



State of New Jersey
DEPARTMENT OF HEALTH
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www.nj.gov/health

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA
Commissioner

In Re Licensure Violation:	:	
	:	
	:	
2 nd Home Newark Adult Medical Day Care	:	CURTAILMENT
	:	ORDER AND
	:	DIRECTED PLAN OF
(NJ Facility ID# NJ308116)	:	CORRECTION
	:	
	:	

TO: Yana Bojadscheuw, Administrator
 2nd Home Newark Adult Medical Day Care
 717-727 Broadway
 Newark, NJ 07104

Dear Mr. Bojadscheuw:

This letter confirms the verbal order given to you by the Department of Health (hereinafter, “the Department”) on July 28, 2023, ordering 2nd Home Newark Adult Medical Day Care (hereinafter, “2nd Home Newark”) to curtail the use of all buses to transport participants to and from the facility, and imposing a Directed Plan of Correction (DPOC) requiring 2nd Home Newark to retain the full-time services of a Consultant Administrator. The curtailment includes a prohibition on the use of any contracted transportation services.

These enforcement actions are being taken in accordance with the provisions set forth at N.J.A.C. 8:43E-2.4 (Plan of Correction) and 3.1 (Enforcement Remedies Available), after Staff from the Department's Health Facility Survey and Field Operations (HFS&FO or Survey) were on-site at 2nd Home Newark and found significant deficiencies in the facility’s operation of buses to transport participants imposing an immediate and serious threat of harm to residents.

The Health Care Facilities Planning Act (N.J.S.A. 26:2H-1 et seq.) (the Act) provides a statutory scheme designed to ensure that all health care facilities are of the highest quality. Pursuant to the Act and N.J.A.C. 8:43E-1.1 et seq., General Licensure Procedures and Standards Applicable to All Licensed Facilities, the Commissioner of Health is authorized to inspect all health care

facilities and to enforce the Standards for Licensure of Adult Day Health Services Facilities set forth at N.J.A.C. 8:43F.

LICENSURE VIOLATIONS:

Staff from Survey were on-site at 2nd Home Newark on July 25 through July 27, 2023 to conduct a complaint survey. Based on observations, interviews, and review of pertinent Facility documentation, it was determined that the Facility violated N.J.A.C. 8:43F-3.1(b)1 and 17.1.

The survey team determined that the facility failed to comply with the requirements of N.J.A.C. 8:43F-17.1 when it failed to ensure that participants were being transported safely to and from the facility by bus. The survey team also determined that the facility violated N.J.A.C. 8:43F-3.1(b)1, which requires the facility administrator to ensure the development, implementation, and enforcement of all policies and procedures, including resident rights.

On July 25, 2023, the surveyor inspected five of five facility transportation buses and observed the following: Driver #1 - Bus #1 contained six of six participants who were not wearing seat belts; Driver #2 – Bus #2 contained 9 of 9 participants who did not have on seat belts; Driver #3 – Bus #3 contained twelve of twelve participants who were not wearing seat belts; Driver #4 - Bus #4 contained seventeen of seventeen participants who were not wearing seat belts; Driver #5 – Bus #5 contained ten of ten participants who were not wearing seat belts. Further, on July 25, 2023, the surveyor observed Driver #1 of Bus #1 loading a participant in a manual chair onto the bus with the wheelchair lift. The wheelchair lift was halfway up, and then Driver #1 applied the wheelchair lift safety belt, but the wheelchair's wheels were not locked.

On July 25, 2023, the surveyor reviewed an incident report for an incident that occurred on December 2, 2022 at 11:10 a.m. at the facility. A participant on an unsecured motorized scooter fell off the facility bus wheelchair ramp while it was being lowered to the ground by Driver #3. The surveyor interviewed the Administrator, who stated that the bus did not have a wheelchair ramp safety belt at the time of the incident to secure the scooter on the ramp during operation, and that she was not aware the bus did not have a wheelchair ramp safety belt until the incident took place.

On July 26, 2023, during the surveyor's tour with the Supervisor of Transportation (SOT), the SOT was observed making rounds on the buses applying all the participants' seatbelts and instead of the Drivers applying the seat belts in accordance with facility policy.

On July 26, 2023, the surveyor identified an immediate and serious threat of harm to facility participants. On July 26, 2023, at 6:00 p.m., the Administrator confirmed that the removal plan would include the following: all drivers would be in-serviced on the transportation safety protocols and the automated lift operating safety video, policies and procedures; and logs would be developed and reviewed with all transportation staff for seat belt use, wheelchair lift safety, and securing participants' belongings on buses.

On July 27, 2023, the surveyor observed additional bus transportation safety violations during the first session drop-off of participants to the facility. While observing a wheelchair being lifted onto the bus by the electric lift, the surveyor observed that the manual safety belt was loose and not tightened in accordance with the manufacturer's instructions for use. The surveyor also observed two electric, motorized wheelchair/scooters were not turned off while the lift was being utilized and observed that two manual wheelchairs did not have the wheels in the locked position, and one of the wheelchair's wheel-locks was broken. Also, the surveyor observed that Bus #2 had a participant's walker unsecured inside the bus among the participants. Further, the surveyor observed that the SOT was not outside monitoring all the participants being lifted onto the wheelchair ramp in accordance with policy and procedure. The surveyor observed that the facility had failed to implement the corrective actions required by the removal plan.

The survey team determined that the facility's non-compliance with these requirements had caused, or was likely to cause, serious injury, harm, impairment, or death to participants.

You will receive a complete inspection report detailing all deficiencies and factual findings.

CURTAILMENT:

The Department hereby orders the continuation of curtailment of the use of buses to transport participants to and from 2nd Home Newark.

Please be advised that N.J.A.C. 8:43E-3.4(a)(2) provides for a penalty of \$250 per day for each resident at the facility in violation of this curtailment order.

DIRECTED PLAN OF CORRECTION:

a. The facility must retain the full-time, on-site services of an Administrator Consultant in accordance with N.J.A.C. 8:34-1.1 et seq., who shall be responsible for consultation services concerning the day-to-day operations of the facility. The Administrator Consultant must be approved by the Department. The facility shall provide the name and resume of the proposed Administrator Consultant by submitting the name and resume to Kiisha.johnson@doh.nj.gov, Gene.Rosenblum@doh.nj.gov and Lisa.King@doh.nj.gov by 12:00 noon on August 3, 2023. The Administrator Consultant shall be present in the facility for no less than 40 hours per week, with documented coverage of all shifts, until further notice from the Department. The approved Administrator Consultant shall be retained no later than the close of business, August 7, 2023. The contract with the consultant shall include provisions for immediate corrective action with applicable state licensing standards. The consultant shall have no previous or current ties to the facility's principals, management and/or employers or other related individuals of any kind, including, but not limited to employment, business, or personal ties. The Administrator Consultant and facility shall submit weekly progress reports, beginning on August 11, 2023, and continuing each Friday thereafter. The progress reports shall be submitted to Kiisha.johnson@doh.nj.gov.

The Administrator Consultant shall:

1. Assess the facility's compliance with all applicable state licensing standards and identify areas of non-compliance;

2. Oversee the development, implementation and evaluation of corrective action plans;
3. Develop and implement compliance management systems at the facility;
4. Collaborate with facility leadership to ensure that operating procedures, systems and standards align with compliance requirements;
5. Ensure staff training needed to comply with applicable licensing standards; and,
6. Take other actions as may be necessary to ensure identification of compliance issues and implementation of timely corrective measures.

The weekly progress reports by the Administrator Consultant and the facility should be sent every Friday by 1:00 p.m. to Kiisha.johnson@doh.nj.gov. These weekly reports shall include timely status updates regarding:

1. Identified areas of non-compliance;
2. Corrective measures to address identified areas of non-compliance; and,
3. Status of corrective measures implementation.

The DPOC shall remain in place until the facility is otherwise notified in writing by a representative of this Department.

Department staff will monitor facility compliance with this order to determine whether corrective measures are implemented by the facility in a timely fashion. Failure to comply with these and any other applicable requirements, as set forth in pertinent rules and regulations, may result in the imposition of additional enforcement actions, including penalties.

Please be advised that you may be subject to other enforcement remedies in addition to this order.

FORMAL HEARING:

2nd Home Newark is entitled to contest the curtailment, pursuant to N.J.S.A. 26:2H-14, by requesting a formal hearing at the Office of Administrative Law (OAL). 2nd Home Newark may request a hearing to challenge any or all of the following: the factual survey findings and/or the curtailment. 2nd Home Newark must advise this Department within 30 days of the date of this letter if it requests an OAL hearing regarding the curtailment.

Please forward your OAL hearing request to:

Attention: OAL Hearing Requests
Office of Legal and Regulatory Compliance, New Jersey Department of Health
P.O. Box 360
Trenton, New Jersey 08625-0360

Corporations are not permitted to represent themselves in OAL proceedings. Therefore, if 2nd Home Newark is owned by a corporation, representation by counsel is required.

In the event of an OAL hearing regarding the curtailment, 2nd Home Newark is further required to submit a written response to each and every charge as specified in this notice, which shall accompany its written request for a hearing.

Since the surveyors have determined that an immediate and serious risk of harm is posed to the residents, please be advised that the Department will not hold the curtailment or the DPOC in abeyance during any appeal of the curtailment.

Thank you for your attention to this important matter and for your anticipated cooperation. Should you have any questions concerning this order, please contact Lisa King, Office of Program Compliance at (609) 376-7751.

Sincerely,



Gene Rosenblum

Director, Office of Program Compliance

Division of Certificate of Need and Licensing

DATE: July 31, 2023; WCK

FACSIMILE

E-MAIL (Yana@2ndhome.org)

REGULAR AND CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Control # X23030