

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

PRINTED: 11/03/2021  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>495143</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____  B. WING _____	(X3) DATE SURVEY COMPLETED  <b>C</b> <b>09/14/2021</b>
NAME OF PROVIDER OR SUPPLIER  <b>MARTINSVILLE HEALTH AND REHAB</b>			STREET ADDRESS, CITY, STATE, ZIP CODE <b>1607 SPRUCE STREET</b> <b>MARTINSVILLE, VA 24112</b>	
(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	<b>INITIAL COMMENTS</b>  An unannounced Medicare/Medicaid abbreviated survey was conducted 09/13/21 through 09/14/21. Corrections are required for compliance with 42 CFR Part 483 Federal Long Term Care requirements. Five complaints were investigated during the survey (VA00053089-S, VA00052963-U, VA00051580-U, VA00051582-S, and VA00051217-U) The Life Safety Code survey/report will follow.  The census in this 138 certified bed facility was 85 at the time of the survey. The survey sample consisted of 4 current Resident reviews and 2 closed record reviews.	F 000		
F 583 SS=D	Personal Privacy/Confidentiality of Records CFR(s): 483.10(h)(1)-(3)(i)(ii)  §483.10(h) Privacy and Confidentiality. The resident has a right to personal privacy and confidentiality of his or her personal and medical records.  §483.10(h)(1) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room for each resident.  §483.10(h)(2) The facility must respect the residents right to personal privacy, including the right to privacy in his or her oral (that is, spoken), written, and electronic communications, including the right to send and promptly receive unopened mail and other letters, packages and other materials delivered to the facility for the resident, including those delivered through a means other	F 583		9/24/21

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

TITLE

(X6) DATE

Electronically Signed

10/21/2021

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 583	<p>Continued From page 1 than a postal service.</p> <p>§483.10(h)(3) The resident has a right to secure and confidential personal and medical records. (i) The resident has the right to refuse the release of personal and medical records except as provided at §483.70(i)(2) or other applicable federal or state laws. (ii) The facility must allow representatives of the Office of the State Long-Term Care Ombudsman to examine a resident's medical, social, and administrative records in accordance with State law. This REQUIREMENT is not met as evidenced by: Based on resident interview, staff interview, facility document review and in the course of a complaint investigation, the facility staff failed to protect a residents personal privacy for 1 of 6 residents, Resident #1.</p> <p>The findings included:</p> <p>Resident #1's diagnoses included but were not limited to, chronic obstructive pulmonary disease, chronic and acute respiratory failure, altered mental status, dementia, type II diabetes mellitus, depression, anxiety, and psychosis.</p> <p>Resident #1's most recent quarterly MDS (minimum data set) with an ARD (assessment reference date) of 07/22/21 assigned the resident a BIMS (brief interview for mental status) score of 13 out of 15. This indicated the resident was cognitively intact.</p> <p>Resident #1 was interviewed on 09/14/21 at 9:00 a.m. and asked if they recalled an incident where a CNA (certified nurse's aide) took a picture</p>	F 583	<p>Disclaimer: This plan of correction is being submitted in compliance with specific regulatory requirements and preparation and/or execution of this plan of correction does not constitute admission or agreement by the provider of the facts alleged or conclusions set forth on the statement of deficiencies.</p> <p>1. The picture alleged in the complaint was not able to be located. The aide who took the picture of the resident's brief stated she deleted it from her phone. No additional complaints were voiced by the resident during the interview.</p> <p>2. All residents have the potential to be affected by this alleged deficient practice. Audits were completed during Carekeeper rounds to identify any potential resident rights violations.</p> <p>3. Staff re-education was provided by the</p>	

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F 583	<p>Continued From page 2</p> <p>without their permission. Resident #1 stated "Yeah, I remember. It happened pretty quick, she came in and changed me, we were arguing, she said I turned the light on too much. She was cleaning me and took her camera out." Resident #1 was asked if they knew who the CNA was, and the resident stated, "Don't know her name, don't remember her name. They made a report about it." Resident #1 was asked if it bothered them that the CNA had taken a picture, and Resident #1 stated, "I know it wasn't right. I told her she was going to get in trouble." Resident #1 was asked if they had told anyone, and Resident #1 stated, "I didn't tell anybody, the girl did. She was bragging to other CNAs, or at least that's what I heard."</p> <p>The UM (unit manager) #1 was interviewed on 09/14/21 at 9:25 a.m. UM #1 was asked if they knew anything about a CNA taking a picture of Resident #1. UM #1 stated, "... (Resident #1) is on south unit. I remember an accusation, but don't know what really happened. The resident told the therapist, I think. Therapist wrote a statement and gave it to me, I gave it to my boss. I sat in on interviews with staff member." UM #1 was asked if they knew if the allegations had been reported, and UM #1 stated they did not.</p> <p>The COTA (certified occupational therapy assistant) was interviewed on 09/14/21 at 9:40 am. The COTA if they recalled an incident where a CNA took a picture of a resident, and the COTA stated, "I was in the hallway and a CNA stepped out of (Resident #1's) room and said 'Look at this' and she held up her phone and 'Does this look wet?' I guess she was referring to the brief. I wasn't sure what I was looking at. I felt I should report it." The COTA was asked who they reported it to, and COTA stated, "The director of</p>	F 583	<p>DON or designee related to resident rights, abuse/neglect, and the facility social media policy.</p> <p>4. Audits for resident rights violations will be completed weekly x4 weeks. The Administrator will submit the audit results to the Quality Assurance and Performance Improvement Committee. The Administrator is responsible for monitoring and follow-up.</p> <p>5. AOC 9/24/21</p>	

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F 583	<p>Continued From page 3</p> <p>rehab, and we went and reported to (UM #2 name)... (UM #2) later came and asked me to write a written statement, which I did."</p> <p>UM #2 was interviewed on 09/14/21 at 10:30 a.m. UM #2 was asked if they knew anything about incident and UM #2 stated, "... (COTA name) told us that ... (Resident #1) said a CNA had taken a picture of them. We took statements from the resident and their roommate, and COTA. We gathered that the picture was taken of a brief, not of brief on the resident."</p> <p>The CNA involved in the incident was unavailable for interview.</p> <p>The Director of Nursing provided the facility investigation of the incident, which contained a facility reported incident form provided to the State Agency dated 04/14/21. This form indicated that the resident's responsible party, physician, adult protective services, Department of Health Professions and law enforcement had all been notified on 04/14/21. The facility investigation also contained a 5 day final investigation report from the facility which read in part, "Upon investigation of the allegations submitted it was determined to be unsubstantiated...Statements were obtained and it was determined that there was no picture taken that contained any identifying markers nor was it of a resident body parts...The staff directly involved in the accusation have been given education and counseling regarding HIPAA (health insurance portability and accountability act) and electronic device usage in the facility."</p> <p>The facility investigation contained a written statement from Resident #1, which read in part "...3rd shift aide took off my diaper and took a</p>	F 583		

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F 583	<p>Continued From page 4</p> <p>picture of it and said it wasn't even wet. She took the picture down the hall to show co-workers. I heard her say 'Look at this, she ain't even wet'. I think her name is...She took the picture with the diaper in her hand."</p> <p>The written statement from Resident #2 (roommate), written by UM #2, read in part, "... (CNA name) came in and told (Resident #1) she wasn't wet. The diaper was laying on the bed and the CNA took picture of the diaper." (Resident #2) said she held the diaper up and took it out of the room to show the nurse. (Resident #2) then stated 'I told (Resident #1) it was wrong.'"</p> <p>The written statement from the CNA read in part, "I, (name), had just changed (Resident #1), she kept saying she needed to be dried. So to prove to the nurse and a therapy I took a picture with my phone of the diaper just to prove to them that (Resident #1) wasn't wet. I did delete the picture from my phone."</p> <p>The written statement from COTA read in part, "On Thursday, April 8, 2021 at about 3:30-3:45, I was in the hallway walking toward the therapy gym on South wing. A CNA stepped out of (Resident #2 and Resident #1) room and approached me. She asked me to look at her phone. When she held it up, she scrolled down some photos and clicked on one. She said 'look at this. Do you see anything?' I asked her 'what?' She said 'do you see anything there?' and she was pointing to a picture of someone's anatomy." There was a separate written statement by COTA clarifying what they meant by "anatomy", which read in part "When looking at the picture, I saw a diaper brief, skin and hair. I could not tell if the picture was a Caucasian or African American</p>	F 583		

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F 583	<p>Continued From page 5</p> <p>person. I assumed they photo was of the genital or anal area of the person. I only glanced at the picture and looked away."</p> <p>The facility investigation also contained "Employee Education" form regarding HIPAA and electronic device policy signed by the CNA and in-service forms regarding electronic devices and social media signed by all other facility employees.</p> <p>The concern of the facility failing to protect the resident's personal privacy discussed with the administrator, director of nursing and unit manager on 09/14/21 at 1:30 pm. No further information was provided prior to exit.</p>	F 583			