

## DEPARTMENT OF DISABILITIES, AGING AND INDEPENDENT LIVING

Division of Licensing and Protection  
103 South Main Street, Ladd Hall  
Waterbury, VT 05671-2306  
<http://www.dail.vermont.gov>  
Voice/TTY (802) 871-3317  
To Report Adult Abuse: (800) 564-1612  
Fax (802) 871-3318

November 12, 2013

Ms. Jeanne Schmelzenbach, Administrator  
St Joseph Kervick Residence 3  
131 Convent Avenue  
Rutland, VT 05701

Provider #: 0298

Dear Ms. Schmelzenbach:

Enclosed is a copy of your acceptable plans of correction for the unannounced onsite re-licensing survey and complaint investigation conducted on October 15, 2013 and concluded on **October 16, 2013**. Please post this document in a prominent place in your facility.

We may follow up to verify that substantial compliance has been achieved and maintained. If we find that your facility has failed to achieve or maintain substantial compliance, remedies may be imposed.

Sincerely,



Pamela M. Cota, RN  
Licensing Chief

PC:ne

Enclosure

Division of Licensing and Protection

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:  0298	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____  B. WING: _____	(X3) DATE SURVEY COMPLETED  C 10/16/2013
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NAME OF PROVIDER OR SUPPLIER  
**ST JOSEPH KERVICK RESIDENCE 3**

STREET ADDRESS, CITY, STATE, ZIP CODE  
**131 CONVENT AVENUE  
RUTLAND, VT 05701**

(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
R100	Initial Comments:  An unannounced on-site Re-Licensing survey and complaint investigation was conducted on 10/15/13 -10/16/13 by the Division of Licensing and Protection. The following are Level 3 Residential Care Home findings.	R100		
R140 SS=D	V. RESIDENT CARE AND HOME SERVICES  5.8 Physician Services  5.8.d All physicians' orders obtained via telephone shall be countersigned by the physician/licensed practitioner within 15 days of the date the order was given.  This REQUIREMENT is not met as evidenced by: Based on staff interview and record review, a physician telephone order for 1 of 7 applicable residents was not countersigned within 15 days as required. (Resident #1) Findings include:  Per record review on 10/16/13, Resident #1's physician was called on 07/25/13 as noted on a telephone order slip which states "reduce Lantus [insulin] to 38 Unit from 42 Units at h.s. [bedtime]". There was no signature from the physician/licensed practitioner within 15 days of the date the order was given. Per interview on 10/16/13 at 3:25 PM the Director of Nursing (DON) confirmed that the physician's telephone order dated 07/25/13 has not been countersigned within 15 days of the date the order was given.	R140		
R145 SS=D	V. RESIDENT CARE AND HOME SERVICES	R145	By the next PCA Charge meeting (11/12/13) Nursing Department Staff Will: - Request Physicians' offices to fax signed orders whenever possible - When a telephone order is taken, transport aides will bring telephone orders to physicians' offices twice per week instead of once per week to improve turnaround time of signed orders. - Head nurse will ensure that orders are countersigned within 15 days and posted in the resident record. - A telephone order log will be kept and updated by the house nurse daily. - The log will be monitored weekly by DON to ensure compliance (See attached example).	

Division of Licensing and Protection  
LABORATORY/DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE  
*[Signature]* ADMINISTRATOR  
TITLE  
11/01/2013  
(X8) DATE

STATE FORM 8899 YVJZ11 If continuation sheet 1 of 7

R140, R145, R164, R171, R191, + R302 POCs accepted 11/8/13 SEMMONS RLL/AME

Division of Licensing and Protection

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R145	Continued From page 1  5.9.c (2)  Oversee development of a written plan of care for each resident that is based on abilities and needs as identified in the resident assessment. A plan of care must describe the care and services necessary to assist the resident to maintain independence and well-being;  This REQUIREMENT is not met as evidenced by: Based on staff interview and record review, the facility failed to ensure that a Registered Nurse (RN) oversees the development of a written care plan and/or a plan of care was developed for care and services for 2 of 7 applicable residents (Residents #2 & #3). Findings include:  Per record review on 10/15/13 and 10/16/13 there is no evidence that an RN had overseen the development of the care plans for Residents #2 & #3. Per observation on 10/15/13 and 10/16/13, Resident #2, who smokes and has a sharp instrument, had no care plan developed that would direct staff on the use of those items. Resident #3 had a care plan dated 9/16/13 developed by the LPN (Licensed Practical Nurse) for the use of two devices for a hip fracture however the RN had not co-signed nor assured that staff were consistently providing the devices. Per interview on 10/16/13 at 2:30 PM the DON conformed s/he had not developed/co-signed the plan of care nor assured staff were providing the services as planned.	R145		
R164 SS=F	V. RESIDENT CARE AND HOME SERVICES  5.10 Medication Management	R164	The DON reviewed the process of updating care plans with the head nurse and assessment nurse (10/21/13). The DON and head nurse will continue having care plan meetings weekly to: -Update care plans -Develop interventions -Co-Sign when applicable (See attached) -Ensure that staff are providing care as directed by monitoring both the MAR and TAR documentation, to account for resident refusal of intervention.	

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R164	<p>Continued From page 2</p> <p>5.10.d If a resident requires medication administration, unlicensed staff may administer medications under the following conditions:</p> <p>(2) A registered nurse must delegate the responsibility for the administration of specific medications to designated staff for designated residents</p> <p>This REQUIREMENT is not met as evidenced by: Based on record review and interview, the home failed to show evidence that unlicensed staff who administer medications to potential residents in the RCH had been delegated the medication administration responsibility by a Registered Nurse (RN). Findings include:</p> <p>During record review on 10/15/13, the home's list of staff to whom medication administration is delegated was not found to be signed by the current Director of Nursing [DON]. Per interview on 10/15/13 at 4:36 PM the DON stated that the medication delegation, which includes a test as well as observation of the skills were performed after the previous DON left in 2012. However, the DON confirmed that s/he was unable to show evidence of the medication delegation for un-licensed staff.</p> <p>Reference: Vermont State Board of Nursing - THE ROLE OF THE NURSE IN DELEGATING NURSING INTERVENTIONS POSITION STATEMENT. Last Revised May 2013.</p>	R164	<p>By 11/08/13 the DON will re-test ALL staff not tested by current DON using the skills checklist and by completing the <b>Individual Statement of Delegation</b> (See example). This will provide evidence that the un-licensed staff member has been delegated to provide medication administration responsibilities.</p> <p>The <b>Individual Statement of Delegation</b> will be maintained in employee record.</p> <p>By 11/08/13 a <b>Medication Administration Delegation List</b> (See attached) will be compiled and placed in each MAR. Moving forward, each time an un-licensed staff has been qualified by written and practical testing, their name shall be added to the <b>Medication Administration Delegation List</b>. Likewise when a PCA is no longer part of the staff his/her name will be removed and the document updated.</p>	
R171 SS=C	V. RESIDENT CARE AND HOME SERVICES	R171		

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R171	<p>Continued From page 3</p> <p>5.10 Medication Management</p> <p>5.10.g Homes must establish procedures for documentation sufficient to indicate to the physician, registered nurse, certified manager or representatives of the licensing agency that the medication regimen as ordered is appropriate and effective. At a minimum, this shall include:</p> <p>(1) Documentation that medications were administered as ordered;</p> <p>(2) All instances of refusal of medications, including the reason why and the actions taken by the home;</p> <p>(3) All PRN medications administered, including the date, time, reason for giving the medication, and the effect;</p> <p>(4) A current list of who is administering medications to residents, including staff to whom a nurse has delegated administration; and</p> <p>(5) For residents receiving psychoactive medications, a record of monitoring for side effects.</p> <p>(6) All incidents of medication errors.</p> <p>This REQUIREMENT is not met as evidenced by: Based on record review and interview the RCH failed to have a current list of who is administering medications to residents, including staff to whom a nurse has delegated administration. Findings include:</p> <p>1. Per review on 10/15/13 at 10:00 AM the Initial Signature Sheet Year: 2012-2013 was presented as the list of staff who administer medication, include staff who have been delegated to administer medications. The list contained names of staff who are no longer are employed, staff who are not delegated to pass medications</p>	R171	<p>By 11/08/13 the DON will have completed a current signature sheet which will be placed in the front of each MAR and TAR.</p> <p>-These sheets will be updated with the printed name, signature, and initials of each new nursing staff employee.</p> <p>-This item will be added to the nursing staff employee orientation check list.</p> <p>-The DON or designee will conduct monthly chart audits to ensure that updated sheets go on the MAR and TAR.</p>	

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R171	Continued From page 4  and as well as missing names of new staff who are delegated to administer medications. The DON confirmed on 10/15/13 at 4:36 PM the list of staff for administering medication is not correct.	R171		
R191 SS=C	<p>V. RESIDENT CARE AND HOME SERVICES</p> <p>5.12 Records/Reports</p> <p>5.12.c A home must file the following reports with the licensing agency:</p> <p>5.12.c.(1) When a fire occurs in the home, regardless of size or damage, the licensing agency and the Department of Labor and Industry must be notified within twenty-four (24) hours. A written report must be submitted to both departments within seventy-two (72) hours. A copy of the report shall be kept on file.</p> <p>5.12.c.(2) A written report of any accident or illness shall be placed in the resident's record. Any untimely deaths shall be reported and a record kept on file.</p> <p>5.12.c.(3) A report of any unexplained absence of a resident from a home for more than 12 hours shall be reported to the police, legal representative and family, if any. The incident shall be reported to the licensing agency within twenty-four (24) hours of disappearance followed by a written report within seventy-two (72) hours, a copy of which shall be maintained.</p> <p>5.12.c.(4) A written report of any breakdown or cessation to the home's physical plant's major services (plumbing, heat, water supply, etc.) or</p>	R191		

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R191 Continued From page 5

supplied service, which disrupts the normal course of operation. The licensee shall notify the licensing agency immediately whenever such an incident occurs. A copy of the report shall be sent to the licensing agency within seventy-two (72) hours.

5.12.c. (5) A written report of any reports or incidents of abuse, neglect or exploitation reported to the licensing agency.

5.12.c. (6) A written report of resident injury or death following the use of mechanical or chemical restraint.

R191

On 10/30/13 the Administrator reviewed the Residential Care Home Licensing Regulations and outlined all instances when the licensing agency must be notified. The Administrator will submit the report and comply with the requirements. This document will be reviewed quarterly by the Administrator to ensure compliance with reporting instances (See attached).

R302 SS=E IX. PHYSICAL PLANT

9.11 Disaster and Emergency Preparedness

9.11.c Each home shall have in effect, and available to staff and residents, written copies of a plan for the protection of all persons in the event of fire and for the evacuation of the building when necessary. All staff shall be instructed periodically and kept informed of their duties under the plan. Fire drills shall be conducted on

R302

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R302	<p>Continued From page 6</p> <p>at least a quarterly basis and shall rotate times of day among morning, afternoon, evening, and night. The date and time of each drill and the names of participating staff members shall be documented.</p> <p>This REQUIREMENT is not met as evidenced by: Based on review of fire drill records and interview, the facility failed to ensure that fire drills were conducted at varying times of the day, including morning, afternoon, evening and nights. This has the potential to affect all Residents in the current census. Findings include:</p> <p>Review of the fire drill records on 10/15/13 shows the fire drills held from January 2012 to present day were held quarterly. However no evening fire drills were conducted during the year of 2012. Additionally, for the year January 2013 to October 16, 2013 no evening nor night fire drills were held during any of the previous quarters. Per interview at 12:15 PM, the Maintenance Manager confirmed that the fire drills were not rotated among all times of day.</p>	R302	<p>To complete necessary 2013 fire drills, an evening fire drill was conducted October 31<sup>st</sup> and a night fire drill will be conducted this November. Starting January 2014 the following schedule has been made for annual fire drills:</p> <p><u>Fire Drills:</u> Fire drills must be conducted at least six (6) times annually on a bi-monthly basis with at least two (2) drills conducted when residents are sleeping. (Division of Fire Safety memo dated March 13, 2013 based on the National Fire Protection Association (NEPA) 101 Life Safety Code, Chapter 33) Fire drills shall be conducted on at least a quarterly basis and shall rotate times of day among morning, afternoon, evening, and night. The date and time of each drill and the names of participating staff members shall be documented. (VT Licensing Regulations 9.11.c)</p> <p><u>Fire Drill Schedule:</u> Jan - Morning (between 6am 11am) March - Nights (btw 11:01pm 5:59am) May - Evenings (between 4:01pm 11pm) July - Afternoon (between 11:01 am 4pm) Sept - Morning (between 6am 11am) Nov - Nights (between 11:01pm 5:59am)</p> <p>The fire drill log will be updated by the Director of Maintenance or designee ensuring schedule is followed.</p>	
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**INSTANCES WHERE THE HOME MUST CONTACT/FILE A REPORT WITH THE LICENSING AGENCY**

**Withdrawal from ACCS program: 4.3.e** A home shall give 90 days advance notice to the licensing agency and to its residents of a decision to withdraw from the ACCS program in the time and manner required for closure of a home pursuant to 5.3(h) of these regulations.

**RE-Application: 4.5.a** Application forms will be mailed to the applicant approximately sixty (60) days before the end of the licensing year. The completed application form must be returned to the licensing agency not less than forty-five (45) days before the expiration date. Upon receipt of a properly completed application, a license will be renewed assuming all other conditions for licensure are met.

**Change in licensed capacity: 4.7.a** A home shall not provide care to more residents than the capacity for which it is licensed. Requests for a change in licensed capacity shall be made in writing to the licensing agency. A proper staffing pattern to cover an increase in capacity shall be submitted when requested.

**Providing additional services beyond residential care: 4.7.b** A home may provide other related services, such as acting as a senior meals program meal site or adult day care, provided the home:

- (4) Has received approval from the licensing agency in advance.

**When a resident appeals the decision to transfer or discharge: 5.3.a** Involuntary Discharge or Transfer of Residents

- (3) A resident has the right to appeal the decision by the home to discharge or transfer. The process for appeal is as follows:

- i. To appeal the decision to transfer or discharge, the resident must notify the administrator of the home or the director of the licensing agency. Upon receipt of an appeal, the administrator must immediately notify the director of the licensing agency.

**When a resident presents an immediate threat to the health or safety of self or others: 5.3.b** Emergency Discharge or Transfer of Residents

- iii. The resident presents an immediate threat to the health or safety of self or others. In that case, the licensee shall request permission from the licensing agency to discharge or transfer the resident immediately. Permission from the licensing agency is not necessary when the immediate threat requires intervention of the police, mental health crisis personnel, or emergency medical services personnel who render the professional judgment that discharge or transfer must occur immediately. In such cases, the licensing agency shall be notified on the next business day.

**Discontinuance of all or part of the operation: 5.3.g** A licensee who intends to discontinue all or part of the operation, or to change the admission or retention policy, ownership, or location of the home in such a way as to necessitate the discharge or transfer of residents shall notify the licensing agency and residents at least ninety (90) days prior to the proposed date of change. The licensee is responsible for ensuring that all residents are discharged or transferred in a safe and orderly manner. When such change in status does not necessitate the discharge or transfer of residents, the licensee shall give the licensing agency and residents at least thirty (30) days prior written notice.

**Establishing a Special Care Unit: 5.6.a** The home must obtain approval from the licensing agency prior to establishing and operating a special care unit. Approval will be based on a demonstration that the unit will provide specialized services to a specific population.

**Residents who require more than nursing overview: 5.9.a** Residents who require more than nursing overview or medication management shall not be retained in a residential care home unless the provisions of the following subsections (1)-(5) are all met:

(1) The nursing services required are either:

i. Provided fewer than three times per week; or

ii. Provided for up to seven days a week for no more than 60 days and the resident's condition is improving during that time and the nursing service provided is limited in nature; or

iii. Provided by a Medicare-certified Hospice program.

**Written Reports to submitted and kept on file: 5.12.c** A home must file the following reports with the licensing agency:

(1) **Fire:** When a fire occurs in the home, regardless of size or damage, the licensing agency and the Department of Labor and Industry must be notified within twenty-four (24) hours. A written report must be submitted to both departments within seventy-two (72) hours. A copy of the report shall be kept on file.

(2) **Untimely deaths:** A written report of any accident or illness shall be placed in the resident's record. Any untimely deaths shall be reported and a record kept on file.

(3) A report of any **unexplained absence of a resident from a home for more than 12 hours** shall be reported to the police, legal representative and family, if any. The incident shall be reported to the licensing agency within twenty-four (24) hours of disappearance followed by a written report within seventy-two (72) hours, a copy of which shall be maintained.

- (4) A written report of any **breakdown or cessation to the home's physical plant's major services (plumbing, heat, water supply, etc.) or supplied service, which disrupts the normal course of operation.** The licensee shall notify the licensing agency immediately whenever such an incident occurs. A copy of the report shall be sent to the licensing agency within seventy-two (72) hours.
- (5) A written report of any reports or **incidents of abuse, neglect or exploitation** reported to the licensing agency.
- (6) A written report of **resident injury or death following the use of mechanical or chemical restraint.**

**Before using half doors or gates: 5.14.c** A resident shall not be secluded in any room by locking or fastening a solid door from the outside. Half doors or gates may be employed only with the prior approval of both the physician and the licensing agency.

**Restraints: 5.14.d** The home shall notify the licensing agency and the resident representative within 24 hours when a restraint is used, and within 72 hours must complete a reassessment of the resident to determine if the resident's needs can be met within the residential care setting. The reassessment shall include consultation with the physician and the resident or the resident's representative.

**5.14.e** Residents shall have a right to be free from chemical restraints and unnecessary mechanical restraints. Residents shall be notified at the time a restraint is applied of their right to challenge the use of the restraint. A resident has the right to meet with and discuss the challenge with the following individuals:

- (1) The home manager;
- (2) The licensing agency;
- (3) The Commissioner of the licensing agency.

**When resident challenges use of approved restraint:** In the event that a resident does challenge the use of a restraint, the home operator shall inform the licensing agency at the time the challenge is raised.

**Installation of a door security system preventing ready exit: 5.14.f** A home may not install a door security system which prevents residents from readily exiting the building without prior approval of the licensing agency.

**Instances of resident-resident abuse: 5.18.c** Incidents involving resident-to-resident abuse must be reported to the licensing agency if a resident alleges abuse, sexual abuse, or if an injury requiring physician intervention results, or if there is a pattern of abusive behavior. All resident-to-resident incidents, even minor ones, must be recorded in the resident's record. Families or legal representatives must be notified and a plan must be developed to deal with the behaviors.

**Special therapies: 5.9.b** The following services are not permitted in a residential care home except under a variance granted by the licensing agency: intravenous therapy; ventilators or respirators; daily catheter irrigation; feeding tubes; care of stage III or IV decubitus; suctioning; sterile dressings.

**When the home cannot provide necessary services: 5.9.d** Residents of Level III or Level IV may receive home health services on a resident-specific basis to provide care the home cannot readily provide, including skilled nursing, speech therapy, physical therapy and occupational therapy on an intermittent basis (less than three times per week) or more intensively for short term (up to seven days a week for no more than 60 days) to the extent agreed upon by the service provider and the resident if all other provisions of these regulations are met.

- (1) Level III homes may utilize home health agency services to provide nursing overview or medication management provided such services are provided on a contractual basis to the home and the cost for such a service is not charged to Medicare or the resident. Level IV homes may utilize home health agency services to provide nursing overview or medication management on a resident specific basis without a special contractual arrangement.
- (2) If a resident requires skilled nursing services from a home health agency because the home cannot provide the services and the services will continue for more than sixty (60) days, the home must request a variance in writing from the licensing agency to retain the resident.
- (3) Home health agencies shall not provide personal care services, such as bathing, for residents in residential care homes **except with the permission of the licensing agency**. Personal care by home health agencies associated with hospice care is permitted as long as the home meets all other requirements.





**Med-Tech (PCA) Medication Delegation Statement for Un-licensed Staff**

I Cindy Wilcox, Director of Nursing for **The St. Joseph Kervick Home** certify that the following un-licensed staff members have been delegated medication administration responsibilities by me, a licensed Registered Nurse.

**Kim Cenate, NA**  
**Doris Kelley, LNA**  
**Ann Brooks, LNA**  
**Bonnie Lussier, LNA**  
**Wendy Morrill, LNA**  
**Brandy Knight, LNA**  
**Kim Rayborn, NA**  
**Deb St. Lawrence, NA**  
**Howard Wasserman, LNA**  
**Lisa Perry, NA**  
**Allie Laumanis, LNA**  
**Fran Sheldon, LNA**  
**Vanessa Robie, LNA**  
**Brenda Miglis, LNA**

Director of Nursing:

Date:

Cindy Wilcox, RN, DON

## Med-Tech (PCA) Medication Delegation Statement for Un-licensed Staff

I, Cindy Wilcox, Director of Nursing of St. Joseph Kervick Residence and the Loretto Home certify that \_\_\_\_\_ has been delegated the medication administration responsibility by me on \_\_\_\_\_. \_\_\_\_\_ has successfully completed his/ her in-house med tech training as evidenced by achieving a passing grade (80% or higher) on her Med Tech written exam and by DON clinical competency skills observation (see Skills Checklist).

Cindy Wilcox, RN, DON

**St. Joseph Kervick Residence**

131 Convent Ave. Rutland, Vt. 05701

Tel. (802-775-5133

Fax (802-747-0167

**FAX**

To: Pam Cota From: Jeanne Schmelzenbach

Fax: 802-871-3318 Pages: 16

Phone \_\_\_\_\_ Date: 11-1-2013

RE: \_\_\_\_\_ cc: Mary Beth Pinard

Urgent:  For Review  Please Comment  Please Reply  Please Recycle

Please review the response from St. Joseph Kervick Residence. If you have any questions please contact Jeanne Schmelzenbach. 802-345-8585.

**CONFIDENTIALITY NOTICE:** The information contained in the facsimile message and in any accompanying document constitutes confidential information belonging to the St Joseph residence. This information is intended only for the use of the individual(s) named above. Unauthorized use, disclosure or copy of the information by any recipient is strictly prohibited and may be unlawful. If you have received this communication in error please notify us immediately at (802) 775-5133.