



AGENCY OF HUMAN SERVICES
DEPARTMENT OF DISABILITIES, AGING AND INDEPENDENT LIVING

Division of Licensing and Protection

HC 2 South, 280 State Drive
Waterbury, VT 05671-2060

<http://www.dail.vermont.gov>

Survey and Certification Voice/TTY: (802) 241-0480
Survey and Certification Reporting Line (888) 700-5330
To Report Adult Abuse: (800) 564-1612

October 17, 2023

Ms. Opal Dacosta, Administrator
Berlin Health & Rehab Ctr
98 Hospitality Drive
Barre, VT 05641-5360

RE: Complaint Survey Findings - Past Non-Compliance

Dear Ms. Dacosta:

On **October 9, 2023**, the Division of Licensing and Protection completed a complaint investigation at Berlin Health & Rehab Ctr. As a result of that survey, the Division determined that at a point in time prior to the date of our visit you were not in substantial compliance with the federal regulations applicable to long-term care facilities.

Statement of Deficiencies Form CMS 2567

Enclosed is a statement of deficiency generated as a result of the survey. All references to regulatory requirements in the enclosure and in this letter are found in Title 42, Code of Federal Regulations. As the cited deficiency was corrected at the time of our visit, no plan of correction is required. Please **sign page 1 and return a signed copy of the 2567 to this office.**

Informal Dispute Resolution

In accordance with §488.331, you have one opportunity to question cited deficiencies through an informal dispute process. To be given such an opportunity, 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 Suzanne Leavitt RN, MS, Assistant Division Director, Division of Licensing and Protection. **This written request must be received by this office by October 29, 2023.**

Per the CMS State Operations Manual, facilities may not use the informal dispute resolution process to delay the formal imposition of remedies or to challenge any other aspect of the survey process, including the:

- Scope and severity assessments of deficiencies, with the exception of scope and severity assessments that constitute substandard quality of care or immediate jeopardy;
- Remedy(ies) imposed by the enforcing agency;
- Alleged failure of the survey team to comply with a requirement of the survey process;
- Alleged inconsistency of the survey team in citing deficiencies among facilities;
- Alleged inadequacy or inaccuracy of the informal dispute resolution process.

Sincerely,



Pamela M. Cota, RN
Licensing Chief

Enclosure

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

PRINTED: 10/17/2023
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 475020	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 10/09/2023
NAME OF PROVIDER OR SUPPLIER BERLIN HEALTH & REHAB CTR			STREET ADDRESS, CITY, STATE, ZIP CODE 98 HOSPITALITY DRIVE BARRE, VT 05641		
(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	F 000			
F 600 SS=D	<p>The Division of Licensing and Protection conducted an unannounced, on-site investigation of complaint #22156 & 22171 on 10/09/2023, to determine if the facility was in compliance with 42 CFR Part 483, Requirements for Long Term Care Facilities. The following regulatory violation was identified as a result; however, the facility completed corrective actions prior to the onsite survey, thus making this past non-compliance.</p> <p>Free from Abuse and Neglect CFR(s): 483.12(a)(1)</p> <p>§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.</p> <p>§483.12(a) The facility must-</p> <p>§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 staff interviews and record review, the facility failed to ensure 1 of 2 applicable residents (Resident #2) was free from abuse. Findings include: Per record review and confirmed via interview, a Registered Nurse (RN) physically abused Resident #2 on 08/14/23. Per review of the</p>	F 600	Past noncompliance: no plan of correction required.		

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

TITLE

(X6) DATE

[Signature]

LNHA

10/17/23

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that 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	<p>Continued From page 1</p> <p>facility's own investigation and confirmed by witness statements, an RN removed Resident #2 from the dining room when the resident became agitated during lunch. The RN wheeled the resident in their wheelchair back to their room and RN was observed by staff to be holding the resident's arms down. A skin assessment later conducted on Resident #2, by the Nurse Practitioner found bruising consistent with fingerprints on both arms.</p> <p>Based on corrective actions completed prior to the onsite, this citation is designated as past non-compliance. The following actions were completed by the facility:</p> <ol style="list-style-type: none"> 1. A report was made to The Agency as required on 08/15/23 and notification was made to Adult Protective Services (APS) on 08/15/23. 2. The Registered Nurse (RN) involved, was immediately suspended, and then terminated 08/25/23. 3. A report was made to the local police department on 08/15/23. 4. A report was made to the Board of Nursing (BON) on 8/21/2023. 5. Education regarding abuse prohibition and abuse reporting was provided to all staff during 2 weeks in August 2023, and staff were required to complete the education before working their next shift. 6. An analysis of the incident was discussed by the quality team (QAPI) on 09/21/23. 	F 600			

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F 600	Continued From page 2 7. The facility initiated their Partner Program questionnaire to random residents asking, "Do you feel safe?" The Partner Program is a program in which staff members partner with residents to ask them a variety of questions about their care including, "Do you feel safe?"	F 600		