

New Jersey Department of Health

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 062016	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	(X3) DATE SURVEY COMPLETED 11/15/2022
NAME OF PROVIDER OR SUPPLIER AUTUMN LAKE HEALTHCARE AT BERKELEY I		STREET ADDRESS, CITY, STATE, ZIP CODE 35 COTTAGE STREET BERKELEY HEIGHTS, NJ 07922		
(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
S 560	<p>8:39-5.1(a) Mandatory Access to Care</p> <p>(a) The facility shall comply with applicable Federal, State, and local laws, rules, and regulations.</p> <p>This REQUIREMENT is not met as evidenced by: Based on interviews, and review of pertinent facility documentation, it was determined that the facility failed to train the two (2) appointed designated staff members and the facility staff within the required time frames for the LGBTQI+ (Lesbian, Gay, Bisexual, Transgender, Queer/questioning [one's sexual or gender identity], Intersex [person is born with a combination of male and female biological traits] positive) and HIV+ (Human Immunodeficiency Virus [a virus that attacks cells that help the body fight infection] positive) program. This deficient practice was evidenced by the following:</p> <p>Findings include:</p> <p>Reference: New Jersey Department of Health (NJDOH) memo, dated 04/19/22, "Statutory Amendments Regarding the Rights of LGBTQI+ and HIV+ Residents of Long-Term Care Facilities Pursuant to N.J.S.A. 26:2H-12.101-10 7." The memorandum concerned the rights of LGBTQI+ and HIV+ residents of long-term care facilities; N.J.S.A. 26:2G-12, 101-107 ("LGBTQI+ Law"), and a facility's responsibilities under the LGBTQI+ Law. The LGBTQI+ Law was signed on March 3, 2021 and took effect on August 30, 2021. The requirements of the LGBTQI+ Law will be included in N.J.A.C 8:39 in future rulemaking.</p>	S 560	<p>CORRECTIVE ACTION: On 11/3/22. Regional Administrator in serviced the Facility Administrator on the deficient practice on training 2 appointed designated staff members and the facility staff within the required time frames of the LGBTQI+(Lesbians, Gay, Bisexual Transgender, Queer, Intersex) and HIV (Human Immunodeficiency virus). On 11/9/22, the facility registered 2 facility staff, the Director of Human Resources, and a Registered Nurse for the LGBTQI Designated Representative course with the New Jersey Hospital Association. On 11/16/22. The first online portion of the LGBTQI+ Designated Representative training was completed. The second portion of the Webinar topic: LGBTQI + Residents Rights Designated Representative Live Training was completed on 12/2/22. IDENTIFICATION OF THE RESIDENTS AT RISK: All residents in the LGBTQI + and HIV population may potentially be at risk for the deficient practice. This can be identified by reviewing the residents Medical.</p> <p>SYSTEMIC CHANGE: On 11/16/22. The first online portion of the LGBTQI+ Designated Representative training was</p>	12/16/22

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

TITLE

(X6) DATE

Electronically Signed

11/24/22

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S 560	<p>Continued From page 1</p> <p>Specifically, the LGBTQI+ Law establishes specific rights and protections for lesbian, gay, bisexual, transgender, undesignated/non-binary, questioning, queer, and intersex ("LGBTQI+") older adults and people living with HIV ("HIV+") in long-term care facilities ("Facilities").</p> <p>The LGBTQI+ Law ensures that LGBTQI+ and HIV+ residents in facilities have equitable access to health care and provides the same legal protections as everyone else regardless of their sexual orientation or health status.</p> <p>Prohibited Actions The LGBTQI+ Law prohibits facilities from taking any of the following actions based on a person's sexual orientation, gender identity, gender expression, intersex status, or HIV status:</p> <ol style="list-style-type: none"> 1. Denying admission to a facility, transferring or refusing to transfer a resident within a facility or to another facility, or discharging, or evicting a resident from a facility; 2. Denying a request by residents to share a room; 3. Where rooms are assigned by gender, assigning or reassigning a room based on gender, subject to the provisions of 42 C.F.R. 483.10 (e) (5); 4. Forbidding a resident from, or harassing a resident who seeks to use or does use, a restroom available to other residents of the same gender identity, regardless of whether the resident is making a gender transition, has taken or is taking hormones, has undergone gender affirmation surgery, or presents as 	S 560	<p>completed. The second portion of the Webinar topic: LGBTQI + Residents Rights Designated Representative Live Training was completed on 12/2/22.</p> <p>QUALITY ASSURANCE: The Administrator will ensure there are 2 facility staff always trained on the LGBTQI+ Designated Representative training. The Administrator will do a random audit of 16 staff members for completion of the LGBTQI+ and HIV in services weekly X 1 month, then bi-weekly monthly X 3, then monthly x 2 months to ensure that compliance is met. Any issues will be addressed immediately and reported to the Quality Assurance Committee/QAPI quarterly for 6 months or until compliance is met.</p>	

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S 560	<p>Continued From page 2</p> <p>gender-nonconforming. For the purposes of this paragraph, harassment includes, but is not limited to, requiring a resident to show identity documents in order to gain entrance to a restroom available to other persons of the same gender identity;</p> <p>5. Repeatedly failing to use a resident's chosen pronouns or the name the resident chooses to be called, despite being clearly informed of the resident's choice;</p> <p>6. Denying a resident from wearing preferred clothing, accessories, or cosmetics, or participating in grooming practices;</p> <p>7. Restricting a resident's right to visit and have conversations with other resident's or with visitors including the right to have consensual sexual relations;</p> <p>8. Denying, restricting, or providing unequal medical or non-medical care, which is appropriate to the resident's bodily needs and organs, or providing medical or nonmedical care that, to a similarly-situated resident, causes avoidable discomfort or unfairly demeans the resident's dignity; and</p> <p>9. Declining to provide any service, care, or reasonable accommodation requested by the resident, subject to the provisions of 42 C.F.R. 483.10(c)(6).</p> <p>Resident Records Additionally, facilities are required to ensure that resident records include the resident's gender identity and the resident's chosen name and pronouns, as indicated by the resident.</p>	S 560		

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S 560	<p>Continued From page 3</p> <p>Confidentiality The LGBTQI+ Law also requires facilities to maintain the confidentiality of certain resident information. Unless required by state or federal law, personal identifying information regarding a resident's sexual orientation, whether a resident is transgender or undesignated/non-binary, a resident's gender transition status, a resident's intersex status, or a resident's HIV status shall not be disclosed.</p> <p>Further, facilities are required to take appropriate steps to minimize the likelihood of inadvertent or accidental disclosure of such information to other residents, visitors, or facility staff, except to the minimum extent necessary for facility staff to perform their duties.</p> <p>Unless expressly authorized, facility staff not directly involved in providing direct care to a transgender, undesignated/non-binary, intersex, or gender-nonconforming resident, shall not be present during a physical examination of, or the provision of personal care to, that resident if the resident is partially or fully unclothed. Doors, curtains, screens, or other effective visual barriers to providing bodily privacy, when partially or fully unclothed, shall be used. Informed consent is required in relation to any non-therapeutic examination or observation of, or treatment provided to, a resident of the facility.</p> <p>Facilities shall also provide transgender residents with access to transition-related assessments, therapy, and treatments as having been recommended by the resident's health care provider, including, but not limited to, transgender-related medical care, including</p>	S 560		

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S 560	<p>Continued From page 4</p> <p>hormone therapy and supportive counseling.</p> <p>Violations A facility or an employee of a facility that violates the requirements of the LGBTQI+ Law is subject to civil or administrative action.</p> <p>Training Facilities shall designate two employees, including one employee representing management at the facility and one employee representing direct care staff at the facility, to receive in-person training within six months after the effective date of the LGBTQI+ Law. The required training shall be provided by an entity that has demonstrated expertise in identifying the legal, social, and medical challenges faced by, and in creating safe and affirming environments for LGBTQI+ and HIV+ seniors who reside in long-term care facilities in New Jersey.</p> <p>The required training shall address:</p> <ol style="list-style-type: none"> 1. Caring for LGBTQI+ seniors and seniors living with HIV; 2. Preventing discrimination based on sexual orientation, gender identity or expression of intersex status, and HIV status; 3. The definition of terms commonly associated with sexual orientation, gender identity and expression, intersex status, and HIV; 4. Best practices for communicating with or about LGBTQI+ and HIV+ seniors, including the use of a resident's chosen name and pronouns; 5. A description of the health and social challenges historically experienced by LGBTQI+ 	S 560		

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S 560	<p>Continued From page 5</p> <p>and HIV+ seniors, including discrimination when seeking or receiving care at long-term care facilities, and the demonstrated physical and mental health effects within the LGBTQ community;</p> <p>6. Strategies to create a safe and affirming environment for LGBTQI+ and HIV+ seniors, including suggested changes to facility policies and procedures, forms, signage, communication between residents and their families, activities, and staff training and in-services; and</p> <p>7. An overview of the provisions of LGBTQI+ Law.</p> <p>Facilities are responsible for maintaining records documenting the completion of the training, as well as the cost of providing the training.</p> <p>During an interview with the surveyor on 11/3/2022 at 1:20 PM, the Regional Registered Nurse (RRN) stated that there was no proof of 2 employees receiving the LGBTQI+ training (which included the 1 staff member representing administration and 1 staff member representing direct care staff), as required by state law.</p> <p>A review of the facility's Non-Discrimination policy, revised in October 2022, revealed "Our facility operates and provides services in compliance with all applicable federal, state, and local laws, regulations, and codes, including those pertaining to non-discrimination. Applicable non-discrimination laws include; h. LGBTQI+ Senior Bills of Rights of 2021."</p> <p>NJAC 8:39-5.1(a)</p>	S 560			

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STATE FORM: REVISIT REPORT

PROVIDER / SUPPLIER / CLIA / IDENTIFICATION NUMBER 062016	MULTIPLE CONSTRUCTION A. Building B. Wing	DATE OF REVISIT 2/7/2023
NAME OF FACILITY AUTUMN LAKE HEALTHCARE AT BERKELEY HEIGHTS	STREET ADDRESS, CITY, STATE, ZIP CODE 35 COTTAGE STREET BERKELEY HEIGHTS, NJ 07922	

This report is completed by a State surveyor to show those deficiencies previously reported that have been corrected and the date such corrective action was accomplished. Each deficiency should be fully identified using either the regulation or LSC provision number and the identification prefix code previously shown on the State Survey Report (prefix codes shown to the left of each requirement on the survey report form).

ITEM Y4	DATE Y5	ITEM Y4	DATE Y5	ITEM Y4	DATE Y5
ID Prefix S0560	Correction	ID Prefix	Correction	ID Prefix	Correction
Reg. # 8:39-5.1(a)	Completed	Reg. #	Completed	Reg. #	Completed
LSC	12/16/2022	LSC		LSC	
ID Prefix	Correction	ID Prefix	Correction	ID Prefix	Correction
Reg. #	Completed	Reg. #	Completed	Reg. #	Completed
LSC		LSC		LSC	
ID Prefix	Correction	ID Prefix	Correction	ID Prefix	Correction
Reg. #	Completed	Reg. #	Completed	Reg. #	Completed
LSC		LSC		LSC	
ID Prefix	Correction	ID Prefix	Correction	ID Prefix	Correction
Reg. #	Completed	Reg. #	Completed	Reg. #	Completed
LSC		LSC		LSC	
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Reg. #	Completed	Reg. #	Completed	Reg. #	Completed
LSC		LSC		LSC	
ID Prefix	Correction	ID Prefix	Correction	ID Prefix	Correction
Reg. #	Completed	Reg. #	Completed	Reg. #	Completed
LSC		LSC		LSC	
REVIEWED BY STATE AGENCY <input type="checkbox"/>	REVIEWED BY (INITIALS)	DATE	SIGNATURE OF SURVEYOR		DATE
REVIEWED BY CMS RO <input type="checkbox"/>	REVIEWED BY (INITIALS)	DATE	TITLE		DATE
FOLLOWUP TO SURVEY COMPLETED ON 11/15/2022		<input type="checkbox"/> CHECK FOR ANY UNCORRECTED DEFICIENCIES. WAS A SUMMARY OF UNCORRECTED DEFICIENCIES (CMS-2567) SENT TO THE FACILITY? <input type="checkbox"/> YES <input type="checkbox"/> NO			