

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

PLAINTIFF'S EXHIBIT

028

Schmidt v. Sapphire
Index No. 2019-52328

PRINTED: 05/17/2018
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 335275	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED 03/29/2018
NAME OF PROVIDER OR SUPPLIER SAPPHIRE NURSING AT WAPPINGERS			STREET ADDRESS, CITY, STATE, ZIP CODE 37 MESIER AVENUE WAPPINGERS FALLS, NY 12590		
(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) COMPLETE DATE	

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE	TITLE	(X6) DATE
	Electronically Signed	05/16/2018

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 the 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.

This form is a printed electronic version of the CMS 2567L. It contains all the information found on the standard document in much the same form. This electronic form once printed and signed by the facility administrator and appropriately posted will satisfy the CMS requirement to post survey information found on the CMS 2567L.

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	Two Certified Nursing Aides (CNA #10 and #12) were interviewed on 3/29/18 at 2:18 PM and stated that they have not seen the resident with a splint for a while. Two other CNAs (#8 and #11) stated the splint was never present and that they will ask Physical Therapy (PT).				
	The Rehabilitation Director was interviewed on 4/4/18 at 10:43 AM and she stated that the resident no longer wears the splint because he refuses to wear it. She further stated that nursing was supposed to monitor the resident for an increase in his contractures and report back to Physical Therapy, but nursing staff never did.				

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STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 335275	(X2) MULTIPLE CONSTRUCTION A. BUILDING B. WING _____	(X3) DATE SURVEY COMPLETED 03/29/2018
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NAME OF PROVIDER OR SUPPLIER SAPPHIRE NURSING AT WAPPINGERS	STREET ADDRESS, CITY, STATE, ZIP CODE 37 MESIER AVENUE WAPPINGERS FALLS, NY 12590
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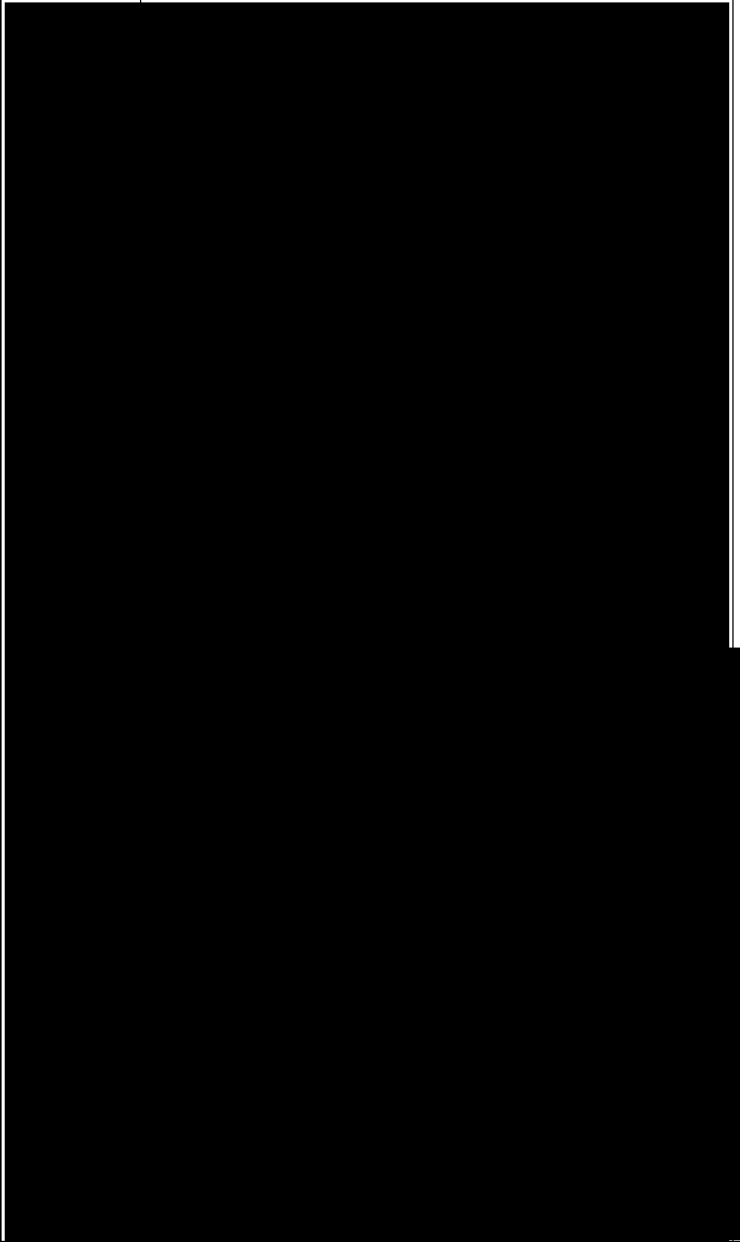
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		F 725	The facility will ensure sufficient staffing with the appropriate competencies and skills to provided nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident as determined by the resident assessments and individual		06/04/2018

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F 725	Continued From page 28 	F 725	plans of care and considering the number, acuity and diagnosis of the facility's resident population in accordance with the facility assessment. All residents residing at the facility have the potential to be affected by this same deficient practice. The facility will ensure there is enough Certified Nurses Aides (CNAs) to resident ratio to meet the needs of the residents. Once insufficient staffing was identified, the Administrator, DON, and staffing coordinator immediately reviewed the daily staffing schedules and the projected staffing for each shift to ensure that at least minimum staffing patterns were in place on each shift to meet the needs of the residents when nursing employees called out for their assigned scheduled shifts. The Administrator, DON and staffing coordinator will review the staffing sheets on a continuous basis throughout the day and to include upcoming staffing for the upcoming days. The staffing sheets will be reviewed for sufficient licensed staff; certified nursing aides and ancillary staff meets the needs of the residents at the facility. This practice will allow the facility to anticipate upcoming needs on a timely basis. The facility will conduct a 100% audit of all daily staffing sheets to identify and correct any potential issues /concerns that have been identified for future staffing starting from April 4, 2018 and ongoing. Weekly audits are completed with the coordination of payroll vs actual worked schedules. A weekly report is sent every Wednesday to the corporate office to ensure proper staffing numbers. Immediate action will be taken to correct the staffing concerns. The Regional	

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F 725	Continued From page 29	F 725	Administrator will review the staffing with the administrator on a monthly basis and ongoing. The facility has hired the following employees since the survey; CNAs: PT _____ 1 _____ LPNs: PT _____ 1 _____ RNs: PT _____ 2 _____ All new full time and part time employees hired are filling open positions while per-diem hires are filling open spots or staff call outs. The facility will hold an open house on May 11th, 2018 to attract potential new hires. The Administrator will sign additional nurse/CNA agency contracts to ensure licensed nurses and CNAs are available for staff call outs and weekend coverage. The facility assessment dated March 20, 2018 will be revised by the DON/Administrator to identify the average number of nursing staff needed per day (discipline specific) to provide resident care for both minimum and maximum staffing patterns while accommodating staff call offs. The minimum staffing patterns numbers will be determined by the DON and Administrator after review of the residents' activities of daily living, behavioral health needs, clinical acuity and facility population. The ratios of CNAs to residents based on the facility census will be reviewed weekly by the DON and Administrator and adjusted as needed to ensure that the resident needs are met. The DON/shift supervisors will conduct observation rounds and resident interviews on all units every shift to ensure resident needs are being met. Deficient practices	

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F 725	Continued From page 30	F 725	identified will be immediately addressed. The DON/RN supervisor will call in additional staff including by not limited to agency employees whenever the resident care needs are not being met. The DON/RN supervisor will audit the following care areas:	
	The Licensed Practical Nurse (LPN) on the unit stated that three of these residents were still in bed because of lack of staff. The nursing staff stated that they were still in bed because of lack of staff.		• Residents are out of bed timely • Residents are allowed to go to bed when they request • Residents are toileted or checked and changed when incontinent timely per CCP and as requested. • Resident call bells are answered in a timely manner • Morning and Evening care occur daily • Showers and Baths occur as scheduled • Residents are receiving meals and being assisted timely per the plan of care • Resident complaints are addressed and document or audit tool All finding will be forwarded to the Administrator and DON once completed. The DON/Administrator will meet daily Monday-Friday to review all audit the reports forwarded from the shift supervisors. Staffing needs will be evaluated at that time. Weekend audits will be reviewed on Monday. The Administrator will analyze and trend data collection and report findings to the QAA committee monthly. This will be ongoing. The staffing coordinator, DON and Administrator will review daily staffing sheets on a continuous basis throughout the day and include upcoming staffing for the upcoming days. The staffing sheets will be reviewed for sufficient licensed staff,	

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F 725	Continued From page 31	F 725	certified nurses' aides and ancillary staff and agency staff to meet the needs of the residents at the facility. This practice will allow the facility to anticipate upcoming needs on a timely basis. Emergency mandatory over time will be utilized in conjunction with monetary bonuses to work over time. With this constant oversight the administrator will ensure by review of the staffing sheets that there are sufficient staff scheduled for the needs of the residents in every 24 hours period. This above mentioned review will occur every day and will be ongoing. The staffing coordinator, DON and Administrator will complete time and attendance audits including review of the daily 24 hour punch reports, staffing sheets, monthly schedules, reasons for call offs and current vacancies. This view will include a 30 day look back each month and be ongoing. The staffing coordinator will collect data and the DON and Administrator will do an analysis and trend the data collection. All findings will be reported to the QAA committee monthly and this will be ongoing. The facility Administrator will be responsible for compliance.	
	c. Staff Interviews - CNA #2 was interviewed on 3/28/18 at 12:15 PM and stated that she is frequently responsible for 13 residents on the day shift. When there are only 2 CNAs, she is not able to complete the showers. She also stated that she has to work overtime frequently. - CNA #3 was interviewed on 3/28/18 at 12: 20 PM and stated that she is frequently responsible for 15 residents on the day shift. She stated that at those times assigned showers were not done and that she felt rushed. She stated she is required to work a lot of overtime which she reported to management and management's response was that there was a lot of "call-ins" and there was no one to come in. - CNA #4 was interviewed on 3/28/18 at about 2:30 PM and stated that when there are 3 CNAs on the unit she is usually assigned to 10 residents on the day shift. Lately there has been less than 3 CNAs a lot and also a lot of call-ins. As a result, she stated that she does not get to do cares in a timely manner and not able to get the residents up on time based on their preferences. - CNA #5 was interviewed on 3/28/18 at 2:48			

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F 725	Continued From page 32 PM and she stated that frequently there are only 2 CNAs on the unit and when there are only 2 CNAs she is not able to spend adequate time with the residents. She stated that some residents get out of bed late and she had difficulty meeting their "small" individual needs. - CNA #6 was interviewed on 3/28/18 at 5:12 PM and stated that recently there have been only 2 CNAs on the unit. When there are 2 CNAs she is not able to take breaks and she has to rush sometimes and is not able to give showers. She reported this to her supervisor who told her to do the best she can. She stated further she has been required to work a lot of overtime since the former Director of Nursing (DON) left. - CNA #7 who is assigned to the night shift was interviewed on 3/28/18 at 5:25 PM and stated that some residents are assigned to the night shift for morning care. She is not able to provide this care when there are only 2 CNAs on the night shift. - The Administrator was interviewed on 4/4/18 at about 4:00 PM and stated that the goal is to have 6 CNAs on the day shift. The former DON left on 3/9/18 and a lot of nursing staff left around the same time. The Administrator stated there have been a lot of call outs to include during the days of the recertification survey, which is unique. The Administrator further stated that the facility is actively recruiting CNAs. She noted that the facility has been using minimum staffing levels a lot recently and that the goal is to work with the maximum. The Administrator stated that the number of CNAs assigned to all shifts have declined and worsened after the former DON left.	F 725		

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F 725	Continued From page 33 d. Record Review - During visit to the facility on Sunday, 3/25/18, the Report of Nursing Staff Directly Responsible for Resident Care form revealed that the resident census was 54. The number of CNAs per shift included: - Day shift, 3 CNAs and a Certified Occupational Therapist working as a CNA were assigned, an average of 13.75 residents each. - Evening shift, 4 CNAs an average of 13.75 residents each; and - Night shift, 2 CNAs, an average of 27 residents each. The Facility Assessment section on Staffing and Competencies addressing the number of CNAs needed per shift to meet the needs of residents was reviewed. This assessment dated 3/20/18 determined, based on maximum capacity of 62 residents, the following CNA staffing levels/shift/census are: - Day (7-3) shift, Maximum (Max) - 6 and minimum (Min) - 4 (10.33 to 15.5 residents each) - Evening (3-11) shift, Max - 5 and Min - 3 (12.4 to 20.70 residents each) - Night (11-7) shift, Max - 3 and Min - 2 (20.70 to 31.0 residents each) These ratios of CNAs to residents by shift, assuming near or actual full capacity of 62 residents revealed that these ratios were not met frequently as noted below. The nursing staff schedules were reviewed for the months of February, March, and April 1 -3, 2018. These time periods were divided into 3 shorter time periods - February 2018, March 1-17, 2018, and March 18 - April 3, 2018 (period after the departure of the former DON).	F 725		

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F 725	Continued From page 34 The number of CNAs who worked on all shifts was averaged and analyzed as follows: March 18 - April 3, 2018 with an average census of 55 residents - Day shift - 4.64 (included 7 times with 4 CNAs resulting in a ratio of 1 CNA to 13.75 residents); - Evening shift - 3.97, resulting to 13.76 residents each - Night- 2.41 (including 10 times with 2 CNAs, resulting in 1 CNA to 27.5 residents) March 1 - 17, 2018 with an average census of 55 residents - Day shift - 5.35 (including 7 times with 4 CNAs); resulting to 10.28 residents each; - Evening shift - 4. 56, resulting to 12.06 residents each; - Night shift - 2.53 (including 8 times with 2 CNAs), resulting to 21.73 residents each. February 2018 with an average census of 56 - Day shift - 5.4 (including 4 times with 4 CNAs) resulting to 10.37 residents each; - Evening shift - 4.89 resulting to 11.45 residents each; - Night= 2.75 (including 7 times with 2 CNAs) resulting to 20.36 residents each.	F 725		

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CENTERS FOR MEDICARE & MEDICAID SERVICES

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FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 335275	(X2) MULTIPLE CONSTRUCTION A. BUILDING B. WING _____	(X3) DATE SURVEY COMPLETED 03/29/2018	
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