



State of New Jersey
DEPARTMENT OF HEALTH

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www.nj.gov/health

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Governor

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Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA
Commissioner

IN RE: LICENSURE VIOLATION	:	NOTICE OF
	:	ASSESSMENT OF
NJ FACILITY ID#: NJ08A012	:	PENALTIES
LICENSE#: 08A012	:	

TO:

Debra Petrone, Administrator
All American Assisted Living at Washington Township
339 Greentree Road
Sewell, New Jersey 08080
Fax: (856) 956-3023

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. Assisted living residence facilities are licensed in accordance with N.J.S.A. 26:2H-1 and N.J.A.C. 8:36. Pursuant to the Act and N.J.A.C. 8:36, Standards for Licensure of Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs, and N.J.A.C. 8:43E, General Licensure Procedures and Standards Applicable to All Licensed Facilities, the Commissioner of the Department of Health (the "Department") is authorized to inspect all assisted living facilities and to enforce N.J.A.C. 8:36.

LICENSURE VIOLATIONS AND MONETARY PENALTIES:

Survey staff of the Department visited the All American Assisted Living at Washington Township facility (the facility) on July 20, 2022 for a complaint survey. The report of this visit, which is incorporated herein by reference, substantiated violations of N.J.A.C. 8:36-3.4(a)1, 4.1(a)16, 5.10(a)2 and 7.3(c).

N.J.A.C. 8:36-4.1(a)16 requires a facility to post and distribute a statement of resident rights, which includes the right to be free from physical and mental abuse and/or neglect. The surveyors determined that the facility violated N.J.A.C. 8:36-4.1(a)16 by failing to maintain accountability for a cognitively impaired resident who was left behind on a facility-sponsored field trip. The interviews and record review substantiated that the store called the facility to notify it that the resident had been left behind at the

store after the facility van had departed from the store. The facility neglected to safely monitor the cognitively impaired resident who was left behind on a field trip, which placed the resident at risk for injury. In accordance with N.J.A.C. 8:43E-3.4(a)(10), because the violation resulted in either actual harm to a patient or resident, or in an immediate and serious risk of harm, \$2,500 per violation may be assessed for each day noncompliance is found. Thus, \$2,500 is assessed for this violation.

N.J.A.C. 8:36-3.4(a)1 requires the facility administrator or designee to be responsible for developing, implementing and enforcing all facility policies and procedures. Based on interview and record review, the surveyors determined that a cognitively impaired resident on a field trip to a local store was left behind at the store after wandering out of line for the facility van after a head count had been taken. The survey determined that the facility violated N.J.A.C. 8:36-3.4(a)1 by failing to develop and implement a policy and procedure that defined protocols for holding staff accountable for cognitively impaired residents, including the impaired resident who was left behind on the facility-sponsored field trip.

N.J.A.C. 8:36-5.10(a)2 requires a facility to report resident elopements to the Department. The surveyors determined that the facility violated N.J.A.C. 8:36-5.10(a)2 because the facility failed to report to the Department that the cognitively impaired resident had wandered off during a field trip and had been left behind at a store in the community.

The surveyors established that the facility violated N.J.A.C. 8:36-7.3(c) because it failed to update and revise the cognitively impaired resident's care plan to include interventions for safety during field trips to prevent the individual from wandering during field trips. N.J.A.C. 8:36-7.3(c) also requires a facility to make any necessary revisions to a resident's service plan and/or health service plan. The surveyors determined that the facility failed to update the resident's care plan to address the wandering behavior until the survey on July 20, 2022.

In accordance with N.J.A.C. 8:43E-3.4(a)(8), because the violations of N.J.A.C. 8:36-3.4(a)1, 5.10(a)2 and 7.3(c) represented a direct risk that a resident's physical or mental health would be compromised, a \$1,000 penalty per violation may be assessed for each day noncompliance is found. The Department is assessing a \$1,000 penalty for each day from June 6, 2022 through the date of survey, July 20, 2022, that the facility failed to comply with these regulations. Because of the compliance history of the facility, the Department is exercising its discretion pursuant to N.J.A.C. 8:43E-3.4(b) to decrease the penalty for these violations by assessing one per-day, \$1,000 penalty for the four violations, with the total penalty for these violations assessed at \$44,000.

In accordance with N.J.A.C. 8:43E-3.4(a) 8 and 10, the total penalty assessed upon the All American Assisted Living at Washington Township for the four (4) violations amounts to \$46,500 (\$44,000 + \$2,500).

The total amount of this penalty is required to be paid within 30 days of receipt of this letter by certified check or money order made payable to the "Treasurer of the State of New Jersey" and forwarded to Office of Program Compliance, New Jersey Department of Health, P.O. Box 358, Trenton, New Jersey 08625-0358, Attention: Lisa King. **On all future correspondence related to this Notice, please refer to Control X21049.**

INFORMAL DISPUTE RESOLUTION (IDR):

N.J.A.C. 8:43E-2.3 provides facilities the option to challenge factual survey findings by requesting Informal Dispute Resolution with Department representatives. Facilities wishing to challenge only the assessment of penalties are not entitled to IDR review, but such facilities may request a formal hearing at the Office of Administrative Law as set forth herein below. Please note that the facility's rights to IDR and administrative hearings are not mutually exclusive and both may be invoked simultaneously. IDR requests **must be made in writing within ten (10) business days from receipt of this letter** and must state whether the facility opts for a telephone conference, or review of facility documentation only. The request must include an original and ten (10) copies of the following:

1. The written survey findings;
 2. A list of each specific deficiency the facility is contesting;
 3. A specific explanation of why each contested deficiency should be removed; and
 4. Any relevant supporting documentation.
- Any supporting documentation or other papers submitted later than 10 business days prior to the scheduled IDR may not be considered at the discretion of the IDR panel.

Send the above-referenced information to:

Nadine Jackman
Office of Program Compliance
New Jersey Department of Health
P.O. Box 358
Trenton, New Jersey 08625-0358

The IDR review will be conducted by professional Department staff who do not participate in the survey process. **Requesting IDR does not delay the imposition of any enforcement remedies.**

FORMAL HEARING:

The All American Assisted Living at Washington Township facility is entitled to a prompt formal hearing at the Office of Administrative Law (OAL) to challenge this assessment of penalties pursuant to N.J.S.A. 26:2H-13. Please note that a facility's rights to IDR and an administrative law hearing are not mutually exclusive and both may be simultaneously invoked by the facility. The facility must advise this Department within 30 days of receipt of this letter if it requests an OAL hearing regarding this matter. 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 the All American Assisted Living at Washington Township facility is owned by a corporation, representation by counsel is required by law.

In the event of an OAL hearing regarding this matter, the All American Assisted Living at Washington Township facility is further required to submit a written response to every charge as specified in this Notice, which shall accompany its request for a hearing.

In accordance with N.J.A.C. 8:43E-3.5(c)1, failure to submit a written request for a hearing within 30 days from the date of receipt of this notice will render this a final agency decision assessing the amount of the penalty, which shall then become due and owing. Further, at the request of the Department, the Clerk of the Superior Court or the Clerk of the Superior Court, Law Division, Special Civil Part, shall record the final order assessing the penalty on the judgment docket of the court, in accordance with N.J.S.A. 2A-58-10. The final agency decision shall thereafter have the same effect as a judgment of the court.

Lisa King, Regulatory Officer
Office of Program Compliance

DATE: November 21, 2022
REGULAR AND
CERTIFIED MAIL:
RETURN RECEIPT REQUESTED
DPetrone@allamericanatwashington.com
Jhomer@allamericanateashington.com
Control # X21049