

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

PRINTED: 05/17/2010
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 04G001	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 05/12/2010
NAME OF PROVIDER OR SUPPLIER ALEXANDER HUMAN DEVELOPMENT CENTER			STREET ADDRESS, CITY, STATE, ZIP CODE 14701 HIGHWAY 111 SOUTH ALEXANDER, AR 72002		
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W 000	INITIAL COMMENTS Note: The CMS-2567 (Statement of Deficiencies) is an official, legal document. All information must remain unchanged except for entering the plan of correction, correction dates, and the signature space. Any discrepancy in the original deficiency citation(s) will be reported to the Dallas Regional Office (RO) for referral to the Office of the Inspector General (OIG) for possible fraud. If information is inadvertently changed by the provider/supplier, the State Survey Agency (SA) should be notified immediately. A Complaint Survey was conducted 5/7/10 - 5/12/10. Complaint #15402 was substantiated (all or in part) with deficiencies cited at W127, W150, W153, W154 and W155. The Conditions of Participation of Governing Body (W102) and Client Protections (W122) were not met.	W 000			
W 102	483.410 GOVERNING BODY AND MANAGEMENT The facility must ensure that specific governing body and management requirements are met. This CONDITION is not met as evidenced by: Complaint #15402 was substantiated (all or in part) in these findings. Based on record review and interview, the facility failed to meet the requirements of the Condition of Participation (CoP) for the Governing Body	W 102			

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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W 102	Continued From page 1 and Management as evidenced by failure to meet the Condition of Participation for Client Protection (W122) for 1 (Client #1) of 1 sampled client who made an allegation of staff-to-client sexual abuse. The findings are: 1. The facility failed to ensure an effective system was in place for immediately reporting an allegation of sexual maltreatment to the appropriate authorities and entities. Refer to W153. 2. The facility failed to ensure an allegation of staff-to-client sexual abuse was thoroughly investigated for Client #1, as evidenced by failure to have the client examined by a medical professional following his allegations of anal and oral sexual abuse by a facility employee and failure to have a policy and procedure in place to address the steps to be taken following a sexual maltreatment allegation. Refer to W154. 3. The facility failure to protect other residents from abuse as evidenced by allowing the alleged perpetrator to continue working unsupervised with clients, including but not limited to the alleged victim of abuse. Refer to W155.	W 102			
W 122	483.420 CLIENT PROTECTIONS The facility must ensure that specific client protections requirements are met. This CONDITION is not met as evidenced by: Complaint #15402 was substantiated (all or in part) in these findings. Based on record review and interview, the facility	W 122			

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W 122	Continued From page 2 failed to meet the requirements of the Condition of Participation (CoP) for Client Protection (W122) for 1 (Client #1) of 1 sampled client who made an allegation of staff-to-client sexual abuse. The findings are: 1. The facility failed to ensure that clients were not subjected to sexual abuse. Refer to W127. 2. The facility failed to ensure that facility staff did not use sexual abuse . Refer to W150. 3. The facility failed to ensure an effective system was in place for immediately reporting an allegation of sexual maltreatment to the appropriate authorities and entities. Refer to W153. 4. The facility failed to ensure an allegation of staff-to-client sexual abuse was thoroughly investigated for Client #1, as evidenced by failure to have the client examined by a medical professional following his allegations of anal and oral sexual abuse by a facility employee and failure to have a policy and procedure in place to address the steps to be taken following a sexual maltreatment allegation. Refer to W154. 5. The facility failed to ensure protection from further potential abuse was provided to Client #1, as evidenced by allowing the alleged perpetrator to continue working unsupervised with clients following an allegation staff-to-client sexual abuse. Refer to W155.	W 122			
W 127	483.420(a)(5) PROTECTION OF CLIENTS RIGHTS The facility must ensure the rights of all clients. Therefore, the facility must ensure that clients	W 127			

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W 127	<p>Continued From page 3</p> <p>are not subjected to physical, verbal, sexual or psychological abuse or punishment.</p> <p>This STANDARD is not met as evidenced by: Complaint #15402 was substantiated (all or in part) in these findings.</p> <p>Based on record review and interview, the facility failed to ensure that clients were not subjected to sexual abuse as evidenced by the facility's failures to ensure: (1) An allegation of sexual maltreatment was immediately reported to the Administrator and local law enforcement agency and reported to other entities, including the Office of Long Term Care (OLTC) in the timeframes required by state law and applicable regulation; (2) An immediate examination for evidence of sexual abuse was conducted by a medical professional; (3) An allegation of staff-to-client sexual abuse was thoroughly investigated; (4) Protection from further potential abuse was provided immediately after an allegation of staff-to-client sexual abuse; and (5) A policy and procedure was developed and implemented that addressed the steps to take following an allegation of sexual abuse for (Client #1) of 1 sampled client who made an allegation of anal penetration and oral sodomy perpetrated by a facility staff member. The findings are:</p> <p>Client #1, a 34-year-old male, was admitted to the facility on 9/22/08 and had diagnoses of Moderate Mental Retardation and Intermittent Explosive Disorder. An Incident Report Form dated 5/4/10 documented an Adult Protective Services (APS) case worker was the client's legal guardian.</p>	W 127			

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W 127	<p>Continued From page 4</p> <p>a. An Investigation report dated 4/22/10 through 4/28/10 and signed by Staff #3 (Investigator) documented, "On the evening of 4/21/10 [Client #1] reported that on Monday, 4/19/10 [Staff #1], Recreation Activity Leader touched him inappropriately, kissed him on the mouth and neck and hugged him. An investigation was initiated by [Staff #6 - Acting Administrator]... On 4/21/10 at approximately 7:30 p.m. this writer received a call from [Staff #8], Residential Care Shift Supervisor advising that [Client #1] reported to her that [Staff #1], Recreation Activity Leader had kissed and hugged him and he wanted it to stop. [Staff #8] advised that she reported this to her supervisor [Staff #9] who contacted [Staff #6], Acting Administrator. [Staff #8] was advised to write a behavior information report. It was determined that [Staff #1's] off days were 4/21 and 4/22, therefore he was not placed on administrative leave at this time..."</p> <p>b. The Investigation report also documented the following interviews:</p> <p>1) Client #1's interview dated 4/22/10 at 9:30 a.m. - "[Client #1] stated that on Monday night at the Recreation Building at about 8:00 p.m. he was alone with [Staff #1]... [Client #1] said he went to go to the bathroom and [Staff #1] 'touched him inappropriately'. When asked what he meant, [Client #1] pointed to his private area. [Client #1] said [Staff #1] then kissed him on the lips, on the neck and hugged him... When asked if [Staff #1] had ever made any other gestures toward him, [Client #1] stated when they were on a [athletic event] in [other city] [Staff #1] was cuddling with him... stated they were sleeping in the same bed and [Staff #1] was cuddling with him... [Client #1] stated that a [athletic event]</p>	W 127			

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W 127	<p>Continued From page 5</p> <p>was scheduled for this Saturday [April 24] and he doesn't want to go because he doesn't want to be around [Staff #1]."</p> <p>2) Interview with client who shared hotel room with Client #1 and Staff #1: "On 4/22/10 at 12:45 p.m., [other client] was interviewed... asked about [athletic event trip]... He stated he stayed in a room with [Staff #1], [Client #1] and [another client]. He stated [the other client] slept on a cot, he had his own bed and [Staff #1 and Client #1] slept together..."</p> <p>3) Interview with Housekeeper: "On 4/22/10 at 2:00 p.m., [Housekeeper] came to my office and asked to speak to me. She stated that [Client #1] reported to her that [Staff #1] had touched him inappropriately. She said she thought it was significant to know that on Monday several of the staff and clients attended a funeral for the [facility] preacher who had passed away. She said that at the funeral [Staff #1] had his arm around [Client #1] and kept stroking his hair. She said [Staff #1 and Client #1] are always touching each other and she thinks is not right."</p> <p>4) Interview with Staff #1: "On 4/22/10 at 4:00 p.m. [Staff #1] was interviewed on tape in the presence of [Acting Administrator]... [Staff #1] stated he did not recall [Client #1] being there [recreation building] on Monday evening... When asked if he and [Client #1] have a special relationship [Staff #1] stated no, he treats [Client #1] the same as he treats everyone else... He denied the allegation of touching [Client #1], kissing or initiating hugging him. [Staff #1] stated he knew of no reason why [Client #1] would make the allegation... [Staff #1] was then asked about the recent [athletic event trip]... He stated</p>	W 127			

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W 127	<p>Continued From page 6</p> <p>that [third client] slept on a cot, [second client] slept in one bed and he [Staff #1] and [Client #1] slept in the other bed. [Staff #1] said that [Client #1] slept under the sheets and he stayed on top. He said he brought his own bedding... At approximately 4:45 p.m. [Staff #1] called back to state that he forgot to mention that [Client #1] had come down to the recreation building either Monday or Tuesday night to get some popcorn..."</p> <p>c. The Investigation Report also documented a phone conversation between the investigator and the Assistant Administrator: "At approximately 4:50 p.m. [on 4/22/10], I [investigator] received a call from [Assistant Administrator] stating that he had heard [Client #1] had been very upset with [Staff #1] due to [Staff #1] taking another client shopping and not giving [Client #1] the attention that he wanted..."</p> <p>d. The Administrative Directives section of the Investigation Report documented, "The allegation cannot be substantiated for the following reasons: ...[Staff #1] submitted to a polygraph examination which indicated he was truthful in stating the incident did not occur... [Client #1] subsequently stated that he lied about the allegation because he was mad at [Staff #1] for not spending enough time with him..."</p> <p>e. A document titled, "Conference Call regarding [Client #1]" and dated 5/4/10 at 9:00 a.m. documented, "On May, 04, 2010 at 9:00 a.m., I [legal guardian - APS case worker] received a call from [Client #1's] team leader, [Staff #2], she stated that she and [Staff #4] had [Client #1] in their office and there were some things, they wanted to address. The first thing from [Client #1's] mouth was, "I'm sorry Ms. [Guardian], I had</p>	W 127			

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W 127	<p>Continued From page 7</p> <p>to lie, they said he'd [Staff #1] loose [lose] his job.' I asked 'who said that [Client #1]'. [Client #1] stated [Staff #3], the investigator lady, she told [Client #1] that [Staff #1] passed the polygraph test and [Client #1] was going to cost him [Staff #1] his job, so [Client #1] changed his story. [Client #1] said, 'I didn't mean to lie [Guardian], I was just didn't want him to woose [lose] his job. [Staff #1] my friend [Guardian] and a good coach. We gonna win the lympics [Special Olympics]'. [Guardian] asked if [Staff #1] would not get in trouble, would [Client #1's] story change. [Client #1] said, 'Yes'. This statement brought a great deal of concern. How would [Client #1] know that [Staff #1] had taken a polygraph test, if someone had not told him? I asked [Staff #2] if she could meet me with [Client #1], I wanted to continue this conversation in person. She agreed. We made arrangements to meet in Hot Springs, because I wanted another APS worker to sit in on the interview with [Client #1]."</p> <p>f. The next entry on the Conference Call document was dated 5/4/10 at 2:15 p.m. and documented, "[Client #1] stated that the first time, he [Staff #1] had grabbed him [Client #1] in the groin area and rubbed him, and then they kissed. [Client #1] stated there was one incident where [Staff #1] had intercourse with him in the backside. [Client #1] said, 'He [Staff #1] hurt me [Guardian], he hurt me. He made my butt whole [hole] bleed.' [Guardian] asked [Client #1] if there were other incidents. [Client #1] stated that there were. One time stated was in the bathroom that has the ice maker beside the door [recreation building], [Staff #1] and [Client #1] participated in oral sex. [Client #1] stated that they had participated in oral sex in his [Staff #1's] office</p>	W 127			

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W 127	<p>Continued From page 8</p> <p>and in the trophy room. These events occurred as recent as April of this year. [Guardian] asked [Client #1] if he told [Staff #3], the investigator, these things. [Client #1] said, "No, all she said was that he passed the lie detector test, coach [Staff #1] wasn't going to be there to watch me run track, and that I was going to cost him his job, so I took it all back'."</p> <p>g. An INCIDENT/MEDICAL TREATMENT REPORT FORM dated 5/4/10 and completed by Staff #2 documented that Staff #2 was aware of the client's sexual maltreatment allegation against Staff #1 by 5/4/10 at 1:00 p.m. and, "Client Sexual Activity (Reported)... Talked with [Staff #5 - Assistant Administrator] at 5:35 p.m. [Client #1] was asked to stay on the floor for the night. [Guardian]... APS worker doesn't want [Staff #1] near [Client #1]. Talked with [Staff #6 - Acting Administrator] at 5:40 p.m. and he was fine with the plan in place to keep [Client #1] on his floor. After talking with both [Staff #5] and [Staff #6] I informed [Staff #7 - Shift Coordinator] regarding the conversation and that everything was in place and approved".</p> <p>h. On 5/11/10 at 11:10 a.m., an interview was conducted with Staff #2, who stated when she returned to the facility with Client #1, she called the Assistant Superintendent, Staff #5, and then the Assistant Administrator, Staff #6, to report the allegation. She stated Staff #6 instructed her to follow facility policy. As of 5/11/10, there was no evidence in the facility's investigation documentation to indicate the facility Administrator or designee was immediately notified of the client's allegation. Based on Staff #2's interview statement, the Administrative staff were not informed of the allegation until 5:35</p>	W 127			

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W 127	<p>Continued From page 9</p> <p>p.m., a period of 4 hours and 35 minutes after Staff #2 was made aware of the allegation.</p> <p>i. The Department of Human Services (DHS) Incident Report dated 5/5/10 incorrectly documented the date of the incident as 5/5/10. The report also documented the Office of Long Term Care (OLTC) was notified of the allegation on 5/5/10 at 3:35 p.m. Per State Law and applicable regulations, the facility was required to notify OLTC by 11:00 a.m. on 5/5/10. The Law Enforcement Agency was documented as notified on 5/5/10 at 2:20 p.m, instead of immediately on 5/4/10. The Arkansas Attorney General's Office was documented as notified at the same time as OLTC, 5/5/10 at 3:35 p.m.</p> <p>j. An e-mail dated 5/6/10 from Employee #2 to the client's guardian documented, "...The staff on the floor were informed that [Client #1] needed to be in eyesight. Employee #2 stayed on the floor because [Staff #1] continued to work." The time report provided by the facility on 5/11/10 documented the alleged perpetrator, Staff #1, completed the remainder of his shift on 5/4/10 and clocked out at 9:01 p.m.</p> <p>k. On 5/7/2010 at 1:45 p.m., a meeting was held with the client's guardian. The Guardian stated she was unaware of any medical examination or rape kit being performed for Client #1 after he made the sexual abuse allegations against Staff #1. At approximately 3:00 p.m., the client's Program Coordinator, Staff #2, confirmed that no medical examination had been provided for the client following the allegation on 5/4/10.</p> <p>l. On 5/11/2010 at 12:30 p.m., the Director of</p>	W 127			

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W 127	<p>Continued From page 10</p> <p>Nursing (DON) stated she was unaware that the client had made an allegation of oral/anal sex until she was interviewed by representatives of the Attorney General's office on 5/10/10; therefore, a medical exam had not been performed by the facility, nor had the facility sent the client to an outside facility for an exam.</p> <p>m. On 5/12/10 at 9:35 a.m., the Assistant Administrator, Employee #5, stated that normally clients that have made sexual allegations were taken for a medical check and possibly a rape kit, but his understanding was that in this case, the alleged incident had occurred, "a while ago". He also stated he was not sure if the facility had a policy and procedure regarding what steps were to be taken after an allegation of sexual maltreatment was made.</p> <p>n. On 5/12/10 at 12:45 p.m., the facility's investigator for maltreatment, Employee #3, was questioned as to why the client was not examined by a medical professional after making the allegations of sexual abuse. Employee #3 stated it was the Administrator's call whether medical was contacted. She also stated she was unaware if there was a facility policy that addressed what procedures to follow when an allegation of sexual abuse was made.</p> <p>o. On 5/12/10 at 3:45 p.m., Staff #3, the facility's investigator, stated not suspending Staff #1 after being made aware of the client's allegation did not protect other clients from further potential abuse and that she would have suspended Staff #1 immediately if the decision had been up to her. There was no evidence in the facility's investigation documentation or the above interviews to indicate any protective measures</p>	W 127			

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STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 04G001	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 05/12/2010
NAME OF PROVIDER OR SUPPLIER ALEXANDER HUMAN DEVELOPMENT CENTER			STREET ADDRESS, CITY, STATE, ZIP CODE 14701 HIGHWAY 111 SOUTH ALEXANDER, AR 72002		
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W 127	Continued From page 11	W 127			
W 150	<p>were implemented to ensure the clients were free from further potential abuse during the investigative period.</p> <p>483.420(d)(1)(i) STAFF TREATMENT OF CLIENTS</p> <p>Staff of the facility must not use physical, verbal, sexual or psychological abuse or punishment.</p> <p>This STANDARD is not met as evidenced by: Complaint #15402 was substantiated (all or in part) in these findings.</p> <p>Based on record review and interview the facility failed to ensure that facility staff did not use sexual abuse as evidenced by the facility's failures to ensure: (1) An allegation of sexual maltreatment was immediately reported to the Administrator and local law enforcement agency and reported to other entities, including the Office of Long Term Care (OLTC) in the timeframes required by state law and applicable regulations; (2) An immediate examination for evidence of sexual abuse was conducted by a medical professional; (3) An allegation of staff-to-client sexual abuse was thoroughly investigated; (4) Protection from further potential abuse was provided immediately after an allegation of staff-to-client sexual abuse; and (5) A policy and procedure was developed and implemented that addressed the steps to take following an allegation of sexual abuse for (Client #1) of 1 sampled client who made an allegation of anal penetration and oral sodomy perpetrated by a facility staff member. The findings are:</p> <p>Client #1, a 34-year-old male, was admitted to the facility on 9/22/08 and had diagnoses of</p>	W 150			

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W 150	<p>Continued From page 12</p> <p>Moderate Mental Retardation and Intermittent Explosive Disorder. An Incident Report Form dated 5/4/10 documented an Adult Protective Services (APS) case worker was the client's legal guardian.</p> <p>a. An Investigation report dated 4/22/10 through 4/28/10 and signed by Staff #3 (Investigator) documented, "On the evening of 4/21/10 [Client #1] reported that on Monday, 4/19/10 [Staff #1], Recreation Activity Leader touched him inappropriately, kissed him on the mouth and neck and hugged him. An investigation was initiated by [Staff #6 - Acting Administrator]... On 4/21/10 at approximately 7:30 p.m. this writer received a call from [Staff #8], Residential Care Shift Supervisor advising that [Client #1] reported to her that [Staff #1], Recreation Activity Leader had kissed and hugged him and he wanted it to stop. [Staff #8] advised that she reported this to her supervisor [Staff #9] who contacted [Staff #6], Acting Administrator. [Staff #8] was advised to write a behavior information report. It was determined that [Staff #1's] off days were 4/21 and 4/22, therefore he was not placed on administrative leave at this time..."</p> <p>b. The Investigation report also documented the following interviews:</p> <p>1) Client #1's interview dated 4/22/10 at 9:30 a.m. - "[Client #1] stated that on Monday night at the Recreation Building at about 8:00 p.m. he was alone with [Staff #1]... [Client #1] said he went to go to the bathroom and [Staff #1] 'touched him inappropriately'. When asked what he meant, [Client #1] pointed to his private area. [Client #1] said [Staff #1] then kissed him on the lips, on the neck and hugged him... When asked</p>	W 150			

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W 150	<p>Continued From page 13</p> <p>if [Staff #1] had ever made any other gestures toward him, [Client #1] stated when they were on a [athletic event] in [other city] [Staff #1] was cuddling with him... stated they were sleeping in the same bed and [Staff #1] was cuddling with him... [Client #1] stated that a [athletic event] was scheduled for this Saturday [April 24] and he doesn't want to go because he doesn't want to be around [Staff #1]."</p> <p>2) Interview with client who shared hotel room with Client #1 and Staff #1: "On 4/22/10 at 12:45 p.m., [other client] was interviewed... asked about [athletic event trip]... He stated he stayed in a room with [Staff #1], [Client #1] and [a third client]. He stated [the third client] slept on a cot, he had his own bed and [Staff #1 and Client #1] slept together..."</p> <p>3) Interview with Housekeeper: "On 4/22/10 at 2:00 p.m., [Housekeeper] came to my office and asked to speak to me. She stated that [Client #1] reported to her that [Staff #1] had touched him inappropriately. She said she thought it was significant to know that on Monday several of the staff and clients attended a funeral for the [facility] preacher who had passed away. She said that at the funeral [Staff #1] had his arm around [Client #1] and kept stroking his hair. She said [Staff #1 and Client #1] are always touching each other and she thinks is not right."</p> <p>4) Interview with Staff #1: "On 4/22/10 at 4:00 p.m. [Staff #1] was interviewed on tape in the presence of [Acting Administrator]... [Staff #1] stated he did not recall [Client #1] being there [recreation building] on Monday evening... When asked if he and [Client #1] have a special relationship [Staff #1] stated no, he treats [Client</p>	W 150			

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W 150	<p>Continued From page 14</p> <p>#1] the same as he treats everyone else... He denied the allegation of touching [Client #1], kissing or initiating hugging him. [Staff #1] stated he knew of no reason why [Client #1] would make the allegation... [Staff #1] was then asked about the recent [athletic event trip]... He stated that [other client] slept on a cot, [second client] slept in one bed and he [Staff #1] and [Client #1] slept in the other bed. [Staff #1] said that [Client #1] slept under the sheets and he stayed on top. He said he brought his own bedding... At approximately 4:45 p.m. [Staff #1] called back to state that he forgot to mention that [Client #1] had come down to the recreation building either Monday or Tuesday night to get some popcorn..."</p> <p>c. The Investigation Report also documented a phone conversation between the investigator and the Assistant Administrator: "At approximately 4:50 p.m. [on 4/22/10], I [investigator] received a call from [Assistant Administrator] stating that he had heard [Client #1] had been very upset with [Staff #1] due to [Staff #1] taking another client shopping and not giving [Client #1] the attention that he wanted..."</p> <p>d. The Administrative Directives section of the Investigation Report documented, "The allegation cannot be substantiated for the following reasons: ...[Staff #1] submitted to a polygraph examination which indicated he was truthful in stating the incident did not occur... [Client #1] subsequently stated that he lied about the allegation because he was mad at [Staff #1] for not spending enough time with him..."</p> <p>e. A document titled, "Conference Call regarding [Client #1]" and dated 5/4/10 at 9:00 a.m. documented, "On May, 04, 2010 at 9:00 a.m., I</p>	W 150			

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W 150	<p>Continued From page 15</p> <p>[legal guardian - APS case worker] received a call from [Client #1's] team leader, [Staff #2], she stated that she and [Staff #4] had [Client #1] in their office and there were some things, they wanted to address. The first thing from [Client #1's] mouth was, 'I'm sorry Ms. [Guardian], I had to lie, they said he'd [Staff #1] loose [lose] his job.' I asked 'who said that [Client #1].' [Client #1] stated [Staff #3], the investigator lady, she told [Client #1] that [Staff #1] passed the polygraph test and [Client #1] was going to cost him [Staff #1] his job, so [Client #1] changed his story. [Client #1] said, 'I didn't mean to lie [Guardian], I was just didn't want him to woose [lose] his job. [Staff #1] my friend [Guardian] and a good coach. We gonna win the lympics [Special Olympics]'. [Guardian] asked if [Staff #1] would not get in trouble, would [Client #1's] story change. [Client #1] said, 'Yes'. This statement brought a great deal of concern. How would [Client #1] know that [Staff #1] had taken a polygraph test, if someone had not told him? I asked [Staff #2] if she could meet me with [Client #1], I wanted to continue this conversation in person. She agreed. We made arrangements to meet in Hot Springs, because I wanted another APS worker to sit in on the interview with [Client #1]."</p> <p>f. The next entry on the Conference Call document was dated 5/4/10 at 2:15 p.m. and documented, "[Client #1] stated that the first time, he [Staff #1] had grabbed him [Client #1] in the groin area and rubbed him, and then they kissed. [Client #1] stated there was one incident where [Staff #1] had intercourse with him in the backside. [Client #1] said, 'He [Staff #1] hurt me [Guardian], he hurt me. He made my butt whole [hole] bleed.' [Guardian] asked [Client #1] if there</p>	W 150		

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W 150	<p>Continued From page 16</p> <p>were other incidents. [Client #1] stated that there were. One time stated was in the bathroom that has the ice maker beside the door [recreation building], [Staff #1] and [Client #1] participated in oral sex. [Client #1] stated that they had participated in oral sex in his [Staff #1's] office and in the trophy room. These events occurred as recent as April of this year. [Guardian] asked [Client #1] if he told [Staff #3], the investigator, these things. [Client #1] said, "No, all she said was that he passed the lie detector test, coach [Staff #1] wasn't going to be there to watch me run track, and that I was going to cost him his job, so I took it all back'."</p> <p>g. An INCIDENT/MEDICAL TREATMENT REPORT FORM dated 5/4/10 and completed by Staff #2 documented that Staff #2 was aware of the client's sexual maltreatment allegation against Staff #1 by 5/4/10 at 1:00 p.m. and, "Client Sexual Activity (Reported)... Talked with [Staff #5 - Assistant Administrator] at 5:35 p.m. [Client #1] was asked to stay on the floor for the night. [Guardian]... APS worker doesn't want [Staff #1] near [Client #1]. Talked with [Staff #6 - Acting Administrator] at 5:40 p.m. and he was fine with the plan in place to keep [Client #1] on his floor. After talking with both [Staff #5] and [Staff #6] I informed [Staff #7 - Shift Coordinator] regarding the conversation and that everything was in place and approved".</p> <p>h. On 5/11/10 at 11:10 a.m., an interview was conducted with Staff #2, who stated when she returned to the facility with Client #1, she called the Assistant Superintendent, Staff #5, and then the Assistant Administrator, Staff #6, to report the allegation. She stated Staff #6 instructed her to follow facility policy. As of 5/11/10, there was</p>	W 150			

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W 150	<p>Continued From page 17</p> <p>no evidence in the facility's investigation documentation to indicate the facility Administrator or designee was immediately notified of the client's allegation. Based on Staff #2's interview statement, the Administrative staff were not informed of the allegation until 5:35 p.m., a period of 4 hours and 35 minutes after Staff #2 was made aware of the allegation.</p> <p>i. The Department of Human Services (DHS) Incident Report dated 5/5/10 incorrectly documented the date of the incident as 5/5/10. The report also documented the Office of Long Term Care (OLTC) was notified of the allegation on 5/5/10 at 3:35 p.m. Per State Law and applicable regulations, the facility was required to notify OLTC by 11:00 a.m. on 5/5/10. The Law Enforcement Agency was documented as notified on 5/5/10 at 2:20 p.m, instead of immediately on 5/4/10. The Arkansas Attorney General's Office was documented as notified at the same time as OLTC, 5/5/10 at 3:35 p.m.</p> <p>j. An e-mail dated 5/6/10 from Employee #2 to the Client #1's guardian documented, "...The staff on the floor were informed that [Client #1] needed to be in eyesight. [Employee #2] stayed on the floor because [Staff #1] continued to work." The time report provided by the facility on 5/11/10 documented the alleged perpetrator, Staff #1, completed the remainder of his shift on 5/4/10 and clocked out at 9:01 p.m.</p> <p>k. On 5/7/2010 at 1:45 p.m., a meeting was held with Client #1's guardian. She stated she was unaware of any medical examination or rape kit being performed for the client after he made the sexual abuse allegations against Staff #1. At approximately 3:00 p.m., Client #1's Program</p>	W 150			

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W 150	<p>Continued From page 18</p> <p>Coordinator, Staff #2, confirmed that no medical examination was provided for Client #1 following the allegation on 5/4/10.</p> <p>l. On 5/11/2010 at 12:30 p.m., the Director of Nursing (DON) stated she was unaware that Client #1 had made an allegation of oral/anal sex until she was interviewed by representatives of the Attorney General's office on 5/10/10; therefore, a medical exam had not been performed by the facility, nor had the facility sent the client to an outside facility for an exam.</p> <p>m. On 5/12/10 at 9:35 a.m., the Assistant Administrator, Employee #5, stated that normally clients that have made sexual allegations were taken for a medical check and possibly a rape kit, but his understanding was that in this case, the alleged incident had occurred, "a while ago". He also stated he was not sure if the facility had a policy and procedure regarding what steps were to be taken after an allegation of sexual maltreatment was made.</p> <p>n. On 5/12/10 at 12:45 p.m., the facility's investigator for maltreatment, Employee #3, was questioned as to why Client #1 was not examined by a medical professional after making the allegations of sexual abuse. She stated it was the Administrator's call whether medical was contacted. She also stated she was unaware if there was a facility policy that addressed what procedures to follow when an allegation of sexual abuse was made.</p> <p>o. On 5/12/10 at 3:45 p.m., Staff #3, the facility's investigator, stated not suspending Staff #1 after being made aware of Client #1's allegation did not protect other clients from further potential</p>	W 150			

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W 150	Continued From page 19 abuse and that she would have suspended Staff #1 immediately if the decision had been up to her. There was no evidence in the facility's investigation documentation or the above interviews to indicate any protective measures were implemented to ensure the clients were free from further potential abuse during the investigative period.	W 150			
W 153	483.420(d)(2) STAFF TREATMENT OF CLIENTS The facility must ensure that all allegations of mistreatment, neglect or abuse, as well as injuries of unknown source, are reported immediately to the administrator or to other officials in accordance with State law through established procedures. This STANDARD is not met as evidenced by: Complaint #15402 was substantiated (all or in part) in these findings. Based on record review and interview, the facility failed to ensure an allegation of sexual maltreatment was immediately reported to the Administrator and local law enforcement agency and reported to other entities, including the Office of Long Term Care (OLTC) in the timeframes required by state law and applicable regulations for 1 (Client #1) of 1 sampled client who made an allegation of staff-to-client sexual abuse. The findings are: Client #1, a 34-year-old male, was admitted to the facility on 9/22/08 and had diagnoses of Moderate Mental Retardation and Intermittent Explosive Disorder. An Incident Report Form dated 5/4/10 documented an Adult Protective	W 153			

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W 153	<p>Continued From page 20</p> <p>Services (APS) case worker was the client's legal guardian.</p> <p>a. An Investigation report dated 4/22/10 through 4/28/10 and signed by Staff #3 (Investigator) documented, "On the evening of 4/21/10 [Client #1] reported that on Monday, 4/19/10 [Staff #1], Recreation Activity Leader touched him inappropriately, kissed him on the mouth and neck and hugged him. An investigation was initiated by [Staff #6 - Acting Administrator]... On 4/21/10 at approximately 7:30 p.m. this writer received a call from [Staff #8], Residential Care Shift Supervisor advising that [Client #1] reported to her that [Staff #1], Recreation Activity Leader had kissed and hugged him and he wanted it to stop. [Staff #8] advised that she reported this to her supervisor [Staff #9] who contacted [Staff #6], Acting Administrator. [Staff #8] was advised to write a behavior information report. It was determined that [Staff #1's] off days were 4/21 and 4/22, therefore he was not placed on administrative leave at this time..."</p> <p>b. The Investigation report also documented the following interviews:</p> <p>1) Client #1's interview dated 4/22/10 at 9:30 a.m. - "[Client #1] stated that on Monday night at the Recreation Building at about 8:00 p.m. he was alone with [Staff #1]... [Client #1] said he went to go to the bathroom and [Staff #1] 'touched him inappropriately'. When asked what he meant, [Client #1] pointed to his private area. [Client #1] said [Staff #1] then kissed him on the lips, on the neck and hugged him... When asked if [Staff #1] had ever made any other gestures toward him, [Client #1] stated when they were on a [athletic event] in [other city] [Staff #1] was</p>	W 153			

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W 153	<p>Continued From page 21</p> <p>cuddling with him... stated they were sleeping in the same bed and [Staff #1] was cuddling with him... [Client #1] stated that a [athletic event] was scheduled for this Saturday [April 24] and he doesn't want to go because he doesn't want to be around [Staff #1]."</p> <p>2) Interview with client who shared hotel room with Client #1 and Staff #1: "On 4/22/10 at 12:45 p.m., [other client] was interviewed... asked about [athletic event trip]... He stated he stayed in a room with [Staff #1], [Client #1] and [a third client]. He stated [the third client] slept on a cot, he had his own bed and [Staff #1 and Client #1] slept together..."</p> <p>3) Interview with Housekeeper: "On 4/22/10 at 2:00 p.m., [Housekeeper] came to my office and asked to speak to me. She stated that [Client #1] reported to her that [Staff #1] had touched him inappropriately. She said she thought it was significant to know that on Monday several of the staff and clients attended a funeral for the [facility] preacher who had passed away. She said that at the funeral [Staff #1] had his arm around [Client #1] and kept stroking his hair. She said [Staff #1 and Client #1] are always touching each other and she thinks is not right."</p> <p>4) Interview with Staff #1: "On 4/22/10 at 4:00 p.m. [Staff #1] was interviewed on tape in the presence of [Acting Administrator]... [Staff #1] stated he did not recall [Client #1] being there [recreation building] on Monday evening... When asked if he and [Client #1] have a special relationship [Staff #1] stated no, he treats [Client #1] the same as he treats everyone else... He denied the allegation of touching [Client #1], kissing or initiating hugging him. [Staff #1] stated</p>	W 153			

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CENTERS FOR MEDICARE & MEDICAID SERVICES

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STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION		(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 04G001	(X2) MULTIPLE CONSTRUCTION A. BUILDING _____ B. WING _____		(X3) DATE SURVEY COMPLETED C 05/12/2010
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W 153	<p>Continued From page 22</p> <p>he knew of no reason why [Client #1] would make the allegation... [Staff #1] was then asked about the recent [athletic event trip]... He stated that [other client] slept on a cot, [second client] slept in one bed and he [Staff #1] and [Client #1] slept in the other bed. [Staff #1] said that [Client #1] slept under the sheets and he stayed on top. He said he brought his own bedding... At approximately 4:45 p.m. [Staff #1] called back to state that he forgot to mention that [Client #1] had come down to the recreation building either Monday or Tuesday night to get some popcorn..."</p> <p>c. The Investigation Report also documented a phone conversation between the investigator and the Assistant Administrator: "At approximately 4:50 p.m. [on 4/22/10], I [investigator] received a call from [Assistant Administrator] stating that he had heard [Client #1] had been very upset with [Staff #1] due to [Staff #1] taking another client shopping and not giving [Client #1] the attention that he wanted..."</p> <p>d. The Administrative Directives section of the Investigation Report documented, "The allegation cannot be substantiated for the following reasons: ...[Staff #1] submitted to a polygraph examination which indicated he was truthful in stating the incident did not occur... [Client #1] subsequently stated that he lied about the allegation because he was mad at [Staff #1] for not spending enough time with him..."</p> <p>e. A document titled, "Conference Call regarding [Client #1]" and dated 5/4/10 at 9:00 a.m. documented, "On May, 04, 2010 at 9:00 a.m., I [legal guardian - APS case worker] received a call from [Client #1's] team leader, [Staff #2], she stated that she and [Staff #4] had [Client #1] in</p>	W 153			

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W 153	<p>Continued From page 23</p> <p>their office and there were some things, they wanted to address. The first thing from [Client #1's] mouth was, 'I'm sorry Ms. [Guardian], I had to lie, they said he'd [Staff #1] loose [lose] his job.' I asked 'who said that [Client #1].' [Client #1] stated [Staff #3], the investigator lady, she told [Client #1] that [Staff #1] passed the polygraph test and [Client #1] was going to cost him [Staff #1] his job, so [Client #1] changed his story. [Client #1] said, 'I didn't mean to lie [Guardian], I was just didn't want him to woose [lose] his job. [Staff #1] my friend [Guardian] and a good coach. We gonna win the lympics [Special Olympics]'. [Guardian] asked if [Staff #1] would not get in trouble, would [Client #1's] story change. [Client #1] said, 'Yes'. This statement brought a great deal of concern. How would [Client #1] know that [Staff #1] had taken a polygraph test, if someone had not told him? I asked [Staff #2] if she could meet me with [Client #1], I wanted to continue this conversation in person. She agreed. We made arrangements to meet in Hot Springs, because I wanted another APS worker to sit in on the interview with [Client #1]."</p> <p>f. The next entry on the Conference Call document was dated 5/4/10 at 2:15 p.m. and documented, "[Client #1] stated that the first time, he [Staff #1] had grabbed him [Client #1] in the groin area and rubbed him, and then they kissed. [Client #1] stated there was one incident where [Staff #1] had intercourse with him in the backside. [Client #1] said, 'He [Staff #1] hurt me [Guardian], he hurt me. He made my butt whole [hole] bleed.' [Guardian] asked [Client #1] if there were other incidents. [Client #1] stated that there were. One time stated was in the bathroom that has the ice maker beside the door [recreation</p>	W 153			

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W 153	<p>Continued From page 24</p> <p>building], [Staff #1] and [Client #1] participated in oral sex. [Client #1] stated that they had participated in oral sex in his [Staff #1's] office and in the trophy room. These events occurred as recent as April of this year. [Guardian] asked [Client #1] if he told [Staff #3], the investigator, these things. [Client #1] said, "No, all she said was that he passed the lie detector test, coach [Staff #1] wasn't going to be there to watch me run track, and that I was going to cost him his job, so I took it all back'."</p> <p>g. An INCIDENT/MEDICAL TREATMENT REPORT FORM dated 5/4/10 and completed by Staff #2 documented that Staff #2 was aware of the client's sexual maltreatment allegation against Staff #1 by 5/4/10 at 1:00 p.m. and, "Client Sexual Activity (Reported)... Talked with [Staff #5 - Assistant Administrator] at 5:35 p.m. [Client #1] was asked to stay on the floor for the night. [Guardian]... APS worker doesn't want [Staff #1] near [Client #1]. Talked with [Staff #6 - Acting Administrator] at 5:40 p.m. and he was fine with the plan in place to keep [Client #1] on his floor. After talking with both [Staff #5] and [Staff #6] I informed [Staff #7 - Shift Coordinator] regarding the conversation and that everything was in place and approved".</p> <p>h. On 5/11/10 at 11:10 a.m., an interview was conducted with Staff #2, who stated when she returned to the facility with Client #1, she called the Assistant Superintendent, Staff #5, and then the Assistant Administrator, Staff #6 to report the allegation. She stated Staff #6 instructed her to follow facility policy. As of 5/11/10, there was no evidence in the facility's investigation documentation to indicate the facility Administrator or designee was immediately</p>	W 153			

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W 153	Continued From page 25 notified of the client's allegation. Based on Staff #2's interview statement, the Administrative staff were not informed of the allegation until 5:35 p.m., a period of 4 hours and 35 minutes after Staff #2 was made aware of the allegation. i. The Department of Human Services (DHS) Incident Report dated 5/5/10 incorrectly documented the date of the incident as 5/5/10. The report also documented the Office of Long Term Care (OLTC) was notified of the allegation on 5/5/10 at 3:35 p.m. Per State Law and applicable regulations, the facility was required to notify OLTC by 11:00 a.m. on 5/5/10. The Law Enforcement Agency was documented as notified on 5/5/10 at 2:20 p.m, instead of immediately on 5/4/10. The Arkansas Attorney General's Office was documented as notified at the same time as OLTC, 5/5/10 at 3:35 p.m.	W 153			
W 154	483.420(d)(3) STAFF TREATMENT OF CLIENTS The facility must have evidence that all alleged violations are thoroughly investigated. This STANDARD is not met as evidenced by: Complaint #15402 was substantiated (all or in part) in these findings. Based on record review and interview, the facility failed to ensure an allegation of staff-to-client sexual abuse was thoroughly investigated, as evidenced by failure to provide an examination conducted by a medical professional and failure to develop a policy and procedure that addressed the steps to take following an allegation of sexual abuse for (Client #1) of 1 sampled client who made an allegation of anal penetration	W 154			

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W 154	<p>Continued From page 26</p> <p>perpetrated by a facility staff member. The findings are:</p> <p>Client #1, a 34-year-old male, was admitted to the facility on 9/22/08 and had diagnoses of Moderate Mental Retardation and Intermittent Explosive Disorder. An Incident Report Form dated 5/4/10 documented the client's legal guardian as an Adult Protective Services (APS) caseworker.</p> <p>a. An Investigation report dated 4/22/10 through 4/28/10 and signed by Staff #3 (Investigator) documented, "On the evening of 4/21/10 [Client #1] reported that on Monday, 4/19/10 [Staff #1], Recreation Activity Leader touched him inappropriately, kissed him on the mouth and neck and hugged him. An investigation was initiated by [Staff #6 - Acting Administrator]... On 4/21/10 at approximately 7:30 p.m. this writer received a call from [Staff #8], Residential Care Shift Supervisor advising that [Client #1] reported to her that [Staff #1], Recreation Activity Leader had kissed and hugged him and he wanted it to stop. [Staff #8] advised that she reported this to her supervisor [Staff #9] who contacted [Staff #6], Acting Administrator. [Staff #8] was advised to write a behavior information report. It was determined that [Staff #1's] off days were 4/21 and 4/22, therefore he was not placed on administrative leave at this time..."</p> <p>b. The Investigation report also documented the following interviews:</p> <p>1) Client #1's interview dated 4/22/10 at 9:30 a.m. - "[Client #1] stated that on Monday night at the Recreation Building at about 8:00 p.m. he was alone with [Staff #1]... [Client #1] said he</p>	W 154			

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W 154	<p>Continued From page 27</p> <p>went to go to the bathroom and [Staff #1] 'touched him inappropriately'. When asked what he meant, [Client #1] pointed to his private area. [Client #1] said [Staff #1] then kissed him on the lips, on the neck and hugged him... When asked if [Staff #1] had ever made any other gestures toward him, [Client #1] stated when they were on a [athletic event] in [other city] [Staff #1] was cuddling with him... stated they were sleeping in the same bed and [Staff #1] was cuddling with him... [Client #1] stated that a [athletic event] was scheduled for this Saturday [April 24] and he doesn't want to go because he doesn't want to be around [Staff #1]."</p> <p>2) Interview with client who shared hotel room with Client #1 and Staff #1: "On 4/22/10 at 12:45 p.m., [other client] was interviewed... asked about [athletic event trip]... He stated he stayed in a room with [Staff #1], [Client #1] and [another client]. He stated [the other client] slept on a cot, he had his own bed and [Staff #1 and Client #1] slept together..."</p> <p>3) Interview with Housekeeper: "On 4/22/10 at 2:00 p.m., [Housekeeper] came to my office and asked to speak to me. She stated that [Client #1] reported to her that [Staff #1] had touched him inappropriately. She said she thought it was significant to know that on Monday several of the staff and clients attended a funeral for the [facility] preacher who had passed away. She said that at the funeral [Staff #1] had his arm around [Client #1] and kept stroking his hair. She said [Staff #1 and Client #1] are always touching each other and she thinks is not right."</p> <p>4) Interview with Staff #1: "On 4/22/10 at 4:00 p.m. [Staff #1] was interviewed on tape in the</p>	W 154			

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W 154	<p>Continued From page 28</p> <p>presence of [Acting Administrator]... [Staff #1] stated he did not recall [Client #1] being there [recreation building] on Monday evening... When asked if he and [Client #1] have a special relationship [Staff #1] stated no, he treats [Client #1] the same as he treats everyone else... He denied the allegation of touching [Client #1], kissing or initiating hugging him. [Staff #1] stated he knew of no reason why [Client #1] would make the allegation... [Staff #1] was then asked about the recent [athletic event trip]... He stated that [other client] slept on a cot, [second client] slept in one bed and he [Staff #1] and [Client #1] slept in the other bed. [Staff #1] said that [Client #1] slept under the sheets and he stayed on top. He said he brought his own bedding... At approximately 4:45 p.m. [Staff #1] called back to state that he forgot to mention that [Client #1] had come down to the recreation building either Monday or Tuesday night to get some popcorn..."</p> <p>c. The Investigation Report also documented a phone conversation between the investigator and the Assistant Administrator: "At approximately 4:50 p.m. [on 4/22/10], I [investigator] received a call from [Assistant Administrator] stating that he had heard [Client #1] had been very upset with [Staff #1] due to [Staff #1] taking another client shopping and not giving [Client #1] the attention that he wanted..."</p> <p>d. The Administrative Directives section of the Investigation Report documented, "The allegation cannot be substantiated for the following reasons: ...[Staff #1] submitted to a polygraph examination which indicated he was truthful in stating the incident did not occur... [Client #1] subsequently stated that he lied about the allegation because he was mad at [Staff #1]"</p>	W 154			

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W 154	<p>Continued From page 29 for not spending enough time with him..."</p> <p>e. A document titled, "Conference Call regarding [Client #1]" and dated 5/4/10 at 9:00 a.m. documented, "On May, 04, 2010 at 9:00 a.m., I [legal guardian - APS case worker] received a call from [Client #1's] team leader, [Staff #2], she stated that she and [Staff #4] had [Client #1] in their office and there were some things, they wanted to address. The first thing from [Client #1's] mouth was, 'I'm sorry Ms. [Guardian], I had to lie, they said he'd [Staff #1] loose [lose] his job.' I asked 'who said that [Client #1]?' [Client #1] stated [Staff #3], the investigator lady, she told [Client #1] that [Staff #1] passed the polygraph test and [Client #1] was going to cost him [Staff #1] his job, so [Client #1] changed his story. [Client #1] said, 'I didn't mean to lie [Guardian], I was just didn't want him to woose [lose] his job. [Staff #1] my friend [Guardian] and a good coach. We gonna win the lympics [Special Olympics]'. [Guardian] asked if [Staff #1] would not get in trouble, would [Client #1's] story change. [Client #1] said, 'Yes'. This statement brought a great deal of concern. How would [Client #1] know that [Staff #1] had taken a polygraph test, if someone had not told him? I asked [Staff #2] if she could meet me with [Client #1], I wanted to continue this conversation in person. She agreed. We made arrangements to meet in Hot Springs, because I wanted another APS worker to sit in on the interview with [Client #1]."</p> <p>f. The next entry on the Conference Call document was dated 5/4/10 at 2:15 p.m. and documented, "[Client #1] stated that the first time, he [Staff #1] had grabbed him [Client #1] in the groin area and rubbed him, and then they</p>	W 154			

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W 154	<p>Continued From page 30</p> <p>kissed. [Client #1] stated there was one incident where [Staff #1] had intercourse with him in the backside. [Client #1] said, 'He [Staff #1] hurt me [Guardian], he hurt me. He made my butt whole [hole] bleed.' [Guardian] asked [Client #1] if there were other incidents. [Client #1] stated that there were. One time stated was in the bathroom that has the ice maker beside the door [recreation building], [Staff #1] and [Client #1] participated in oral sex. [Client #1] stated that they had participated in oral sex in his [Staff #1's] office and in the trophy room. These events occurred as recent as April of this year. [Guardian] asked [Client #1] if he told [Staff #3], the investigator, these things. [Client #1] said, "No, all she said was that he passed the lie detector test, coach [Staff #1] wasn't going to be there to watch me run track, and that I was going to cost him his job, so I took it all back'."</p> <p>g. On 5/7/2010 at 1:45 p.m., a meeting was held with the client's guardian. She stated she was unaware of any medical examination or rape kit being performed for the Client #1 after he made the sexual abuse allegations against Staff #1. At approximately 3:00 p.m., the client's Program Coordinator (Staff #2) confirmed that no medical examination had been provided for the client following the allegation on 5/4/10.</p> <p>h. On 5/11/2010 at 12:30 p.m., the Director of Nursing (DON) stated she was unaware that the client had made an allegation of oral/anal sex until she was interviewed by representatives of the Attorney General's office on 5/10/10; therefore, a medical exam had not been performed by the facility, nor had the facility sent the client to an outside facility for an exam.</p>	W 154			

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W 154	Continued From page 31 i. On 5/12/10 at 9:35 a.m., the Assistant Administrator, Employee #5 stated that normally clients that have made sexual allegations were taken for a medical check and possibly a rape kit, but his understanding was that in this case, the alleged incident had occurred, "a while ago". He also stated he was not sure if the facility had a policy and procedure regarding what steps were to be taken after an allegation of sexual maltreatment was made. j. On 5/12/10 at 12:45 p.m., the facility's investigator for maltreatment, Employee #3, was questioned as to why Client #1 was not examined by a medical professional after making the allegations of sexual abuse. She stated it was the Administrator's call whether medical was contacted. She also stated she was unaware if there was a facility policy that addressed what procedures to follow when an allegation of sexual abuse was made.	W 154			
W 155	483.420(d)(3) STAFF TREATMENT OF CLIENTS The facility must prevent further potential abuse while the investigation is in progress. This STANDARD is not met as evidenced by: Complaint #15402 was substantiated (all or in part) with these findings. Based on record review and interview, the facility failed to ensure protection from further potential abuse was provided immediately after an allegation of staff-to-client sexual abuse was made by 1 (Client #1) of 1 sampled client who made sexual abuse allegations against a facility staff member. The findings are:	W 155			

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NAME OF PROVIDER OR SUPPLIER ALEXANDER HUMAN DEVELOPMENT CENTER			STREET ADDRESS, CITY, STATE, ZIP CODE 14701 HIGHWAY 111 SOUTH ALEXANDER, AR 72002		
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W 155	<p>Continued From page 32</p> <p>Client #1, a 34-year-old male, was admitted to the facility on 9/22/08 and had diagnoses of Moderate Mental Retardation and Intermittent Explosive Disorder. An Incident Report Form dated 5/4/10 documented the client's legal guardian as an Adult Protective Services (APS) caseworker.</p> <p>a. An Investigation report dated 4/22/10 through 4/28/10 and signed by Staff #3 (Investigator) documented, "On the evening of 4/21/10 [Client #1] reported that on Monday, 4/19/10 [Staff #1], Recreation Activity Leader touched him inappropriately, kissed him on the mouth and neck and hugged him. An investigation was initiated by [Staff #6 - Acting Administrator]... On 4/21/10 at approximately 7:30 p.m. this writer received a call from [Staff #8], Residential Care Shift Supervisor advising that [Client #1] reported to her that [Staff #1], Recreation Activity Leader had kissed and hugged him and he wanted it to stop. [Staff #8] advised that she reported this to her supervisor [Staff #9] who contacted [Staff #6], Acting Administrator. [Staff #8] was advised to write a behavior information report. It was determined that [Staff #1's] off days were 4/21 and 4/22, therefore he was not placed on administrative leave at this time..."</p> <p>b. The Investigation report also documented the following interviews:</p> <p>1) Client #1's interview dated 4/22/10 at 9:30 a.m. - "[Client #1] stated that on Monday night at the Recreation Building at about 8:00 p.m. he was alone with [Staff #1]... [Client #1] said he went to go to the bathroom and [Staff #1] 'touched him inappropriately'. When asked what</p>	W 155			

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W 155	<p>Continued From page 33</p> <p>he meant, [Client #1] pointed to his private area. [Client #1] said [Staff #1] then kissed him on the lips, on the neck and hugged him... When asked if [Staff #1] had ever made any other gestures toward him, [Client #1] stated when they were on a [athletic event] in [other city] [Staff #1] was cuddling with him... stated they were sleeping in the same bed and [Staff #1] was cuddling with him... [Client #1] stated that a [athletic event] was scheduled for this Saturday [April 24] and he doesn't want to go because he doesn't want to be around [Staff #1]."</p> <p>2) Interview with client who shared hotel room with Client #1 and Staff #1: "On 4/22/10 at 12:45 p.m., [other client] was interviewed... asked about [athletic event trip]... He stated he stayed in a room with [Staff #1], [Client #1] and [another client]. He stated [the other client] slept on a cot, he had his own bed and [Staff #1 and Client #1] slept together..."</p> <p>3) Interview with Housekeeper: "On 4/22/10 at 2:00 p.m., [Housekeeper] came to my office and asked to speak to me. She stated that [Client #1] reported to her that [Staff #1] had touched him inappropriately. She said she thought it was significant to know that on Monday several of the staff and clients attended a funeral for the [facility] preacher who had passed away. She said that at the funeral [Staff #1] had his arm around [Client #1] and kept stroking his hair. She said [Staff #1 and Client #1] are always touching each other and she thinks is not right."</p> <p>4) Interview with Staff #1: "On 4/22/10 at 4:00 p.m. [Staff #1] was interviewed on tape in the presence of [Acting Administrator]... [Staff #1] stated he did not recall [Client #1] being there</p>	W 155			

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W 155	<p>Continued From page 34</p> <p>[recreation building] on Monday evening... When asked if he and [Client #1] have a special relationship [Staff #1] stated no, he treats [Client #1] the same as he treats everyone else... He denied the allegation of touching [Client #1], kissing or initiating hugging him. [Staff #1] stated he knew of no reason why [Client #1] would make the allegation... [Staff #1] was then asked about the recent [athletic event trip]... He stated that [other client] slept on a cot, [second client] slept in one bed and he [Staff #1] and [Client #1] slept in the other bed. [Staff #1] said that [Client #1] slept under the sheets and he stayed on top. He said he brought his own bedding... At approximately 4:45 p.m. [Staff #1] called back to state that he forgot to mention that [Client #1] had come down to the recreation building either Monday or Tuesday night to get some popcorn..."</p> <p>c. The Investigation Report also documented a phone conversation between the investigator and the Assistant Administrator: "At approximately 4:50 p.m. [on 4/22/10], I [investigator] received a call from [Assistant Administrator] stating that he had heard [Client #1] had been very upset with [Staff #1] due to [Staff #1] taking another client shopping and not giving [Client #1] the attention that he wanted..."</p> <p>d. The Administrative Directives section of the Investigation Report documented, "The allegation cannot be substantiated for the following reasons: ...[Staff #1] submitted to a polygraph examination which indicated he was truthful in stating the incident did not occur... [Client #1] subsequently stated that he lied about the allegation because he was mad at [Staff #1] for not spending enough time with him..."</p>	W 155			

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W 155	<p>Continued From page 35</p> <p>e. A document titled, "Conference Call regarding [Client #1]" and dated 5/4/10 at 9:00 a.m. documented, "On May, 04, 2010 at 9:00 a.m., I [legal guardian - APS case worker] received a call from [Client #1's] team leader, [Staff #2], she stated that she and [Staff #4] had [Client #1] in their office and there were some things, they wanted to address. The first thing from [Client #1's] mouth was, 'I'm sorry Ms. [Guardian], I had to lie, they said he'd [Staff #1] loose [lose] his job.' I asked 'who said that [Client #1]?' [Client #1] stated [Staff #3], the investigator lady, she told [Client #1] that [Staff #1] passed the polygraph test and [Client #1] was going to cost him [Staff #1] his job, so [Client #1] changed his story. [Client #1] said, 'I didn't mean to lie [Guardian], I was just didn't want him to woose [lose] his job. [Staff #1] my friend [Guardian] and a good coach. We gonna win the lympics [Special Olympics]'. [Guardian] asked if [Staff #1] would not get in trouble, would [Client #1's] story change. [Client #1] said, 'Yes'. This statement brought a great deal of concern. How would [Client #1] know that [Staff #1] had taken a polygraph test, if someone had not told him? I asked [Staff #2] if she could meet me with [Client #1], I wanted to continue this conversation in person. She agreed. We made arrangements to meet in Hot Springs, because I wanted another APS worker to sit in on the interview with [Client #1]."</p> <p>f. The next entry on the Conference Call document was dated 5/4/10 at 2:15 p.m. and documented, "[Client #1] stated that the first time, he [Staff #1] had grabbed him [Client #1] in the groin area and rubbed him, and then they kissed. [Client #1] stated there was one incident where [Staff #1] had intercourse with him in the</p>	W 155			

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W 155	<p>Continued From page 36</p> <p>backside. [Client #1] said, 'He [Staff #1] hurt me [Guardian], he hurt me. He made my butt whole [hole] bleed.' [Guardian] asked [Client #1] if there were other incidents. [Client #1] stated that there were. One time stated was in the bathroom that has the ice maker beside the door [recreation building], [Staff #1] and [Client #1] participated in oral sex. [Client #1] stated that they had participated in oral sex in his [Staff #1's] office and in the trophy room. These events occurred as recent as April of this year. [Guardian] asked [Client #1] if he told [Staff #3], the investigator, these things. [Client #1] said, "No, all she said was that he passed the lie detector test, coach [Staff #1] wasn't going to be there to watch me run track, and that I was going to cost him his job, so I took it all back'."</p> <p>g. An INCIDENT/MEDICAL TREATMENT REPORT FORM dated 5/4/10 and completed by Staff #2 documented that Staff #2 was aware of the client's sexual maltreatment allegation against Staff #1 by 5/4/10 at 1:00 p.m. and, "Client Sexual Activity (Reported)... Talked with [Staff #5] at 5:35 p.m. [Client #1] was asked to stay on the floor for the night. [Guardian]... APS worker doesn't want [Staff #1] near [Client #1]. Talked with [Staff #6] at 5:40 p.m. and he was fine with the plan in place to keep [Client #1] on his floor. After talking with both [Staff #5] and [Staff #6] I informed [Staff #7 - Shift Coordinator] regarding the conversation and that everything was in place and approved".</p> <p>h. An e-mail dated 5/6/10 from Employee #2 to the Client #1's guardian documented, "...The staff on the floor were informed that [Client #1] needed to be in eyesight. [Employee #2] stayed on the floor because [Staff #1] continued to</p>	W 155			

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W 155	Continued From page 37 work." The time report provided by the facility on 5/11/10 documented the alleged perpetrator, Staff #1, completed the remainder of his shift on 5/4/10 and clocked out at 9:01 p.m. i. On 5/12/10 at 9:35 a.m., the Assistant Administrator, Employee #5, stated he was not sure if the facility had a policy and procedure regarding what steps were to be taken after an allegation of sexual maltreatment was made. j. On 5/12/10 at 12:45 p.m., the facility's investigator for maltreatment, Employee #3, stated she was unaware if there was a facility policy that addressed what procedures to follow when an allegation of sexual abuse was made. k. On 5/12/10 at 3:45 p.m., Staff #3, the facility's investigator, stated not suspending Staff #1 after being made aware of the client's allegation did not protect other clients from further potential abuse and that she would have suspended Staff #1 immediately if the decision had been up to her. There was no evidence in the facility's investigation documentation or the above interviews to indicate any protective measures were implemented to ensure the clients were free from further potential abuse during the investigative period.	W 155			