

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

Printed: 09/28/2022  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>125065</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____  B. WING _____		(X3) DATE SURVEY COMPLETED  <b>C</b> <b>09/16/2022</b>
NAME OF PROVIDER OR SUPPLIER <b>LEGACY HILO REHABILITATION &amp; NURSING CENTE</b>			STREET ADDRESS, CITY, STATE, ZIP CODE <b>563 KAUMANA DRIVE HILO, HI 96720</b>		
(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE	
F 000	INITIAL COMMENTS  A recertification survey was conducted by the Office of Health Care Assurance (OHCA) on 09/12/2022 to 09/16/2022. The facility was not in substantial compliance with 42 CFR §483 Subpart B. Four facility-reported incidents (HI9554, HI9563, HI9705, and HI9286) were investigated and not substantiated.  Survey dates: 09/12/2022 to 09/16/2022  Census: 72  Sample size: 18	F 000			
F 582 SS=D	Medicaid/Medicare Coverage/Liability Notice CFR(s): 483.10(g)(17)(i)-(v)  §483.10(g)(17) The facility must-- (i) Inform each Medicaid-eligible resident, in writing, at the time of admission to the nursing facility and when the resident becomes eligible for Medicaid of- (A) The items and services that are included in nursing facility services under the State plan and for which the resident may not be charged; (B) Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and (ii) Inform each Medicaid-eligible resident when changes are made to the items and services specified in §483.10(g)(17)(i)(A) and (B) of this section.  §483.10(g)(18) The facility must inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare/ Medicaid or by the	F 582			

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

TITLE

(X6) DATE

Any deficiency statement ending with an asterisk (\*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

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F 582	<p>Continued From page 1</p> <p>facility's per diem rate.</p> <p>(i) Where changes in coverage are made to items and services covered by Medicare and/or by the Medicaid State plan, the facility must provide notice to residents of the change as soon as is reasonably possible.</p> <p>(ii) Where changes are made to charges for other items and services that the facility offers, the facility must inform the resident in writing at least 60 days prior to implementation of the change.</p> <p>(iii) If a resident dies or is hospitalized or is transferred and does not return to the facility, the facility must refund to the resident, resident representative, or estate, as applicable, any deposit or charges already paid, less the facility's per diem rate, for the days the resident actually resided or reserved or retained a bed in the facility, regardless of any minimum stay or discharge notice requirements.</p> <p>(iv) The facility must refund to the resident or resident representative any and all refunds due the resident within 30 days from the resident's date of discharge from the facility.</p> <p>(v) The terms of an admission contract by or on behalf of an individual seeking admission to the facility must not conflict with the requirements of these regulations.</p> <p>This Requirement is not met as evidenced by: Based on record review, interviews, and facility policy review, the facility failed to issue a Skilled Nursing Facility Advanced Beneficiary Notice (SNFABN) and/or Notice of Medicare Non-Coverage (NOMNC) prior to the end of Medicare Part A coverage for 1 (Resident #42) of 3 sampled residents reviewed for advanced beneficiary notices.</p> <p>Findings included:</p> <p>Review of a facility policy titled, "Advance</p>	F 582			

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F 582	<p>Continued From page 2</p> <p>Beneficiary Notices," dated 02/01/2022, revealed, "It is the policy of this facility to provide timely notices regarding Medicare eligibility and coverage." The policy also indicated the following:</p> <ul style="list-style-type: none"> <li>- "For Part A items and services, the facility shall use the Skilled Nursing Facility Advance Beneficiary Notice (SNFABN), Form CMS [Centers for Medicare and Medicaid Services]-10055."</li> <li>- "A Notice of Medicare Non-Coverage (NOMNC), Form CMS-10123, shall be issued to the resident/representative when Medicare covered service(s) are ending, no matter if resident is leaving the facility or remaining in the facility. This informs the resident on how to request an appeal or expedited determination from their Quality Improvement Organization (QIO)."</li> <li>- "To ensure that the resident, or representative, has enough time to make a decision whether or not to receive the services in question and assume financial responsibility, the notice shall be provided at least two days before the end of a Medicare covered Part A stay."</li> </ul> <p>Review of a "Resident Face Sheet" revealed the facility admitted Resident #42 on 04/21/2022 with diagnoses that included end stage renal disease and type 2 diabetes mellitus.</p> <p>Review of a quarterly Minimum Data Set (MDS), dated 7/27/2022, revealed Resident #42 scored 15 on a Brief Interview for Mental Status (BIMS), which indicated the resident was cognitively intact. The MDS indicated the resident did not receive physical, occupational, or speech therapy in the past seven days.</p> <p>Review of a SNFABN Form CMS-10055, revealed that beginning on 05/20/2022, Resident</p>	F 582			

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F 582	<p>Continued From page 3</p> <p>#42 may have had to pay out of pocket for a continued inpatient skilled nursing facility stay if he/she did not have other insurances to cover the cost. Resident #42 signed the form on 09/13/2022, almost four months after the coverage was to have ended.</p> <p>Review of a NOMNC Form CMS-10123 for Resident #42 revealed coverage for skilled nursing services would end 05/19/2022. Resident #42 signed the form on 09/13/2022, almost four months after the coverage was to have ended.</p> <p>Review of a "Care Conference Summary," dated 05/17/2022, revealed confirmation that the resident was downgrading to long-term (non-skilled) care effective 05/20/2022.</p> <p>Review of "Resident Census" information in the electronic medical record revealed Resident #42 switched from Medicare to Medicaid coverage on 05/20/2022.</p> <p>During an interview on 09/14/2022 at 9:40 AM, the Director of Nursing (DON) stated the NOMNC and ABN for Resident #42 were missing at the time of discharge from Part A services. The DON stated the last covered day was 05/19/2022, and both notices were signed on 09/13/2022. She stated the business office was responsible for issuing notices, and the expectation was that they were issued timely, within 72 hours before discharge.</p> <p>During an interview on 09/14/2022 at 10:37 AM, the Business Office Manager (BOM) stated the notices had to be done three to four days before the discharge date. The BOM stated she could not find the notices for Resident #42 and realized they were not done, so had completed them late.</p>	F 582			

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F 582	Continued From page 4  During an interview on 09/14/2022 at 11:03 AM, Resident #42 stated he/she was on therapy when admitted to the facility. Resident #42 stated he/she was not notified when therapy was ending, and that the facility did not make him/her aware of the right to appeal at that time. The resident stated the facility had him/her to sign the forms yesterday (09/13/2022).	F 582			
F 607 SS=E	Develop/Implement Abuse/Neglect Policies CFR(s): 483.12(b)(1)-(3)  §483.12(b) The facility must develop and implement written policies and procedures that:  §483.12(b)(1) Prohibit and prevent abuse, neglect, and exploitation of residents and misappropriation of resident property,  §483.12(b)(2) Establish policies and procedures to investigate any such allegations, and  §483.12(b)(3) Include training as required at paragraph §483.95, This Requirement is not met as evidenced by: Based on document review, interviews, and facility policy review, the facility failed to complete pre-employment reference checks in accordance with the facility's abuse prohibition/screening policies and procedures for 3 (Registered Nurse [RN] #1, Certified Nursing Assistant [CNA] #7, and CNA #8) of 4 employees whose personnel records were reviewed.  Findings included:  Review of a facility policy titled, "Comprehensive Abuse Policy and Prevention Program," updated 03/03/2021, revealed, "Procedures: Employee screening - Before new employees are permitted	F 607			

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F 607	<p>Continued From page 5</p> <p>to work with residents, references will be verified as well as certifications, licenses, credentials and criminal background checks."</p> <p>Review of four facility employees' personnel files, conducted on 09/16/2022, revealed three of the four were missing pre-employment reference checks, as follows:</p> <ul style="list-style-type: none"> <li>- The file for Registered Nurse (RN) #2, hired 08/29/2022, contained no evidence that pre-employment reference checks were completed.</li> <li>- The file for Certified Nursing Assistant (CNA) #7, hired 05/16/2022, contained no evidence that pre-employment reference checks were completed.</li> <li>- The file for CNA #8, hired on 06/20/2022, contained no evidence that pre-employment reference checks were completed.</li> </ul> <p>Review of an email from Human Resources (HR) Employee #1 to the Director of Nursing (DON) and dated 09/16/2022 revealed HR did not conduct reference checks.</p> <p>The HR staff were not present in the building or available for interview. The surveyor sent an email to HR Employee #2 on 09/16/2022 at 10:57 AM and never received a reply.</p> <p>During an interview on 09/16/2022 at 11:25 AM, the DON stated she was not aware reference checks needed to be completed if the criminal background checks were done and the licensure certificate showed no concerns. The DON indicated it was her expectation that HR staff contact the previous employers before employees were hired.</p> <p>During an interview on 09/16/2022 at 11:37 AM,</p>	F 607			

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F 607	Continued From page 6 the Administrator indicated it was his expectation that HR conduct reference checks prior to hiring employees and stated they were required to do so.	F 607			
F 609 SS=D	Reporting of Alleged Violations CFR(s): 483.12(c)(1)(4)  §483.12(c) In response to allegations of abuse, neglect, exploitation, or mistreatment, the facility must:  §483.12(c)(1) Ensure that all alleged violations involving abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property, are reported immediately, but not later than 2 hours after the allegation is made, if the events that cause the allegation involve abuse or result in serious bodily injury, or not later than 24 hours if the events that cause the allegation do not involve abuse and do not result in serious bodily injury, to the administrator of the facility and to other officials (including to the State Survey Agency and adult protective services where state law provides for jurisdiction in long-term care facilities) in accordance with State law through established procedures.  §483.12(c)(4) Report the results of all investigations to the administrator or his or her designated representative and to other officials in accordance with State law, including to the State Survey Agency, within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken. This Requirement is not met as evidenced by: Based on interviews, record review, and facility policy review, the facility failed to report an allegation of misappropriation of resident property to local law enforcement within 24 hours for 1	F 609			

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F 609	<p>Continued From page 7 (Resident #176) of 1 sampled resident reviewed for misappropriation.</p> <p>Findings included:</p> <p>Review of a facility policy titled, "Comprehensive Abuse Policy and Prevention," updated 03/03/2021, revealed, "7. Reporting/Responding: Abuse Policy Requirements: The facility must report alleged violations related to mistreatment, exploitation, neglect or abuse: including injuries of unknown source and misappropriation of resident property and report the results of all investigations to the proper authorities within prescribed timeframes. Allegations must be reported to the Administrator/designee immediately. The Administrator/designee will ensure that all alleged violations involving abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property are reported no later than 2 hours after the allegation is made, if events that cause the allegation abuse [sic] or result in serious bodily injury; or not later than 24 hours if the events that cause the allegation do not involve abuse and do not result in serious bodily injury, to the state survey agency and others (police, APS [Adult Protective Services], OIG [Office of the Inspector General], AG [Attorney General], etc. [et cetera]) [sic] will be notified as mandated by regulation and/as needed."</p> <p>Review of a "Face Sheet" revealed the facility admitted Resident #176 with diagnoses which included fracture of the left clavicle, chronic obstructive pulmonary disease, and dementia without behavioral disturbance.</p> <p>Review of an admission Minimum Data Set (MDS), dated 05/21/2022, revealed Resident</p>	F 609			



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F 609	<p>Continued From page 8</p> <p>#176 had a Brief Interview for Mental Status (BIMS) score of 14, indicating the resident was cognitively intact. The MDS indicated the resident had disorganized thinking continuously; felt down, depressed, or hopeless on two to six days during the seven-day assessment period; and rejected care on one to three days during the seven-day assessment period. According to the MDS, Resident #176 required extensive assistance with bed mobility and transfer.</p> <p>Review of a "Care Plan," dated as initiated on 05/23/2022, revealed Resident #176 had impaired cognition as evidenced by short-term deficits related to dementia. Interventions included to provide orientation and validation as needed.</p> <p>Review of a "Resident Grievance Investigation Report Form," dated 06/02/2022, revealed Resident #176 went into one of two wallets and had \$40.00. Resident #176 indicated the other wallet contained \$110.00 which was missing. According to the grievance form, Resident #176 believed "someone took the money." The resident had a key (to the bedside table drawer) but Social Services (SS) #1 checked the drawer and found it unlocked. The resident reported only having had one visitor, Friend #1, and the resident denied having given Friend #1 the \$110.00. Resident #176 stated he/she gave Friend #1 his/her bank card because Friend #1 bought things for him/her. Additionally, the resident indicated he/she was allowing Friend #1 to use the resident's vehicle.</p> <p>Review of an "Office of Health Care Assurance Event Report," revealed the facility initially self-reported an allegation of misappropriation of resident property/funds for Resident #176 on</p>	F 609			

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F 609	<p>Continued From page 9</p> <p>06/03/2022 at 3:20 PM. The date of the incident was documented as 06/02/2022 at 3:29 PM. The report revealed Resident #176 notified Social Services (SS) Employee #1 that he/she was missing \$110.00 from his/her wallet. The report indicated there was no inventory of these funds upon admission. The resident still had \$40.00 remaining in his/her wallet. According to the report, Social Services interviewed the resident, who stated the money was in one of two wallets he/she had locked in the bedside drawer. The report indicated when SS #1 asked to see the wallets in the locked drawer, Resident#176 opened the drawer without a key. Resident #176 stated he/she had two wallets and had given his/her bank card and vehicle to Friend #1. Only one wallet was found in the drawer. The report indicated Resident #176 then stated that \$110.00 was taken out of his/her account. According to the report, the inventory sheet completed upon admission in May 2020 indicated no wallet. The report indicated bank statements were reviewed with the resident and revealed no withdrawals during the resident's time at the facility. The report indicated the resident's physician was notified of the allegation on 06/02/2022, the responsible party was notified on 06/02/2022, and the Administrator was notified on 06/02/2022. The report revealed the police were not notified.</p> <p>Review of an "Office of Health Care Assurance Event Report," revealed the facility submitted the completed investigation regarding Resident #176's allegation to the state survey agency on 06/08/2022. The investigation indicated Emergency Contact #1 was contacted and stated he/she brought a wallet with \$60.00 to the resident on an unknown date, and the resident was going to give \$20.00 to Friend #1. According to the report, the emergency contact stated</p>	F 609			

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F 609	<p>Continued From page 10</p> <p>Resident #176 never had \$110.00 in the wallet he/she delivered to the resident. The report indicated Friend #1 had not responded after multiple attempts to reach him/her about the resident's bank card and vehicle. The report indicated, "allegations unsubstantiated at facility as funds equal what [Emergency Contact #1's] statement identified." The report indicated Adult Protective Services (APS) was notified; however, the police were not notified.</p> <p>During an interview on 09/15/2022 at 10:13 AM, Licensed Practical Nurse (LPN) #2 revealed she admitted Resident #176 on 05/16/2022 from the hospital. The resident had only four pieces of clothing and no money or wallet. She revealed she received abuse training at least yearly and whenever the facility had a reportable allegation. She stated all types of abuse should be reported immediately. She revealed all allegations of abuse should be reported to the Director of Nursing (DON), Administrator, Ombudsman, and the police.</p> <p>During an interview on 09/15/2022 at 12:02 PM, Social Services (SS) Employee #1 revealed she no longer worked at the facility. She indicated Resident #176 came to her and stated he/she was missing \$110.00 from a wallet, then changed his/her story to missing money missing from his/her bank account. She revealed Resident #176 did not have a trust account or any money held by the facility. With Resident #176's permission, SS #1 reached out to the resident's bank and got his/her bank statements, which showed no withdrawals. SS #1 indicated she reached out to Emergency Contact #1, who stated she brought a wallet with \$60.00 to the facility after the resident was admitted. According to SS #1, the emergency contact denied having</p>	F 609			

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

Printed: 09/28/2022  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>125065</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____  B. WING _____		(X3) DATE SURVEY COMPLETED  <b>C</b> <b>09/16/2022</b>
NAME OF PROVIDER OR SUPPLIER <b>LEGACY HILO REHABILITATION &amp; NURSING CENTE</b>			STREET ADDRESS, CITY, STATE, ZIP CODE <b>563 KAUMANA DRIVE</b> <b>HILO, HI 96720</b>		
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F 609	<p>Continued From page 11</p> <p>given Resident #176 a wallet with \$110.00. SS #1 stated Resident #176 gave Friend #1 his/her personal debit card and cash to buy things and that she had educated Resident #176 many times in the past about giving Friend #1 money, but he/she did not want to hear that and got offended easily. SS #1 indicated that after the allegation, Resident #176 admitted he/she gave \$20.00 to Friend #1, then spent \$35.00 for a notary. She stated Resident #176 provided a statement on 06/15/2022, in which the resident admitted the money was not stolen or misplaced. She revealed the allegation made by Resident #176 was of missing property, but the resident did not want the police called, and that was why the allegation was not reported to the police.</p> <p>Review of a handwritten statement, dated 06/15/2022 and signed by Resident #176 and SS #1, revealed the resident denied having had money stolen from him/her, "I did not have money stolen or misplaced. I gave money to [Friend #1] to buy things for me." The resident's allegation was made 13 days prior to the date of this statement and was not reported to local law enforcement during that timeframe.</p> <p>During an interview on 09/15/2022 at 3:36 PM, the Administrator/Abuse Coordinator revealed Resident #176 notified SS #1 he/she was missing \$110.00 from a wallet at first, then stated the money was missing from an account. The Administrator indicated he submitted a report to the state agency and notified the physician, responsible party, and APS. The Administrator indicated Resident #176 admitted on 06/15/2022 per a signed statement that the money was not stolen or misplaced but was given to Friend #1. The Administrator further revealed he did not report the allegation to the police because</p>	F 609			

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F 609	<p>Continued From page 12</p> <p>Resident #176's story changed several times. The Administrator indicated he would have reported the allegation if Resident #176 was more alert and oriented, but Resident #176 had no inventory of the items and the story changed two or three times. He revealed if a resident's allegation involved abuse, then the police were notified.</p> <p>During an interview on 09/15/2022 at 3:57 PM, the Director of Nursing (DON) revealed that Resident #176 reported the allegation to SS #1, who was no longer employed by the facility. She stated her involvement with this investigation were limited. The DON indicated when a resident reported abuse, the alleged perpetrator would be removed from the facility if it was a staff member, ensure the safety of the victim, immediately start an investigation which included interviews and record review, then notify the doctor, family, APS, the state agency, and the police. The DON stated Resident #176 did not want the police called, so that was why the allegation was not reported to them.</p> <p>During a follow-up interview on 09/16/2022 at 10:56 AM, the DON revealed Resident #176's allegation was an allegation of abuse and should have been reported to the police. She stated going forward, the police would be called for allegations of abuse, including misappropriation / exploitation.</p> <p>During an interview on 09/16/2022 at 11:00 AM, the Administrator revealed he was aware of the facility policy that all allegations of abuse must be reported to all the proper authorities. He revealed Resident #176's allegation was a type of abuse. The Administrator revealed his expectations were to effectively stop abuse from occurring, mitigate</p>	F 609			

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F 609	Continued From page 13 when it happened, protect the resident from any forms of abuse, and report the allegations.	F 609			