



State of New Jersey  
 DEPARTMENT OF HEALTH  
 PO BOX 358  
 TRENTON, N.J. 08625-0358  
[www.nj.gov/health](http://www.nj.gov/health)

PHILIP D. MURPHY  
 Governor

SHEILA Y. OLIVER  
 Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA  
 Commissioner

In Re Licensure Violation:	:	
	:	
Aristacare at Cedar Oaks	:	NOTICE OF ASSESSMENT OF
	:	
(NJ Facility ID# NJ 61216)	:	PENALTIES
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TO: Steven Share, Administrator  
 1311 Durham Avenue  
 South Plainfield, New Jersey 07080

Dear Mr. Share:

Effective immediately, the Department of Health (hereinafter, "the Department") is assessing penalties pursuant to N.J.S.A. 26:2H-46.1 and N.J.A.C. 8:43E-3.4 upon Aristacare at Cedar Oaks (hereinafter "Aristacare") because Aristacare has incurred two or more of the same or substantially similar F-level or higher-level deficiencies as defined by the federal Centers for Medicare and Medicaid Services (CMS) within the prior two years. N.J.S.A. 26:2H-46.1 requires the Department to impose an increased penalty upon a licensed nursing home for violations within a three-year period of the same or a substantially similar F-level or higher-level deficiency recognized by CMS.

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 Long-Term Care Facilities set forth at N.J.A.C. 8:39-1.1 et seq.

#### **LICENSURE VIOLATIONS:**

Based on surveys conducted by Department staff on February 7, 2023, and June 21, 2021, the facility failed to comply with F-689 (42 C.F.R. 483.25; N.J.A.C. 8:39-27.1(a)) at the F-level or higher. The facts supporting these deficiencies are set forth in surveys dated February 7, 2023, and June 21, 2021, which are incorporated herein by reference.

The facility's failure to comply with F-689 on February 7, 2023, was cited at the J -level because it was isolated and resulted in immediate jeopardy to resident health or safety. As set forth in the February 7, 2023, survey, the immediate jeopardy began on December 6, 2022, and ended on February 2, 2023, when the facility submitted an acceptable removal plan (56 days).

#### **MONETARY PENALTIES:**

N.J.A.C. 8:43E-3.4(a) 10 allows the Department to impose a monetary penalty of \$2,500 per violation, which may be assessed for each day noncompliance is found, for violations resulting in either actual harm to a patient or resident, or in an immediate and serious risk of harm.

In accordance with N.J.A.C. 8:43E-3.4(a)10, the penalty assessed for each day noncompliance was found is \$2,500 per day. The total penalty assessed for the violations (or days the facility was not in compliance) is \$147,500 (2,500 x 56 days).

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 X23012.**

#### **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 an in-person conference at the Department, 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.**

**If IDR was offered and requested by your facility for the corresponding federal deficiency that was cited at the same survey and your facility requests another IDR for the corresponding State deficiency cited at the same survey and arising from the same set of facts, the Department will either consolidate the IDRs or treat the first IDR decision as binding. The Department does not offer a second IDR for the same set of disputed facts that were challenged in a prior IDR offered by the Department.**

**FORMAL HEARING:**

Aristacare is entitled to contest the assessment of penalties pursuant to N.J.S.A. 26:2H-13, by requesting a formal hearing at the Office of Administrative Law (OAL). Aristacare may request a hearing to challenge any or all of the following: the factual findings and/or the assessed penalties. Aristacare must advise this Department within 30 days of the date of this letter if it requests an OAL hearing.

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 Aristacare is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the penalty, Aristacare 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.

Failure to submit a written request for a hearing within 30 days from the date of this notice will render this a final agency decision. The final agency order shall thereafter have the same effect as a judgment of the court. The Department also reserves the right to pursue all other remedies available by law.

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,



Lisa King, Program Manager  
Office of Program Compliance  
Division of Certificate of Need and Licensing

DATE: April 5, 2023  
FACSIMILE  
E-MAIL ( [COADMIN@ARISTACARE.COM](mailto:COADMIN@ARISTACARE.COM) )  
REGULAR AND CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Control # X23012