



**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 : NOTICE OF  
 : ASSESSMENT OF  
 NJ Facility ID #: NJ11A006 : PENALTIES

TO: Rebecca Lynn, Administrator  
 Assisted Living, Inc.  
 1015 Whitehead Road Extension  
 Ewing, NJ 08638

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 the Department of Health (the "Department") is authorized to inspect all health care facilities and to enforce the Standards for Licensure of Assisted Living Facilities set forth at N.J.A.C. 8:36-1.1 et seq.

**LICENSURE VIOLATIONS & MONETARY PENALTIES:**

Survey Department staff ("Survey") conducted three survey visits to Assisted Living, Inc. ("facility") on June 17, 2019, June 25, 2019, and July 16, 2019. Survey was unable to complete the survey on June 17, 2019 and June 25, 2019 because owner, Executive Director ("ED"), and Administrator Rebecca Lynn (Administrator"), who is also a Registered Nurse, was not available on-site for the surveyor to access residents' medical records and the program's policies and procedures. Survey completed the survey on July 16, 2019. The report of this visit, which is incorporated herein by reference, revealed the following licensure violations:

1. The facility was in violation of N.J.A.C. 8:36-3.1(a) Administration – Survey Tag A0269. The facility failed to ensure that an Administrator or Alternate Administrator was present at the facility during programming hours. Program participants were present; however, neither the Administrator nor an Alternate Administrator were on-site in violation of the above. The Administrator or a designated alternate shall be available at all times and shall be on-site at the facility on a full-time basis in facilities that have 60 or more licensed beds, and on a half-time basis in facilities that have fewer than 60 licensed beds, in accordance with the definition of "full-time" and "half-time" at N.J.A.C. 8:36-1.3. Assisted Living, Inc. is a 72-bed facility.

Additionally, on June 25, 2019, the surveyor observed Resident #5 fall on the floor near the resident's room while walking using a walker. The surveyor observed Resident #5 call for assistance for approximately 12-15 minutes until facility staff arrived to assist. The surveyor interviewed facility Staff #2 and asked if the Administrator or the person covering for the Administrator was in the building. Facility Staff #2 stated that she did not know the whereabouts of the Administrator and instructed the surveyor to "ask the other staff." When the surveyor asked how the other staff member could be contacted facility Staff #2 stated, "I don't know." The Administrator was not available and there was no evidence that there was an Alternate Administrator covering and available to manage and ensure residents' needs were met and addressed, including Resident #5 after the resident's fall.

On July 16, 2019, the surveyor returned to the facility and conducted another unannounced visit to the facility. The surveyor contacted the Administrator on the phone and made her aware that the surveyor was at the facility. The Administrator met the surveyor at the Nursing/Wellness office. During the interview with Administrator, the surveyor asked the Administrator the name of the designated Alternate Administrator/Alternate Administrator. The Administrator stated that there was none. The Administrator stated that there was "no" designated Alternate Administrator/Alternate Administrator because the Administrator did not designate one.

On June 17, 2019, the surveyor asked a facility staff person if the Administrator/ED, who is also a Registered Nurse (RN) and the Wellness Director, was available and in the building. The office staff stated, "Not sure." The surveyor called the phone number provided by the building office staff and was able to contact the facility Administrator/ED at 10:52 a.m. During the surveyor's telephone interview with the Administrator/ED, she stated that due to medical/personal matters, she was not able to come to the facility at that time. She stated that if she did come to the facility, it would be "two to three hours after." The Administrator/ED also stated that she was not required to come into the building. At that time the surveyor asked if there was an alternate Administrator that provided coverage in the absence of the Administrator/ED. The Administrator/ED stated, "No." The surveyor then asked the Administrator/ED how the residents' medical records could be accessed for surveyor review. The Administrator/ED stated that she had the key and only she could access the residents' medical records. During the tour, the surveyor was unable to locate any facility staff and proceeded back to the building's office on the 1st floor. The surveyor made the building office staff aware that there was no response to multiple knocks on the facility's nursing office door. Later at 1:38 p.m. the Administrator/ED arrived and handed the surveyor a list of facility's residents when the surveyor was leaving the building.

Surveyor review of the staffing schedule revealed that there were no dates to determine the week, or time frame of the schedule, that the Administrator/ED was not scheduled to be on site but rather on-call "24/7," and that there was no documented evidence that the Administrator designated an alternate Administrator to act in the her absence and/or when the Administrator/ED was unavailable at the facility.

In accordance with N.J.A.C. 8:43E-3.4(a)(7), because the violation related to patient care, and represented a risk to the health, safety, or welfare of residents at the facility the penalty assessed for this violation is \$500.

2. The facility was in violation of N.J.A.C. 8:36-3.4(a)(2) Administration – Survey Tag A311. Based on observation and staff and resident interviews it was determined that the facility Administrator/Executive Director failed to ensure managerial and operational responsibilities were met, including the designation of an alternate Administrator in writing and the development of a plan to ensure that an alternate Administrator and a Registered Nurse were available in the absence of the Administrator/Administrator and/or RN. The facility Administrator failed to have a system in place to ensure that the Administrator or designee was available and could always be contacted by residents, staff and representatives of the New Jersey Department of Health (NJDOH). Additionally, the Administrator failed to develop a plan to ensure that the residents' medical records and the facility policy manual were available and accessible for review by the NJDOH representative.

In accordance with N.J.A.C. 8:43E-3.4(a)(7), because the violation related to patient care, and represented a risk to the health, safety, or welfare of residents at the facility, the penalty assessed for this violation is \$500.

3. The facility was in violation of N.J.A.C. 8:36-5.6(a) General Requirements – Survey Tag A515. The facility Administrator failed to maintain and implement written staffing schedules to ensure that the actual hours worked by each employee were documented by the facility. When questioned by the surveyor, the Administrator stated that there was no Alternate Administrator but that there were staff members on duty that morning. She stated that there were at least three staff members present in the facility building, but that they were in residents' rooms. The surveyor then asked if a staffing schedule was available for the surveyor to review. The surveyor interviewed Staff #1 and asked if she had a copy of the current staffing schedule that the surveyor could review, including the schedule for the week of June 17, 2019. Staff #1 stated, "No." The surveyor interviewed facility Staff #2 who stated that staff do not have access to the staffing schedule. When the surveyor asked Staff #2 if she was aware who was on duty in the building that morning, Staff #2 stated that she did not know who else was on duty and that she just came to do her work. When the surveyor reviewed the staffing schedule later provided by the Administrator, the printed two-week staffing schedule had no documented dates to determine the schedule's month and the weeks for staffing of the facility.

In accordance with N.J.A.C. 8:43E-3.4(a)(7), because the violation related to patient care and represented a risk to the health, safety, or welfare of residents at the facility, the penalty assessed for this violation is \$500.

4. The facility was in violation of N.J.A.C. 8:36-11.4(b) Pharmaceutical Services-Survey Tag A935. The facility failed to ensure all medications were administered by qualified personnel in accordance with prescriber orders, facility or program policy, manufacturer's requirements, cautionary or accessory warnings, and all Federal and State laws and regulations. Based on interviews and record review it was determined that the facility failed to ensure that a resident's medication was administered accurately in accordance with Physician's order and Facility policy for 1 of 3 residents reviewed for medication. The Administrator stated that she thought that Resident #6's Oxycodone order was written and being administered on an "as needed basis." The Administrator/ED stated that there were changes in the prescription orders in the past and that the goal was for the reduction of the medication frequency. The Administrator/ED was unable to explain why the Physician's order for the resident was not administered once every twelve hours as needed for pain per Physician's order, rather than on an as needed basis.

In accordance with N.J.A.C. 8:43E-3.4(a)(7), because the violation related to patient care, and represented a risk to the health, safety, or welfare of residents at the facility, the penalty assessed for this violation is \$500.

5. The facility was in violation of N.J.A.C. 8:36-15.2 Assisted Living Programs Record Availability-Survey Tag A1603. The facility failed to ensure the facility's records required by this subchapter were maintained for all residents and kept available on the premises for review at any time by representatives of the Department. The surveyor called the facility telephone number to contact the Administrator/ED to access and review residents' medical records. The surveyor was unable to reach the Administrator/ED and was unable to leave a message because the voice mailbox was full. The surveyor was also unable to access and review residents' medical records, including the medical records of residents interviewed and Resident #5, who fell in the hallway on June 25, 2019 and was observed calling for assistance. Additionally, facility staff were unable to provide access for the surveyor to review residents' medical records and they could not confirm the whereabouts of the Administrator/ED who kept the keys to the medical records room, and who failed to have an alternate Administrator on site to provide the Department access to the facility's records.

In accordance with N.J.A.C. 8:43E-3.4(a)(7), because the violation related to patient care and represented a risk to the health, safety, or welfare of residents at the facility, the penalty assessed for this violation is \$500.

6. The facility is in violation of N.J.A.C. 8:43E-2.4(d)-Plan of Correction ("POC"). The facility failed to submit a corrected Plan of Correction for each of the deficiencies set forth in the July 16, 2019 Survey 2567 after being notified by letter dated December 27, 2019 that the Department found its August 22, 2019 Plan of Correction unacceptable, and after being notified by telephone on February 28, 2020 that its February 5, 2020 revised Plan of Correction was unacceptable to correct the above deficiencies. Both the Plan of Correction and revised Plan of Correction failed to include all elements required of a POC, including referencing the residents mentioned in the deficiency report, other residents identified who may have been affected by the deficient practice but were not included in the sample of residents, all corrective actions taken by the facility to address the deficient practices, the monitoring system implemented by the facility and the person responsible for ensuring compliance to ensure deficient practices will not re-occur, and a completion date for each deficiency listed, specifically: Survey Tag A269 – N.J.A.C. 8:36-3.1(a) – Administration; Survey Tag A - 311 – N.J.A.C. 8:36-3.4(a)(2) – Administration; Survey Tag A - 515 – N.J.A.C. 8:36-5.6(a) - General Requirements; Survey Tag A - 935 – N.J.A.C. 8:36-11.4(b) - Pharmaceutical Services; and Survey Tag A - 1603 – N.J.A.C. 8:36-15.2 - Assisted Living Programs Record Availability as cited above. The Department notified the facility on August 12, 2020 by telephone and email that it had until August 31, 2020 to submit an acceptable Plan of Correction.

In accordance with N.J.A.C. 8:43E-3.4(a)(9), the facility repeatedly failed to implement an approved plan of correction from August 31, 2020 to date, and the penalty assessed for this violation is \$100.00 per day until an acceptable Plan of Correction is submitted to the Department.

These violations pertain to the care of residents using the services at Assisted Living, Inc. In accordance with N.J.S.A. 26:2H-13 and N.J.A.C. 8:43E-3.4(a), Assisted Living, Inc. is hereby

assessed penalties amounting to \$8,300.00 as of October 28, 2020, and a continuing penalty of \$100.00 per day from October 28, 2020 until an acceptable Plan of Correction is submitted to the Département.

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 X19004.**

**FORMAL HEARING:**

Assisted Living, Inc. 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. Assisted Living Inc. may request a hearing to challenge the assessment of penalties. Assisted Living, Inc. 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, Room 805  
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 Assisted Living, Inc. is owned by a corporation, representation by counsel is required by law.

In the event of an OAL hearing regarding this matter, Assisted Living, Inc. is further required to submit a written response to every charge specified in this Notice, which shall accompany your written request for a hearing.

Be advised that Department staff will monitor facility compliance with this Notice to determine whether corrective measures are implemented by the facility and whether assessed penalties are paid 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 penalties.

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.



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Lisa King, Regulatory Officer  
Office of Program Compliance

MDJ:mdj  
DATE: October 28, 2020  
REGULAR AND  
CERTIFIED MAIL: 7016 2070 0001 0560 5547  
RETURN RECEIPT REQUEST  
Control # X19004