

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  015217	(X2) MULTIPLE CONSTRUCTION A. Building B. Wing	(X3) DATE SURVEY COMPLETED  05/03/2022
NAME OF PROVIDER OR SUPPLIER  Birmingham Nursing and Rehabilitation Ctr LLC		STREET ADDRESS, CITY, STATE, ZIP CODE  1000 Dugan Avenue Birmingham, AL 35214	

For information on the nursing home's plan to correct this deficiency, please contact the nursing home or the state survey agency.

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (Each deficiency must be preceded by full regulatory or LSC identifying information)
<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Develop and implement a complete care plan that meets all the resident's needs, with timetables and actions that can be measured.</p> <p><b>**NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY**</b> 44165</p> <p>Based on observations, interviews, resident record reviews, and review of facility policies titled SUBJECT: SMOKING and COMPREHENSIVE PERSON CENTERED CARE PLANS, the facility failed to ensure:</p> <p>A) the information obtained through the facility's Smoking Safety Evaluations was utilized in a manner to allow staff to develop and implement person-centered safety interventions for Resident Identifier (RI) #s 177, 10, 82, 48, 58, and 59. These six of six sampled residents reviewed for smoking safety have documented episodes of noncompliance with the facility's Smoking Policy, including smoking inside the facility unsupervised in resident rooms and/or bathroom areas. The staff members who documented the noncompliant actions of the residents failed to communicate all incidents to management as directed by the residents' smoking care plans. The facility did not ensure additional actions were taken to ensure proper safety interventions were in place, including supervision and monitoring, as well as systems to ensure noncompliant residents did not have access to lighters inside the facility.</p> <p>On 3/26/2022, RI #177, a resident with a history of smoking noncompliance was in possession of his/her smoking materials and lighter, and subsequently ignited his/her bedding and body. After staff became aware, they extinguished the flames, rendered necessary aid, and the facility sent RI #177 to the hospital where he/she was found to have 3rd degree burns covering 10-19% of his/her body.</p> <p>Further, during the survey, RI #10, a resident with right sided hemiplegia who was assessed as requiring minimal supervision and required the use of a smoking apron, was observed outside smoking on multiple occasions. During these observations, RI #10 did not wear a smoking apron and was observed to drop ashes from a lit cigarette onto his/her clothing. The staff present at the time of these observations did not acknowledge or intervene.</p> <p>These failures affected RI #s 177, 10, 82, 48, 58, and 59, six of six sampled residents reviewed for smoking safety and had the potential to affect all 36 smokers in the facility. In addition, these failures placed all 129 residents residing in the facility at risk for immediate jeopardy, as it was likely to result in serious injury, serious harm, serious impairment, or death.</p> <p>(continued on next page)</p>

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.

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>On 04/14/2022 at 7:05 PM, the facility's Administrator (Employee Identifier (EI) #1); the [NAME] President of the facility's management company/member of the Governing Body (EI #2); the facility's Director of Nursing (EI #5); and a Human Resources Representative (EI #43) were given a copy of the Immediate Jeopardy (IJ) template and were notified of the findings of IJ in the area of Comprehensive Resident Centered Care Plan, F656.</p> <p>B) Further, the facility failed to ensure a comprehensive plan of care was developed to address RI #49's diagnosis of Depression.</p> <p>These deficient practices affected RI #s 177, 48, 10, 82, 58, 59, and 49, but had the potential to affect all 129 residents residing in the facility at the time of the survey.</p> <p>Findings include:</p> <p>A) Review of the facility's policy titled SUBJECT: SMOKING, last reviewed 11/2017, revealed the following:</p> <p>POLICY: This is a smoke-free facility. No smoking or use of smoking materials will be allowed inside the building . Smoking is to occur only in designated areas and in accordance with each smoking resident's individualized plan of care based on the Smoking Safety Evaluation.</p> <p>POLICY STATEMENT: It is not the intention of this facility to deprive residents of the pleasure of smoking, but rather to offer a safe and comfortable environment to all residents living in the facility. Both smoking and non-smoking residents will be considered in the development of smoking locations and designated times.</p> <p>RESPONSIBILITY: All staff, monitored by management.</p> <p>PROCEDURE:</p> <p>1. All residents who smoke will be assessed for his or her ability to smoke safely, the ability to handle smoking material and the need for supervision while smoking. The Smoking Safety Evaluation will be completed upon admission, readmission, quarterly, annually, and as needed.</p> <p>Residents that are evaluated as independent with smoking: (and/or without history of smoking incidents; needing no interventions) will be permitted to keep and maintain their own smoking materials (i.e. cigarettes, e-cigarettes), and may smoke in designated areas without limitations. The resident may be permitted to keep fire materials on his/her person during waking hours if deemed appropriate per the smoking evaluation. Smoking materials not kept or maintained by resident will be maintained by Licensed Nurse.</p> <p>Residents found to have modified independence with smoking: may be subject to smoking limitations. Limitations may include, but are not limited to: facility storage of tobacco products and/or fire materials, designated smoking times, assistance with lighting tobacco products, assistance to hold cigarette, supervised smoking by staff, and/or other protective/safety measures as determined appropriate by the individualized plan of care based on the smoking evaluation .</p> <p>(continued on next page)</p>		

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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>A review of the facility's policy titled, COMPREHENSIVE PERSON CENTERED CARE PLANS with a last review date of March, 2018, revealed, . POLICY: Each resident will have a person centered plan of care to identify problems, needs, strengths, preferences, and goals that identify how the interdisciplinary team will provide care. Comprehensive Person Centered Care Plan(CCP) - contains services provided, preference, ability, goals for admission and desired outcomes, and care level guidelines. PROCEDURE: . 4. will identify resident problems, needs, strengths, life-history, preferences, and goals 5. For each problem, need, or strength a resident--centered goal is developed.</p> <p>During the survey, document review revealed concerns related to the accuracy and completeness of the SMOKING SAFETY EVALUATIONS for RI #177, RI #10, RI #82, RI 48, RI #58 and RI #59. Further it was noted that after each documented episode of noncompliance with the facility's smoking policy, staff were not reevaluating the residents for smoking safety so that care plans could be updated with safety interventions. In addition, RI #10, who was assessed as requiring minimal supervision and a smoking apron was observed on multiple occasions without a smoking apron</p> <p>dropping ashes onto his/her body. Cross reference F689, F835, F837, F867, F740, and F926.</p> <p>1. RI #177 was originally admitted to the facility on [DATE] with diagnoses including End Stage Renal Disease, Diabetes Mellitus Type 2, Epilepsy, Cerebral Infarction, Dysphasia, and Encephalopathy.</p> <p>During admission, RI #177's SMOKING SAFETY EVALUATION was completed on 05/18/2021. The section of this evaluation for Diagnosis Impacting Ability to Smoke was marked as None. The evaluation did not capture RI #177's diagnoses of epilepsy or encephalopathy, although the evaluation has a section for Neurological diagnoses. The evaluation indicated RI #177 was independent with cognitive skills for decision making, had no indicators of delirium, and had clear speech. The following questions were not answered: Is the resident able to communicate the need for help if lit material falls on them? and Is resident able to move without assistance to/from designated smoking area? The section of the evaluation titled HISTORY indicated RI #177 could self-extinguish cigarettes and was able to manage ashes. The Fire Safety section indicated RI #177 attempted to obtain lighters or matches and lighter/matches had been obtained from an outside source. History of Smoking Related Incidents was marked as No. Staff assessed RI #177 as an independent smoker that required no assistive devices. The question for Care Plan Concern? was marked Yes. This evaluation was signed on 05/18/2021 by EI #26, Licensed Practical Nurse (LPN), and the following day by EI #44, the facility's prior Social Worker (SW).</p> <p>Review of RI #177's comprehensive care plans revealed a care plan for .Problem Onset: 05/18/2021 I enjoy smoking and has been assessed to be a smoker. Approaches listed included the following:</p> <ul style="list-style-type: none"> <li>- complete smoking assessment as needed</li> <li>- educate resident/family regarding facility smoking policy</li> <li>- show resident where appropriate smoking area is located</li> <li>- observe resident for unsafe smoking habits. If unsafe smoking habits are observed, notify mgmt (management) immediately</li> <li>- educate resident to extinguish smoking materials in appropriate container before leaving smoking area</li> </ul> <p>(continued on next page)</p>		

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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>2. RI #10 was admitted to the facility on [DATE] and readmitted on [DATE] with diagnoses of Hemiplegia affecting right dominant side, Peripheral Vascular Disease, Type 2 Diabetes Mellitus, Chronic Systolic (congestive) Heart, Vascular Dementia, Pseudobulbar Affect, and Chronic Obstructive Pulmonary Disease (COPD).</p> <p>RI #10's quarterly Minimum Data Set (MDS) assessment, with an Assessment Reference Date (ARD) of 01/20/2022, documented RI #10 was cognitively intact and had upper and lower extremity range of motion impairment to one side.</p> <p>RI #10's 03/26/2022 SMOKING SAFETY EVALUATION was first completed and signed by EI #7, SW. EI #10, Registered Nurse (RN), also reviewed, revised and signed off on RI #10's 03/26/2022 smoking evaluation. The section of this evaluation for Diagnosis Impacting Ability to Smoke was marked None but the diagnoses of COPD and Dementia were written on the line. Range of Motion was originally marked No Limitation but was marked out by EI #10 who indicated RI #10 did have hemiplegia with right sided weakness. History of Smoking Related Incidents was marked as 'Yes, and the following areas were marked: Burned Clothing, Drops Ashes on Self, and Other : non-compliant with smoking apron. The following INTERVENTIONS were marked for RI #10: Smokes Safely with Minimal Supervision, Smokers Apron, Facility Storage of Fire Materials Only, and Assistance with Lighting Tobacco Products Only.</p> <p>Review of RI #10's comprehensive care plans revealed a care plan for .Problem Onset: 11/10/2010 I am a smoker and have been assessed to be a smoker, noncompliance (noncompliant) wearing smoking apron, hx (history) burns clothes, drop ashes on (him/her)self. Approaches listed included the following:</p> <ul style="list-style-type: none"> <li>- Complete smoking assessment</li> <li>- Explain smoking policy to resident</li> <li>- Show resident appropriate place to smoke</li> <li>- Observe resident for safe smoking practices-if unsafe practices are observed, notified nursing and social services</li> <li>- Educate resident to check that all smoking material are extinguished in proper container</li> <li>- Smoker apron to be worn when smoking.</li> <li>- (resident's name) is allowed smoking materials on person</li> <li>- smokes safely minimum supervision</li> <li>- facility storage of fire materials</li> </ul> <p>RI #10 had a care plan for the following: .Problem Onset: 11/10/2010 I am a smoker and have been assessed to be modified independence with smoking, non-compliance (compliance) wearing smoking apron, hx burns clothes, drop ashes on (him/her)self. This care plan was revised on 04/01/2022 and 04/13/2022. Approaches listed included the following:</p> <ul style="list-style-type: none"> <li>- Show resident appropriate place to smoke</li> </ul> <p>(continued on next page)</p>		

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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<ul style="list-style-type: none"> <li>- Facility to store fire materials only</li> <li>- staff to offer smoking apron with each smoking break</li> <li>- assistance with lighting tobacco products only</li> <li>- Complete smoking assessment</li> <li>- Reeducate on smoking policy</li> <li>- Staff to observe every smoke break for smoking materials extinguished in proper containers</li> <li>- stand closely to directly observe for unsafe smoking habits dropping ashes on self</li> <li>- offer ash tray to prevent dropping ashes on self</li> <li>-supervised smoking by staff</li> <li>- Notify nursing and social services for any observed for any safety hazards during smoking breaks</li> <li>- reeducate safety of compliance (compliance) with smoking policy</li> </ul> <p>There were no interventions that directed staff as to what to do should RI #10 refuse to use the smoking apron.</p> <p>On 03/30/2022 at 8:04 AM, an observation of the smoking area was made with six residents present, including RI #10. None of the six residents had on smoking aprons, and all six residents were flicking ashes onto the ground. EI #28, Certified Nursing Assistant (CNA), was the staff member present, but was noted to frequently have her back to the smokers as she was having to open the door to let other residents in and out of the facility.</p> <p>On 03/30/2022 at 8:18 AM, RI #10 was noted to have ashes on his/her sweatpants and radio. RI #10 was then observed sweeping the ashes off onto the ground using his/her left hand, which had a lit cigarette in between the middle and index fingers. At 8:22 AM, RI #10 was observed lighting a new cigarette with his/her previous cigarette, before throwing the butt into the proper container. At 8:25 AM, another resident asked RI #10 for his/her lit cigarette to light theirs, and once it was lit, returned the cigarette to RI #10. At 8:26 AM, RI #10 was observed dropping a long strand of ashes off the end of his/her lit cigarette held in the left hand onto his/her lap. At 8:28 AM, RI #10 again lit a new cigarette with the one he/she already had lit and threw the old one into the proper container. Two minutes later, RI #10 put out the lit cigarette on the wheelchair, kept the extinguished cigarette in his/her hand, and then entered the building.</p> <p>(continued on next page)</p>		

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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>EI #28, the CNA, was interviewed on 04/14/2022 at 8:14 AM. When asked how she was trained to supervise the smokers while they were smoking, EI #28 said she was not really trained, but she knows to observe while they are smoking. She indicated she should be watching to make sure ashes are not falling on their laps and the cigarettes are being placed in the appropriate containers/ashtrays. When asked how she is able to watch everyone to make sure they are not dropping ashes on themselves, EI #28 said she could not watch all of them but does tell them to put their cigarettes in the ashtrays. When asked what she tells residents about the smoking aprons, she said she should put the aprons on the ones that really need them. However, EI #28 did not know which residents required the use of the smoking aprons. EI #28 was asked if she had offered RI #10 a smoking apron on 03/30/2022 when she was supervising the smoke break. EI #28 admitted she did not offer RI #10 a smoking apron EI #28 also admitted she did see RI #10 drop ashes onto his/her lap while she was outside supervising the smokers.</p> <p>During an interview on 04/03/2022 at 6:15 PM, RI #10 said that prior to the fire on 03/26/2022, he/she could go out to smoke whenever he/she wanted. RI #10 stated he/she was unaware he/she needed a smoking apron, when smoking.</p> <p>During an interview with RI #10's assigned CNA, EI #21, on 04/07/2022 at 11:28 AM, EI #21 admitted that before the fire on 03/26/2022, the facility was not taking up cigarettes and lighters, and the residents were allowed to keep them on them. EI#21 stated she did not assist RI #10 in getting ready for smoke breaks because RI #10 gets him/herself ready and takes him/herself down to the smoking area when he/she is ready.</p> <p>During an observation on 04/07/2022 at 12:03 PM, a business office employee, EI #16, opened the door to the smoking area for residents and used a lighter to light five residents' cigarettes. EI #16 lit RI #10's cigarette, without saying anything or offering a smoking apron. At 1:14 PM, EI #16 placed an ashtray for RI #10 on the rail of the gazebo. RI #10 was not wearing a smoking apron. During this observation, the surveyor observed smoking aprons hanging on a hook in the gazebo.</p> <p>During an interview on 04/13/2022 at 12:15 PM, EI #16, business office employee, stated she had not offered RI #10 a smoking apron on 04/07/2022 because she did not know RI #10 needed one.</p> <p>On 04/11/2022 at 3:59 PM, EI #47, a CNA, was observed in the smoking area lighting a cigarette for RI #10. RI #10 did not have a smoking apron on. At 4:00 PM, EI #47 was observed sitting down smoking a cigarette herself. EI #8, SW, was also present in the smoking area. There was a total of 16 residents present in the smoking area. While EI #47 was smoking a cigarette, EI #8 was observed running from one side of the smoking area to the other to get the door for residents in wheelchairs. At 4:03 PM, RI #10 was observed with ashes on his/her pants. At 4:06 PM, RI #10 lit a new cigarette using his/her old lit cigarette, prior to discarding the butt in the container. At 4:13 PM, RI #10 was again observed lighting a new cigarette from his/her pack using the old lit cigarette, before discarding it in the container. At 4:15 PM RI #10 again dropped cigarette ashes onto his/her pants while scratching his/her head with the left hand that contained the lit cigarette.</p> <p>(continued on next page)</p>		

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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>On 4/13/22 at 11:56 AM an interview was conducted with EI #8, SW. EI #8 was asked what supervision meant on the smoking evaluation. EI #8 explained minimal supervision and supervision were the same thing and meant someone would watch them. EI #8 was asked when she went outside to supervise residents smoking what was her focus. EI #8 replied, watching for unsafe smoking habits, such as ashes falling on clothes. EI #8 was asked how she did that when there were several people out in the smoking area. EI #8 replied, she tried to have someone else out there with her to make it a little easier. EI #8 was asked, how many staff members go out during smoke breaks. EI #8 said it depended on how many people were out there, there was no set number. EI #8 indicated there were usually around 15 or so residents out at a time for smoke breaks. EI #8 was asked had she ever seen RI #10 drop ashes on him/herself. EI #8 replied, she had never seen RI #10 drop ashes. EI #8 was asked if she'd seen when RI #10 dropped ashes on him/herself on 04/11/2022. EI #8 said she had not seen that. When asked why not, EI #8 said there was a lot of people out there and she must have been looking at someone else.</p> <p>3. RI #82 was admitted to the facility on [DATE] and readmitted on [DATE] with diagnoses of Paraplegia, Other Muscle Spasm, Nicotine Dependence, Panic Disorder, Primary Insomnia, and Bipolar II Disorder.</p> <p>RI #82's admission MDS assessment, with an ARD of 06/04/2021, documented RI #82 was cognitively intact.</p> <p>RI #82's admission SMOKING SAFETY EVALUATION was completed on 05/28/2021, and was signed by EI #32, LPN, and EI #44, the facility's prior SW. This assessment indicated RI #82 had no diagnoses impacting his/her ability to smoke. The sections to indicate Devices &amp; Restraints and Manual Dexterity were not completed. This smoking evaluation assessed RI #82 as an independent smoker, that required no supervision, assistance, or storage of smoking materials.</p> <p>Review of RI #82's comprehensive care plans revealed a care plan for .Problem onset: 05/28/2021 I enjoy vaping and smoking and has been assessed to be an independent vapor and smoker and have behavior non compliance with smoking policy/schedule . Approaches listed included the following:</p> <ul style="list-style-type: none"> <li>- Complete smoking assessment as needed</li> <li>- Educate resident/family regarding facility smoking policy</li> <li>- Show resident where appropriate smoking area is located</li> <li>- Observe resident for unsafe smoking habits. If unsafe smoking habits are observed, notify mgmt immediately</li> <li>- Educate resident to extinguish smoking materials in appropriate container before leaving smoking area</li> </ul> <p>RI #82's Departmental Notes revealed incidents of noncompliance with the SMOKING policy. Documented was as follows:</p> <p>08/03/2021: smell of smoke and perfume in resident's room, suspected smoking in room</p> <p>(continued on next page)</p>		



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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>12/20/2021: found outside smoking with other residents unsupervised at approximately 5:45 AM (non-designated smoking time)</p> <p>EI #32, LPN, was interviewed on 04/08/2022 at 1:50 PM. When asked what guidance or training the facility had provided her on completing the smoking evaluations, EI #32 said none, but Social Services does the evaluations, and the nurses just answer the questions and check the boxes. EI #32 said it was up to Social Services to review for accuracy. After reviewing RI #82's admission smoking evaluation, EI #32 said there were some areas that were not answered because she may not have seen all the questions that needed to be answered. When asked why it would be important for the smoking evaluation to be accurate and complete, EI #32 said it was necessary to make sure residents remain safe. EI #32 further indicated this was the first place she had ever worked that residents were allowed to keep cigarettes and lighters on their person. EI #32 said even after the facility took up lighters from residents after the 3/26/2022 fire, there were still residents that had them and were going out to smoke unsupervised.</p> <p>During an interview on 04/09/2022 at 6:50 AM, EI #49, the LPN who noted RI #82's December incident, stated in the past residents would just go out to smoke whenever they wanted because they kept their cigarettes and lighters with them. EI #49 stated she did not report the incident from December to management, because she did not know the care plan instructed staff to do that</p> <p>4. RI #48 was admitted to the facility on [DATE] and had a diagnosis of Nicotine Dependence.</p> <p>RI #48's admission MDS with an ARD of 06/03/2021 documented a Brief Interview for Mental Status (BIMS) score of 13, which indicated intact cognition for daily decision making, and current tobacco use.</p> <p>RI #48's admission SMOKING SAFETY EVALUATION was completed on 05/27/2021. The section of this evaluation for Diagnosis Impacting Ability to Smoke was marked as None and Smoker. The section of the evaluation titled HISTORY indicated RI #48 could self-extinguish cigarettes and was able to manage ashes. The Fire Safety section indicated RI #48 attempted to obtain lighters or matches. History of Smoking Related Incidents was marked as No. Staff assessed RI #48 as an independent smoker, that required no supervision, assistance, or storage of smoking materials. The question for Care Plan Concern? was marked Yes. This evaluation was signed on 05/27/2021 by EI #26, LPN, and the following day by EI #44, the facility's prior Social Worker (SW).</p> <p>Review of RI #48's comprehensive care plans revealed a care plan for .Problem Onset: 05/27/2021 I enjoy smoking and has been assessed to be an independent smoker . Approaches listed included the following:</p> <ul style="list-style-type: none"> <li>- complete smoking assessment as needed</li> <li>- educate resident/family regarding facility smoking policy</li> <li>- show resident where appropriate smoking area is located</li> <li>- observe resident for unsafe smoking habits. If unsafe smoking habits are observed, notify mgmt (management) immediately</li> </ul> <p>(continued on next page)</p>		

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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>- educate resident to extinguish smoking materials in appropriate container before leaving smoking area</p> <p>RI #48's Departmental Notes documented the following:</p> <p>- 07/25/2021: roommate complaining of RI #48 smoking in the bathroom</p> <p>- 03/13/2022: resident room smelled strongly of smoke; resident found in bathroom on toilet smoking a cigarette</p> <p>RI #48's admission SMOKING SAFETY EVALUATION was reviewed on 08/31/2021 and signed by EI #44, the facility's prior SW. The section for History Of Smoking Related Incidents remained marked No. This same smoking evaluation was also reviewed on 12/02/2021 and 02/14/2022 and signed by EI #7, SW. The section for History Of Smoking Related Incidents remained marked No.</p> <p>Staff completed a new SMOKING SAFETY EVALUATION for RI #48 on 03/14/2022. This evaluation documented a Diagnosis Impacting Ability to Smoke as PTSD (Post Traumatic Stress Disorder. The section of the evaluation titled Cognitive Skills for Decision Making indicated RI #48 had Modified Independence. The section of the evaluation titled HISTORY indicated RI #48 could self-extinguish cigarettes and was able to manage ashes. The Fire Safety section indicated RI #48 did not attempt to obtain lighters or matches despite having been found smoking in his/her bathroom. History of Smoking Related Incidents was marked as Yes and listed a History of smoking in bathroom in (his/her) room. Staff assessed RI #48 as an independent smoker that required no assistive devices. The question for Care Plan Concern? was marked No. This evaluation was signed on 03/14/2022 by EI #7, SW, and on 3/26/22 by EI #8, SW, and EI #10, RN Unit Manager.</p> <p>RI #48's care plan for smoking was marked as reviewed on 08/30/2021 but no revisions were made following the above documented incidents of smoking noncompliance. This care plan was also reviewed on 03/14/2022 and 03/26/2022 and an approach was added for the facility to store tobacco products and fire materials.</p> <p>On 04/08/2022 at 4:10 PM EI #7, SW, stated she was not aware of any smoking incidents involving RI #48 until 03/14/2022. EI #7 was asked if RI #48 had an incident in July 2021 what should be reflected on the smoking evaluation. EI #7 replied, whatever the incident was, it should have been on the smoking evaluation and the care plan. When asked what incidents were documented on the care plan, EI #7 said, smoking in bathroom on 03/14/2022. When asked what other incidents were documented on the care plan for smoking, EI #7 said, nothing else. When asked what the concern was with the smoking evaluation and care plan not reflecting smoking incidents for the resident, EI #7 said if it was not listed on the smoking evaluation and care plan, they would not know RI #48 needed other interventions. EI #7 said the purpose of the smoking evaluation and care plan were to make sure they were able to smoke safely and any interventions needed would be reflected on the care plan. EI #7 said if it was not done the resident could continue to have incidents and were at risk of more incidents that could result in harm to self or others.</p> <p>(continued on next page)</p>		

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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>On 04/03/2022 at 6:40 PM RI #48 was asked about rules for smoking at the facility. RI #48 said there were smoke times and no smoking was allowed in rooms. When asked if he/she had smoked in his/her room, RI #48 said, yes. When asked prior to 03/26/2022 where were cigarettes and lighters kept, RI #48 said, he/she kept them. When asked when he/she could smoke prior to 03/26/2022, RI #48 said, anytime. When asked what staff members went with him/her to smoke prior to 3/26/2022, RI #48 said, no one.</p> <p>5. RI #58 was admitted to the facility on [DATE] and readmitted [DATE] and had diagnoses to include Hemiplegia, Left Side Affected, Encephalopathy, Epilepsy, Adjustment Disorder with Depressed Mood, Mood Disorder, and Nicotine Dependence, Cigarettes.</p> <p>Review of RI #58's comprehensive care plans revealed a care plan for .Problem Onset: 03/24/2020 . for being a smoker with behavior of noncompliance with smoking policy and schedule, suspicious for smoking in room and saving cigarette butts in room. Approaches listed included the following:</p> <ul style="list-style-type: none"> <li>-Inform resident/sponsor of changes in POC (Plan of Care)</li> <li>-Reeducate smoking policy as needed</li> <li>-Reeducate safety of compliance with smoking policy</li> <li>-Refer to psychiatry as needed</li> <li>-Nurse to keep resident's cigarettes and lighter on cart until time for resident to smoke</li> <li>-Complete smoking assessment as needed</li> <li>-Educate resident on appropriate smoking area and have resident show/tell you the appropriate smoking area</li> <li>-Observe resident for safe smoking practices if resident displays unsafe smoking practices notify Social Services and nursing</li> <li>-Supervise smoking by staff</li> <li>-Staff to keep all smoking materials</li> </ul> <p>This care plan was last revised on 04/02/2021 and was reviewed on 05/14/2021, 08/04/2021, 11/04/2021, 02/24/2022, and 03/26/2022 without further revision or new approaches to address smoking incidents that occurred during that time.</p> <p>RI #58's Departmental Notes documented the following:</p> <p>04/20/2021: room smelled of cigarette smoke; when questioned, RI #58 placed his/her cigarettes into their jacket pocket and told staff they did not see any cigarettes</p> <p>04/28/2021: staff found medicine cup in room with water and ashes in it</p> <p>(continued on next page)</p>		

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<p>F 0656</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>05/20/2021: resident found outside at the gazebo at 1:54 AM (non-designated smoking time)</p> <p>06/11/2021: staff found small bowl with water and cigarette ashes in resident's room at the bedside</p> <p>08/20/2021: staff found medicine cup on bedside table containing cigarette ashes</p> <p>09/04/2021: RI #58 found smoking in room again; note indicates resident found multiple times and warned of the danger, but resident stated he/she was grown and could do what they wanted</p> <p>09/05/2021: evidence found in RI #58's room of smoking, resident denied</p> <p>09/28/2021: EI #27 removed RI #58's cigarette lighter from the table in the room and replaced RI #58's nasal cannula that had been removed</p> <p>03/30/2022: Social Services notified resident was out to smoke and seen by a CNA with a lighter. Res [TRUNCATED]</p>		

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<p>F 0689</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents.</p> <p><b>**NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY** 44165</b></p> <p>Based on observation, record review, interviews, review of the facility's investigative file related to a fire involving Resident Identifier (RI) #177, and review of the facility's policy titled SUBJECT: SMOKING, the facility failed to accurately and completely conduct SMOKING SAFETY EVALUATION(s) in accordance with facility policy.</p> <p>Further, the facility failed to ensure the information obtained through the SMOKING SAFETY EVALUATION(s) was utilized in a manner to allow staff to develop, implement and revise person-centered safety interventions for RI #s 177, 10, 82, 48, 58, and 59, six of six sampled residents reviewed for smoking safety. All six of these residents were found to have documented episodes of noncompliance with the facility's smoking policy, including smoking inside the facility unsupervised in the hallway, residents' rooms and/or bathrooms or going to the smoking area unsupervised at non-designated smoking times.</p> <p>The staff members who documented the noncompliant actions of the residents failed to communicate all incidents to management as directed by the residents' smoking care plans; nor did the facility ensure additional actions were taken to ensure proper safety interventions and policies to promote resident safety were in place, including supervision and monitoring, as well as systems to ensure noncompliant residents did not have access to lighters inside the facility structure.</p> <p>On 03/26/2022, RI #177, a resident with a documented history of smoking noncompliance, was in possession of his/her smoking materials and lighter, and subsequently ignited his/her bedding and body. After staff became aware, they extinguished the flames, rendered necessary aid, and RI #177 was sent to the hospital where he/she was found to have third degree burns covering 10-19% of his/her body.</p> <p>Further, during the survey, RI #10, a resident with right sided hemiplegia, who was assessed as requiring minimal supervision and the use of a smoking apron, was observed outside smoking on multiple occasions. During these observations, RI #10 did not have a smoking apron on and was observed to drop ashes from a lit cigarette onto his/her clothing. The staff present at the time of these observations did not acknowledge or intervene.</p> <p>RI #82's documentation reflected staff suspicion of RI #82 smoking inside the resident's room, as well as going outside to smoke unsupervised at non-designated times.</p> <p>RI #48's documentation reflected a history of smoking inside his/her room and in the bathroom.</p> <p>RI #58's documentation reflected staff suspicion of RI #58 smoking in his/her room, finding medicine cups with water and ashes on multiple occasions at RI #58's bedside, finding a lighter at the bedside with oxygen in the room and going outside to smoke unsupervised at non-designated times.</p> <p>RI #59's documentation reflected RI #59 had a history of going out to smoke at non-designated times and walking in the hallway or other areas inside the facility with a lit cigarette or cigar.</p> <p>(continued on next page)</p>		

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<p>F 0689</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>These failures placed RI #s 177, 10, 82, 48, 58, and 59, as well as all remaining residents in the facility at risk for immediate jeopardy, as these failures were likely to result in serious injury, serious harm, serious impairment, or death. The facility Form CMS-672 listed a facility census of 129 at the time of the survey.</p> <p>On 04/14/2022 at 7:05 PM, the facility's Administrator (Employee Identifier (EI) #1); the [NAME] President of the facility's management company/member of the Governing Body (EI #2); the facility's Director of Nursing (EI #5); and a Human Resources Representative (EI #43) were given a copy of the Immediate Jeopardy (IJ) template and were notified of the findings of IJ in the area of Accident Hazards/Supervision/Devices, F689.</p> <p>Findings include:</p> <p>Cross reference F656, F740, F835, F837, F867, and F926.</p> <p>Review of the Alabama Department of Public Health (ADPH) Online Incident Reporting System revealed EI #1, the facility Administrator, reported a Fire / Smoke incident to ADPH on 03/26/2022 at 10:05 AM. This initial report indicated the incident occurred on 03/26/2022 at 7:20 AM. According to the initial report, RI #177 was found with active flames in his/her bed, and after the fire was extinguished, was transferred to a local hospital for evaluation.</p> <p>The facility's investigative summary related to this incident documented RI #177's roommate, RI #108, exited their room and yelled for a nurse, alerting staff there was a fire. EI #23, a Licensed Practical Nurse (LPN), ran to the room and found RI #177 in bed with his/her torso, groin and arms ablaze. After staff extinguished the resident and attended to his/her immediate needs, including cutting off smoldering clothing, RI #177 was transferred to a local hospital for evaluation and treatment. The facility's summary documented, Facility and fire department is in agreement that resident had smoked in bed and cigarette fell into bed causing linens and clothing to catch fire. The facility's investigative summary attributed the fire to RI #177's non-compliance with the smoking policy; further, the summary documented RI #177 had never been noncompliant with smoking rules since he was admitted to the facility on [DATE] .that (the) facility was made aware of . The summary did state that during the course of the investigation some staff made comments regarding prior suspicion of RI #177 smoking in his/her room; however, there were no interviews or statements contained in the facility's investigative file to support this statement.</p> <p>Review of the facility's policy titled SUBJECT: SMOKING, last reviewed 11/2017, revealed the following:</p> <p>POLICY: This is a smoke-free facility. No smoking or use of smoking materials will be allowed inside the building . Smoking is to occur only in designated areas and in accordance with each smoking resident's individualized plan of care based on the Smoking Safety Evaluation.</p> <p>POLICY STATEMENT: It is not the intention of this facility to deprive residents of the pleasure of smoking, but rather to offer a safe and comfortable environment to all residents living in the facility. Both smoking and non-smoking residents will be considered in the development of smoking locations and designated times.</p> <p>RESPONSIBILITY: All staff, monitored by management.</p> <p>PROCEDURE:</p> <p>(continued on next page)</p>		

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<p>F 0689</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>1. All residents who smoke will be assessed for his or her ability to smoke safely, the ability to handle smoking material and the need for supervision while smoking. The Smoking Safety Evaluation will be completed upon admission, readmission, quarterly, annually, and as needed.</p> <p>Residents that are evaluated as independent with smoking: (and/or without history of smoking incidents; needing no interventions) will be permitted to keep and maintain their own smoking materials (i.e. cigarettes, e-cigarettes), and may smoke in designated areas without limitations. The resident may be permitted to keep fire materials on his/her person during waking hours if deemed appropriate per the smoking evaluation. Smoking materials not kept or maintained by resident will be maintained by Licensed Nurse.</p> <p>Residents found to have modified independence with smoking: may be subject to smoking limitations. Limitations may include, but are not limited to: facility storage of tobacco products and/or fire materials, designated smoking times, assistance with lighting tobacco products, assistance to hold cigarette, supervised smoking by staff, and/or other protective/safety measures as determined appropriate by the individualized plan of care based on the smoking evaluation .</p> <p>3. Smoking is only permitted in designated smoking areas with reasonable smoking times to be designated by the facility.</p> <p>.b. No smoking material will be disposed of in waste cans, floors, or any other inappropriate area.</p> <p>.f. Smoking areas are to be maintained in such a manner that minimizes risk for fire hazards.</p> <p>. 5. Violation of the smoking policy may result in discharge from the facility .</p> <p>The Smoking Policy also included an Addendum: Smoking Policy E8, dated 03/26/2022, the date of the fire, that listed the following:</p> <p>No resident will be allowed to keep a lighter, matches, or any other flame producing product used to light a cigarette in the room. Igniting materials will be secured at the nurses station.</p> <p>Smoking times will be enforced for all residents from 8am until 10pm on the even hours.</p> <p>Violation of this policy may result in discharge from the facility.</p> <p>Neither the facility policy or the 03/26/2022 addendum identified where the designated smoking areas were or how staff should utilize the Smoking Safety Evaluations to develop individualized care plan interventions. Further, the policy did not specify what actions staff should take upon identification of a resident who is noncompliant with the facility's smoking policy; nor did it indicate who was responsible for securing the residents' lighters and/or any other flame producing materials or a system for monitoring to ensure residents did not have access to their lighters while inside the facility.</p> <p>1. RI #177 was originally admitted to the facility on [DATE] with diagnoses including End Stage Renal Disease, Diabetes Mellitus Type 2, Epilepsy, Cerebral Infarction, Dysphasia, and Encephalopathy.</p> <p>(continued on next page)</p>		

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<p>F 0689</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>RI #177's admission SMOKING SAFETY EVALUATION was completed on 05/18/2021. The section of this evaluation for Diagnosis Impacting Ability to Smoke was marked as None. The evaluation did not capture RI #177's diagnoses of epilepsy or encephalopathy, despite having a section for Neurological diagnoses. The evaluation indicated RI #177 was independent with cognitive skills for decision making, had no indicators of delirium, and had clear speech. The following questions were not answered: Is the resident able to communicate the need for help if lit material falls on them? and Is resident able to move without assistance to/from designated smoking area? The section of the evaluation titled HISTORY indicated RI #177 could self-extinguish cigarettes and was able to manage ashes. The Fire Safety section indicated RI #177 attempted to obtain lighters or matches and lighter/matches had been obtained from an outside source. History of Smoking Related Incidents was marked as No. Staff assessed RI #177 as an independent smoker, that required no supervision, assistance, or storage of smoking materials. The question for Care Plan Concern? was marked Yes. This evaluation was signed on 05/18/2021 by EI #26, LPN, and the following day by EI #44, the facility's prior Social Worker (SW).</p> <p>Review of RI #177's comprehensive care plans revealed a care plan for .Problem Onset: 05/18/2021 I enjoy smoking and has been assessed to be a smoker. Approaches listed included the following:</p> <ul style="list-style-type: none"> <li>- complete smoking assessment as needed</li> <li>- educate resident/family regarding facility smoking policy</li> <li>- show resident where appropriate smoking area is located</li> <li>- observe resident for unsafe smoking habits. If unsafe smoking habits are observed, notify mgmt (management) immediately</li> <li>- educate resident to extinguish smoking materials in appropriate container before leaving smoking area.</li> </ul> <p>On 05/19/2021 RI #177's Departmental Notes documented the following: . 8:21 AM . Resident alert to person at times responds slowly to commands. inquired to this nurse of smoke assignment times at 3 am 4am smelled smoke resident had smoked while in room inbed (in bed). Asked resident to let me keep cigarettes until assigned times . This note was made by EI #12, LPN.</p> <p>Review of RI #177's SMOKING SAFETY EVALUATIONS and comprehensive care plans revealed no new smoking evaluation or care plan updates or revisions were made following this documented incident of smoking non-compliance.</p> <p>EI #12 was interviewed on 04/01/2022 at 8:08 AM. When asked when she had seen RI #177 smoking in his/her room, EI #12 said it had happened shortly after admission in May 2021. EI #12 said she never saw a cigarette in RI #177's hand but there was smoke in the room EI #12 indicated she took his/her cigarettes and lighter. When asked how RI #177 got his/her cigarettes and lighter back, EI #12 said she did not know, and she assumed another nurse must have given them back to RI #177. EI #12 stated she documented this incident in the nurse's notes and notified the oncoming shift. When asked about diagnoses impacting residents' ability to safely smoke, EI #12 explained a resident with encephalopathy and a history of epilepsy would not be safe to have cigarettes and lighters unsupervised. EI #12 then confirmed RI #177 had both of these diagnoses and said RI #177 should not have been deemed an independent smoker or had cigarettes and lighters in his/her room unsupervised.</p> <p>(continued on next page)</p>		



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<p>F 0689</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>During a follow-up interview with EI #12 on 04/02/2022 at 9:53 AM, EI #12 was asked who had seen her documentation related to RI #177 smoking in his/her room. EI #12 said she guessed everyone should have seen it. EI #12 further stated she did not know she was supposed to conduct another Smoking Safety Evaluation after this occurrence. EI #12 acknowledged RI #177's smoking care plan did not address the storage of the resident's cigarettes, lighters, or other smoking materials, but said in her opinion residents should not be allowed to have them, but it depended upon the facility. When asked how often the smoking care plan should be updated, EI #12 said after every incident. EI #12 was asked who she had reported the incident of finding RI #177 smoking in his/her room to. EI #12 said she had reported this incident to EI #6, the facility's prior Director of Nursing (DON).</p> <p>EI #6 was interviewed on 04/02/2022 at 2:42 PM. When asked what she could recall about RI #177, EI #6 stated she had spoken with the resident numerous times, regarding different cases of noncompliance. EI #6 stated she did recall being informed of RI #177 smoking in his/her room, but could not recall who told her. She only recalled one incident when RI #177 had COVID (01/31-02/09/2022) and staff informed her he/she was smoking in his/her room. When asked what staff should do when they find a resident to be smoking in their room, EI #6 stated the staff should retrieve the smoking materials from the resident, educate the resident, and notify management so that the incident can be addressed on the care plan and rounds can be made. EI #6 stated residents that were noncompliant with the facility's smoking policy should have their smoking materials kept on the nurse's cart. EI #6 also stated RI #177's care plan should have been updated after staff suspected he/she was smoking in the room to reflect the suspicion of the resident smoking in the room with an intervention added to keep the smoking materials on the cart. In addition, EI #6 said Social Services should have been made aware so they could reassess the resident for smoking safety. EI #6 confirmed that any resident suspected of smoking in their room should not be allowed to keep a lighter. EI #6 also stated a resident with encephalopathy and diabetes would be unsafe to smoke independently.</p> <p>A follow-up interview was conducted on 04/06/2022 at 7:53 AM with EI #12, the LPN who noted RI #177 smoking in his/her room on 05/19/2021. When asked what she did when she realized RI #177 had somehow obtained his cigarettes and lighter again, EI #12 said nothing, because she knew to keep an eye on him. When asked if she had questioned anyone about RI #177 having these items in his/her possession again, EI #12 said she asked another nurse why they had been returned to the resident and was informed it was the residents' right to have their cigarettes and lighters. EI #12 said she thought someone in management may have okayed RI #177 to have his cigarettes and lighter again, but said she had not questioned them about it to find out for sure.</p> <p>On 05/31/2021 RI #177's Departmental Notes documented the following: . 4:17 AM . At approx (approximately) 0400 am resident was suspected of smoking cigarettes in staff bathroom . This note was made by EI #15, Registered Nurse (RN).</p> <p>Review of RI #177's SMOKING SAFETY EVALUATIONS and comprehensive care plans revealed no new smoking evaluation or care plan updates or revisions were made following this documented incident of smoking non-compliance.</p> <p>(continued on next page)</p>		

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NAME OF PROVIDER OR SUPPLIER  Birmingham Nursing and Rehabilitation Ctr LLC		STREET ADDRESS, CITY, STATE, ZIP CODE  1000 Dugan Avenue Birmingham, AL 35214	
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<p>F 0689</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>El #15 was interviewed on 04/10/2022 at 7:08 AM. El #15 was asked what unsafe smoking habits on the care plan referred to, and El #15 stated smoking in their room, carrying a lit cigarette down the hall, smoking in the bathroom, playing with lighters and/or matches and smoking around oxygen would all be considered examples of unsafe smoking habits. When asked what should be done if she witnesses unsafe smoking habits, El #15 said if the resident had a lit cigarette, she would approach and ask them to put it out, educate them on the smoking policy, and ask the resident to surrender their cigarettes and lighter. When asked if she had ever seen or suspected a resident of smoking inside the facility, El #15 said yes, RI #177. El #15 was asked what the facility's smoking times were prior to the fire on 3/26/2022, and El #15 said she was not sure because the Certified Nursing Assistants (CNAs) handled that. El #15 further stated that prior to 03/26/2022 the residents were allowed to keep their lighters, because no one took them up. El #15 was asked about the note she made on 05/31/2021 regarding RI #177 smoking in the employee bathroom. El #15 said RI #177 denied smoking in the employee bathroom, but she requested his/her lighter anyway. El #15 stated RI #177 refused to comply with surrendering the lighter. When asked what management she reported this to and what their response was, El #15 said she did not remember. When asked if RI #177's Smoking Safety Evaluation had been updated following this incident, El #15 said she did not update it, because Social Services is responsible for that. However, El #15 said she did not report this to Social Services because after she documented it and reported to someone (who she could not recall), her part was over. Further, when asked about care plan revisions or updates following this incident, El #15 again stated that would be Social Services responsibility. El #15 was then asked what concerns she would have with a resident smoking inside the facility. El #15 said they could injure themselves, set the place on fire, or blow the place up with oxygen.</p> <p>On 06/09/2021 RI #177's Departmental Notes documented the following: . 2:45 AM . Resident outside smoking with other residents aware of resident's behavior and inability to comply with BNRC (Birmingham Nursing and Rehabilitation Center) policies and residents rights . This note was made by El #12, LPN.</p> <p>Review of RI #177's SMOKING SAFETY EVALUATIONS and comprehensive care plans revealed no new smoking evaluation or care plan updates or revisions were made following this documented incident of smoking non-compliance.</p> <p>El #12 was interviewed regarding her 06/09/2021 note on 04/06/2022 at 7:53 AM. El #12 confirmed she had found RI #177 going outside to smoke at non-designated times. El #12 said staff would tell RI #177 not to go outside at non-designated times without staff knowing, but he would do it anyway. El #12 stated RI #177 was noncompliant with smoking times, and was also known to smoke in his/her room. El #12 stated she felt RI #177 was just following the same pattern he/she saw other smoking residents doing. El #12 said she was not even sure who all of the smokers were. When discussing RI #177's care plan, El #12 said there was an intervention to notify management of unsafe smoking habits immediately but she had not done so because she was caring for other residents. El #12 further stated RI #177 should have been identified as an unsafe smoker, the first time he/she was caught smoking in his/her room, especially considering RI #177's diagnoses.</p> <p>On 08/04/2021 RI #177's Departmental Notes documented the following: . 1:40 PM . Resident .was noted smoking cigarettes in (his/her) room, this writer and (El #10, RN) asked resident if (he/she) was smoking and (he/she) said yes, cigarettes were turned over to these two nurses 2 (two) small butts in a pack, resident given smoking rules again . This note was made by El #29, RN.</p> <p>(continued on next page)</p>		

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<p>F 0689</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Review of RI #177's SMOKING SAFETY EVALUATIONS and comprehensive care plans revealed no new smoking evaluation or care plan updates or revisions were made following this documented incident of smoking non-compliance.</p> <p>EI #29 was interviewed on 04/06/2022 at 9:21 AM regarding her 08/04/2021 note. EI #29 said she did not see RI #177 actually smoking a cigarette that day but the smell was very strong and he/she had admitted to her and EI #10 that he/she was smoking in the room. EI #29 said they did confiscate RI #177's lighter and a pack with two cigarette butts in it at that time. When questioned about RI #177's care plan intervention to report unsafe smoking habits to management, EI #29 stated she did not know how anyone would know what that meant or what to look for. EI #29 said she did not write RI #177's care plan, but it should be more specific. She further indicated RI #177's smoking care plan was not complete and should have included more information. EI #29 said the care plan should identify the resident's problems and include steps staff should take for the resident. EI #29 said the care plan was important for staff to know what is expected of them. EI #29 said she had reported this incident to management because she did report it to EI #10, who was part of management. EI #29 said EI #10 did go into RI #177's room with her on 08/04/2021. When asked if there had been any changes made to RI #177's care plan as a result of this smoking noncompliance incident, and EI #29 said she did not know if any changes were made to the care plan, but they did still have a policy that said residents were not to smoke in their rooms. EI #29 further stated that according to the facility policy, smoking violations may result in facility discharge. When asked if RI #177's Smoking Safety Evaluation had been updated following the incident on 08/04/2021, EI #29 said she did not know, because she did not know who would be responsible for doing a new evaluation after an incident occurred. EI #29 said the concern with a resident smoking inside the facility would be resident safety, including fire, injuries, and with oxygen in the building, stated it could be disastrous for safety overall.</p> <p>EI #10, RN Unit Manager, was interviewed on 04/06/2022 at 9:55 AM. When asked about the smoking incident involving RI #177 on 08/04/2021, EI #10 said she and EI #29 did not actually observe RI #177 smoking in the room, but said EI #29 had informed her because she suspected RI #177 was smoking in the room. EI #10 confirmed EI #29 requested RI #177 provide her with his cigarettes and lighter, but EI #10 did not recall RI #177 admitting anything or stating anything to them at the time. EI #10 was asked why the note did not reference taking up RI #177's lighter, and EI #10 said the smoking materials were taken up, but she did not know what was in it. When questioned what would be considered unsafe smoking habits, EI #10 stated smoking in the room would be considered unsafe. EI #10 said if unsafe smoking habits are observed, staff should remove the smoking materials and reassess the resident for smoking safety. When asked what management she had reported this incident to, EI #10 said she had not, she thought the EI #29 had. When asked what changes had been made to RI #177's care plan as a result of this incident, EI #10 said she did not know, she was just a witness. When asked what the facility's policy stated regarding smoking incidents, EI #10 said the policy indicated smoking violations could result in discharge from the facility. EI #10 was then questioned as to the facility's system for taking up lighters from residents. She indicated she was not aware of a documented process or system for that, and she did not know how that was handled. EI #10 said if residents are smoking inside the facility it could result in the building catching fire, and the residents could get burned.</p> <p>(continued on next page)</p>		

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<p>F 0689</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Further review of RI #177's SMOKING SAFETY EVALUATIONS revealed RI #177's admission SMOKING SAFETY EVALUATION, dated 05/18/2021, had been signed as reviewed on a quarterly basis. EI #44, the facility's prior SW, signed it off as reviewed on 08/31/2021, and EI #7, SW, signed it off as reviewed on 11/18/2021 and 02/08/2022. However, there were no new smoking evaluations done at those times, and there were no apparent changes made to the original evaluation at the time of reviews. The assessment still indicated RI #177 was an independent smoker, that required no supervision, assistance, or storage of smoking materials. The section for History of Smoking Related Incidents was still marked No, despite having a section that should have identified a history of Smoking in Bed.</p> <p>A new SMOKING SAFETY EVALUATION was completed for RI #177 on 03/14/2022, following a readmission from a hospital stay. The section of this evaluation for Diagnosis Impacting Ability to Smoke was marked as None. The evaluation did not capture RI #177's diagnoses of epilepsy or encephalopathy, despite having a section for Neurological diagnoses. The evaluation indicated RI #177 was independent with cognitive skills for decision making, had no indicators of delirium, and had clear speech. The section of the evaluation titled HISTORY indicated RI #177 could self-extinguish cigarettes and was able to manage ashes. The Fire Safety section indicated RI #177 attempted to obtain lighters or matches. History of Smoking Related Incidents was marked as No, despite having a section to specifically identify a history of Smoking in Bed. Staff assessed RI #177 as an independent smoker, that required no supervision, assistance, or storage of smoking materials. The question for Care Plan Concern? was marked Yes. This evaluation was signed on 03/14/2022 by EI #7, SW.</p> <p>During an interview with EI #7 on 03/31/2022 at 1:32 PM, EI #7 denied any prior knowledge of RI #177 having ever smoked in his/her room.</p> <p>During another interview with EI #7, Social Worker on 04/05/2022 at 1:55 PM, EI #7 said she was unaware of the noncompliant smoking incidents involving RI #177 when she signed off on the 11/18/2021 and the and 02/08/2022 SMOKING SAFETY EVALUATIONS, but acknowledged nursing staff had documented them in the notes. EI #7 said staff should have communicated these incidents to her. EI #7 further stated RI #177 should have been reevaluated for smoking safety and interventions following each incident, but he he/she had not been. When asked why this had not been done, EI #7 said she had not looked back through the record for any documentation, but said the information could have been communicated to her verbally as well, but it was not. EI #7 said she had not heard a word about any of RI #177's smoking noncompliance until during this survey.</p> <p>On 03/26/2022, RI #177's Departmental Notes documented the following: . 8:01 AM . At approx 0725, the fire alarm went off, Writer started down the hall looking for the cause of the alarm . (RI #177's roommate) stepped out into the hall and yelled for help (his/her) roommate needed help. Writer saw smoke coming from the room . Resident was sitting across the bed with (his/her) back against the wall and (his/her) feet towards the floor. Writer screamed for help and for staff to call 911. Writer then attempted to put the fire out by beating/smothering it, Resident's lap/groin, chest, and bilateral arms were burning, Resident was screaming for help as Writer beat the flames . (fire department) arrived at approximately 0735 with the paramedics . Resident was transferred by paramedics to ER . This note was made by EI #23, LPN.</p> <p>On 03/26/2022 another Departmental Note revealed: . 6:19 PM . Resident admitted to (local hospital) burn unit .</p> <p>(continued on next page)</p>		

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<p>F 0689</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>RI #177's former roommate was interviewed on 03/29/2022 at 5:24 PM and described the events of 03/26/2022 as he/she recalled them. RI #177's roommate (a blind resident) stated he/she was asleep and the smell of the smoke woke him/her up. The roommate said he/she could feel the heat and RI #177 was yelling. The roommate further said, the night before RI #177 was talking to his/herself and playing with a lighter (roommate motioned with his hand and thumb as if demonstrating the flicking motion of a lighter). The roommate said he/she had shared a room with RI #177 for approximately a month and a half and had never known him/her to smoke in the room or play with lighters. The roommate ended the interview by stating he/she was now scared to be there because the residents were supposed to be safe in the facility.</p> <p>LPN, EI #23 was interviewed on 03/30/2022 at 6:48 AM. EI #23 said on 03/26/2022 around 7:25 AM, she heard a beeping sound she had never heard before and started walking toward the sound. She indicated about that time, RI #177's roommate came out of their room and said he/she thought his/her roommate needed help. EI #23 said when she looked up she could see that smoke was coming from the room. EI #23 said when she entered the room, she saw RI #177 on fire. She indicated she saw RI #177's arms, shirt, and groin area on fire. EI #23 said she then picked up a pillow and started beating the flames until she got the fire out. EI #23 said RI #177 was saying 'help me, help me put it out'. EI #23 said while other staff were attending to RI #177 she had to step out of the room for a few minutes because her eyes were burning from the smoke, but about five minutes later she returned and observed two other staff members cutting the smoldering mattress out from under RI #177. EI #23 said staff also had to cut RI #177's clothing off of him/her. EI #23 said during this time the fire department and paramedics arrived, and the paramedics took RI #177 to the hospital. When asked what she felt caused the fire, EI #23 said she believed it was caused by a cigarette or cigar of some sort. When asked about the facility's smoking policy, EI #23 said the residents on her hall seemed to go out to smoke whenever they wanted, even two or three in the morning, without supervision. When asked where the smoking materials were maintained, EI #23 said RI #177 had his/hers on the bedside table. EI #23 further stated everyone kept their cigarettes and lighters in their rooms. EI #23 stated she had not had any training related to smoking policies. She indicated that when she first started working at the facility, she asked about residents going out to smoke and having their cigarettes and lighters in their rooms because she had never seen a facility allow that, and a nurse (unknown which one) told her it was fine for the residents to do those things and not to worry about it. When asked if she had ever known RI #177 to smoke in his/her room before, EI #23 said there were a few times the prior year that she smelled smoke, but RI #177 denied having smoked in the room.</p> <p>On 3/31/2022 at 7:36 AM, during a follow-up interview, EI #23 recalled having seen a cigar on the residents bedside table, the day of the fire incident; however, EI #23 said she did not know where it went or what happened to it in all the ruckus. She described it as a brown cigar with a white tip. EI #23 said she did not see a lighter, but said RI #177 must have had one.</p> <p>On 04/04/2022 at 7:28 AM, EI #46, CNA, was interviewed. EI #46 said she responded to the smoke in RI #177's room on the morning of 03/26/2022. She said when she got to the room, EI #23 had already put the fire out. EI #46 said the skin on RI #177's left arm was burned off exposing pink skin, and indicated RI #177's clothing had melted to RI #177's skin. EI #46 said she also saw that the mattress was burned and noted a green pack of cigarettes on the right side of the bed and pieces of a green lighter on the floor beside the bed. EI #46 said she retrieved scissors for the nursing staff in the room and a new gown, and then the paramedics and fire department came into the room to transport RI #177 to the hospital. EI #46 said if the residents' cigarettes and lighters had been [NAME] [TRUNCATED]</p>		

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<p>F 0693</p> <p>Level of Harm - Minimal harm or potential for actual harm</p> <p>Residents Affected - Few</p>	<p>Ensure that feeding tubes are not used unless there is a medical reason and the resident agrees; and provide appropriate care for a resident with a feeding tube.</p> <p><b>**NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY**</b> 33413</p> <p>Based on observation, interviews, resident record review, and a facility policy titled ENTERAL TUBE MEDICATION ADMINISTRATION PROCEDURES the facility failed to ensure Employee Identifier (EI) #11 Registered Nurse (RN) administered medication and water through Resident Identifier (RI) #54's gastrostomy tube in a manner to prevent aspiration.</p> <p>On 04/21/2022 at 10:25 AM, RI #54's bed was in a flat position while EI #11 pushed fluid and medication into RI #54's gastrostomy tube.</p> <p>This affected RI #54, one of three residents sampled for gastrostomy tube.</p> <p>The facility policy titled ENTERAL TUBE MEDICATION ADMINISTRATION PROCEDURES dated 02/2018 documented the following: . PROCEDURE: . 3. If resident is in bed, elevate head of bed. 9. Allow flushes and medication to flow down tube by gravity. Give gentle pressure with the plunger if the medication will not flow by gravity. Repeat if necessary. Do not push medications through the tube. 13. Leave head of bed elevated as ordered. This prevents aspiration of stomach contents.</p> <p>RI #54 was readmitted to the facility on [DATE] and had diagnoses to include: Dysphagia and Gastrostomy.</p> <p>RI #54's physician orders for April 2022 documented an order dated 04/06/2021 for, KEEP HEAD OF BED ELEVATED 30-45 DEGREES WHILE TUBEFEEDING IN PROGRESS.</p> <p>On 04/21/2022 at 10:25 AM, EI #11 was observed to enter RI #54's room while the staff was in the process of providing care and RI #54's bed was flat. EI #11 proceeded to check RI #54's gastrostomy tube for placement by aspiration with syringe and pushed the stomach contents back into RI #54's tube. EI #11 then drew up and pushed the water, about 15 milliliters (ml) into RI #54's gastrostomy tube, drew up medication mixed with water from a medication cup and pushed about 20 ml of water and 20 ml of air through RI #54's gastrostomy tube. EI #11 then attempted to allow about 30 ml of water to flow into RI #54's gastrostomy tube by gravity. This was the only attempt EI #11 made to allow water and/or medications to flow into RI #54's gastrostomy tube. The water did not flow by gravity. The caregiver in the room offered to elevate the head of the bed. EI #11 then pushed all of the fluid into RI #54's gastrostomy tube again using the plunger.</p> <p>On 04/26/2022 at 3:00 PM, EI #11 was asked how she was trained to administer medication and flushes by gastrostomy tubes. EI #11 said, verify the medication, add small amount of water, verify placement, flush with 15 ml of water, administer the medication, and flush with 15 ml again. When asked what position RI #54's bed was in while she gave medication, EI #11 said she thought the bed was up. When asked what she should have done to allow the flush and the medication to drain, EI #11 said, by gravity. When asked what the risk was of flushing and giving medications by pushing the syringe into a tube while the resident was lying on a flat bed, EI #11 said, the resident could aspirate.</p> <p>(continued on next page)</p>		

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<p>F 0693</p> <p>Level of Harm - Minimal harm or potential for actual harm</p> <p>Residents Affected - Few</p>	<p>On 04/28/2022 at 2:44 PM, EI #10 RN/Unit Manager was informed of RI #54's care being provided and the bed being flat and the nurse interrupting to give medication by gastrostomy tube. EI #10 said, that was a risk for aspiration. When asked what the concern was of the 15 mls of water/flush being pushed into the gastrostomy tube, rather than free flowing, EI #10 said, it could cause damage to the tube itself. When asked what the concern was of the 20 mls of water mixed with medication and 20 mls of air being pushed into the gastrostomy tube rather than free flowing, EI #10 said, the air can cause gas and the pushing could harm the tubing. When asked what the concern was of the nurse putting 30 mls of water to flow by gravity and after it did not advance, forcing it through by pushing with the plunger, EI #10 said, there again, it could expand or blow up the tubing.</p> <p>On 04/28/2022 at 6:26 PM, EI #5 DON was informed of care being provided for RI #54 and the nurse interrupting that care and giving RI #54 medication by gastrostomy tube with the bed lying flat. EI #5 said, that was a risk for aspiration. When asked what the concern was of the 15 mls of water flush being pushed into RI #54's gastrostomy tube rather than free flowing, EI #5 said, that was a concern for the integrity of the tube. When asked what the concern was of the 20 mls of water mixed with medication and 20 mls of air being pushed into RI #54's gastrostomy tube rather than free flowing, EI #5 said, there was a potential for gas and stress on the gastrostomy tube. When asked what the concern was of the nurse putting 30 mls of water to flow by gravity and after it did not advance, forcing it through by pushing with the plunger, EI #5 said, she would be concerned about the integrity of the gastrostomy tube.</p>		

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<p>F 0740</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Ensure each resident must receive and the facility must provide necessary behavioral health care and services.</p> <p><b>**NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY**</b> 44165</p> <p>Based on record review, interviews, review of the Social Worker (SW) Job Description, and review of a facility policy titled, Behavior Management and Psycho-pharmacological Medication Monitoring Protocol, the facility failed to ensure Resident Identifier (RI) #s 177, 10, 48, 82, 58, and 59 were placed on a behavior management program.</p> <p>RI #s 177, 10, 48, 82, 58, and 59 were all found to have Nurses' Notes describing unsafe behaviors related to noncompliance with the facility's Smoking Policy. Despite, Social Service involvement in resident evaluations and reviews, Social Services was unaware of resident's behaviors, due to staff failing to notify them of the behaviors.</p> <p>This deficient practice affected RI #s 177, 10, 82, 48, 58, and 59, six of six sampled residents reviewed for noncompliance with smoking policies, and had the potential to affect all 36 smokers in the facility. In addition, these failures placed all 129 residents residing in the facility at risk for immediate jeopardy, as it was likely to result in serious injury, serious harm, serious impairment, or death.</p> <p>On 04/19/2022 at 1:37 PM, the facility's Administrator (Employee Identifier (EI) #1); the Director of Nursing (EI #4); and a Clinical Operations Consultant (EI #3) were given a copy of the Immediate Jeopardy (IJ) template and were notified of the findings of IJ in the area of Behavioral Health Services, F740.</p> <p>Findings include:</p> <p>Review of Job Descriptions signed by EI #7 and EI #8, SWs, revealed the following:</p> <p>.Essential Duties . 14. Reviews behavior charting so that an appropriate Care Plan is developed .</p> <p>Review of the facility's policy titled SUBJECT: Behavior Management and Psycho-pharmacological Medication Monitoring Protocol, dated 03/2018, revealed the following:</p> <p>.POLICY: . There will be an established Behavior Management Committee that will meet routinely to review . others as the Committee deems appropriate.</p> <p>PURPOSE: Residents with behaviors that are displayed routinely, that effect (affect) the resident's psychosocial well-being or that of other residents, or behaviors that can have potential for harm to self or others will be assessed with the development of a behavior program .</p> <p>During the survey, RI #s 177, 10, 48, 82, 58, and 59, were reviewed and found to have documented behaviors related to noncompliance with the facility's smoking policy, that placed them and others at risk. It was determined the facility had not taken actions or implemented additional safety interventions after each of these incidents to prevent further resident safety concerns. Cross reference F656, F689, F835, F837, F867, and F926.</p> <p>(continued on next page)</p>		



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NAME OF PROVIDER OR SUPPLIER  Birmingham Nursing and Rehabilitation Ctr LLC		STREET ADDRESS, CITY, STATE, ZIP CODE  1000 Dugan Avenue Birmingham, AL 35214	
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<p>F 0740</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>On 04/18/2022 at 3:00 PM, EI #7, one of the facility's SWs, was asked about the smoking related behaviors of RI #177, RI #48, RI #10, RI #82, RI #58, and RI #59. When asked how behavior management had been addressed for these smokers with noncompliance, EI #7 said when she first started working at the facility, she was told to address behaviors pertained to medication and had not previously addressed smokers noncompliance as a behavior. EI #7 could not remember who told her that because it was a long time ago. When asked how behavior management and the Psychopharmacological Medication Monitoring Protocol had been utilized for noncompliant smokers, EI #7 said, it was not until recently (last week), when she was informed it should be by EI #3, the Clinical Nurse Consultant, EI #1, the Administrator, and EI #2, the Governing Body. EI #7 said she was told all behavior needed to be indicated on the behavior monitoring forms. EI #7 was asked what system was in place to monitor smoking noncompliance. EI #7 said there had not been a system. EI #7 said there were some care plans but no monthly monitors. When asked what policy, procedure, or protocol there was that directed the staff in how to monitor behaviors, in an effort to implement interventions for prevention of behaviors. EI #7 replied she was only aware of the policy Behavior Management and Psychopharmacological Medication Monitoring Protocol, that did not address monitoring of behaviors. When asked how thoroughly her reviews were conducted of the nurses' notes, EI #7 said it was not thorough enough. EI #7 was asked what could have been done differently if she had reviewed the smoking noncompliance in the nurses notes more thoroughly. EI #7 said the behaviors and incidents would have been addressed more effectively. In review of EI #7's Job Description, EI #7 was asked what was her job responsibility. EI #7 said she should review behavior charting so appropriate care plan can be developed. When asked how often did she conduct her review. EI #7 said daily and now she was communicating with nursing better. When asked where behavior charting was found. EI #7 said on the monthly behavior flow record and the behavior monitoring summary. EI #7 said she and EI #8, another SW, completed the monitoring summary and prepared the monthly logs.</p> <p>On 04/19/2022 at 9:20 AM, EI #7 was interviewed for follow up questions. EI #7 was asked who was a part of the Behavior Management Committee. EI #7 said the Medical Director, the Nurse Practitioner with the facility's Behavioral Health Company, the Director of Nursing, Social Services, the Administrator, and Unit Managers. EI #7 further stated they met weekly to discuss new admissions and readmissions who are taking Psychotropic medications, residents with quarterly and annual assessments, and any new behaviors. When asked how new behaviors that need to be addressed are identified, EI #7 said if a nurse does not tell her and she did not see it in the notes, she would not know about the behavior. When asked what system was in place to ensure the Behavior Management Committee is aware of all resident behaviors, EI #7 said she did not see anything in the policy about a system for the team or committee being made aware of all behaviors to include new behaviors.</p> <p>On 04/18/2022 at 4:00 PM, EI #8, the other SW was asked what her understanding was of behavior management with smokers noncompliance. EI #8 said, any noncompliance had to be reported. When asked why the behavior of noncompliant smokers was not addressed through behavior monitoring. EI #8 said she did not know why it was not addressed and she assumed the monthly flow record and monitoring summary were for behaviors addressed by psychotropic medications.</p> <p>(continued on next page)</p>		

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<p>F 0740</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>A follow-up interview was conducted with EI #8 on 04/19/2022 at 11:00 AM. EI #8 stated the Behavior Management Committee consisted of herself , Social Services, Nurses, Dietary, and Treatment Nurses. When asked how often the committee met, EI #8 said ideally every week on Thursday. EI #8 explained the committee met to discuss residents receiving psychoactive medications to discuss their medications and what should be done. EI #8 said other resident behaviors would be discussed as needed. When asked how the committee would know which other resident behaviors to discuss, EI #8 said another department would tell the committee or someone on the committee saw the behavior. EI #8 said she did not review nurses documentation everyday, that usually the nurses tell Social Services about behaviors.</p> <p>On 04/19/2022 at 11:55 AM EI #1, the Administrator, said Social Services, Unit Managers, and the Director of Nursing should review the interdisciplinary progress notes, with any new behaviors discussed in morning meetings, with the Behavior Management Committee and add them to a monthly flow sheet (monitoring tool) if warranted.</p> <p>*****</p> <p>The facility submitted an acceptable Removal Plan on 04/28/2022 for F740 that outlined the following:</p> <p>Birmingham Nursing and Rehabilitation Center,LLC</p> <p>IJ Removal F740</p> <p>The president of Aurora Cares,LLC d/b/a [NAME] Cares,LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC.) remotely assisted the executive director and the governing body, the medical director, and the QAPI team on 4/20/22 to review and add an addendum to Birmingham Nursing and Rehabilitation Center, LLC's Behavior Management and Psycho-pharmacological Medication Monitoring Protocol. The addendum includes:</p> <p>(continued on next page)</p>		

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<p>F 0740</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>1. The Behavior Management Committee is comprised of Social Services, Director of Activities, Charge Nurse, Director of Nursing or designee, Consultant Pharmacist, Physician and Mental Health Professional when available. Of those Committee members, the charge nurse is the position that will identify and communicate new or established residents with any new onset or worsening of behaviors. Although the charge nurse is the position that will identify and communicate behaviors, all facility staff are responsible for noting any instances that could potentially be deemed as a new or worsening behavior to be brought to the charge nurse's attention. This will include non-compliance with, but not limited to, smoking, or any other factors that indicate new or worsening stressors of a resident whereas the resident's environment does not promote their individualized emotional and psychosocial well-being. After each identification of new behaviors, communication will be shared from the charge nurse to Social Services through a communication tool which is the Behavior/Intervention Monthly Flow Record. Social Services will bring every new or worsening identified behavior to review with the behavior management committee weekly. The committee will then address each instance of new or worsening behavior accordingly to develop and implement person-centered care plans that include and support the behavioral health care needs and to develop individualized interventions related to the resident's diagnosed conditions, such as assuring residents have access to community substance use services. The committee will then also address new or worsening behaviors by reviewing and revising behavioral health care plans that have not been effective and/or when the resident has a change in condition. The goal of the committee is to achieve expected improvements or maintain expected stable rate of decline based on the progression of the resident's diagnosed condition. The Behavior Management Committee will utilize the Behavior/Intervention Monthly Flow Record to ensure effective completion of each instance of new or worsening behaviors.</p> <p>2. In addition to the communication that the Charge Nurse will complete to Social Services through the Stop and Watch Tool, the Charge Nurse will also communicate to the executive director and/or director of nursing via phone or in person after each episode prior to the end of the shift. The director of nursing will review the Stop and Watch Tool, interdisciplinary note, care plan, and the Behavior/Intervention Monthly Flow Record with Social Services to ensure appropriate interventions have been put in place.</p> <p>3. Further Monitoring will be conducted by the Executive Director monthly upon review of the Behavior Management Committee's findings to ensure any actions needed are being conducted. The Executive Director will ensure that the Behavior Management Committee's findings are thorough, accurate and effective by evaluating that they have addressed each instance of new or worsening behavior accordingly to develop and implement person-centered care plans that include and support the behavioral health care needs and to develop individualized interventions related to the resident's diagnosed conditions, such as assuring residents have access to community substance use services. The Executive Director will also ensure the committee will also address new or worsening behaviors by reviewing behavioral health care plans that have not been effective and/or when the resident has a change in condition. The Executive Director will be responsible for further monitoring each individualized action needed to be taken as a result of each resident behavior. The Executive Director will look for achievement in expected improvements or the maintaining of expected stable rate of decline based on the progression of the resident's diagnosed condition.</p> <p>(continued on next page)</p>		

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<p>F 0740</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>The executive director has been inserviced on 4/20/22 by the governing body, to provide oversight to ensure staff are implementing the amended policy of Behavior Management and Psycho-pharmacological Medication Monitoring Protocol. The executive director will provide oversight by presenting all incidents of new or worsening behaviors to the quality assurance committee and to use root-cause analysis to identify casual factors to ensure appropriate actions needed to prevent further resident behaviors.</p> <p>The behavior management committee has been inserviced on 4/20/22 by the executive director, on the addendum to the Behavior Management and Psycho-pharmacological Medication Monitoring Protocol. This will ensure behavior monitoring is implemented and effective management of residents with new or worsening behaviors.</p> <p>All staff inserviced by director of nursing and unit managers to reflect that charge nurse is the position that will identify and communicate new or established residents with any new onset or worsening of behaviors. Although the charge nurse is the position that will identify and communicate behaviors, all facility staff are responsible for noting any instances that could potentially be deemed as a new or worsening behavior to be brought to the charge nurse's attention by completing the Stop and Watch Tool. This will include non-compliance with, but not limited to, smoking, or any other factors that indicate new or worsening stressors of a resident whereas the resident's environment does not promote their individualized emotional and psychosocial well-being. This will be completed by 4/21/22. Any employee that fails to be educated by 4/21/22 will be suspended from work until education has been completed.</p> <p>Residents who smoke have been reviewed to ensure each resident with non-compliance was placed on the Behavior/Intervention Monthly Flow Record by social services and completed 4/21/22.</p> <p>Contents will be completed and immediacy will be removed on 4/21/22.</p> <p>On 04/28/2022 at 8:15 PM, after review of the information provided in the facility's Removal Plan, in-service/education records, as well as staff interviews, and observations, the survey team determined the facility implemented the immediate corrective actions as of 04/21/2022 and the scope and severity was lowered to an F level, to allow the facility time to further address and monitor the deficient practice in order to achieve compliance.</p>		

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<p>F 0835</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Administer the facility in a manner that enables it to use its resources effectively and efficiently.</p> <p><b>**NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY** 44165</b></p> <p>Based on interviews, review of the facility's QAPI (Quality Assurance Process Improvement) Plan and review of the facility Administrator's job description, facility administration failed to ensure staff were consistently implementing the facility's smoking policy. Further, the Administrator admitted prior knowledge of resident noncompliance with the facility's smoking policy, but failed to present the incidents to the facility's Quality Assurance (QA) Committee for review/investigation in order to identify systemic breakdowns, so that actions could be taken to ensure facility systems did not contribute to further noncompliance with the facility's smoking policy.</p> <p>Further, the Administrator failed to provide oversight to ensure staff were implementing policies related to Behavior Management.</p> <p>These deficient practices placed all residents in the facility at risk for immediate jeopardy, as it was likely to result in serious injury, serious harm, serious impairment, or death. The facility Form CMS-672 listed a facility census of 129 at the time of the survey.</p> <p>On 04/14/2022 at 7:05 PM, the facility's Administrator (Employee Identifier (EI) #1); the [NAME] President of the facility's management company/member of the Governing Body (EI #2); the facility's Director of Nursing (EI #5); and a Human Resources Representative (EI #43) were given a copy of the Immediate Jeopardy (IJ) template and were notified of the findings of IJ in the area of Administration, F835.</p> <p>Findings include:</p> <p>Cross Reference F656, F689, F740, F837, F867, and F926.</p> <p>Review of the facility's undated QAPI Plan revealed the following:</p> <p>.Guideline for Governance and Leadership</p> <p>The Executive Director (Administrator) has responsibility for ensuring that QAPI is implemented throughout our organization. QAPI meetings will be held monthly and all activities discussed as needed .</p> <p>Review of a Job Description for the facility's Administrator revealed the following:</p> <p>. General Description</p> <p>The Executive Director (administrator) leads and directs the overall operation of the Facility in accordance with resident needs, government regulations, and Facility policies so as to maintain quality care for the residents .</p> <p>Essential Duties</p> <p>(continued on next page)</p>		

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<p>F 0835</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>1 . Monitors each department's activities, communicates policies, evaluates performance, provides feedback and assists, coaches, and disciplines as needed.</p> <p>. 5. Maintains a working knowledge and monitors for compliance with all governmental regulations and Facility Quality Assurance standards .</p> <p>This job description was signed by EI #1, the facility Administrator, on 04/03/2020.</p> <p>EI #1, the Administrator was interviewed on 04/13/2022 at 9:25 AM. Upon reviewing the portion of the facility's smoking policy that states, Smoking is to occur only in designated areas and in accordance with each smoking resident's individualized plan of care based on the Smoking Safety Evaluation, EI #1 was asked what was the concern with resident's SMOKING SAFETY EVALUATIONS. EI #1 stated the facility's evaluation forms are confusing and acknowledged it was hard to tell at what point the forms were correct with multiple dates and signatures. EI #1 said the smoking evaluations was not meant to be a multi-use form, as it was being utilized by staff. EI #1 initially said the facility recognized the problem with the evaluation forms on 03/26/2022. EI #1 stated they originally intended to make it a single use form, but then later decided to do away with the evaluation tool they were utilizing. EI #1 indicated that decision had been made on 04/06/2022, but the facility's efforts to address it were not complete. EI #1 was asked what was the concern with care plans being based on incomplete and inaccurate smoking evaluations. EI #1 said this resulted in a care plan that was not detailed enough for staff to know what to do or what to report. EI #1 said staff usually reported concerns to her during their morning meetings, and acknowledged she had been informed of three different smoking related incidents prior to the fire on 03/26/2022. EI #1 said she did not know why staff were not informing her of the smoking incidents. EI #1 further stated inconsistency with enforcing policy and reporting inconsistency resulted in inconsistent actions taken with each smoking incident. EI #1 said if staff did not report the concerns to her, she could not ensure appropriate actions were taken. When asked what had been done as a result of the 03/26/2022 fire. EI #1 said they had a QAPI meeting on 03/26/2022 and the facility's smoking policy was updated to reflect no residents should have possession of lighters or flame producing items. EI #1 said she did not know why there seemed to be a communication breakdown related to smoking incidents, because according to EI #1, staff communicated with her regarding other things.</p> <p>During a follow-up interview with EI #1 on 04/13/2022 at 12:41 PM, EI #1 said the three smoking related incidents she had been made aware of prior to 03/26/2022, were not reviewed through QAPI. However, EI #1 said QAPI was reviewing to ensure smoking evaluations were being done. When asked why the extent of smoking related incidents documented in the nurses notes was not recognized, EI #1 said she did not know.</p> <p>(continued on next page)</p>		

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<p>F 0835</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>On 04/14/2022 at 8:55 AM, EI #1 was asked what was done to investigate how often residents may have been smoking in the building or their rooms. EI #1 said, if the resident was caught, there would be no need for an investigation because they were already caught. EI #1 indicated if a resident was caught smoking in the facility, social services should have completed a new smoking evaluation and updated the care plan per the facility's process. EI #1 was then asked what was done in regards to smoking residents who were allowed to keep cigarettes and lighters at all times. EI #1 said there was not a general investigation about this, but said each instance should have been handled through the care plan process for each individual case. EI #1 was asked how she had utilized the information she was made aware of as an opportunity for improvement or to identify problems needing to be addressed. EI #1 acknowledged she was over QAPI at the facility and failed to use the information she did know about, but in hindsight agreed she should have done so.</p> <p>On 04/19/2022 at 11:55 AM, EI #1, Administrator, was asked what oversight she provided to the facility's Behavior Management Committee. EI #1 stated she attended weekly meetings and also attended at other times when asked. EI #1 indicated Social Services was responsible for the facility's Behavior Management Program. When asked what oversight she provided to Social Services regarding their responsibility of the Behavior Management Program, EI #1 said she reviewed the behavior management meeting sign in sheets and attended meetings at times. EI #1 further stated she would make suggestions or answers questions, if she was asked. EI #1 explained that what should occur is that Social Services, Unit Managers and the Director of Nursing should review the Interdisciplinary progress notes, with any behaviors discussed in the morning meetings, and the behaviors added to a monthly flow record (monitoring tool), if warranted.</p> <p>*****</p> <p>The facility submitted an acceptable removal plan on 04/28/2022 for F835 that outlined the following:</p> <p>Birmingham Nursing and Rehabilitation Center, LLC</p> <p>IJ Removal F835</p> <p>The president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC) remotely assisted the executive director, the governing body, QAPI team, and the medical director to review and revise Birmingham Nursing and Rehabilitation Center, LLC's smoking policy. The governing body and executive director were educated on implementing and enforcing the revised smoking policy. This education began and was completed on 4/18/22.</p> <p>The governing body was inserviced by the president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC.):</p> <p>1. To provide oversight to facility and be an active-engaged quality assurance member to ensure appropriate actions are taken with smoking non-compliance and to identify any systemic changes needed to prevent any further injury to residents as a result of smoking non-compliance and fire hazards. This was completed 4/18/22.</p> <p>The executive director was inserviced by the governing body on 4/18/22:</p> <p>(continued on next page)</p>		

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<p>F 0835</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<ol style="list-style-type: none"> <li>1. Ensuring staff consistently implements the facility's revised smoking policy by reviewing all concerns with smoking non-compliance brought forth from the director of nursing's oversight monitoring.</li> <li>2. The importance of presenting smoking incidents to the quality assurance committee for review and investigation in order to identify system break downs.</li> <li>3. To present all incidents of smoking non-compliance to the quality assurance committee and to use root-cause analysis to identify casual factors to determine actions needed to prevent further resident safety concerns.</li> <li>4. Weekly the executive director will notify the governing body of any instance that was referred to the quality assurance committee meeting concerning smoking non-compliance. The governing body will ensure proper quality assurance processes have been followed with each instance.</li> </ol> <p>The president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center,LLC.) remotely assisted the executive director and the governing body, the medical director, and the QAPI team on 4/20/22 to review and add an addendum to Birmingham Nursing and Rehabilitation Center, LLC's Behavior Management and Psycho-pharmacological Medication Monitoring Protocol.</p> <p>The executive director has been inserviced on 4/20/22 by the governing body, to provide oversight to ensure staff are implementing the amended policy of Behavior Management and Psycho-pharmacological Medication Monitoring Protocol. The executive director will provide oversight by presenting all incidents of new or worsening behaviors to the quality assurance committee and to use root-cause analysis to identify casual factors to ensure appropriate actions needed to prevent further resident behaviors.</p> <p>Contents will be completed and immediacy will be removed on 4/20/22.</p> <p>On 04/28/2022 at 8:15 PM, after review of the information provided in the facility's Removal Plan, in-service/education records, as well as staff interviews, and observations, the survey team determined the facility implemented the immediate corrective actions as of 04/20/2022 and the scope and severity was lowered to an F level, to allow the facility time to further address and monitor the deficient practice in order to achieve compliance.</p>		



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<p>F 0837</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Establish a governing body that is legally responsible for establishing and implementing policies for managing and operating the facility and appoints a properly licensed administrator responsible for managing the facility.</p> <p><b>**NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY** 44165</b></p> <p>Based on interview and review of Employee Identifier (EI) #2's (Vice President of the facility's management company and member of the governing body) job description, the governing body failed to provide oversight to facility staff to ensure appropriate actions were taken following a fire on 03/26/2022 in which Resident Identifier (RI) #177 ignited his/her bedding and body while smoking in bed. While an investigation was done at the facility level, the facility failed to review and consider all pertinent resident records and facility systems related to resident smoking policies. As a result, the facility did not identify all actions and/or systemic changes needed to prevent any further injuries to residents as a result of smoking noncompliance and fire hazards.</p> <p>This deficient practice placed all residents in the facility at risk for immediate jeopardy, as it was likely to result in serious injury, serious harm, serious impairment, or death. The facility Form CMS-672 listed a facility census of 129 at the time of the survey.</p> <p>On 04/14/2022 at 7:05 PM, the facility's Administrator (Employee Identifier (EI) #1); the [NAME] President of the facility's management company/member of the Governing Body (EI #2); the facility's Director of Nursing (EI #5); and a Human Resources Representative (EI #43) were given a copy of the Immediate Jeopardy (IJ) template and were notified of the findings of IJ in the area of Governing Body, F837.</p> <p>Findings include:</p> <p>Cross Reference F656, F689, F740, F835, F867 and F926.</p> <p>Review of EI #2's Job Description revealed the following:</p> <p>. Job Title: [NAME] President .</p> <p>Standard Requirements</p> <p>. 3. Supports and participates in common teamwork .</p> <p>d. follows up as appropriate with supervisor, co-workers, and/or staff regarding reported complaints, problems, and concerns .</p> <p>(continued on next page)</p>		

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NAME OF PROVIDER OR SUPPLIER  Birmingham Nursing and Rehabilitation Ctr LLC		STREET ADDRESS, CITY, STATE, ZIP CODE  1000 Dugan Avenue Birmingham, AL 35214	
For information on the nursing home's plan to correct this deficiency, please contact the nursing home or the state survey agency.			
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<p>F 0837</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>El #2 was interviewed on 04/13/2022 at 1:00 PM. El #2 identified her role as the [NAME] President of the facility's management company, and indicated governing body was part of the agreement. El #2 indicated they provide consulting to the facility and do mock surveys. When asked what concerns she was aware of in regards to the facility's smoking policy and systems, El #2 said the only problem she knew about was that residents were noncompliant. When asked what she had instructed or advised the facility to do regarding their smokers over the last year, El #2 said she had not instructed the facility in any way, and said her assistance was not requested until 03/26/2022. El #2 stated she had reviewed QAPI to ensure they were having meetings, reviewed to ensure appropriate attendees were present for the QAPI meetings.</p> <p>During a follow-up interview with El #2 on 04/14/2022 at 10:32 AM, El #2 was asked for all individuals that comprised the governing body for the facility. El #2 stated she was the only member of the governing body for the facility. El #2 was then asked, as the governing body of the facility, what oversight she provides to the facility and staff. El #2 said as the governing body, she checks to ensure the facility has systems in place to run the facility and assists with any issues, if asked to assist. El #2 denied being made aware of any issues, other than the fire on 03/26/2022. El #2 further stated she was aware the facility had a large number of smokers, but said she expected the facility to enforce the smoking policy. When asked about the facility's practices regarding smoking materials and lighters, El #2 said she was not aware the facility was not taking those items up after waking hours, as the policy specified. El #2 further explained that she knows the facility was not handling it as the policy said, and indicated each resident should be evaluated individually to determine their independence level. When asked when she had become aware of these concerns, El #2 said she did not know. When questioned regarding the facility's SMOKING SAFETY EVALUATION tool, El #2 said she had no concerns with the tool. El #2 was then asked what training the staff had been provided regarding use of the smoking evaluation tool. El #2 said the evaluation was self-explanatory if staff read the assessment. When discussing missing answers on the evaluations, and history not being captured, El #2 agreed the evaluations should be complete and accurate. El #2 agreed residents should be re-evaluated for smoking abilities following any smoking-related incident, because the evaluations help in the development of the residents' care plans. When asked how often she visited the facility, El #2 said she was usually at the facility one time per month, but said she has no involvement in their Quality Assurance and Process Improvement Committee.</p> <p>On 04/15/2022 at 3:42 PM El #2 was asked what was addressed during the 03/26/2022 QAPI meeting, regarding the fire involving Resident Identifier (RI) #177. El #2 said the administrator and the team had a meeting on 03/26/2022 and 04/01/2022. El #2 said their focus was on ensuring the lighters were taken from residents. When asked what involvement she had with the facility's post-incident actions, El #2 said El #1, the Administrator, had called her the morning of the fire. El #2 said she came to assist the facility. El #2 said her assistance consisted of reviewing video footage to ensure timely response to the fire.</p> <p>*****</p> <p>The facility submitted an acceptable removal plan addressing F837 on 04/28/2022 that outlined the following:</p> <p>Birmingham Nursing and Rehabilitation Center, LLC</p> <p>IJ Removal F837</p> <p>(continued on next page)</p>		

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<p>F 0837</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>The president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC) remotely assisted the executive director, the governing body, QAPI team, and the medical director to review and revise Birmingham Nursing and Rehabilitation Center, LLC's smoking policy on 4/16/22 and 4/18/22.</p> <p>The governing body and executive director were educated on implementing and enforcing the revised smoking policy. This education began and was completed on 4/18/22.</p> <p>The governing body was inserviced by the president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC.):</p> <ol style="list-style-type: none"> <li>1. To provide oversight to facility and be an active-engaged quality assurance member to ensure appropriate actions are taken with smoking non-compliance and to identify any systemic changes needed to prevent any further injury to residents as a result of smoking non-compliance and fire hazards. This was completed 4/18/22.</li> <li>2. Weekly the executive director will notify the governing body of any instance that was referred to the quality assurance committee meeting concerning smoking non-compliance. The governing body will ensure proper quality assurance processes have been followed with each instance.</li> </ol> <p>The executive director was inserviced by the governing body on 4/18/22:</p> <ol style="list-style-type: none"> <li>1. Ensuring staff consistently implements the facility's revised smoking policy by reviewing all concerns with smoking non-compliance brought forth from the director of nursing's oversight monitoring.</li> <li>2. The importance of presenting smoking incidents to the quality assurance committee for review and investigation in order to identify system break downs.</li> <li>3. To present all incidents of smoking non-compliance to the quality assurance committee and to use root-cause analysis to identify casual factors to determine actions needed to prevent further resident safety concerns.</li> </ol> <p>Contents will be completed and immediacy will be removed on 4/18/22.</p> <p>On 04/28/2022 at 8:15 PM, after review of the information provided in the facility's Removal Plan, in-service/education records, as well as staff interviews, and observations, the survey team determined the facility implemented the immediate corrective actions as of 04/18/2022 and the scope and severity was lowered to an F level, to allow the facility time to further address and monitor the deficient practice in order to achieve compliance.</p>

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<p>F 0867</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Set up an ongoing quality assessment and assurance group to review quality deficiencies and develop corrective plans of action.</p> <p><b>**NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY**</b> 44165</p> <p>Based on interviews, review of a policy titled Quality Improvement Program, review of the facility's QAPI (Quality Assurance Process Improvement) Plan and review of the facility's 03/26/2022 MONTHLY FACILITY QA &amp; A (Quality Assessment and Assurance) MINUTES, the facility's Quality Assurance (QA) committee failed to thoroughly review all factors related to Resident Identifier (RI) #177's fire and injuries, to determine what corrective actions needed to be taken to prevent any further resident safety concerns.</p> <p>On 03/26/2022, RI #177, a resident with a documented history of smoking noncompliance, was in possession of his/her smoking materials and lighter, and subsequently ignited his/her bedding and body. After staff became aware, they extinguished the flames, rendered necessary aid, and RI #177 was sent to the hospital where he/she was found to have 3rd degree burns covering 10-19% of his/her body.</p> <p>This failure placed all remaining residents in the facility at risk for immediate jeopardy, as it was likely to result in serious injury, serious harm, serious impairment, or death. The facility Form CMS-672 listed a facility census of 129 at the time of the survey.</p> <p>On 04/14/2022 at 7:05 PM, the facility's Administrator (Employee Identifier (EI) #1); the [NAME] President of the facility's management company/member of the Governing Body (EI #2); the facility's Director of Nursing (EI #5); and a Human Resources Representative (EI #43) were given a copy of the Immediate Jeopardy (IJ) template and were notified of the findings of IJ in the area of Quality Assurance and Process Improvement, F867.</p> <p>Findings include:</p> <p>Review of a policy titled Quality Improvement Program, dated 02/2018, revealed the following:</p> <p>POLICY: The Quality Improvement Committee will assess and monitor the quality of services provided to the residents in the facility in order to identify potential problems and/or opportunities for improvement. The committee will implement and systematically evaluate programs and processes to identified problems in order to proactively improve health care delivery.</p> <p>OBJECTIVE:</p> <p>. 4. Utilize data obtained from a variety of sources to identify quality problems, opportunities for improvement, and set priorities for action .</p> <p>7. Perform root cause analysis, set targets; implement corrections to improve the process.</p> <p>Review of the undated Birmingham Nursing and Rehabilitation Center (BNRC) QAPI Plan revealed the following:</p> <p>.Purpose of BRNC's QAPI Plan</p> <p>(continued on next page)</p>		

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<p>F 0867</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>BRNC's QAPI plan provides guidance for our overall quality improvement program and from principles to drive decisions which promote quality of person centered care. Focus areas will include all quality of care systems that affect resident well being .</p> <p>How QAPI plan will address key issues</p> <p>The quality of care and services provided by BNRC has a direct impact of the quality of life of our residents. Through collaboration of all departments with the QAPI activities we will strive to improve our services. Our plan included the policies and procedures used to identify systems and processes with opportunity for improvement, We will use data to monitor our performance, establish goals and measurements, and evaluate plans and processes. We will identify and prioritize problems and opportunities and develop process improvement plans as needed. We will use the process improvement plans to analyze underlying causes of systemic problems and adverse advents (events) . Performance improvement plans to improve processes, systems, outcomes, and satisfaction will be developed.</p> <p>Review of the Alabama Department of Public Health (ADPH) Online Incident Reporting System revealed Employee Identifier (EI) #1, the facility Administrator, reported a Fire / Smoke incident to ADPH on 03/26/2022 at 10:05 AM. This initial report indicated the incident occurred on 03/26/2022 at 7:20 AM. According to the initial report, RI #177 was found with active flames in his/her bed, and after the fire was extinguished, was transferred to a local hospital for evaluation.</p> <p>The facility's investigative summary related to this incident documented RI #177's roommate exited their room and yelled for a nurse, alerting staff there was a fire. EI #23, a Licensed Practical Nurse (LPN), ran to the room and found RI #177 in bed with his/her torso, groin and arms ablaze. After staff extinguished the resident and attended to his/her immediate needs, including cutting off smoldering clothing, RI #177 was transferred to a local hospital for evaluation and treatment. The facility's summary documented, Facility and fire department is in agreement that resident had smoked in bed and cigarette fell into bed causing linens and clothing to catch fire. The facility's investigative summary attributed the fire to RI #177's non-compliance with the smoking policy; further, the summary documented RI #177 had never been noncompliant with smoking rules since he was admitted to the facility on [DATE] .that (the) facility was made aware of . The summary did state that during the course of the investigation some staff made comments regarding prior suspicion of RI #177 smoking in his/her room; however, there were no interviews or statements contained in the facility's investigative file to support this statement.</p> <p>During the survey, concerns were identified related to incomplete and inaccurate SMOKING SAFETY EVALUATIONS, documented instances of resident noncompliance with smoking policies not communicated or addressed through care plan revisions, staff supervision of smoking residents, and systems for the storage of resident smoking materials. Cross reference F656, F689, F740, F835, F837, and F926.</p> <p>Review of the facility's MONTHLY QA &amp; A MINUTES, dated 03/26/2022, revealed the following:</p> <p>. AD HOC QUALITY ASSURANCE MEETING</p> <p>(continued on next page)</p>		

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<p>F 0867</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Resident (RI #177) noted to have caused fire in bed by smoking. Resident alert and oriented with BIMS (Brief Interview for Mental Status) of 14 (cognitively intact) with independent smoking evaluation and care plan. Resident injury 2nd and 3rd degree burns on 20% of body. All residents who smoke had new smoking evaluations completed and updated plans of care . Smoking policy amended to include that all lights, matches and flame producing materials are to be kept secure by staff an no resident allowed to keep in their room. Resident council meeting with smokers to discuss new policy and smoking schedule . In-services began with staff on new policy to be completed by 04/01/2022 . There was no indication the facility had identified the documented incidents of smoking noncompliance with RI #177, or any other of the facility's smokers. There was also no documentation indicating the facility had identified or taken actions to address the facility's systems and processes for smoking evaluations, storage and monitoring of smoking materials, supervision, staff communication related to resident noncompliance with the smoking policy, and person centered safety interventions.</p> <p>El #1, the Administrator, was interviewed on 04/13/2022 at 9:25 AM. El #1 was asked if she has any concerns with resident SMOKING SAFETY EVALUATIONS not being complete or accurate. El #1 stated the facility's evaluation forms are confusing, and acknowledged it was hard to tell at what point the forms were correct with multiple dates and signatures. El #1 said the smoking evaluations were not meant to be a multi-use form, as it was being utilized by staff. El #1 initially said the facility recognized the problem with the evaluation forms on 03/26/2022, but when questioned why the same forms had been being utilized since then, El #1 said they originally intended to make it a single use form, but then later decided to do away with the evaluation tool they were utilizing. El #1 indicated that decision had been made on 04/06/2022 but the facility's efforts to address it were not complete. El #1 was then asked about concern with care plans being based on incomplete and inaccurate smoking evaluations. El #1 said this resulted in a care plan that was not detailed enough for staff to know what to do or what to report. El #1 said staff usually reported concerns to her during their morning meetings, and acknowledged she had been informed of three different smoking related incidents prior to the fire on 03/26/2022. El #1 said she did not know why staff were not informing her of the smoking incidents. El #1 further stated inconsistency with enforcing policy and reporting inconsistency resulted in inconsistent actions taken with each smoking incident. El #1 said if staff did not report the concerns to her, she could not ensure appropriate actions were taken. When asked what had been done as a result of the 03/26/2022 fire, El #1 said they had a QAPI meeting on 03/26/2022 and the facility's smoking policy was updated to reflect no residents should have possession of lighters or flame producing items. El #1 said she did not know why there seemed to be a communication breakdown related to smoking incidents, because staff communicated with her regarding other things.</p> <p>During a follow-up interview with El #1 on 04/13/2022 at 12:41 PM, El #1 said the three smoking related incidents she had been made aware of prior to 03/26/2022 were not reviewed through QAPI. However, El #1 said QAPI was reviewing to ensure smoking evaluations were being done. El #1 was asked why smoking incidents that were documented in nurses notes were not recognized. El #1 said she did not know.</p> <p>(continued on next page)</p>		

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<p>F 0867</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>On 04/14/2022 at 8:55 AM, EI #1 was asked what was done to investigate how often residents may have been smoking in the building or their rooms. EI #1 said, if the resident was caught, there would be no need for an investigation because they were already caught. EI #1 indicated if a resident was caught smoking in the facility, social services should have completed a new smoking evaluation and updated the care plan per the facility's process. EI #1 was then asked what was done in regards to smoking residents who were allowed to keep cigarettes and lighters at all times. EI #1 said there was not a general investigation about this, but said each instance should have been handled through the care plan process for each individual case. EI #1 was asked how she had utilized the information she received as an opportunity for improvement or to identify problems that needed to be addressed. EI #1 acknowledged she was over QAPI at the facility and failed to use the information she did know about, but in hindsight agreed she should have done so.</p> <p>On 04/15/2022 at 3:35 PM EI #1, the Administrator, was asked what was done to address the 03/26/2022 incident involving RI #177 in QAPI . EI #1 explained what was on the QA documentation from the meetings on 03/26/2022. When asked why the facility had not recognized all the areas of concern the surveyors identified, EI #1 said, the QAPI meetings were done to ensure residents were safe at that time. When asked how the root cause was determined, EI #1 said, they used the five whys for root cause analysis, but it was not documented.</p> <p>On 04/15/2022 at 3:42 PM, EI #2, the [NAME] President of the facility's management company and member of the Governing Body, was asked what was done to address the 03/26/2022 incident involving RI #177 in QAPI . EI #2 said the Administrator and the team had a meeting on 03/26/2022 and 04/01/2022. When asked why they did not identify all the concerns identified by the surveyors, EI #2 said their focus was on ensuring the lighters were taken from residents.</p> <p>*****</p> <p>The facility submitted an acceptable Removal Plan on 04/28/2022 for F867 that outlined the following:</p> <p>Birmingham Nursing and Rehabilitation Center,LLC</p> <p>IJ Removal F867</p> <p>The president of Aurora Cares,LLC d/b/a [NAME] Cares,LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center,LLC) remotely assisted the executive director,the governing body, QAPI team, and the medical director to review and revise Birmingham Nursing and Rehabilitation Center, LLC's smoking policy on 4/16/22 and 4/18/22. The governing body and executive director were educated on implementing and enforcing the revised smoking policy. This education began and was completed on 4/18/22.</p> <p>Executive director was inserviced to present all incidents of smoking non-compliance to the quality assurance committee and to use root-cause analysis to identify casual factors to determine actions needed to prevent further resident safety concerns. Inservice completed by the governing body on 4/18/22.</p> <p>(continued on next page)</p>		

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<p>F 0867</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>The president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC.) remotely assisted the executive director and the governing body to review and develop Birmingham Nursing and Rehabilitation Center, LLC's revised smoking evaluation tool on 4/18/22. The revised smoking evaluation tool was approved by the QAPI committee and the medical director on 4/18/22.</p> <p>Quality Assurance Meetings were held on: 3/26/22, 4/01/22, 4/16/22, and 4/18/22. The executive director, the governing body, QAPI team, and the medical director (by telephone), discussed the removal plans and policy revisions.</p> <p>Contents will be completed and immediacy will be removed on 4/18/22.</p> <p>On 04/28/2022 at 8:15 PM, after review of the information provided in the facility's Removal Plan, in-service/education records, as well as staff interviews, and observations, the survey team determined the facility implemented the immediate corrective actions as of 04/18/2022 and the scope and severity was lowered to an F level, to allow the facility time to further address and monitor the deficient practice in order to achieve compliance.</p>		



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<p>F 0926</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Have policies on smoking.</p> <p><b>**NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY** 44165</b></p> <p>Based on interviews and review of the facility's policy titled Subject: Smoking, the facility failed to develop and implement a smoking policy that defined smoking times, identified designated smoking areas, outlined a system for smoking material storage, addressed noncompliance, provided instructions for the use of the facility's Smoking Evaluation tool, and the development of related person-centered care plans.</p> <p>This failure placed all residents in the facility at risk for immediate jeopardy, as these failures were likely to result in serious injury, serious harm, serious impairment, or death. The facility Form CMS-672 listed a facility census of 129 at the time of the survey.</p> <p>On 04/22/2022 at 12:03 PM, the facility's Administrator (Employee Identifier (EI) #1); the [NAME] President of the facility's management company/member of the Governing Body (EI #2); and a Clinical Operations Nurse Consultant (EI #3) were given a copy of the Immediate Jeopardy (IJ) template and were notified of the findings of IJ in the area of Smoking Policies, F926.</p> <p>Findings include:</p> <p>Review of the facility's policy titled SUBJECT: SMOKING, last reviewed 11/2017, revealed the following:</p> <p>POLICY: This is a smoke-free facility. No smoking or use of smoking materials will be allowed inside the building . Smoking is to occur only in designated areas and in accordance with each smoking resident's individualized plan of care based on the Smoking Safety Evaluation.</p> <p>POLICY STATEMENT: It is not the intention of this facility to deprive residents of the pleasure of smoking, but rather to offer a safe and comfortable environment to all residents living in the facility. Both smoking and non-smoking residents will be considered in the development of smoking locations and designated times.</p> <p>RESPONSIBILITY: All staff, monitored by management.</p> <p>PROCEDURE:</p> <p>1. All residents who smoke will be assessed for his or her ability to smoke safely, the ability to handle smoking material and the need for supervision while smoking. The Smoking Safety Evaluation will be completed upon admission, readmission, quarterly, annually, and as needed.</p> <p>Residents that are evaluated as independent with smoking: (and/or without history of smoking incidents; needing no interventions) will be permitted to keep and maintain their own smoking materials (i.e. cigarettes, e-cigarettes), and may smoke in designated areas without limitations. The resident may be permitted to keep fire materials on his/her person during waking hours if deemed appropriate per the smoking evaluation. Smoking materials not kept or maintained by resident will be maintained by Licensed Nurse.</p> <p>(continued on next page)</p>		

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<p>F 0926</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>Residents found to have modified independence with smoking: may be subject to smoking limitations. Limitations may include, but are not limited to: facility storage of tobacco products and/or fire materials, designated smoking times, assistance with lighting tobacco products, assistance to hold cigarette, supervised smoking by staff, and/or other protective/safety measures as determined appropriate by the individualized plan of care based on the smoking evaluation .</p> <p>3. Smoking is only permitted in designated smoking areas with reasonable smoking times to be designated by the facility.</p> <p>.b. No smoking material will be disposed of in waste cans, floors, or any other inappropriate area.</p> <p>.f. Smoking areas are to be maintained in such a manner that minimizes risk for fire hazards.</p> <p>. 5. Violation of the smoking policy may result in discharge from the facility .</p> <p>The Smoking Policy also included an Addendum: Smoking Policy E8, dated 03/26/2022, the date of the fire, that listed the following:</p> <p>No resident will be allowed to keep a lighter, matches, or any other flame producing product used to light a cigarette in the room. Igniting materials will be secured at the nurses station.</p> <p>Smoking times will be enforced for all residents from 8am until 10pm on the even hours.</p> <p>Violation of this policy may result in discharge from the facility.</p> <p>Neither the facility policy or the addendum identified where the designated smoking areas were or how staff should utilize the Smoking Safety Evaluations to develop individualized care plan interventions. Further, the policy did not specify what actions staff should take upon identification of a resident who is noncompliant with the facility's smoking policy; nor did it indicate who was responsible for securing the residents' lighters and/or any other flame producing materials or a system for monitoring to ensure residents did not have access to their lighters while inside the facility.</p> <p>Cross Reference F656, F689, F740, F835, F837, and F867.</p> <p>*****</p> <p>The facility submitted an acceptable Removal Plan for F926 on 04/28/2022 that outlined the following:</p> <p>Birmingham Nursing and Rehabilitation, LLC</p> <p>IJ Removal F926</p> <p>(continued on next page)</p>

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  015217	(X2) MULTIPLE CONSTRUCTION A. Building B. Wing	(X3) DATE SURVEY COMPLETED  05/03/2022
NAME OF PROVIDER OR SUPPLIER  Birmingham Nursing and Rehabilitation Ctr LLC		STREET ADDRESS, CITY, STATE, ZIP CODE  1000 Dugan Avenue Birmingham, AL 35214	
For information on the nursing home's plan to correct this deficiency, please contact the nursing home or the state survey agency.			
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<p>F 0926</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>The president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC.) remotely assisted the executive director and the governing body, the medical director, and the QAPI team on 4/16/22 and 4/18/22 to review and develop Birmingham Nursing and Rehabilitation Center, LLC's revised smoking policy. All revisions that were made to the smoking policy are listed below:</p> <ol style="list-style-type: none"> <li>1. All residents who smoke will be assessed for his/her ability to smoke safely, the ability to handle smoking materials, and the need for supervision while smoking. The revised smoking evaluation tool will be completed upon admission, re-admission, quarterly, annually, and on any instances of smoking non-compliance.</li> <li>2. Signs that prohibit smoking in the facility will be prominently placed at all building entrances that are used by residents, staff and visitors.             <ol style="list-style-type: none"> <li>a. Staff will be informed of this policy at the time of hire. Current staff are being inserviced on the revisions of the smoking policy. Inservices will be completed on 4/19/22. Residents who smoke were informed of the revisions to the smoking policy in a resident council meeting held on 4/18/22 by the executive director, social services, and director of nursing. Resident responsible party (of residents who smoke) will be notified by letter mailed on 4/19/22.</li> <li>b. Residents or their appointed representatives, as appropriate, will be informed of this policy upon admission to the facility.</li> <li>c. This policy will be continuously communicated to visitors found smoking or using smoking materials in the building or in non-designated areas.</li> </ol> </li> <li>3. Smoking is only permitted in the enclosed courtyard. Resident smoking times are daily beginning at 8:00 AM, 10:00 AM, 12:00 Noon, 2:00 PM, 4:00 PM, 6:00 PM, 8:00 PM, and ending at 10:00 PM.             <ol style="list-style-type: none"> <li>a. The enclosed courtyard will be provided with a fireproof ashtray in which all smoking material will be disposed.</li> <li>b. No smoking material will be disposed of in waste cans, floors or any other inappropriate area.</li> <li>c. Ashtrays can only be emptied by staff into a fireproof metal container.</li> <li>d. No flammable liquid or combustible gases may be taken into the smoking areas.</li> <li>e. Use of oxygen in smoking areas and while smoking is not permitted.</li> <li>f. Smoking areas are to be maintained in such a manner that minimizes risk for fire hazards.</li> </ol> </li> <li>4. Tobacco/e-cigarettes are the only smoking product that is permitted at the facility. No illegal substances are permitted. If any resident is found in possession of any illegal substances, the charge nurse will immediately confiscate the illegal substance and notify the Birmingham Police Department.</li> </ol> <p>(continued on next page)</p>		

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<p>F 0926</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>5. The facility assumes no responsibility for any incidents relating to smoking that may occur while the resident is out on pass.</p> <p>6. All residents who smoke will be supervised by an assigned and trained staff member. It will be no less than one trained staff member in the enclosed courtyard at all designated smoking times. There will be one trained staff member in the enclosed courtyard for every twelve smoking residents. There will be one additional trained staff member in the enclosed courtyard at the designated smoking times for each resident that requires assistance of one.</p> <p>7. Residents will not be allowed to keep any smoking materials.</p> <p>8. Any suspected non-compliance or non-compliance with the smoking policy will be reported to the charge nurse by any staff member immediately. The charge nurse will ensure the safety of residents when non-compliance occurs by removing all smoking materials.</p> <p>9. The charge nurse will document and record non-compliance or suspected non-compliance in the medical record and on the 24 hour report sheet. The charge nurse will notify the executive director and/or director of nursing via phone or in person after each episode prior to the end of the shift to inform of suspected non-compliance or non-compliance of smoking policy. The director of nursing will make a referral to the behavior management committee.</p> <p>10. Resident will be re-evaluated for the ability to smoke safely via revised smoking evaluation tool. The care plan will be reviewed and revised to reflect resident safety needs at the time of the occurrence by the charge nurse.</p> <p>11. All episodes of non-compliance will be reviewed by the quality assurance committee using root cause analysis to identify casual factors to determine actions needed to prevent further safety concerns.</p> <p>12. Consequences of non-compliance will result in revocation of smoking privileges until the quality assurance team has determined an individualized intervention.</p> <p>13. The facility will secure all smoking materials in a locked box kept at the nurse's station. Residents who smoke will be provided smoking materials at the designated smoking times by the assigned trained staff member. Smoking materials will only be lit by the staff member.</p> <p>Residents who refuse to comply with individualized-smoking-safety interventions will not be allowed to smoke. The resident responsible party and the medical director will be notified. Residents who smoke will be checked every shift by the charge nurse for possession of any smoking materials, including flame producing items.</p> <p>The governing body and executive director were educated on implementing and enforcing the smoking policy by the president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC.). This education began and was completed on 4/16/22. The governing body and executive director were educated on implementing and enforcing the revisions to the smoking policy by the president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC.). This education began and was completed on 4/18/22.</p> <p>(continued on next page)</p>		

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<p>F 0926</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>The director of nursing and unit managers were inserviced by the executive director on the smoking policy. This education began and was completed on 4/16/22. The director of nursing and unit managers were inserviced by the executive director on the revised smoking policy. This education began and was completed on 4/18/22.</p> <p>All staff will be educated on Birmingham Nursing and Rehabilitation Center, LLC's revised smoking policy and to include: all residents must be supervised, when staff is supervising smoking, they will ensure resident safety by observing dropping of ashes, lighting resident smoking material, and ensuring smoking materials are extinguished in the correct receptacle, distributing and collecting all smoking products, how to identify and manage suspected or observed non-compliance with the smoking policy by the executive director, director of nursing, and unit managers. This education was completed on 4/17/22 and on 4/19/22. The facility has 121 employees. All employees will receive education and will be completed by 4/19/22. Any employee that fails to be educated by 4/19/22 will be suspended from work until education has been completed.</p> <p>The president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC.) remotely assisted the executive director and the governing body to review and develop Birmingham Nursing and Rehabilitation Center, LLC's revised smoking evaluation tool on 4/18/22. The revised smoking evaluation tool was approved by the QAPI committee and the medical director on 4/18/22.</p> <p>The governing body and executive director were inserviced by the president of Aurora Cares, LLC d/b/a [NAME] Cares, LLC (administrative service agreement provider for Birmingham Nursing and Rehabilitation Center, LLC.)</p> <p>1. How to accurately complete the revised smoking evaluation tool to include where to obtain the information needed to complete the form accurately. This was started and completed on 4/18/22.</p> <p>2. How to utilize the revised smoking evaluation tool to ensure the information obtained through the revised smoking evaluation tool is utilized in a manner to allow staff to develop and implement person-centered safety interventions for residents who smoke.</p> <p>The executive director has inserviced the director of nursing and unit managers:</p> <p>1. How to accurately complete the revised smoking evaluation tool to include where to obtain the information needed to complete the form accurately. This was started and completed 4/18/22.</p> <p>2. How to utilize the revised smoking evaluation tool to ensure the information obtained through the revised smoking evaluation tool is utilized in a manner to allow staff to develop and implement person-centered safety interventions for residents who smoke. This was started and completed 4/18/22.</p> <p>All licensed nurses and social services will be inserviced by the director of nursing and/or unit managers to include where to obtain the information needed to complete the revised smoking evaluation tool accurately. This education started on and was completed on 4/18/22.</p> <p>1. How to accurately complete the revised smoking evaluation tool with instruction form.</p> <p>(continued on next page)</p>		

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<p>F 0926</p> <p>Level of Harm - Immediate jeopardy to resident health or safety</p> <p>Residents Affected - Many</p>	<p>2. How to utilize the revised smoking evaluation tool to ensure the information obtained through the revised smoking evaluation tool is utilized in a manner to allow staff to develop and implement person-centered safety interventions for residents who smoke.</p> <p>a. The licensed nurse is to complete the revised smoking evaluation tool on admission, re admission, quarterly, annually, and for non-compliance with the revised smoking policy. The charge nurse will use the information from the revised smoking evaluation tool to update the care plan with any necessary interventions.</p> <p>b. By the next business day, a member of the interdisciplinary team will review the completed revised smoking evaluation tool for accuracy.</p> <p>3. Licensed nurses will be trained to document all instances of suspected smoking non-compliance or non-compliance in the nurse's notes and 24 hour report to be communicated to the executive director and/or director of nursing by phone or in-person after each episode prior to the end of the shift. The director of nursing will make a referral to the behavior management committee. Licensed nurses will be trained to ensure residents do not have any smoking materials. Residents will be checked each shift for smoking materials and will be documented on the medication administration record. If residents are found to have smoking materials or are non-compliant with smoking, the nurse will remove all smoking products and notify the director of nursing and/or executive director by phone or in-person after each episode prior to the end of the shift and document in the nurse's notes and 24 hour report. The director of nursing will make a referral to the behavior management committee.</p> <p>As a systemic change, the director of nursing will provide oversight to ensure the revised smoking policy is followed, for accuracy of the revised smoking evaluation tool and implementation of care plans on admission, quarterly, annually, and suspected non-compliance or non-compliance and will report findings to the executive director via phone or in person after each episode prior to the end of the shift. The director of nursing will make a referral to the behavior management committee. The director nursing and/or assistant director of nursing will monitor by reviewing the nurse's note for residents who smoke and 24 hour reports five times per week and revise smoking evaluation and care plan as necessary to prevent further resident safety concerns. Each Monday, the director of nursing and/or assistant director of nursing will review nurse's notes for residents who smoke and 24 hour report for Saturday and Sunday.</p> <p>The revised smoking evaluation tool was completed on 100% of all residents who smoke and the care plan was reviewed and revised with any changes on 4/18/22.</p> <p>Contents will be completed and immediacy will be removed on 4/19/22.</p> <p>On 04/28/2022 at 8:15 PM, after review of the information provided in the facility's Removal Plan, in-service/education records, as well as staff interviews, and observations, the survey team determined the facility implemented the immediate corrective actions as of 04/19/2022 and the scope and severity was lowered to an F level, to allow the facility time to further address and monitor the deficient practice in order to achieve compliance.</p>		