



Protecting, Maintaining and Improving the Health of All Minnesotans

Electronically Delivered
February 2, 2024

Administrator
The Gardens At Foley LLC
253 Pine Street
Foley, MN 56329

RE: CCN: 245325
Cycle Start Date: December 28, 2023

Dear Administrator:

On February 2, 2024, the Minnesota Department of Health completed a revisit to verify that your facility had achieved and maintained compliance. Based on our review, we have determined that your facility has achieved substantial compliance; therefore no remedies will be imposed.

Feel free to contact me if you have questions.

A handwritten signature in black ink, appearing to read 'Melissa Poepping'.

Melissa Poepping, Compliance Analyst
Federal Enforcement | Health Regulation Division
Minnesota Department of Health
P.O. Box 64900
Saint Paul, Minnesota 55164-0970
Phone: 651-201-4117
Email: Melissa.Poepping@state.mn.us



Protecting, Maintaining and Improving the Health of All Minnesotans

Electronically delivered
January 17, 2024

Administrator
The Gardens At Foley LLC
253 Pine Street
Foley, MN 56329

RE: CCN: 245325
Cycle Start Date: December 28, 2023

Dear Administrator:

On December 28, 2023, 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 no actual harm with potential for more than minimal harm that was not immediate jeopardy (Level D), as evidenced by the electronically attached CMS-2567 whereby corrections are required.

ELECTRONIC PLAN OF CORRECTION (ePoC)

Within **ten (10) calendar days** after your receipt of this notice, you must submit an acceptable 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.

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.

The state agency may, in lieu of an onsite revisit, determine correction and compliance by accepting the facility's ePoC if the ePoC is reasonable, addresses the problem and provides evidence that the corrective action has occurred.

If an acceptable ePoC is not received within 10 calendar days from the receipt of this letter, we will recommend to the CMS Region V Office that one or more of the following remedies be imposed:

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- Denial of payment for new Medicare and Medicaid admissions (42 CFR 488.417);
- Civil money penalty (42 CFR 488.430 through 488.444).
- Termination of your facility's Medicare and/or Medicaid agreement (488.456(b)).

DEPARTMENT CONTACT

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

Terri Ament, Rapid Response
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: teresa.ament@state.mn.us
Office: (218) 302-6151 Mobile: (218) 766-2720

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 the 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 THIRD OR SIXTH MONTH AFTER THE LAST DAY OF THE SURVEY

If substantial compliance with the regulations is not verified by March 28, 2024 (three months after the identification of noncompliance), the CMS Region V Office must deny payment for new admissions as mandated by the Social Security Act (the Act) at Sections 1819(h)(2)(D) and 1919(h)(2)(C) and Federal regulations at 42 CFR Section 488.417(b).

In addition, if substantial compliance with the regulations is not verified by June 28, 2024 (six months after the

The Gardens At Foley LLC

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identification of noncompliance) your provider agreement will be terminated. 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.

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

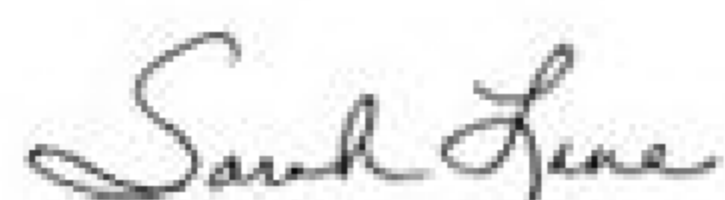
This request must be sent within the same ten days you have for submitting an ePoC for the cited deficiencies. All requests for an IDR or IIDR of federal deficiencies must be submitted via the web at:
https://mdhprovidercontent.web.health.state.mn.us/ltc_idr.cfm

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,



Sarah Lane, Compliance Analyst
Federal Enforcement | Health Regulation Division
Minnesota Department of Health
P.O. Box 64900
Saint Paul, MN 55164-0900
Telephone: 651-201-4308 Fax: 651-215-9697
Email: sarah.lane@state.mn.us

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 245325	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 12/28/2023
NAME OF PROVIDER OR SUPPLIER THE GARDENS AT FOLEY LLC			STREET ADDRESS, CITY, STATE, ZIP CODE 253 PINE STREET FOLEY, MN 56329	
(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 12/28/23 a standard abbreviated survey was conducted at your facility. Your facility was NOT in compliance with the requirements of 42 CFR 483, Subpart B, Requirements for Long Term Care Facilities. The following complaint was reviewed: H53258384C (MN00099504) with a deficiency issued at F908. The facility's plan of correction (POC) will serve as your allegation of compliance upon the Departments acceptance. Because you are enrolled in ePOC, your signature is not required at the bottom of the first page of the CMS-2567 form. Your electronic submission of the POC will be used as verification of compliance. Upon receipt of an acceptable electronic POC, an onsite revisit of your facility may be conducted to validate that substantial compliance with the regulations has been attained.	F 000		
F 908 SS=D	Essential Equipment, Safe Operating Condition CFR(s): 483.90(d)(2) §483.90(d)(2) Maintain all mechanical, electrical, and patient care equipment in safe operating condition. This REQUIREMENT is not met as evidenced by: Based on observation, interview, and document review, the facility failed to ensure suction equipment was maintained in working condition for 1 of 2 suction machines. Findings include:	F 908	Submission of this response and Plan is not Correction is not a legal admission that a deficiency exists or that this statement of deficiency was correctly cited and is also not to be construed as an admission of fault by the facility, the administrator or	1/26/24

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

Electronically Signed

TITLE

(X6) DATE

01/24/2024

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 908	<p>Continued From page 1</p> <p>R1's admission Minimum Data Set (MDS) dated 12/21/23 indicated R1's primary medical diagnosis was cerebral infarction (stroke). R1 also had diagnoses of encephalopathy (alteration of brain structure), dysphagia (difficulty in swallowing), and anxiety.</p> <p>On 12/25/23 R1's progress note indicated staff called the on-call licensed practical nurse (LPN)-A with report of R1 gurgling with oxygen saturations at 70%. Oxygen was applied to R1, and the head of her bed was elevated. 911 was called and R1 sent to the hospital.</p> <p>On 12/27/23 R1's hospital discharge summary indicated prior to arriving to the emergency room on 12/25/23 R1 underwent suctioning by emergency medical services (EMS) and her oxygen saturations rapidly improved.</p> <p>On 12/28/23 at 9:22 a.m., the director of maintenance (DM)-A stated the maintenance department did not provide preventative maintenance for the suction machines.</p> <p>On 12/28/23 at 10:17 a.m., the director of nursing (DON) stated periodic checks were conducted by the night shift staff and safety committee on the crash carts where the suction machines were stored. The DON stated the suction machine was checked by plugging it in and turning it on.</p> <p>On 12/28/23 at 11:17 a.m., family member (FM)-A stated R1's condition had stabilized by the time the ambulance arrived at the hospital. FM-A stated the physician explained suction and oxygen</p>	F 908	<p>any employees, agents or other individuals who draft or may be discussed in this response and Plan of Correction. In addition, preparation and submission of this Plan of Correction does not constitute and admission by agreement of any kind by the facility of the truth of any facts alleged or the correctness of any conclusions set forth in the allegations.</p> <p>Accordingly, the facility has prepared and submitted this Plan of correction prior to the resolution of any appeal which may be filed solely because of the requirements under state and federal law that mandate submission of a Plan of Correction with ten (10) days of the survey as a condition to participate in Title 18 and Title 19 programs. This Plan of Correction is submitted as the facility's credible allegation of compliance.</p> <p>F908 s/s D</p> <ul style="list-style-type: none"> -The Process of removing and satisfying this requirement has been reviewed and revised as needed, to ensure that suction equipment is maintained and in working condition. -The suction machine that failed was immediately removed from service. - Two new suction machines were immediately purchased and put into service. - The manufacturer guidelines for the new suction machines were uploaded to the online maintenance system (TELS). 	

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F 908	<p>Continued From page 2 assisted R1's improvement.</p> <p>On 12/28/23 at 11:36 a.m., LPN-A stated she was the on-call nurse on 12/25/23. LPN-A stated she received a call from RN-A before 9:00 p.m. LPN-A stated she called FM-A and then directed RN-A to call 911. LPN-A stated suction was never addressed in her conversations with RN-A.</p> <p>On 12/28/23 at 12:59 p.m., registered nurse (RN)-A stated she observed R1 gurgling at 8:40 p.m. on 12/25/23. RN-A stated she elevated R1's head of bed further and called the on-call nurse. RN-A stated R1's oxygen saturation was 77% on room air. She stated 911 was called and oxygen was administered to R1. RN-A stated the police officer who arrived first to the scene requested a suction machine. RN-A stated she retrieved the suction machine from the crash cart on the 200 wing/unit. RN-A stated the suction machine turned on, but then turned off. RN-A stated the suction machine light indicated the battery was low. RN-A stated the suction machine was plugged into the outlet at the time. RN-A stated the facility's other suction unit was retrieved as EMS arrived on the scene. RN-A stated she did not suction R1 as EMS had taken over R1's cares at that time.</p> <p>On 12/28/23 at 1:10 p.m., the DON demonstrated the suction machine on the 200 wing/unit crash cart. The suction machine initially powered on, but then shut off and made a beeping sound. The indicator lights flashed for low battery and external battery. The DON attempted several times, but was unsuccessful in demonstrating the suction machine was operable.</p>	F 908	<ul style="list-style-type: none"> - Maintenance Director or designee will be responsible party for ensuring any routine maintenance and/or recommendations from the manufacturer for safe operation is followed. - Education completed with all licensed nurses on how to use the new suction machines. Monarch Healthcare Management competency form utilized as documentation. - Compliance audits will be completed weekly for four (4) weeks, and monthly thereafter for one (1) month. Audit results will be reviewed at QAPI. Any deficient practice will be identified and corrected at the time of occurrence. - Director of Nursing or designee is responsible party - Corrective action to be completed by 1/26/2024. 	

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F 908	<p>Continued From page 3</p> <p>On 12/28/23 at 2:13 p.m., the suction machine company representative (CR)-A was interviewed. CR-A stated the required maintenance of the suction machine included changing the filters at least every two months, and between patient use.</p> <p>On 12/28/23 at 2:40 p.m., the DON stated the maintenance department monitored equipment. The DON stated she was not aware of any required preventative maintenance conducted for the suction machine. The DON stated she was not aware the suction machine did not function appropriately.</p> <p>Preventative maintenance log for the suction machine was requested, but not provided.</p> <p>The suction machine instruction manual directed filters to be changed if overflow occurs, or every two months, whichever comes first, and to change the bacteria filter between patient use.</p> <p>The facility policy Maintenance Service dated 2009, directed maintenance service shall be provided to all areas of the building, grounds, and equipment.</p> <ol style="list-style-type: none"> 1. The maintenance department is responsible for maintaining the buildings, grounds, and equipment in a safe and operable manner at all times. 3. The Maintenance Director is responsible for developing and maintaining a schedule of maintenance service to assure that the buildings, grounds, and equipment are maintained in a safe and operable manner. 4. A copy of the maintenance schedule shall be shared be provided to each department director so that appropriate scheduling can be made without 	F 908		

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F 908	Continued From page 4 interruption of services to residents 5. Maintenance personnel shall follow the manufacturer's recommended maintenance schedule. 9. Records shall be maintained in the Maintenance Director's office. 10. Maintenance personnel shall follow established safety regulations to ensure the safety and well-being of all concerned.	F 908		



Protecting, Maintaining and Improving the Health of All Minnesotans

Electronically delivered

January 17, 2024

Administrator
The Gardens At Foley LLC
253 Pine Street
Foley, MN 56329

Re: Event ID: OHLW11

Dear Administrator:

The above facility survey was completed on December 28, 2023 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,

A handwritten signature in cursive script that reads 'Sarah Lane'.

Sarah Lane, Compliance Analyst
Federal Enforcement | Health Regulation Division
Minnesota Department of Health
P.O. Box 64900
Saint Paul, MN 55164-0900
Telephone: 651-201-4308 Fax: 651-215-9697
Email: sarah.lane@state.mn.us

Minnesota Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 00629	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING _____	(X3) DATE SURVEY COMPLETED C 12/28/2023
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NAME OF PROVIDER OR SUPPLIER THE GARDENS AT FOLEY LLC	STREET ADDRESS, CITY, STATE, ZIP CODE 253 PINE STREET FOLEY, MN 56329
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2 000	<p>Initial Comments</p> <p>*****ATTENTION*****</p> <p>NH LICENSING CORRECTION ORDER</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>INITIAL COMMENTS: On 12/28/23 a complaint survey was conducted at your facility by surveyors from the Minnesota Department of Health (MDH). Your facility was IN compliance with the MN State Licensure</p>	2 000		
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Minnesota Department of Health
LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE
Electronically Signed

TITLE

(X6) DATE

01/24/24

Minnesota Department of Health

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2 000	<p>Continued From page 1</p> <p>The following complaint was reviewed during the survey: H53258384C (MN00099504)</p> <p>Minnesota Department of Health is documenting the State Licensing Correction Orders using Federal software.</p> <p>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.</p>	2 000		