

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

PRINTED: 02/26/2008  
FORM APPROVED  
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  <b>14G039</b>	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED  <b>C</b> <b>04/13/2007</b>
NAME OF PROVIDER OR SUPPLIER  <b>BROTHER JAMES COURT</b>			STREET ADDRESS, CITY, STATE, ZIP CODE <b>2500 ST. JAMES ROAD</b> <b>SPRINGFIELD, IL 62707</b>		
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W 340  W9999	Continued From page 34 stated "Oh, Ok, we'll get it out here". E7 then assisted R10 to another restroom directly outside of the dining room.  FINAL OBSERVATIONS  LICENSURE VIOLATIONS  350.620a) 350.1060a) 350.1060b)1)2) 350.1060e) 350.1060h) 350.3240a) 350.3240f)  Section 350.620 Resident Care Policies a) The facility shall have written policies and procedures governing all services provided by the facility which shall be formulated with the involvement of the administrator. The policies shall be available to the staff, residents and the public. These written policies shall be followed in operating the facility and shall be reviewed at least annually.  Section 350.1060 Training and Habilitation Services a) The facility shall provide training and habilitation services to facilitate the intellectual, sensorimotor, and effective development of each resident in the facility. b) Each resident shall have individual evaluations which shall: 1) Be based upon the use of empirically reliable and valid instruments whenever such tools are available. 2) Provide the basis for prescribing an appropriate program of training experiences for	W 340  W9999			

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W9999	<p>Continued From page 35</p> <p>the resident.</p> <p>e) An appropriate, effective and individualized program that manages residents' behaviors shall be developed and implemented for residents with aggressive or self-abusive behavior. Adequate, properly trained and supervised staff shall be available to administer these programs.</p> <p>h) There shall be available sufficient, appropriately qualified training and habilitation personnel, and necessary supporting staff, to carry out the training and habilitation program. Supervision of delivery of training and habilitation services shall be the responsibility of a person who is a Qualified Mental Retardation Professional.</p> <p>Section 350.3240 Abuse and Neglect</p> <p>a) An owner, licensee, administrator, employee or agent of a facility shall not abuse or neglect a resident.</p> <p>f) Resident as perpetrator of abuse. When an investigation of a report of suspected abuse of a resident indicates, based upon credible evidence, that another resident of the long-term care facility is the perpetrator of the abuse, that resident's condition shall be immediately evaluated to determine the most suitable therapy and placement for the resident, considering the safety of that resident as well as the safety of other residents and employees of the facility.</p> <p>These Regulations were not met as evidenced by the following:</p> <p>Based on interview and file review, the facility</p> <p>1) Neglected to recognize the need for additional supervision or safeguards for R3 after the sexual</p>	W9999			

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W9999	<p>Continued From page 36 incident on 3/25/07 between R2 and R3.</p> <p>2) Neglected to implement the facility policy and procedure on "Abuse And Neglect" section 9 which states, "Criteria to be used in determining whether abuse or neglect is suspected include, but are not limited to: (A) Direct observation of abuse or neglect, such as; (2) Sexual abuse, which may include, but is not limited to any sexual penetration or sexual conduct;..."</p> <p>3) Neglected to implement the facility policy and procedure on "Abuse And Neglect" section 30 which states "(The facility) must and will have evidence that all alleged incidents of abuse and neglect are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress."</p> <p>4) Neglected to implement the facility policy and procedure on "Abuse And Neglect" section 33 which states, "All available relevant witnesses shall be interviewed if possible."</p> <p>Findings Include:</p> <p>A facility "Resident Incident Report" of 3/25/07 states the following. At 8:05pm., the "writer walked in the North restroom in the Atrium when writer saw resident (R2) bent over holding onto the handicap railing with his pants down and resident (R3) was standing behind him with his pants down moving in a back + forth motion. Writer asked the guys to stop, (R2) fell on his face + the other resident (R3) turned around and started to yell." The incident report narrative continues, "Writer waited until both men left the restroom. I then notified both supervisors on duty. Nursing notified and resident (R2) was</p>	W9999			

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W9999	<p>Continued From page 37 examined by the nurse."</p> <p>The description of the physical examination by the nurse is included on the incident report form. It states, "Anal area red without open areas, bruising. Resident (R2) stated 'it hurt.' Writer asked if other resident got inside him, he stated 'no.' Kept saying 'I'm sorry, I'm sorry.' Resident would not look @ writer eye to eye, held head down."</p> <p>Per written statement provided to the surveyor on 4/4/07 by E8 (direct care who witnessed the incident), R3 was behind R2 "moving very fast in a back and forth motion. I heard (R2) making a slight moaning sound."</p> <p>The facility policy and procedure on "Abuse and Neglect," section 9 states, "Criteria to be used in determining whether abuse or neglect is suspected include, but are not limited to: (A) Direct observation of abuse or neglect, such as; (2) Sexual abuse, which may include, but is not limited to any sexual penetration or sexual conduct;..."</p> <p>The facility policy and procedure on "Abuse and Neglect," under "Investigation of Abuse and Neglect" section 30 states, "(The facility) must and will have evidence that all alleged incidents of abuse and neglect are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress." Section 33 states, "All available relevant witnesses shall be interviewed if possible."</p> <p>R3, per current Individualized Habilitation Plan (IHP) of 1/27/07, is a 47 year old male who functions in the Mild range of Mental Retardation.</p>	W9999			

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W9999	<p>Continued From page 38</p> <p>Under the diagnosis section it states that R3 is diagnosed with Impulse Control Disorder and a history of sexual aggression.</p> <p>Under the "Behavior" section, the IHP states, R3 "needs to be monitored for his aggressive behavior. He has several maladaptive behaviors. He kicks furniture when agitated or angry. (R3) has a history of touching others on the shoulders and breast which is currently not a problem." It continues, R3 "bullies and threatens his peers and staff. He can become physically abusive if not redirected or removed from the situation."</p> <p>R3's current Behavior Intervention Plan of 3/28/07 lists Diagnoses of Mild Mental Retardation, Obsessive Compulsive Disorder, Secondary Depression, and Organic Brain Impairment. The Maladaptive Behavior is listed as, Physical Abuse - Hitting , Slapping, or Kicking, Swearing - Cursing, Threats - Saying he will hurt others, and Inappropriate Touching - Touching staff or peers, R3 may shake hands only.</p> <p>R3's Psychiatric assessment of 4/3/06 completed by Z1, States under Recommendations: "1. Continue to monitor behaviors and ensure safety of others from potential sexual aggression." Psychiatric assessment of 8/2/06 completed by Z1 states R3 "currently has no reported problems. He had two issues of inappropriate touching of other people." Under general comments it states, "Psychiatrically, he is rather stable with regards to his impulse control disorder which can be very, very severe. He has been stable on Zyprexa. His QMRP believes that he needs to continue this to maintain stability which I concur."</p>	W9999			

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W9999	<p>Continued From page 39</p> <p>R3's Psychiatric assessment of 3/9/07 completed by Z1, states R3 "has been completely stable for the past 12 months without any problems whatsoever." It continues, "Sexual ideations have abated." Under recommendations it states to decrease Zyprexa to 5 mg daily and "Monitor closely for behavioral problems, psychiatric exacerbation, sexual aggression."</p> <p>E9 was interviewed on 4/3/07 at 3:50pm. E9 verified that the recommendation to decrease the Zyprexa had gone into effect on 3/09/07.</p> <p>Z1 (Psychiatric Consultant) was interviewed on 4/04/07 at 12:20pm. Z1 stated that the Zyprexa was used for "impulse control not at all for sexual issues." Z1 stated that according to the data there was nothing to suggest sexual aggression. Z1 stated that R3 has "No real sexual pathology." Z1 stated that R3 exhibits normal sexual urges. Z1 stated that R3's Impulse Control Disorder was well controlled, that is why the decision was made to taper the medication. Z1 felt that this incident "wasn't an aggressive act, it was an urge."</p> <p>E1 (Administrator) was interviewed on 4/3/07 at 3:10pm. When asked what level of supervision R3 was currently on, E1 stated that R3 was not on same room supervision, but that he was monitored in the atrium area. When asked what safeguards had been put in place to prevent sexual aggression against those unable to consent, E1 stated that R3 does not have a history of forcing himself on others, that the behavior is consensual. When asked specifically about R3's diagnosis of history of sexual aggression, E1 stated that R3 engages in</p>	W9999			

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W9999	<p>Continued From page 40</p> <p>inappropriate touch and doesn't do it with low functioning individuals, that there has never been an incident of touching with anyone but higher functioning individuals.</p> <p>E1 was interviewed on 4/04/07 at 2:10pm. E1 stated that there had been a team meeting and a change was put in place that R3 was not supposed to be in the atrium area. "IPP Revision/Input Form" from 3/27/07 for R3 states, "Hold an IDT meeting on (R3's) sexual aggression, (R3) will see (Z1) on 4/4/07,...will talk to (R3) about staying close to wing 500 and not be in the atrium without staff, for now will not be on one-on-one supervision or visual view, talk to staff about monitoring (R3) more closely.</p> <p>R3's behavior plan revised on 3/28/07 under "Supervision Level" states, R3 "has a Freedom of Movement supervision level within (the facility) and the outside grounds. Off campus (R3) is accompanied by staff or other responsible person. (R3) is encouraged when in the building to stay near Wing # 500 or let staff know where he is going if he is not on Wing #500. (R3) is also encouraged not be in an area where no staff is present."</p> <p>E1 stated that when it was discovered that R2 did not have a guardian, the sexual incident was determined to be consensual and they didn't need to restrict R3.</p> <p>R2, per current Individualized Habilitation Plan (IHP) of 10/26/06, is a 50 year old male who functions in the severe range of mental retardation. R2's Psychological Report of 3/17/04 states that he has Downs Syndrome. The Psychological Report states that on 3/17/04,</p>	W9999			

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W9999	<p>Continued From page 41</p> <p>R2 scored an IQ of 22 compared with an IQ of 28 found in 2001. The Psychological Report continues that, "Both measured intelligence and adaptive behavior show some further slight decline. His composite age score in 2001 was 6 years and 5 months and is now 5 years and 3 months." Under Recommendations it states, "It is important to attempt to help him maintain those skills that he still has while he appears to be on the decline in intelligence and adaptive behavior."</p> <p>R2's current IHP states that on his most recent adaptive behavior assessment of 10/20/06, R2 scored 4 years and 9 months. Under the section titled "Communication" it states that R2 follows simple spoken directions, names familiar objects and asks simple questions." The IHP states that R2 is his own guardian. There is no indication as to whether the Interdisciplinary Team (IDT) feels this is appropriate.</p> <p>Per R2's most recent adaptive behavior assessment, R2 is unable to judge how many items he can buy in a store with a given amount of money, give exact amount of money to buy something that cost less than a dollar, or stay in an unfenced yard for 10 minutes without wandering away. R2's current IHP states that he can identify some coins though he is unable to tell the value of those coins, he is unable to identify bills.</p> <p>On 4/3/07 at 2:20pm., E1 was asked if the Interdisciplinary Team had assessed R2's guardianship status as appropriate. E1 provided a document titled "Appointment of Health Care Surrogate Physician Certificate." The form is dated 11/14/06 and states, "After personally examining (R2) who is a resident at (the facility),</p>	W9999			



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W9999	<p>Continued From page 42</p> <p>it is determined to a reasonable degree of medical certainty that the patient lacks decisional capacity to make treatment decisions. The cause, nature of the lack of decisional capacity is surmised as follows: His psychological report states he has an IQ of 22 and mental age of 4 years 4 months. The Interdisciplinary Team at his residential facility also concurs (R2's) decision making capacity is limited." However, the form was never signed.</p> <p>E1 stated that IDT had moved toward guardianship but had not finished it.</p> <p>Per the facility policy and procedure on "Abuse and Neglect," criteria to be used in determining whether abuse or neglect is suspected include, direct observation of abuse or neglect, such as sexual abuse, which may include, but is not limited to any sexual penetration or sexual conduct.</p> <p>The facility policy and procedure on "Abuse and Neglect", under "Investigation of Abuse and Neglect", states that the facility will have evidence that all alleged incidents of abuse and neglect are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.</p> <p>E1 was asked on 4/4/07 at 2:10pm., if the facility had done an investigation into the sexual contact between R3 and R2. E1 stated, "We didn't do a thorough investigation because it was consensual." During an interview on 4/3/07 at 11:30am., E1 stated that on Sunday (3/25/07) the facility took safeguards but on Monday (3/26/07) it was determined consensual. E1 was asked on 4/3/07 at 2:10pm., if R2 had been interviewed in</p>	W9999			

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W9999	Continued From page 43 the course of the investigation. E1 stated that R3 was interviewed but since R2 was his own guardian we didn't interview him. E1 stated that R2 was his own guardian and made his own choices.  The facility policy and procedure on "Abuse and Neglect" under "Investigation of Abuse and Neglect" states that all available relevant witnesses shall be interviewed if possible.  (A)	W9999			