

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

PRINTED: 05/11/2023  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>345577</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____  B. WING _____		(X3) DATE SURVEY COMPLETED  <b>04/13/2023</b>
NAME OF PROVIDER OR SUPPLIER  <b>SWIFT CREEK HEALTH CENTER</b>			STREET ADDRESS, CITY, STATE, ZIP CODE <b>221 BRIGHTMORE DRIVE CARY, NC 27511</b>		
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E 000	Initial Comments	E 000			
F 000	INITIAL COMMENTS	F 000			
F 578 SS=D	Request/Refuse/Dscntnue Trmnt;Formlte Adv Dir CFR(s): 483.10(c)(6)(8)(g)(12)(i)-(v)  §483.10(c)(6) The right to request, refuse, and/or discontinue treatment, to participate in or refuse to participate in experimental research, and to formulate an advance directive.  §483.10(c)(8) Nothing in this paragraph should be construed as the right of the resident to receive the provision of medical treatment or medical services deemed medically unnecessary or inappropriate.  §483.10(g)(12) The facility must comply with the requirements specified in 42 CFR part 489, subpart I (Advance Directives). (i) These requirements include provisions to inform and provide written information to all adult residents concerning the right to accept or refuse medical or surgical treatment and, at the resident's option, formulate an advance directive. (ii) This includes a written description of the facility's policies to implement advance directives and applicable State law. (iii) Facilities are permitted to contract with other entities to furnish this information but are still	F 578		4/28/23	

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

TITLE

(X6) DATE

Electronically Signed

04/28/2023

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 578	<p>Continued From page 1</p> <p>legally responsible for ensuring that the requirements of this section are met.</p> <p>(iv) If an adult individual is incapacitated at the time of admission and is unable to receive information or articulate whether or not he or she has executed an advance directive, the facility may give advance directive information to the individual's resident representative in accordance with State law.</p> <p>(v) The facility is not relieved of its obligation to provide this information to the individual once he or she is able to receive such information. Follow-up procedures must be in place to provide the information to the individual directly at the appropriate time.</p> <p>This REQUIREMENT is not met as evidenced by:</p> <p>Based on records reviews, resident interview and staff interviews, the facility failed to have Advance Directives(AD) in the residents' records for 3 of 7 sampled residents. (Resident #10, Resident #14 and Resident # 125).</p> <p>Findings included:</p> <p>1. Resident #10 was admitted to the facility on 03/20/2023.</p> <p>Quarterly Minimum Data Set (MDS) dated 03/21/2023 indicated Resident#10's cognition was intact.</p> <p>Review of the computerized clinical record for Resident #10 revealed no advanced directive noted in the resident's medical record.</p> <p>A review of the form "Advance Directive" dated 03/17/2023 reviewed in Resident#10's clinical</p>	F 578	<p>The statements made on this Plan of Correction are not an admission to and do not constitute an agreement with the alleged deficiencies. To remain in compliance with all Federal and State Regulations the facility has taken or will take the actions set forth in this Plan of Correction. The Plan of Correction constitutes the facility's allegation of compliance such that all alleged deficiencies cited have been or will be corrected by the date or dates indicated.</p> <p>F578</p> <p>For the residents involved, corrective action has been accomplished by: Resident #10 was contacted by the Admission Coordinator and refused to provide an Advanced Directive and declined resources. Resident #10 was discharged as planned from the facility on 4/13/2023. The Responsible Parties for</p>		

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F 578	<p>Continued From page 2</p> <p>record did not indicate if the resident wanted to formulate an advance directive or refused.</p> <p>During the interview with Residen t#10 on 04/11/2023 at 11:30 AM, the resident indicated she did not recall signing an Advance Directive form during the admission. Resident#10 indicated she was admitted at the facility for a short-term stay.</p> <p>During the interview with Director of Nursing (DON) on 04/12/2023 at 01:04 PM, she stated that the Admission's Coordinator reviews the advance directive forms with the residents or responsible party during the admission to the facility. The DON further indicated she did not find the advance directive in Resident #10's medical record and there was no documentation found that stated the resident refused. She added that the expectation was that the advanced directive should have been scanned in Resident #10's computerized clinical record or a note indicating the resident's refusal to formulate an advance directive.</p> <p>During the interview with Admission Coordinator on 04/12/23 at 02:42 PM, she stated after the residents were admitted and they need to implement an advance directive, she would give a form from the admission packet that indicated how to formulate an advance directive. She added most of the families did not bring the advance directives form back to the facility. The Admission Coordinator indicated moving forward she would document in the resident's record if the family refused to bring back the advance directives form.</p> <p>During the interview with the Administrator on</p>	F 578	<p>Resident #126 and Resident # 14 were contacted by the Admission Coordinator to assist to provide information to formulate an Advanced Directive. Resident #126's Responsible Party provided the Advanced Directive information and it was uploaded into Resident #126's medical record. Resident #14's Responsible Party was contacted by the Admissions Coordinator and an Advanced Directive was provided to the facility and uploaded in Resident #14's medical record. All of the corrections were completed by April 13, 2023.</p> <p>Corrective action has been accomplished on all residents with the potential to be affected by the alleged deficient practice by:</p> <p>An audit of the Advanced Directives in the medical record of current residents was completed by the Administrator and Admissions Coordinator</p> <p>Alert and oriented residents that did not have an Advanced Directive were contacted by the Admissions Coordinator and those that had an Advanced Directive provided it to the facility and the documents were uploaded in the medical record. Information was provided by the facility to those residents/responsible parties that needed information regarding Advance Directives. Follow-up contacts will be made by Admission Coordinator for those that were provided information as part of the admission process.</p> <p>Residents' Responsible Parties were contacted by the Admission Coordinator for those residents identified that did not have an Advanced Directive and could not</p>		

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F 578	<p>Continued From page 3</p> <p>04/13/2023 at 10:30 AM, she stated the advanced directives should have been in Resident #10's clinical record or a note indicating refusal. The Administrator further stated the AC would ensure the residents' advanced directives were placed in the medical records if a resident had formulated one.</p> <p>2. Resident #14 was admitted to the facility on 03/20/2023.</p> <p>Quarterly Minimum Data Set (MDS) dated 03/16/2023 indicated Resident #14's cognition was moderately impaired.</p> <p>Review of the computerized clinical record for Resident #14 revealed no advanced directive noted in the resident's medical record.</p> <p>A review of the form "Advance Directive" dated 02/13/2023 reviewed in Resident#14's clinical record did not indicate if the resident wanted to formulate an advance directive or refused.</p> <p>During the interview with Director of Nursing (DON) on 04/12/2023 at 01:04 PM, she stated that the Admission's Coordinator reviews the advance directive forms with the residents or responsible party during the admission to the facility. The DON further indicated she did not find the advance directive in Resident #14's medical record and there was no documentation found that stated the resident refused. She added that the expectation was that the advanced directive should have been scanned in Resident #14's computerized clinical record or a note indicating the resident's refusal to formulate an advance directive.</p>	F 578	<p>articulate due to cognition impairments that they have executed an Advanced Directive. The Responsible Parties provided Advanced Directive information and it was uploaded in the medical record for those residents. Information was provided by the facility to those residents/responsible parties that needed information regarding Advance Directives. Follow-up contacts will be made by Admission Coordinator for those that were provided information. (Exhibit 1)</p> <p>Measures put in place or systematic changes made to ensure the alleged deficient practice does not occur: The Vice-President of Sales and Marketing provided education to the Admission team regarding the requirement for provision to inform and provide written information to residents and responsible parties concerning the right to formulate an Advanced Directive or to refuse an Advanced Directive. The information also included to follow up with the resident and/or responsible party regarding the Advanced Directive decisions to ensure the Advanced Directive or refusal of formulating an Advanced Directive is part of the resident's medical record. (Exhibit 2)</p> <p>The facility has implemented a Quality Assurance Monitor: The Administrator/designee will monitor to ensure residents /responsible parties have been provided information to assist</p>		

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F 578	<p>Continued From page 4</p> <p>During the interview with Admission Coordinator on 04/12/23 at 02:42 PM, she stated after the residents were admitted and they need to implement an advance directive, she would give a form from the admission packet that indicated how to formulate an advance directive. She added most of the time the family did not bring the advance directives form back to the facility. The Admission Coordinator indicated moving forward she would document in the resident's record if the family refused to bring back the advance directives form.</p> <p>During the interview with the Administrator on 04/13/2023 at 10:30 AM, she stated the advanced directives should have been in Resident #14's clinical record or a note indicating refusal. The Administrator further stated the AC would ensure the residents' advanced directives were placed in the medical records if a resident had formulated one.</p> <p>3. Resident #126 was admitted to the facility on 10/05/2022.</p> <p>The quarterly Minimum Data Set (MDS) dated 01/11/2023 had Resident #126 coded as cognitively intact.</p> <p>The care plan dated 03/14/2023 had focus of being admitted as Do Not Resuscitate (DNR).</p> <p>An interview with Resident #126 was conducted on 04/11/2023 at 10:17 AM. The resident stated she had a DNR order but did not recall being asked about an advanced directive when she was</p>	F 578	<p>in formulating an Advanced Directive and to ensure assistance with information was offered as indicated. In addition, any refusal to provide an Advanced Directive will be part of the medical record and monitored as a part of the QA Tool. The monitoring will be done weekly for 3 months to ensure compliance and the findings will be reported in the monthly QAPI meetings. Any area identified needing improvement will be addressed with corrections and results at the monthly at QAPI meeting to QAA committee, and any adjustments to the plan of correction will be initiated based on review/outcomes. (Exhibit 3)</p>		

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F 578	Continued From page 5 admitted.  An interview with the Admission Coordinator was conducted on 04/11/23 at 3:14 PM. The Admission Coordinator stated she was taught an advanced directive was a DNR and was not aware there was more to an advanced directive.  An interview with the Administrator was conducted on 04/12/2023 at 10:52 AM. The Administrator stated when there was a new admission, residents or the Responsible Party (RP) for the resident were asked if they had an advanced directive. If they did, then they were asked to bring in the forms to be placed in the resident's chart. She reported residents and/or their RP didn't always bring in the forms.	F 578			
F 847 SS=E	Entering into Binding Arbitration Agreements CFR(s): 483.70(n)(2)(i)(ii)(3)-(5)  §483.70(n) Binding Arbitration Agreements If a facility chooses to ask a resident or his or her representative to enter into an agreement for binding arbitration, the facility must comply with all of the requirements in this section.  §483.70(n)(1) The facility must not require any resident or his or her representative to sign an agreement for binding arbitration as a condition of admission to, or as a requirement to continue to receive care at, the facility and must explicitly inform the resident or his or her representative of his or her right not to sign the agreement as a condition of admission to, or as a requirement to continue to receive care at, the facility.  §483.70(n)(2) The facility must ensure that: (i) The agreement is explained to the resident and	F 847		4/28/23	

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F 847	<p>Continued From page 6</p> <p>his or her representative in a form and manner that he or she understands, including in a language the resident and his or her representative understands;</p> <p>(ii) The resident or his or her representative acknowledges that he or she understands the agreement;</p> <p>§483.70(n)(3) The agreement must explicitly grant the resident or his or her representative the right to rescind the agreement within 30 calendar days of signing it.</p> <p>§483.70(n) (4) The agreement must explicitly state that neither the resident nor his or her representative is required to sign an agreement for binding arbitration as a condition of admission to, or as a requirement to continue to receive care at, the facility.</p> <p>§483.70(n) (5) The agreement may not contain any language that prohibits or discourages the resident or anyone else from communicating with federal, state, or local officials, including but not limited to, federal and state surveyors, other federal or state health department employees, and representative of the Office of the State Long-Term Care Ombudsman, in accordance with §483.10(k).</p> <p>This REQUIREMENT is not met as evidenced by:</p> <p>Based on a review of the facility arbitration agreement and administrative staff interviews, the facility failed to provide an arbitration agreement that granted the resident or their representative the right to rescind the agreement within 30 days of signing it. This agreement was provided in the admission packet and signed during the admission process for all residents residing in the</p>	F 847	<p>The statements made on this Plan of Correction are not an admission to and do not constitute an agreement with the alleged deficiencies. To remain in compliance with all Federal and State Regulations the facility has taken or will take the actions set forth in this Plan of Correction. The Plan of Correction</p>		

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F 847	<p>Continued From page 7 facility.</p> <p>The findings included:</p> <p>A review of the facility arbitration agreement titled, "Resident and Facility Arbitration Agreement," was conducted. The Arbitration agreement stated, "the resident understand that he/ she has the right to revoke this arbitration Agreement by written notice delivered and received by facility withing fourteen (14) days of signing this arbitration Agreement." The arbitration agreement did not indicate that the resident or representative had the right to rescind the agreement in 30 days.</p> <p>An interview with the Admission Coordinator (AC) was conducted on 04/12/2023 at 02:27 PM. The AC stated the residents or resident representative are required to sign the arbitration agreements on admission. The agreements were explained in the language they understood and when a resident or residents' responsible party signs the agreement, it states they understood the agreement. The AC also stated she did not know the residents had 30 days to rescind the agreement.</p> <p>An interview was conducted with the Administrator on 04/13/2023 at 1:01 PM, She revealed that both she and the Admission Coordinator reviewed the arbitration agreement, and it did not indicate the resident or representative had the right to rescind the agreement in 30 days. The Administrator indicated she was not aware of the regulatory requirements of the resident or representative and had the right to rescind the agreement in 30 days. The Administrator indicated the Corporate</p>	F 847	<p>constitutes the facility's allegation of compliance such that all alleged deficiencies cited have been or will be corrected by the date or dates indicated.</p> <p>F847 For the residents involved, corrective action has been accomplished by: Current residents were identified to have the existing Arbitration Agreement in place. Liberty Senior Living Corporate team reviewed existing agreement and updated the arbitration agreement to meet the regulatory requirement of granting the resident or their responsible party the right to rescind the agreement within 30 days of signing the arbitration agreement. The Admissions Coordinator reviewed the updated arbitration agreement with current residents or residents' representatives and uploaded the updated agreement for those who chose to sign it into the resident's medical record. This was completed by April 13, 2023.</p> <p>Corrective action has been accomplished on all residents with the potential to be affected by the alleged deficient practice by: The Arbitration Agreement was updated by the Corporate Legal Counsel to grant the resident or representative the right to rescind the agreement within 30 calendar days of signing the agreement. This has been updated for all current residents who chose to sign it and will be utilized for all new admissions. This was completed by April 13, 2023. (Exhibit 1)</p>		



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F 847	Continued From page 8 will update the arbitration agreements to ensure that it indicates the resident or resident representative had the right to rescind the agreement in 30 days.	F 847	Measures put in place or systematic changes made to ensure the alleged deficient practice does not occur: The Vice-President of Sales and Marketing educated the Admissions Team regarding the changes in the updated facility arbitration agreement to grant the resident or representative the right to rescind the agreement within 30 calendar days. The updated Arbitration Agreement replaced the existing agreement and was added to the admission packet. (Exhibit 2) The facility has implemented a Quality Assurance Monitor: The administrator/designee will monitor arbitration agreements to ensure the correct arbitration Agreement is in place. Monitoring to be done weekly for 3 months to ensure the updated Arbitration Agreement is utilized and areas identified for needing improvement will be addressed with corrections and results presented monthly at QAPI meeting to QAA committee, and any adjustments will be initiated based on review/outcomes. (Exhibit 5)		