

Wisconsin Department of Health Services

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 0010354	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	(X3) DATE SURVEY COMPLETED C 11/08/2021
NAME OF PROVIDER OR SUPPLIER PRO HEALTH CARE REGENCY SENIOR COM NEW BE		STREET ADDRESS, CITY, STATE, ZIP CODE 13750 WEST NATIONAL AVENUE NEW BERLIN, WI 53151		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
U 000	<p>INITIAL COMMENTS</p> <p>On 11/08/2021, Surveyor conducted a complaint investigation at Pro Health Care Regency Senior Community New Berlin.</p> <p>Two deficiencies were identified.</p> <p>The complaint was substantiated.</p> <p>Census: 37</p>	U 000		
U 169	<p>89.26(3)(c)1. PARTICIPATION IN THE ASSESSMENT</p> <p>A comprehensive assessment shall be performed or arranged for by:</p> <p>1. The residential care apartment complex for tenants whose bills are paid for from private resources or by third party payers.</p> <p>This Rule is not met as evidenced by: Based on record review and interviews the provider did not complete a comprehensive assessment prior to readmission to the provider with the active participation of the tenant and the tenants legal representative.</p> <p>Tenant 1 required a rehabilitative stay for 2 weeks following a fall at the RCAC. The provider did not conduct an assessment with the active participation of the tenant and the tenants legal representative.</p> <p>Findings include:</p> <p>On 11/08/2021, the department conducted a complaint investigation related to Tenant 1 being served a discharge notice from the RCAC. The complaint alleged Regency Senior Community</p>	U 169		

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

TITLE

(X6) DATE

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U 169	<p>Continued From page 1</p> <p>was discharging the tenant from the community as they felt the tenants needs could not be met as the tenant now required over 28 hours of the nursing services.</p> <p>Surveyor reviewed Tenant 1's record. Tenant 1's diagnoses included dementia. The record also noted Tenant 1's power of attorney was activated.</p> <p>According to the nursing progress notes, Tenant 1 sustained a fall on 09/12/2021. Tenant 1 was alert and oriented to self. Was incontinent and refusing to be changed. The note documented the CNA did convince Tenant 1 to be cleaned up. Tenant 1 was noted to be weak and required 2 staff assistance to transfer. Tenant 1 was taken to the hospital for evaluation. Tenant 1 returned the same day.</p> <p>10/03/2021- Notes indicated staff talked to Tenant 1's family member about a change in condition that the tenant was having. Tenant 1 went from 1 assist to 2 assistance with transfers. Increased incontinence noted. The notes indicated that administration would follow up with Tenant 1's family.</p> <p>10/11/2021- 7:00 AM- Tenant 1 was found on the floor by first shift and sent out for increased pain. The note stated Tenant 1 had a fracture.</p> <p>On 11/08/2021, at 8:25 AM, Surveyor interviewed Administrator A regarding Tenant 1's change of condition as documented in the progress notes 10/03/2021. Administrator A stated they did set up a meeting with Tenant 1's Responsible Party B for 10/12/2021 to discuss Tenant 1's increased needs. Administrator A stated the meeting was canceled as Tenant 1 was at the hospital due to the fall on 10/11/2021.</p>	U 169		

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U 169	<p>Continued From page 2</p> <p>Administrator A stated that on 10/27/2021, LPN C went to the rehabilitation facility to assess Tenant 1 for readmission to the provider. LPN C informed Administrator A that Tenant 1 would exceed 28 hours per week of nursing services. Administrator A stated at that time, they did give verbal notice to Responsible Party B that Tenant 1 exceeded 28 hours per week.</p> <p>On 11/02/2021, a written notice was provided to Tenant 1's legal representative which stated "Generally a 30 day advanced notice of termination of the resident's contract is required. However no notice is required in the event of an emergency, meaning an immediate documented threat to the health and safety of the resident or others. [Tenant 1] requires total lift support and two persons transfers. [S/he] is incontinent and unable to verbalize those needs. Dementia related care needs cannot be safely met under the Regency assisted living licensure. Nursing staff have concern that a return to Regency does pose an immediate threat to [his/her] health and safety." The notice stated Tenant 1 could return if s/he had 24 hour per day care, and a service agreement and risk agreement in place signed by Responsible Party B.</p> <p>On 11/08/2021, at 10:01 AM, Surveyor interviewed Director of Health Services D. Surveyor asked how Tenant 1 was assessed at the rehabilitation facility. Director of Health Services D stated LPN C went to the rehabilitation facility to assess and informed Administrator A that Tenant 1's needs exceeded 28 hours per week of services.</p> <p>On 11/08/2021 at approximately 10:15 AM, Surveyor interviewed LPN C. LPN C stated the</p>	U 169			

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U 169	<p>Continued From page 3</p> <p>rehabilitation facility contacted LPN C to state Tenant 1 was ready for discharge to return to the Regency community. LPN C then went to the facility to conduct an assessment. LPN C stated the only information provided to Regency was the progress notes from therapy which indicated [Tenant 1] was not receiving therapy. LPN C stated no other information was provided by the rehabilitation facility but that LPN C requested the discharge summary and did not receive this from the rehabilitation facility.</p> <p>LPN C stated s/he arrived at the rehabilitation facility on 10/27/2021. Due to the facility being on Covid 19 lockdown, LPN C observed Tenant 1 behind a glass window, seated in a wheelchair. LPN C stated Tenant 1 did not recognize LPN C. Surveyor asked if LPN C was wearing a mask, LPN C stated yes but that s/he wears a mask at Regency. LPN C stated s/he asked the 2 CNA's about mobility. Both CNA's stated Tenant 1 required assist of 2 staff for transfers. LPN C asked about Tenant 1's continence status. Both CNA's stated Tenant 1 was incontinent. LPN C stated s/he then documented this on the assessment form completed by LPN C and LPN C left the rehabilitation facility. When LPN C returned to Regency, LPN C informed Administrator A that Tenant 1's needs exceeded 28 hours of nursing.</p> <p>Surveyor asked LPN C about the other areas on the assessment. LPN C knew about those areas identified on the assessment from the prior fall on 10/12/2021 so did not need to interview anyone else. Surveyor asked if LPN C talked to any other staff at the rehabilitation facility. LPN C stated they would not return calls. Surveyor asked if the record was reviewed at the rehabilitation facility. LPN C stated no. Surveyor</p>	U 169		

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U 169	<p>Continued From page 4</p> <p>asked how the decision was made to not permit Tenant 1 to return, LPN C stated both LPN C and Administrator A made the decision not to admit/readmit Tenant 1 based on the CNA's comment about Tenant 1's ability to transfer and incontinence. LPN C stated Tenant 1 was declining prior to the 10/11/2021 fall and they planned to talk to the family at that time.</p> <p>Surveyor asked if the responsible party for Tenant 1 was notified of the assessment and provided any information related to the assessment. LPN C stated they felt the denial for admission/readmission was in Tenant 1's best interest due to needs changing. LPN C stated after the assessment, the responsible party was called by phone and told Tenant 1 required a higher level of care, possibly a CBRF or memory care facility.</p> <p>Surveyor reviewed the assessment completed by LPN C dated 10/27/2021. The form noted: "No Admission/Readmission recommended" - "Reason for not recommending admission:" was not completed.</p> <p>On 11/08/2021, at 11:01 AM, Surveyor interviewed Responsible Party B regarding the assessment and notification. Responsible Party B stated s/he was not told about any purpose for the 10/12/2021 meeting and had no idea about Tenant 1's needs changing. Responsible Party B stated the rehabilitation facility was ready to discharge Tenant 1 on 10/28/2021 but that they had to pay privately to keep Tenant 1 at that provider since they were not given any notice of discharge from Pro Health Care Regency New Berlin.</p> <p>Cross Reference</p>	U 169			

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U 232	<p>NO232 DHS 89.29(3)(a)5. Admission and Retention of Tenants</p> <p>89.29(3)(a)5. ADMISSION & RETENTION OF TENANTS</p> <p>(3) TERMINATION OF CONTRACT.</p> <p>(a) Reasons. A residential care apartment complex may terminate its contract with a tenant when any of the following conditions apply:</p> <p>5. The tenant's behavior or condition poses an immediate threat to the health or safety of self or others. Mere old age, eccentricity or physical disability, either singly or together, are insufficient to constitute a threat to self or others.</p> <p>This Rule is not met as evidenced by:</p> <p>Based on record review and staff interview, the provider discharged Tenant 1 emergently stating Tenant 1's condition posed an immediate threat to self without providing documented evidence of this threat or significant change in condition.</p> <p>Prior to Tenant 1's hospitalization on 10/11/2021, the provider was aware and able to meet the needs of Tenant 1's change in care needs to include a fall risk, increased incontinence and the need for assistance from 2 caregivers for safe transfers. Prior to 10/11/2021, Tenant 1's power of attorney for health care had been activated.</p> <p>On 10/27/2021, LPN C went to the rehabilitation facility and assessed Tenant 1's needs to include 2 assist for transfers and incontinence cares. LPN C informed Surveyor that Tenant 1's needs</p>	U 232		

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U 232	<p>Continued From page 6</p> <p>for assistance with transfers and incontinence care, as well as other needs remained the same prior to the fall on 10/11/2021.</p> <p>On 11/02/2021, the provider issued a notice of termination to Tenant 1's legal representative indicating a 30 day advanced notice of termination was not required due to an immediate documented threat to the health and safety of the tenant or others. The immediate threat was noted to be that Tenant 1 required total lift support and two persons for transfers, incontinence cares and was unable to verbalize those needs. The care needs the provider used as evidence of an emergency termination were the same care needs Tenant 1 required prior to a temporary transfer for rehabilitation.</p> <p>Findings include:</p> <p>On 11/08/2021, the Department conducted a complaint investigation related to Tenant 1 being served a discharge notice from the RCAC. The complaint alleged Regency Senior Community was discharging the tenant from the community as they felt the tenant's needs could not be met as the tenant now required over 28 hours of the nursing services.</p> <p>Surveyor reviewed Tenant 1's record. Tenant 1 had previously resided in the independent apartments and was transferred to the RCAC on 02/28/2020. Tenant 1's diagnoses included dementia. According to the most recent service plan, dated 07/03/2021, Tenant 1 required blood pressure checks one time per week. Assistance with walking 3 times per day. Staff assistance with putting in and removing hearing aid once per day. Assistance with applying Ted hose in the morning and evening. Medication administration</p>	U 232			

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U 232	<p>Continued From page 7</p> <p>in the morning. Assistance making bed one time per day. Laundry service one time per week. Trash removal daily. Meals three times per day. Two hour checks 4 times per day and a shower one time per week.</p> <p>According to the nursing progress notes: 09/12/2021-Tenant 1 sustained a fall. Tenant 1 was alert and oriented to self. Was incontinent and refused to be changed. The note documented the CNA did convince Tenant 1 to be cleaned up. Tenant 1 was noted to be weak and required 2 staff assistance to transfer. Tenant 1 was taken to the hospital for evaluation and returned with a recommendation to follow up with a physician as Tenant 1 recently had a pacemaker change.</p> <p>10/03/2021- Staff talked to Tenant 1's family member about a change in condition that the tenant was having. Tenant 1 went from 1 person assist to 2 person assistance with transfers. Increased incontinence noted. The note further indicated that administration would follow up with the family. A review of the individual service plan noted no changes to the plan were made. The risk agreement, dated 2/28/2020, was not updated and did note Tenant 1 was unsteady while ambulating and was a fall risk.</p> <p>10/11/2021- 7:00 AM- Tenant 1 was found on the floor by first shift and sent out for increased pain. The note stated Tenant 1 had a fracture. Tenant 1 was hospitalized on 10/11/2021 related to the injury.</p> <p>On 11/08/2021, at 8:25 AM, Surveyor interviewed Administrator A regarding Tenant 1's change of condition as documented in the progress notes 10/03/2021. Administrator A stated they did set</p>	U 232			

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U 232	<p>Continued From page 8</p> <p>up a meeting with Responsible Party B for 10/12/2021 to discuss Tenant 1's increased needs. Administrator A stated the meeting was canceled as Tenant 1 was at the hospital due to the fall on 10/11/2021.</p> <p>Administrator A stated that on 10/27/2021, LPN C went to the rehabilitation facility to assess Tenant 1 for readmission to the provider. LPN C informed Administrator A that Tenant 1 would exceed 28 hours per week of nursing services. Administrator A stated at that time, they did give verbal notice to Responsible Party B that Tenant 1's care needs exceeded 28 hours per week.</p> <p>On 11/02/2021, a written notice was provided to Tenant 1's legal representative which stated "Generally a 30 day advanced notice of termination of the resident's contract is required. However no notice is required in the event of an emergency, meaning an immediate documented threat to the health and safety of the resident or others. [Tenant 1] requires total lift support and two persons for transfers. [S/he] is incontinent and unable to verbalize those needs. Dementia related care needs cannot be safely met under the Regency assisted living licensure. Nursing staff have concern that a return to Regency does pose an immediate threat to [his/her] health and safety." The notice stated Tenant 1 could return if s/he had 24 hour per day care from an outside provider contracted, and a service agreement and risk agreement in place signed by Responsible Party B.</p> <p>On 11/08/2021, at 10:01 AM, Surveyor interviewed Director of Health Services D. Surveyor asked how Tenant 1 was assessed at the rehabilitation facility. Director of Health Services D stated LPN C went to the</p>	U 232			

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U 232	<p>Continued From page 9</p> <p>rehabilitation facility to assess and informed Administrator A that Tenant 1's needs exceeded 28 hours per week of services.</p> <p>Surveyor asked Director of Health Services D if an RN was involved in the assessment. Director of Health Services D stated a RN was covering the facility at the time of the assessment as Director of Health Services D began employment at the provider on 11/01/2021.</p> <p>On 11/08/2021 at approximately 10:15 AM, Surveyor interviewed LPN C who stated the rehabilitation facility notified them that Tenant 1 was ready for discharge back to the Regency community. LPN C then went to the rehabilitation facility to conduct an assessment. LPN C stated the only information provided to Regency was the progress notes from therapy which indicated [Tenant 1] was not receiving therapy. LPN C stated no other information was provided by the rehabilitation facility but that LPN C requested the discharge summary and did not receive this from the rehabilitation facility.</p> <p>LPN C stated s/he arrived at the rehabilitation facility on 10/27/2021. Due to the facility being on Covid 19 lockdown, LPN C observed Tenant 1 behind a glass window seated in their wheelchair. LPN C stated Tenant 1 did not recognize them. Surveyor asked if LPN C was wearing a mask, LPN C stated yes but that s/he wears a mask at Regency too. LPN C stated s/he asked the 2 CNA's about mobility. Both CNA's stated Tenant 1 required assist of 2 staff for transfers. LPN C asked about Tenant 1's continence status. Both CNA's stated Tenant 1 was incontinent. LPN C stated s/he then documented this on the assessment form completed by LPN C and LPN C left the rehabilitation facility. When LPN C</p>	U 232		

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U 232	<p>Continued From page 10</p> <p>returned to Regency, LPN C informed Administrator A that Tenant 1's needs exceeded 28 hours of nursing. Surveyor asked about the other areas on the assessment. LPN C knew about those areas identified on the assessment from the prior fall on 10/11/2021. Surveyor asked if LPN C talked to any other staff at the rehabilitation facility. LPN C stated they would not return calls. Surveyor asked if the record was reviewed at the rehabilitation facility. LPN C stated no. Surveyor asked how the decision was made to not permit Tenant 1 to return, LPN C stated both LPN C and Administrator A made the decision not to admit/readmit Tenant 1 based on the CNA's comment about Tenant 1's ability to transfer and incontinence. LPN C stated Tenant 1 was declining prior to the 10/11/2021 fall and they planned to talk to the family at that time.</p> <p>Surveyor asked if the responsible party for Tenant 1 was notified of the assessment and provided any information related to the assessment. LPN C stated they felt the denial for admission/readmission was in Tenant 1's best interest due to needs changing.</p> <p>Surveyor reviewed the assessment completed by LPN C dated 10/27/2021. The form noted: "No Admission/Readmission recommended - Reason for not recommending admission:" was not completed. Other areas on the assessment were documented as the same as prior to 10/11/2021. LPN C informed Surveyor that [Responsible Party B] was then called and told Tenant 1 required a higher level of care, possibly a CBRF or a memory care facility.</p> <p>On 11/08/2021, at 11:01 AM, Surveyor interviewed Responsible Party B regarding the assessment and notification. Responsible Party</p>	U 232		

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U 232	<p>Continued From page 11</p> <p>B stated s/he was not told about the purpose for the 10/12/2021 meeting and had no idea that Tenant 1's needs changed. Responsible Party B stated since the rehabilitation facility was ready to discharge Tenant 1 on 10/28/2021 and the RCAC would not take Tenant 1 back they had to pay privately to keep Tenant 1 at rehabilitation facility. They were not given any notice of the impending discharge from the RCAC. Responsible Party B stated Administrator A informed them that if services were arranged for 24/7 contracted care, Tenant 1 could return.</p> <p>On 11/08/2021, at 11:30 AM, Surveyor interviewed Administrator A regarding the assessment process, verbal notice then written notice. Administrator A stated the rehabilitation facility did initially notify Tenant 1's responsible party that Tenant 1 could not return. LPN C then called [Responsible Party B]. Administrator A stated they wanted to ensure they followed DHS 89 codes on the discharge and sent the written notice on 11/02/2021. As of 11/08/2021, Tenant 1 did not return to Pro Health Regency Senior Community New Berlin. Tenant 1 remained at the rehabilitation facility with Responsible Party B awaiting admission to a different facility.</p> <p>Cross Reference NO169 DHS 89.26(3)(c)1. Participate in the Assessment</p>	U 232		