

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

PRINTED: 11/21/2022  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>345201</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____  B. WING _____		(X3) DATE SURVEY COMPLETED  <b>C</b> <b>11/02/2022</b>
NAME OF PROVIDER OR SUPPLIER  <b>PELICAN HEALTH AT CHARLOTTE</b>			STREET ADDRESS, CITY, STATE, ZIP CODE <b>2616 EAST 5TH STREET</b> <b>CHARLOTTE, NC 28204</b>		
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F 000	INITIAL COMMENTS  An onsite revisit and complaint investigation were conducted on 11/02/22. Tags F908, F925 and F812 were corrected as of 11/02/22. However, new tags were cited as a result of the complaint investigation survey that was conducted at the same time as the revisit. The facility is still out of compliance. Event ID E4WP11 NC00193556, NC00193873, NC00193973 were investigated. 8 of 9 allegations were unsubstantiated.	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)(l) 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 than a postal service.  §483.10(h)(3) The resident has a right to secure and confidential personal and medical records.	F 583		11/15/22	

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

TITLE

(X6) DATE

Electronically Signed

11/16/2022

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</p> <p>(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.</p> <p>(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.</p> <p>This REQUIREMENT is not met as evidenced by:</p> <p>Based on record review and staff and resident interviews and medical record review the facility failed to honor a resident's right to refuse to have his photograph taken for identification on his medical record for 1 of 1 resident reviewed for providing privacy and confidentiality. (Resident #2).</p> <p>Findings included:</p> <p>Resident #2 was admitted to the facility on 07/25/22.</p> <p>A review of the facility Admission Agreement dated 07/25/22 revealed in part that Resident #2 refused to sign any resident related signature areas which included SECTION 7. AUTHORIZATION FOR PHOTOGRAPHS: Name bracelets, Names on door. This section read in part that the Resident or Resident Sponsor authorized the facility to take any photographs of the Resident, which may be necessary for identification and/or medical purposes. The Resident or Resident Sponsor understands the right to privacy and photographs cannot be used for any other purpose without express written permission. A written notice may be provided to the facility activity director to withdraw from this</p>	F 583	<p>Resident #1 picture was removed from Point Click Care 11/2/2022 by the RN Consultant.</p> <p>All residents have the potential to be affected, therefore all residents in the facility were interviewed on 11/2/2022 by the Interdisciplinary Team to include Director of Nursing, RN Consultant, Business Office Director, Activity Director, Rehab Director, Medical Records Director, Nurse Managers and the MDS (Minimum Data Set) Coordinator interviewed all residents currently in the facility regarding if the approved of their photo being in Point Click Care. If a resident was unable to be interviewed, then the facility contacted the Responsible Party. If a resident and or the Responsible Party decline to have their photo in Point Click Care the photo was removed on 11/2/2022. Audit was completed on 11/2/2022.</p> <p>Effective 11/2/2022 the nurse management team re-educated all nursing staff to include agency personnel that if a resident declined to have a photo taken, they were not to take their photo and if a resident and or responsible party</p>		

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F 583	<p>Continued From page 2</p> <p>agreement provision. The Admission Agreement dated 07/25/22 revealed the Admission Agreement was reviewed by Resident #2 with the Admission Director and the Regional Director of Clinical Services (RDCS) and Resident # 2 refused to sign the agreement and the refusal was witnessed and signed by the Admission Director and RDCS on 07/25/22.</p> <p>Review of comprehensive admission Minimum Data Set (MDS) assessment dated 08/04/22 revealed that Resident #2 had no cognitive impairment, he understood and was able to understand. He planned to discharge to the community.</p> <p>On 11/02/22 at 9:59 AM a phone interview was conducted with Resident #2. Resident #2 explained he was admitted to the facility for short term rehabilitation and because of this, he refused to sign any paperwork that the facility presented to him. Resident #2 went on to explain that one day a short time after admission to the facility, a staff member came to his room and snapped his photograph without his consent, he told the staff member to delete the photograph immediately. Resident #2 revealed the photo was not deleted as requested because it was a short time after his photo was taken that he started to receive meal trays with a printed card on the tray which had a copy of his photo on it. Resident #2 revealed he asked staff members why his photo was not deleted and was copied onto the meal tray card. Resident #2 revealed that staff responded the facility needed his photograph for the computer system so nurse staff could recognize him for identification and safe medication administration. Resident # 2 revealed that he told the facility staff he did not consent to</p>	F 583	<p>declines to sign the consent on admission the resident photo will not be taken to upload into Point Click Care. If a resident after signing the consent, then declines to have their photo taken the nurse management team will be informed to remove their photo from Point Click Care. All new nursing staff to include agency staff will be educated prior to starting their shift.</p> <p>Effective 11/2/2022 the (Minimum Data Set) MDS Coordinator will ensure the proper consent has been obtained by verifying with the resident and or the responsible party prior to uploading the resident photo into Point Click Care. If the resident and or responsible party decline to have their photo taken then a document will be uploaded in place of the resident picture that indicates resident does not consent to photo.</p> <p>Effective 11/9/2022 the nursing management team will complete weekly audits on 5 residents regarding their preference of having their photo in Point Click Care and for those who had previously consented to having their photo taken and now rescind their consent the nurse manager will have their photo removed from Point Click Care. Audits will be conducted weekly x 12 weeks. The Director of Nursing will report findings to the Quality Assurance Performance Improvement committee monthly x 3 months any reported concerns will be addressed immediately.</p> <p>Completion Date 11/15/22.</p>		

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F 583	<p>Continued From page 3</p> <p>his photo being taken because it was against his "belief system" for his photo to be taken without consent and then used in ways to identify him to anyone that reviewed his personal records. Resident #2 added that he had seen other documents with resident's photos on them in trash containers inside and outside of the facility and he did not believe the facility deleted his photo from any of his personal documents while he remained at the facility.</p> <p>Review of a facility form titled "Complaint/Grievance Report" dated 09/28/22 filed with the Regional Director of Operations (RDO) revealed Resident #2 was concerned about his photograph being taken without permission. The RDO recorded that she explained to Resident #2 his photograph was taken to be ensure that his medication was administered safely the RDO explained that all resident photographs remained confidential. The RDO revealed the grievance form was reviewed with the Administrator and Director of Nursing on 09/30/22. The Grievance resolution was signed by the Administrator as resolved on 09/30/22.</p> <p>An interview conducted on 11/02/22 at 1:17 PM with the RDO revealed that she had interviewed Resident #2 on 09/28/22 and understood that Resident #2 was very upset that his photo had been taken by the facility after he refused. The RDO revealed she explained to Resident # 2 on 09/28/22 that photos were always confidential and used only to ensure the nurse staff had a form of identification for each resident and used the photo as a form of identification for safety especially during medication administration.</p> <p>The RDO revealed she reviewed the</p>	F 583			

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F 583	<p>Continued From page 4</p> <p>Complaint/Grievance form with the Administrator on 09/28/22 and she was not aware of a continued concern because the Administrator signed the form the grievance was resolved on 09/30/22. The RDO revealed she did not know the staff member responsible for obtaining resident photographs.</p> <p>On 11/02/22 at 1:58 PM an interview conducted with the Nurse Unit Manager (UM) revealed she was not aware if Resident #2 refused to have his photograph taken. The UM revealed the photographs were taken for identification of each resident during medication administration safety and were part of the electronic medical record (EMR).</p> <p>On 11/02/22 at 3:07 PM the MDS Nurse was interviewed and revealed that resident photographs were taken mainly by the previous Admission Coordinator and at times the MDS nurse did update older photographs if needed and the photos were downloaded into the EMR system. The MDS nurse revealed residents did have a right to refuse being photographed and that those wishes needed to be followed.</p> <p>On 11/02/22 at 3:43PM a phone interview was conducted with the previous Admission Coordinator. The Admission Coordinator revealed she reviewed Admission Agreement paperwork with all residents on admission or the resident's responsible party. The Admission Coordinator revealed Resident #2 had refused to sign any admission paperwork which included refusal of his photo to be taken and at the time she had the Regional Director of Clinical Services (RDCS) witness the refusal and sign the forms.</p>	F 583			

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F 583	<p>Continued From page 5</p> <p>An interview with the RDCS conducted on 4:45 PM revealed the RDCS was present with the previous Admission Director and Resident #2 on 07/25/22 when Resident #2 refused to sign the admission paperwork agreement that included the facility obtain a photograph for confidential medical records. The RDCS revealed that she signed the admission forms as a witness to his refusal. The RDCS was not able to confirm the identity of the staff that obtained the photo of Resident # 2.</p> <p>A phone interview was conducted with the previous facility Administrator on 11/22/22 at 4:03 PM. The Administrator revealed she had been aware Resident # 2 refused to sign paperwork to allow his photo to be taken at the facility. There was not a specific staff responsible to obtain photographs of Residents, but all photos taken were kept confidential and maintained only in the EMR. The Administrator revealed she was provided with a Grievance form by the RDO on 09/30/22 and Resident # 2 discharged from the facility on 09/30/22, she believed the grievance had been resolved and signed it on 09/30/22.</p>	F 583			