STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	2068	A. BUILDING _____ B. WING _____	05/02/2008

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
TENDER HEART ASSISTED LIVING	4308 TULANE DRIVE NE ALBUQUERQUE, NM 87107

(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
A19	7 NMAC 8.2.19 ADMISSIONS 7.8.2.19 ADMISSIONS: No resident shall be admitted or retained who is below the age of eighteen (18) or for whom the facility is unable to provide appropriate care. EXCEPTION: Maternity Shelters may accept residents below the age of eighteen (18). A. ADMISSION INTERVIEW. The Director of the facility or a designee responsible for admission and retention decisions, shall meet with the resident or the resident's agent or guardian, if the resident lacks decision-making capacity, and shall provide the resident with: (1) The facility's program narrative. (2) The facility's rules. (3) The facility's admission agreement, including costs and charges, refund provision, and contract termination policies. (4) The facility's bed hold policy. (5) Information about the resident's right under New Mexico Law to make decisions regarding health care, including the right to make advance directives. (6) A written description of the legal rights of the residents translated into another language, if necessary. (7) The facility's staffing pattern. B. RESTRICTIONS ON ADMISSIONS: Adult residential care facilities shall not admit or retain individuals requiring continuous nursing care. Conditions or circumstances that usually require continuous nursing care, may include, but not limited to the following: (1) Ventilator dependency. (2) Pressure sores where skin loss penetrates beyond the skin, and into deeper tissue or bone, which are classified as Stage III or IV. (3) Intravenous therapy or injections directly into the vein.	A19	ES Scanned 6-12-08	

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A19	Continued From page 1 (4) Airborne infectious disease, in a communicable state, including tuberculosis, but excluding infections such as the common cold. (5) Any condition requiring either physical or chemical restraints. (6) Nasogastric tubes / gastric tubes. (7) Tracheostomy care. (8) Individuals presenting an imminent physical threat or danger to self or others. (9) Individuals whose physician certifies that placement is no longer appropriate. C. ADMISSION/RETENTION EXCEPTIONS: If a resident requires a greater degree of care than the facility would normally provide, or is permitted to provide, and the resident wishes to be re-admitted or to remain in the facility, and the facility wishes to re-admit or retain the resident, the facility must: (1) Convene a team, comprised of: (a) The facility director. (b) The resident. (c) The resident's agent, guardian or surrogate decision maker. (d) The resident's advocate, such as the resident's case manager, Ombudsman, or social worker. (e) If the treating physician is unable to meet with the team, then consultation and recommendations via phone is acceptable. (f) Other appropriate health care professionals. (2) The team shall jointly determine if the resident should be admitted or allowed to remain in the facility. The team must approve a individual service plan that meets the specific needs of the resident. Such team approval must be in writing, signed and dated by all team members, must be maintained in the resident's record, and must: (a) Be based upon a individual service plan which identifies the resident's specific needs	A19		

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A19	Continued From page 2 and addresses the manner that such needs will be met. (b) Ensure that the facility has and will maintain an evacuation rating of prompt or slow as determined by the Fire Safety Equivalency System (FSES). (c) Be based upon an assessment of the health, safety and well-being of the other facility residents. (d) Assess the impact that meeting the specific needs of the resident as set out in the individual service plan will have on the staff and on the other residents. (3) Notify the Licensing Authority within five (5) days of the completion of team approval. Such notification of team approval must be submitted in writing and include evidence of the team's consideration of items 7.8.2.19C2(a) through 7.8.2.19C2(d) above. [9-24-76, 7-11-86, 1-11-90, 4-7-97;7.8.2.19 NMAC - Rn. 7 NMAC 8.2.19, 8-31-00] This REQUIREMENT is not met as evidenced by: Refer to 7.8.2.19C Admission/Retention Exceptions Based on record reviews and interviews, the facility failed to ensure that high acuity individuals and those with a recent level of care change received consideration of their care needs during an individual service plan meeting for 3 sampled residents subsequent to significant change in condition for (Resident #1, Resident #2 and Resident #3). The findings are: A. On 4/30/08 during review of incident reports for Resident's #1, #2, and #3, they indicated that these three individuals had had recent or ongoing	A19	7.8.2.19C.A. Effective May 24, 2008, care plans for residents #1, #2, and #3 have been updated by the facility's nurse consultant. Prior to May 24, 2008, facility had updated care support for all 3 residents in line with their needs and in coordination with health care providers and families. The only issue that had not been addressed was the written update of the care plan. Effective immediately, Administrator will review resident files weekly to identify need to update care plans based on change in resident condition.	

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A19	Continued From page 3 issues which require a greater degree of care than normal. B. On 4/30/08 at 9:30 AM during interview with the Administrator, she stated that she had 3 residents who had experienced the following: -Resident #1 - ongoing behavioral issues related to alcohol use and change in mental status -Resident #2 - recent suicide attempt -Resident #3 - fall in which the entire face was bruised The administrator stated that she understood the issue and would address it.	A19	7.8.2.19C.B. Effective May 24, 2008, care plans for residents #1, #2, and #3 were updated. Administrator to review files weekly to identify need for updates in care plans based on changes in resident conditions. Resident #1 – ongoing behavioral issues, facility continues to work closely with treatment team to address resident #1's behavioral issues, including changes in medications	
A27	7 NMAC 8.2.27 INDIVIDUAL SERVICE PLAN 7.8.2.27 INDIVIDUAL SERVICE PLAN: A. An individual service plan, if prompted by the resident assessment, shall be developed and implemented within fourteen (14) days of admission, and must address those areas of need as identified in the resident assessment. The individual service plan must be reviewed by a licensed nurse at least every six (6) months, and revised as needed at the time of each assessment and consistently implemented in response to the resident's needs. B. The individual service plan must include the following: (1) Description of identified needs as noted in the resident assessment. (2) Written description of what services will be provided. (3) Who will provide the services. (4) When or how often the services will be provided. (5) How the services will be provided. (6) Where the services will be provided. (7) Goal and outcome of the service. (8) Documentation of the facility's	A27	Resident #2 – immediately after suicide attempt, facility worked closely with family, treatment provider and Meg Pell, Adult Protective Services, to identify and implement higher level of care for resident #2. All self-administered drugs removed from resident's control. The only issue that had not been addressed was the written update of the service plan. Resident #3 – immediately after fall, facility worked closely with Total Community Care (TCC) to identify reasons for fall. Resident #3's fall was identified as being caused by resident's continuing decline and dementia. Additional safety precautions were implemented and TCC will train staff on use of gait belt to ensure safety when taking walks.	

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A27	Continued From page 4 determination that it is able to meet the needs of the resident.. [7-11-86, 1-11-90, 4-7-97; 7.8.2.27 NMAC - Rn, 7 NMAC.8.2.27, 8-31-00] This REQUIREMENT is not met as evidenced by: Refer to 7.8.2.27 (A) - Individual Service Plan Based on observation and interview, the facility failed to ensure that the individual service plan was developed with each resident in mind for 1 sampled resident (Resident #1). The findings are: A. On 5/1/08 during evening observation, Resident #1 informed me that she was a "smoker" did not have any cigarettes to smoke that evening. B. On 5/2/08 at 8:15 AM during interview with the Administrator, she reported that Resident #1's family brought the cigarettes to her and she frequently ran out due to her "chain smoking" type behavior. She informed me that day that the resident was still out of cigarettes to smoke because she was given 12 every day from the last lot brought to her family until they were gone. She acknowledged that she had had to attempt to remove cigarettes in the past from Resident #1 due non-compliance with the facility policy. At the end of the interview, the Administrator acknowledged that a more appropriate and specific plan needed to be developed with the appropriate parties to humanely address Resident #1's right to smoke in a dignified manner.	A27	8.2.27.A. Surveyor noted that resident #1 did not have any cigarettes to smoke. It is the family's responsibility to provide cigarettes for resident #1. Effective immediately, Facility has implemented signout log for cigarettes and 3-4 days prior to resident #1 running out of cigarettes, staff will remind family to bring new supply of cigarettes. 8.2.27.B. Effective immediately, Facility has implemented signout sheet for packs of cigarettes, has placed more trash cans outside for resident #1. Administrator acknowledged that she had limited resident #1's smoking for the following reasons: Resident #1 had set at least two fires in trash cans jeopardizing safety of other residents. Resident #1 trashed recreational yard intentionally by bringing trash in yard and throwing it on ground and trash receptacles and then tossing lit cigarette butts in with trash. Resident #1 flicked lit cigarettes into yard, jeopardizing safety of other residents and causing fire risk. Resident #1 refused to use trash cans provided for her use and safety of other residents. The only limitation that Administrator placed on Resident #1 was that she put out cigarette butts and use cigarette butt trash container, to minimize fires and ensure safety of residents and facility.	
A34	7 NMAC 8.2.34 RESIDENT RIGHTS 7.8.2.34 RESIDENT RIGHTS: All licensed	A34		

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A34	Continued From page 5	A34		

facilities shall be aware of, protect, and enhance the rights of all residents.

A. Prior to admission to a facility, a resident and/or legal representative shall be given a written description of the legal rights of the residents translated into another language, if necessary, to meet the residents understanding.

B. If the resident is incapable of understanding his/her legal rights, and if he/she has no legal representative, then the licensee shall also give a written copy of the resident's legal rights to one of the following persons, in this order of priority:

(1) the resident's spouse;
(2) any of the resident's adult children;
(3) either of the resident's parents;
(4) any relative the resident has lived with for six or more months before admission;
(5) a person who has been caring for, or paying benefits on behalf of the resident;
(6) a placing agency; or
(7) any other person, e.g., Ombudsman.

C. These resident rights and the telephone number for the Ombudsman Program shall be posted in a conspicuous place in the facility:

D. The facility, to protect resident rights must:

(1) Treat all residents with courtesy, respect, dignity and compassion.
(2) To the extent that resident required services fall within the scope of the facilities program, avoid discrimination in admission or services because of a resident's age, race, religion, physical or mental disability, or nationality.
(3) Furnish residents written information about all services provided by the facility and their costs, and advance written notice of any changes.
(4) Assure that residents have a safe

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A34	Continued From page 6	A34		

and sanitary living environment.

(5) Provide humane care.

(6) Assure the resident's rights to privacy in medical care, including privacy during medical examinations, consultations and treatment; and protect the confidentiality of the resident medical records.

(7) Protect and assure the resident's right to personal privacy, including privacy in personal hygiene; privacy during visits with a spouse, family member or other visitor; and privacy in the resident's own room.

(8) Assure the resident's right to communicate privately and freely with any person, including private telephone conversations and private correspondence; and assure the resident's right's to receive visits from family, friends, lawyers, ombudsmen and community organizations.

(9) Prohibit the use of any and all physical and chemical restraints.

(10) Assure the residents are free from physical and emotional abuse and neglect.

(11) Assure that all residents are free from financial abuse and exploitation by facility staff and/or management.

(12) Consistent with the resident's health, abilities and security, assure the right of the resident to freely participate in religious, social, community and other activities; and freely associate with persons in and out of the facility.

(13) Permit the residents to leave the facility freely and return without unreasonable restriction.

(14) Prevent unjustified room transfers or discharge from this facility.

(15) Use care and management practices that foster social interaction and avoid practices that unnecessarily result in social isolation.

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A34	Continued From page 7 (16) Provide services consistent with informed consent. (17) Assure that all residents may voice grievances to the facility staff, public officials, the ombudsmen or any other person, without fear of reprisal or retaliation. (18) Promptly address and resolve resident complaints. (19) Foster resident participation and understanding in the development, review and modification of the resident's plan for care and treatment. (20) Respect a resident's choice of doctor, pharmacist and other health care provider. (21) Respect a resident's medical treatment decisions and advance directives, such as living wills and durable powers of attorney for health care. (22) Respect a resident's right to keep and use personal possessions without loss or damage. (23) Allow each resident to manage and control the resident's personal finances to the extent that the resident is able, and provide to every resident a written record of all financial arrangements and transactions involving that resident's funds. (24) Allow residents to freely organize and participate in a resident association that may recommend changes in the facility's policies, services and management. (25) Require no resident to work for the facility. (26) Consult with the incapacitated resident regarding his/her care, regardless of the involvement of a guardian or surrogate decision maker. (27) Assure the involvement in, and consent of, an incapacitated resident's guardian	A34		

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A34	Continued From page 8 or surrogate decision maker in the resident's care. E. The resident's rights shall not be restricted unless the resident agrees to such a restriction, and unless this restriction is described in detail in his/her individual service plan. [9-24-76, 7-11-86, 1-11-90, 4-7-97; 7.8.2.34 NMAC - Rn, 7 NMAC 8.2.34, 8-31-00] This REQUIREMENT is not met as evidenced by: Refer to 7.8.2.34 Resident Rights Based on observation, record review and interview, the facility failed to ensure that a resident (R1) was treated with dignity and compassion. The findings are: A. On 5/1/08 during evening observation R1 informed me that she likes coffee and cigarettes in the evening after dinner. 1. On 5/1/08 at 6:30 PM during interview of Staff #1, she reported that "coffee is not available in the evening." 2. On 5/2/08 at 8:15 AM during interview with the Administrator of the facility, she indicated that Resident #1 was unable to sleep at night upon consumption of late evening coffee. The administrator further discussed that this resident was unable to manage her coffee and frequently spilling a trail of the beverage behind her as she walked throughout the facility. She mentioned that coffee was not provided as to enhance the sleep of all residents at night. 3. On 5/2/08 at 8:30 AM during review of Resident #1's file, it noted that the resident did not have a physician's order indicating that she was prohibited from drinking coffee at any hour of	A34	7.8.2.34.A. Resident #1 is now offered coffee at all times of day as long as she sits while drinking coffee to avoid spills and risk of fall to other residents. A signout log has been put in place to ensure that Resident #1 receives coffee when she requests it. Facility has offered to fill carafe with coffee to place in Resident #1's room but she has declined. 7.8.2.34.A.1. Factility has made coffee available in evening as long as resident #1 adheres to reasonable safety precautions for other residents. 7.8.2.34.A.2. Facility offers coffee in evening and will switch to decaf coffee to minimize disruption to sleep of residents. 7.8.2.34.A.3. Facility has contacted health care provider to obtain order to limit coffee,and has switched to decaf coffee in the evenings to minimize disruption to sleep of residents, including resident #1. However, if resident #1 refuses decaf coffee, regular coffee is offered to resident #1.	

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A34	Continued From page 9 the day. Resident #1' s file did also include a history of alcohol use, recent hoarding behavior, behavioral outbursts, delusions, inconsistent cigarette use, self-care deficit, and recent incident requiring resident transfer a behavioral facility for evaluation. 4. On 5/2/08 at 8:15 AM during interview with the Administrator of the facility, she indicated that Resident #1 could benefit from the admission retention process and understood how the process was needed to enhance the rights of the resident.	A34	7.8.2.34.4. Facility continues to work with family and health care providers to enhance retention of resident #1 to minimize risk of nursing home placement, and to enhance rights of resident.	
A66	7 NMAC 8.2.66 RELATED REGULATIONS AND CODES 7.8.2.66 RELATED REGULATIONS AND CODES: Adult residential care facilities subject to these regulations are also subject to other regulations, codes and standards as the same may, from time to time, be amended as follows: A. Health Facility Licensure Fees and Procedures, New Mexico Department of Health 7 NMAC 1.7 (10-31-96). B. Health Facility Sanctions and Civil Monetary Penalties, New Mexico Department of Health, 7 NMAC 1.8 (10-31-96). C. Adjudicatory Hearings, New Mexico Department of Health, 7 NMAC 1.2 (2-1-96). [9-24-76, 7-11-86, 1-11-90, 4-7-97; 7.8.2.66 NMAC - Rn, 7 NMAC 8.2.66, 8-31-00] This REQUIREMENT is not met as evidenced by: Refer to NMAC 7.1.13.10(E) - Incident Reporting, Intake, Processing and Training Requirements (Effective date February 28, 2006) - Consumer and Guardian Orientation Packet Based on record review and interview, the facility	A66		

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A66	Continued From page 10 failed to ensure that documentation of notice to family members and/or guardians regarding Incident Reporting information was provided to residents and/or responsible parties for 100% of sampled charts. The findings are: A. On 5/2/08 during review of resident files for Resident #1 and Resident #2, it was noted that none of the files reviewed had documentation of notification to family members/guardians regarding Incident Reporting. B. On 5/2/08 during the exit interview, the Administrator acknowledged the problem.	A66	7.8.2.66.A. Effective immediately, Administrator is reviewing files of residents weekly to identify need for updated care plans. For residents. Facility involved health care providers and families in revised care plans for residents #1, #2, and #3. Facility failed to document family participation and to update revised care plan needs in writing. Facility is training staff on documentation requirements and the need for documenting contacts with family. 7.8.2.66.B. Administrator is conducting training of staff to document more thoroughly contacts and notification of families for changes in care needs of residents.	