printed 6/1/22, indicated R1's diagnoses included schizophrenia, anxiety, depression, intellectual disabilities and absence of left foot. R1's care plan dated 3/9/22, indicated R1 was vulnerable to abuse from others and needed assistance to remain safe in the facility. R1's	F 609	Incident for Resident involved was reported. All other incidents reported or not reported were reviewed to insure timely reporting had occurred. All staff across all departments were provided training in regards to what is considered timely reporting and types of abuse. The education was delivered to all staff electronically, available in person in their work areas with a post test that needed to be submitted after training was completed to their supervisor and ensured the staff answered correctly. In addition,	

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F 609	Continued From page 8 vulnerabilities included weakness, depression, mild cognitive impairment, intellectual disabilities and physical needs. The care plan directed to report and investigate any allegations of suspected abuse. R1's quarterly Minimum Data Set (MDS) dated 3/10/22, indicated R1's was mildly cognitively impaired and needed the extensive assistance of two staff with bed mobility. A Nursing Home Incident Report to the State Agency (SA) reported on 5/26/22, at 10:09 a.m. indicated on 5/26/22, at 7:35 a.m. NA-A was assisting R1 to boost in bed. R1 was uncooperative and NA-A called R1 "lazy." R1 responded loudly that he was not lazy, and shook his fist at NA-A. NA-A subsequently raised, and shook his fist at R1 and yelled back at R1. No actual physical contact was made other than appropriate boost in bed with NA-B assisting. On 5/31/22, at 12:35 p.m. R1 was interviewed. R1 stated he did not know NA-A's name but remembered the situation. R1 stated NA-A called him lazy and told R1 he could do it himself (boost himself up in bed). R1 stated he got upset and was getting ready to tell NA-A to get out of his room. R1 stated NA-A did not touch him. R1 stated NA-A did not help him boost up in bed, just left the room. R1 stated NA-B helped him move up in the bed. R1 stated NA-A had called him lazy other times before, and this makes him feel bad. R1 stated NA-A was disrespectful, and it made him feel like he was not wanted. R1 stated he has not seen NA-A since the incident. R1 stated he feels safe in the facility. On 5/31/22, at 3:04 p.m. RN-A was interviewed.	F 609	two quiz questions were put onto the COVID screening kiosk to reinforce the training for all staff as they screen in for their shifts. Audit will be conducted weekly of all incidents reported or not reported to ensure appropriate notification timelines were followed.	

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F 609	Continued From page 9 RN-A stated the day of the incident, she heard a sound of someone yelling out. RN-A stated she investigated and went into R1's room. RN-A stated NA-A and N-B were in R1's room, and R1 was quiet. RN-A stated she felt R1 was not the one yelling out, and when she walked in the room everything was calm and quiet. RN-A stated she did tell NA-B that she wanted to talk with her before she left for the day. RN-A stated she did talk with NA-B, who told her R1 yelled at NA-A, and NA-A yelled back. NA-B also told her R1 showed his fists to NA-A, who showed a fist back to R1. RN-A stated she did not question NA-A about what happened and did not follow him with cares the rest of the morning or have anyone follow him with cares. RN-A stated she did report the incident to RN-B at about 7:00 a.m. On 5/31/22, at 2:12 p.m. NA-B was interviewed. NA-B stated she was in helping R1 boost up in bed. NA-B stated NA-A came into the room, and NA-A was upset. NA-A told R1 there were only two staff working, and R1 can't be lazy. NA-B stated R1 muttered, and NA-A started mocking him. NA-B stated R1 raised his fists, NA-A bent down toward R1, pulled his own arm back and had his hand in a fist "like he was going to punch [R1] in the face." NA-B stated R1 told NA-A to leave the room twice, and NA-A told him no. NA-B stated RN-A heard the yelling and came in the room. NA-B stated she told NA-A she would finish with R1, he could leave. NA-A stated she is new (one month) and others think she's slow so they will come in to try to hurry thing s along. NA-B stated R1 was very upset, told NA-A he wanted to sue him and never wanted to see him again. On 6/1/22, at 8:51 a.m. RN-A further stated she	F 609		

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F 609	Continued From page 10 asked NA-B what had happened but NA-A was still in R1's room and RN-A could not understand NA-B. RN-A stated she needed to talk to NA-B when she was alone and out of R1's room. RN-A got busy doing cares, answering call lights of which were non-stop and helped another resident in the bathroom. RN-A stated it was just the three of them at the time. RN-A was not sure who was yelling and wanted to make sure everything was okay and wanted NA-B to tell her what was going on. There were no signs of abuse when RN-A entered R1's room and R1 would normally tell her if something was wrong. Felt the residents would be safe with NA-A. as they know him and he is a regular staff. On 6/1/22, at 9:00 a.m. NA-B further stated she viewed the incident as abuse. RN-A asked her about the incident right after it happened but NA-B did not want to talk it because NA-A was present. NA-B waited until after her shift ended and NA-A had gone home. NA-B's shift ended at 6:00 a.m. On 6/1/22, at approximately 11:00 a.m. RN-B provided the sequence of text messages with RN-A. The text messages consisted of the following: On 5/26/22, at 7:31 a.m. RN-A sent a text message stating, I just want to tell you that NA-A told R1 last night that he was lazy because he wouldn't move to help boost himself (which R1 normally does when he's behavioral), that made R1 upset and yelled out once and showed his fist to NA-A. NA-A yelled back to R1 and showed his fist to him too. R1 was calm after that. It was witnessed by the other aid NA-B because she was also there doing the care with NA-A. It was uneventful but I just wanted to let you know.	F 609		

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F 609	Continued From page 11 RN-B read the text message at 8:24 a.m. and responded back to RN-A, thank you. At 9:54 a.m. RN-B sent a text to RN-A stating the DON would be calling her, probable report as verbal abuse. On 6/1/22, at 11:50 a.m. the DON stated the incident occurred on 5/26/22, around 5:00 a.m. The DON reported it as soon as he became aware. The DON further stated needed to know immediately when incidents occur so he can ensure the safety of all residents. The facility's Abuse Prevention Plan dated 8/14/20, indicated any person with knowledge or suspicion of suspected abuse must report immediately to the person in charge. The person in charge will immediately notify the Executive Director or designee.	F 609		

Electronically delivered

June 13, 2022

Administrator
Benedictine Health Center
935 Kenwood Avenue
Duluth, MN 55811

Re: State Nursing Home Licensing Orders
Event ID: HX0T11

Dear Administrator:

The above facility was surveyed on May 26, 2022 through June 1, 2022 for the purpose of assessing compliance with Minnesota Department of Health Nursing Home Rules and Statutes. At the time of the survey, the survey team from the Minnesota Department of Health - Health Regulation Division noted one or more violations of these rules or statutes that are issued in accordance with Minn. Stat. § 144.653 and/or Minn. Stat. § 144A.10. If, upon reinspection, it is found that the deficiency or deficiencies cited herein are not corrected, a civil fine for each deficiency not corrected shall be assessed in accordance with a schedule of fines promulgated by rule and/or statute of the Minnesota Department of Health.

To assist in complying with the correction order(s), a "suggested method of correction" has been added. This provision is being suggested as one method that you can follow to correct the cited deficiency. Please remember that this provision is only a suggestion and you are not required to follow it. Failure to follow the suggested method will not result in the issuance of a penalty assessment. You are reminded, however, that regardless of the method used, correction of the order within the established time frame is required. The "suggested method of correction" is for your information and assistance only.

You have agreed to participate in the electronic receipt of State licensure orders consistent with the Minnesota Department of Health Informational Bulletin 14-01, available at https://www.health.state.mn.us/facilities/regulation/infobulletins/ib04_8.html. The State licensing orders are delineated on the Minnesota Department of Health State Form and are being delivered to you electronically. The Minnesota Department of Health is documenting the State Licensing Correction Orders using federal software. Tag numbers have been assigned to Minnesota state statutes/rules for Nursing Homes.

The assigned tag number appears in the far left column entitled "ID Prefix Tag." The state statute/rule number and the corresponding text of the state statute/rule out of compliance is listed in the "Summary Statement of Deficiencies" column and replaces the "To Comply" portion of the correction order. This column also includes the findings that are in violation of the state statute or rule after the statement, "This MN Requirement is not met as evidenced by." Following the surveyors findings are the Suggested Method of Correction and 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/RULES.

Although no plan of correction is necessary for State Statutes/Rules, please enter the word "corrected" in the box available for text. You must then indicate in the electronic State licensure process, under the heading completion date, the date your orders will be corrected prior to electronically submitting to the Minnesota Department of Health. We urge you to review these orders carefully, item by item, and if you find that any of the orders are not in accordance with your understanding at the time of the exit conference following the survey, you should immediately contact:

Annette Winters, Rapid Response Unit Supervisor
Metro 1, Golden Rule Office
Licensing and Certification Program
Health Regulation Division
Minnesota Department of Health
85 East Seventh Place, Suite 220
P.O. Box 64900
Saint Paul, Minnesota 55164-0900
Email: annette.m.winters@state.mn.us
Mobile: (651) 558-7558

You may request a hearing on any assessments that may result from non-compliance with these orders provided that a written request is made to the Department within 15 days of receipt of a notice of assessment for non-compliance.

Please feel free to call me with any questions.

Sincerely,

Joanne Simon, Compliance Analyst
Minnesota Department of Health
Health Regulation Division
Telephone: 651-201-4161 Fax: 651-215-9697
Email: joanne.simon@state.mn.us

cc: Licensing and Certification File

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	00861	A. BUILDING: _____ B. WING _____	C 06/01/2022

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BENEDICTINE HEALTH CENTER	935 KENWOOD AVENUE DULUTH, MN 55811

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2 000	Initial Comments *****ATTENTION****** NH LICENSING CORRECTION ORDER In accordance with Minnesota Statute, section 144A.10, this correction order has been issued pursuant to a survey. If, upon reinspection, it is found that the deficiency or deficiencies cited herein are not corrected, a fine for each violation not corrected shall be assessed in accordance with a schedule of fines promulgated by rule of the Minnesota Department of Health. Determination of whether a violation has been corrected requires compliance with all requirements of the rule provided at the tag number and MN Rule number indicated below. When a rule contains several items, failure to comply with any of the items will be considered lack of compliance. Lack of compliance upon re-inspection with any item of multi-part rule will result in the assessment of a fine even if the item that was violated during the initial inspection was corrected. You may request a hearing on any assessments that may result from non-compliance with these orders provided that a written request is made to the Department within 15 days of receipt of a notice of assessment for non-compliance. INITIAL COMMENTS: On 5/26/22, through 6/1/22, a complaint survey was conducted at your facility by surveyors from the Minnesota Department of Health (MDH). Your facility was found NOT IN compliance with the MN State Licensure. The following complaint was found to be	2 000		

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2 000	Continued From page 1 UNSUBSTANTIATED: H52361799C (MN83688). The following complaint was found to be SUBSTANTIATED: H52361930C (MN83826), with licensing orders issued at tag identification 1980. . The Minnesota Department of Health is documenting the State Licensing Correction Orders using Federal software. The facility is enrolled in ePOC and therefore a signature is not required at the bottom of the first page of state form. Although no plan of correction is required, it is required that the facility acknowledge receipt of the electronic documents.	2 000		
21980	MN St. Statute 626.557 Subd. 3 Reporting - Maltreatment of Vulnerable Adults Subd. 3. Timing of report. (a) A mandated reporter who has reason to believe that a vulnerable adult is being or has been maltreated, or who has knowledge that a vulnerable adult has sustained a physical injury which is not reasonably explained shall immediately report the information to the common entry point. If an individual is a vulnerable adult solely because the individual is admitted to a facility, a mandated reporter is not required to report suspected maltreatment of the individual that occurred prior to admission, unless: (1) the individual was admitted to the facility from another facility and the reporter has reason to believe the vulnerable adult was maltreated in the previous facility; or (2) the reporter knows or has reason to believe that the individual is a vulnerable adult as defined in section 626.5572, subdivision 21, clause (4).	21980		6/20/22

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21980	Continued From page 2 (b) A person not required to report under the provisions of this section may voluntarily report as described above. (c) Nothing in this section requires a report of known or suspected maltreatment, if the reporter knows or has reason to know that a report has been made to the common entry point. (d) Nothing in this section shall preclude a reporter from also reporting to a law enforcement agency. (e) A mandated reporter who knows or has reason to believe that an error under section 626.5572, subdivision 17, paragraph (c), clause (5), occurred must make a report under this subdivision. If the reporter or a facility, at any time believes that an investigation by a lead agency will determine or should determine that the reported error was not neglect according to the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5), the reporter or facility may provide to the common entry point or directly to the lead agency information explaining how the event meets the criteria under section 626.5572, subdivision 17, paragraph (c), clause (5). The lead agency shall consider this information when making an initial disposition of the report under subdivision 9c. This MN Requirement is not met as evidenced by: Based on interview and document review, the facility failed to ensure an allegation of abuse was reported immediately, within two hours, to the State Agency (SA) for 1 of 3 residents (R1) reviewed for allegations of abuse. Findings include: R1's Face Sheet, undated and printed 6/1/22,	21980	Corrected	

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21980	Continued From page 3 indicated R1's diagnoses included schizophrenia, anxiety, depression, intellectual disabilities and absence of left foot. R1's care plan dated 3/9/22, indicated R1 was vulnerable to abuse from others and needed assistance to remain safe in the facility. R1's vulnerabilities included weakness, depression, mild cognitive impairment, intellectual disabilities and physical needs. The care plan directed to report and investigate any allegations of suspected abuse. R1's quarterly Minimum Data Set (MDS) dated 3/10/22, indicated R1's was mildly cognitively impaired and needed the extensive assistance of two staff with bed mobility. A Nursing Home Incident Report to the State Agency (SA) reported on 5/26/22, at 10:09 a.m. indicated on 5/26/22, at 7:35 a.m. NA-A was assisting R1 to boost in bed. R1 was uncooperative and NA-A called R1 "lazy." R1 responded loudly that he was not lazy, and shook his fist at NA-A. NA-A subsequently raised, and shook his fist at R1 and yelled back at R1. No actual physical contact was made other than appropriate boost in bed with NA-B assisting. On 5/31/22, at 12:35 p.m. R1 was interviewed. R1 stated he did not know NA-A's name but remembered the situation. R1 stated NA-A called him lazy and told R1 he could do it himself (boost himself up in bed). R1 stated he got upset and was getting ready to tell NA-A to get out of his room. R1 stated NA-A did not touch him. R1 stated NA-A did not help him boost up in bed, just left the room. R1 stated NA-B helped him move up in the bed. R1 stated NA-A had called him lazy other times before, and this makes him feel bad.	21980		

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BENEDICTINE HEALTH CENTER	935 KENWOOD AVENUE DULUTH, MN 55811

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21980	Continued From page 4 R1 stated NA-A was disrespectful, and it made him feel like he was not wanted. R1 stated he has not seen NA-A since the incident. R1 stated he feels safe in the facility. On 5/31/22, at 3:04 p.m. RN-A was interviewed. RN-A stated the day of the incident, she heard a sound of someone yelling out. RN-A stated she investigated and went into R1's room. RN-A stated NA-A and N-B were in R1's room, and R1 was quiet. RN-A stated she felt R1 was not the one yelling out, and when she walked in the room everything was calm and quiet. RN-A stated she did tell NA-B that she wanted to talk with her before she left for the day. RN-A stated she did talk with NA-B, who told her R1 yelled at NA-A, and NA-A yelled back. NA-B also told her R1 showed his fists to NA-A, who showed a fist back to R1. RN-A stated she did not question NA-A about what happened and did not follow him with cares the rest of the morning or have anyone follow him with cares. RN-A stated she did report the incident to RN-B at about 7:00 a.m. On 5/31/22, at 2:12 p.m. NA-B was interviewed. NA-B stated she was in helping R1 boost up in bed. NA-B stated NA-A came into the room, and NA-A was upset. NA-A told R1 there were only two staff working, and R1 can't be lazy. NA-B stated R1 muttered, and NA-A started mocking him. NA-B stated R1 raised his fists, NA-A bent down toward R1, pulled his own arm back and had his hand in a fist "like he was going to punch [R1] in the face." NA-B stated R1 told NA-A to leave the room twice, and NA-A told him no. NA-B stated RN-A heard the yelling and came in the room. NA-B stated she told NA-A she would finish with R1, he could leave. NA-A stated she is new (one month) and others think she's slow so they will come in to try to hurry thing s along.	21980		

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	00861	A. BUILDING: _____ B. WING _____	C 06/01/2022

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21980	Continued From page 5 NA-B stated R1 was very upset, told NA-A he wanted to sue him and never wanted to see him again. On 6/1/22, at 8:51 a.m. RN-A further stated she asked NA-B what had happened but NA-A was still in R1's room and RN-A could not understand NA-B. RN-A stated she needed to talk to NA-B when she was alone and out of R1's room. RN-A got busy doing cares, answering call lights of which were non-stop and helped another resident in the bathroom. RN-A stated it was just the three of them at the time. RN-A was not sure who was yelling and wanted to make sure everything was okay and wanted NA-B to tell her what was going on. There were no signs of abuse when RN-A entered R1's room and R1 would normally tell her if something was wrong. Felt the residents would be safe with NA-A. as they know him and he is a regular staff. On 6/1/22, at 9:00 a.m. NA-B further stated she viewed the incident as abuse. RN-A asked her about the incident right after it happened but NA-B did not want to talk it because NA-A was present. NA-B waited until after her shift ended and NA-A had gone home. NA-B's shift ended at 6:00 a.m. On 6/1/22, at approximately 11:00 a.m. RN-B provided the sequence of text messages with RN-A. The text messages consisted of the following: On 5/26/22, at 7:31 a.m. RN-A sent a text message stating, I just want to tell you that NA-A told R1 last night that he was lazy because he wouldn't move to help boost himself (which R1 normally does when he's behavioral), that made R1 upset and yelled out once and showed his fist to NA-A. NA-A yelled back to R1 and showed his	21980		

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21980	Continued From page 6 fist to him too. R1 was calm after that. It was witnessed by the other aid NA-B because she was also there doing the care with NA-A. It was uneventful but I just wanted to let you know. RN-B read the text message at 8:24 a.m. and responded back to RN-A, thank you. At 9:54 a.m. RN-B sent a text to RN-A stating the DON would be calling her, probable report as verbal abuse. On 6/1/22, at 11:50 a.m. the DON stated the incident occurred on 5/26/22, around 5:00 a.m. The DON reported it as soon as he became aware. The DON further stated needed to know immediately when incidents occur so he can ensure the safety of all residents. The facility's Abuse Prevention Plan dated 8/14/20, indicated any person with knowledge or suspicion of suspected abuse must report immediately to the person in charge. The person in charge will immediately notify the Executive Director or designee. SUGGESTED METHOD OF CORRECTION: The administrator or designee could develop/revise policies or procedures to ensure timely reporting of all allegations of abuse are within appropriate timeframes for reporting. The facility should re-educate staff identified in the citation to policies and procedures and audit all complaints of alleged abuse for a set determined time. The results of those audits should be taken to the Quality Assurance Performance Improvement (QAPI) committee to determine the need for further monitoring or compliance.	21980		

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21980	Continued From page 7 TIME PERIOD FOR CORRECTION: 21 DAYS	21980		