Electronically delivered
May 18, 2022

Administrator
Flagstone
12500 Castlemoor Drive
Eden Prairie, MN 55344

RE: CCN: 245312
Cycle Start Date: May 4, 2022

Dear Administrator:

On May 4, 2022, a survey was completed at your facility by the Minnesota Department of Health 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.

This survey found the most serious deficiencies in your facility to be isolated deficiencies that constituted immediate jeopardy (Level J).

The Statement of Deficiencies (CMS-2567) is being electronically delivered. Because corrective action were taken prior to the survey, past non-compliance does not require a plan of correction (POC).

REMOVAL OF IMMEDIATE JEOPARDY

On April 26, 2022, the situation of immediate jeopardy to potential health and safety cited at F600 was removed.

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 forimposition: You will receive a formal notice from the CMS RO only if CMS agrees with our recommendation.

- Civil money penalty, (42 CFR 488.430 through 488.444).

SUBSTANDARD QUALITY OF CARE (SQC)

SQC was identified at your facility. Sections 1819(g)(5)(C) and § 1919(g)(5)(C) of the Social Security Act and 42 CFR 488.325(h) requires 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. <u>If you have not already provided the following information, you are required to provide to this agency within ten working days of your</u>

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 § 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, Flagstone is prohibited from offering or conducting a Nurse Assistant Training / Competency Evaluation Programs (NATCEP) or Competency Evaluation Programs for two years effective May 4, 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.

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 an E tag), i.e., the plan of correction should be directed to:

Susan Frericks, Unit Supervisor
Duluth District Office
Licensing and Certification Program
Health Regulation Division
Minnesota Department of Health
Duluth Technology Village
11 East Superior Street, Suite 290
Duluth, Minnesota 55802-2007
Email: susan.frericks@state.mn.us
Mobile: (218) 368-4467

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

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.

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 electronic 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,

Kamala Fiske-Downing

Kamala Fiske-Downing
Minnesota Department of Health
Licensing and Certification Program
Health Regulation Division
Telephone: (651) 201-4112 Fax: (651) 215-9697
Email: Kamala.Fiske-Downing@state.mn.us

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	245312	A. BUILDING _____ B. WING _____	C 05/04/2022

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
FLAGSTONE	12500 CASTLEMOOR DRIVE EDEN PRAIRIE, MN 55344

(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 5/3/22 and 5/4/22, a standard abbreviated survey was completed at your facility by the Minnesota Department of Health to determine if your facility was in compliance with requirements of 42 CFR Part 483, Subpart B, and Requirements for Long Term Care Facilities. Your facility was not in compliance. The survey resulted in an Immediate Jeopardy (IJ) at F600 when nursing assistant (NA)-A sexually abused R1. The IJ began on 4/23/22, and the immediacy was removed on 4/26/22, prior to the start of survey. The following complaints were found to be SUBSTANTIATED: at F600 past non-complicance. H5312060C (MN83066) H53121040C (MN83094) Although the provider had implemented corrective action prior to survey, immediate jeopardy was sustained prior to the correction. No plan of correction is required for a finding of past non-compliance. The facility is still required to 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	F 600		

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

Electronically Signed | 05/19/2022

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.

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F 600	Continued From page 1 treat the resident's medical symptoms. §483.12(a) The facility must- §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 2 of 3 residents (R1, R3) were free from ongoing staff to resident sexual abuse. This resulted in an immediate jeopardy (IJ) situation for R1 who sustained psychosocial harm related to staff to resident abuse. The IJ began on 4/23/22, when nursing assistant (NA)-A sexually abused R1, which was identified by the facility on 4/26/22. In addition, R3 stated NA-A applied lotion to her in a sexual manner making her uncomfortable. The campus administrator, care center administrator and the director of nursing (DON) were notified of the IJ on 5/4/22, at 4:25 p.m. The IJ was removed; and the deficient practice was corrected on 4/26/22, prior to the start of the survey and was cited as past non-compliance. Findings include: R1: R1's quarterly Minimum Data Set (MDS) dated 3/11/22, indicated R1 was cognitively intact and required extensive assist for activities of daily living (ADL's). Diagnoses included anxiety and depression. During interview on 5/3/22, at 1:47 p.m. R1 stated	F 600	Past noncompliance: no plan of correction required.	

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F 600	Continued From page 2 NA-A was her aid since 2021. NA-A gave her Jacuzzi baths and would tell R1 she was beautiful. NA-A always kept her covered until about a month ago. NA-A started telling R1 she had beautiful breast and the touching started recently. On 4/23/22, around 9:00 p.m. NA-A touched R1's nipples and "asked if it felt good." NA-A stated R1 had the breasts of an 18 year old and liked her "titties." R1 then punched NA-A in the shoulder and knocked NA-A off his balance. NA-A apologized and stated he would never do it again. Further, NA-A told R1 he watched her when she slept and would tell her she looked beautiful while she slept. R1 expressed loosing sleep and was having nightmares that NA-A wanted to have sex with her because of NA-A's actions. The undated, facility incident investigation file identified facility staff interviewed NA-A on 4/27/22. NA-A admitted to saying R1 had nice breasts and her breasts looked like the breasts of an 18-year-old. NA-A made comments about R1's breasts more than once. The investigation also identified R1 was interviewed and reported NA-A had caressed her breasts and touched her nipples. The statement about her having breast of an 18 year old, made R1 very angry and unsafe. R1 asked NA-A to stop. R1's Associated Clinic of Psychology (ACP) consultation note dated 5/2/22, identified R1 had the following diagnoses: major depressive disorder, recurrent episode, moderate and unspecified anxiety disorder. R1 stated nursing assistant (NA)-A touched R1 on the breast. NA-A did tell the police and the campus administrator that he did touch R1's breast and he had a "crush" on her. R1 had trouble sleeping the first	F 600		

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F 600	Continued From page 3 three nights after the incident along with nightmares. R1 was in the dining room on 5/2/22, and saw a staff member that resembled NA-A (but was not NA-A) and she had some heightened anxiety and fear. On 5/4/22, at 12:18 p.m. the human resources director (HRD) confirmed he was present for the facility's interview with NA-A on 4/27/22. NA-A stated he did make statements to R1 about her breasts and how nice they looked. On 5/4/22, at 12:27 p.m. the campus administrator confirmed she was present for interview with NA-A on 4/27/22. NA-A stated he did make statements to R1 about her breasts and how nice they looked. During interview on 5/4/22, at 12:40 p.m. FM-A stated he/she spoke to R1 the evening of 4/25/22. R1 told FM-A a staff member touched her breasts inappropriately and had made inappropriate statements to her about how nice her breasts looked which was very upsetting for R1. FM-A notified the facility of the incident the following day on 4/26/22. On 5/4/22, at 12:51 p.m. DON confirmed she was present for interview with NA-A on 4/27/22. The DON stated NA-A did make statements to R1 about her breasts and how nice they looked. R3: R3's quarterly MDS dated 3/28/22, identified R1 was cognitively intact and required assistance for ADL's. A diagnosis of depression was identified. During interview on 5/3/22, at 2:11 p.m. R3 (who's	F 600		

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F 600	Continued From page 4 room was near R1) stated on 4/23/22, she heard R1 yelling at NA-A to stop. R3 talked to R1 the following day and R1 stated NA-A touched her breasts and nipples, which was why she was yelling at him the night before. R3 stated NA-A also touched her inappropriately when NA-A was cleaning her up and applying lotion to her buttocks. When NA-A applied the lotion he did it in a massaging manner which made her uncomfortable. The undated facility's incident investigation file for R3, identified the facility interviewed R3 on 5/3/22. R3 reported NA-A rubbed cream and lotion on her buttocks for a long time during cares. R3 reported being uncomfortable with NA-A's actions since other staff did not rub cream and lotion as long as NA-A did. On 5/3/22, at 3:30 p.m. the campus administrator and clinical coordinator stated they were present for R3's interview on 5/3/22. R3 told them she felt as though NA-A was enjoying applying lotion on her buttocks for a long period of time which, looking back, made her feel uncomfortable. On 5/4/22, at 10:35 a.m. NA-A was interviewed via telephone. NA-A would not answer the surveyors questions about R1 or R3, but instead stated R1, "is crazy, she is totally crazy and I don't want to talk about it anymore." On 5/4/22, at 1:55 p.m. R3 stated she was inappropriately touched on multiple occasions by NA-A, specifically when lotion was being applied to her. There was a time a few months prior which really stood out. NA-A applied lotion to her buttocks and NA-A lingered on her buttocks much longer than he needed to and it became very	F 600		

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F 600	Continued From page 5 uncomfortable. The facility policy Vulnerable Adult Abuse Prevention Plan revised 7/21, identified abuse was the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting harm, pain, or mental anguish. The policy stated abuse included verbal abuse, sexual abuse, physical abuse, and mental abuse. The policy also indicated institutional abuse was a form of abuse that occurred in an institutional setting, specifically a residential facility such as a nursing home. The past noncompliance IJ began on 4/23/22. The IJ was removed and the deficient practice corrected by 4/26/22, after the facility implemented a systemic plan that included the following actions: suspending and then terminating NA-A, interviewing all residents in regards to NA-A cares, completing facility-wide education on abuse and the facility abuse policy, updating the plan of care of R1 to include having a female with a male when male was assisting with cares; mental health consult and guidance; give R1 time to vocalize grief and anxiety related to concern and educated staff to those changes, assisting R1 to acquire services to address change of condition concerns related to NA-A.	F 600		

DEPARTMENT OF HEALTH

Protecting, Maintaining and Improving the Health of All Minnesotans

Electronically delivered
May 18, 2022

Administrator
Flagstone
12500 Castlemoor Drive
Eden Prairie, MN 55344

Re: Event ID: MOB511

Dear Administrator:

The above facility survey was completed on May 4, 2022 for the purpose of assessing compliance with Minnesota Department of Health Nursing Home Rules. At the time of the survey, the survey team from the Minnesota Department of Health - Health Regulation Division noted no violations of these rules promulgated under Minnesota Stat. section 144.653 and/or Minnesota Stat. Section 144A.10.

Electronically posted is the Minnesota Department of Health order form stating that no violations were noted at the time of this survey. The Minnesota Department of Health is documenting the State Licensing Correction Orders using federal software. Please disregard the heading of the fourth column which states, "Provider's Plan of Correction." This applies to Federal deficiencies only. There is no requirement to submit a Plan of Correction.

Please feel free to call me with any questions.

Sincerely,

Kamala Fiske-Downing

Kamala Fiske-Downing
Minnesota Department of Health
Licensing and Certification Program
Health Regulation Division
Telephone: (651) 201-4112 Fax: (651) 215-9697
Email: Kamala.Fiske-Downing@state.mn.us

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	00973	A. BUILDING: _____ B. WING _____	C 05/04/2022

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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 5/3/22 and 5/4/22, a complaint survey was conducted at your facility by surveyors from the Minnesota Department of Health (MDH). Your facility was found 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 SUBSTANTIATED: No licensing orders were issued at this time. H5312060C (MN83066) H53121040C (MN83094) 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		