



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:

AVANT REHABILITATION
AND CARE CENTER
(NJ Facility ID# NJ476002)

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CURTAILMENT OF
ADMISSIONS ORDER,
DIRECTED PLAN OF
CORRECTION

TO: Jason M. Chadwick, Administrator
Avant Rehabilitation and Care Center
Brunswick Garden Group LLC
1314 Brunswick Avenue
Trenton, New Jersey 08638

Dear Mr. Chadwick:

This order confirms the September 30, 2022 telephone call between you and the Department of Health, Office of Program Compliance (Department), wherein you were ordered to curtail all admissions and readmissions at Avant Rehabilitation and Care Center (hereinafter "Avant" or "Facility").

The Department is also now ordering a Directed Plan of Correction (hereinafter "DPOC"), requiring Avant to retain an Administrator Consultant, Nursing Consultant, and a Qualified Infection Practitioner who will be required to work on site for at least 40 hours per week.

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.

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), 3.1 (Enforcement Remedies Available), and 3.6

(Curtailed of Admissions) after Staff from the Department's Health Facility Survey and Field Operations (HFS&FO) were on-site at Avant and found significant deficiencies posing an immediate and serious threat of harm to residents.

LICENSURE VIOLATIONS:

Staff from HFS&FO were on-site at Avant from September 21, 2022, through the date of this Order. Based on observations, interviews, and review of pertinent Facility documentation during a standard survey, the survey team identified four Immediate Jeopardy incidents (IJ) on September 23, 2022, and September 28, 2022, at the Facility. Additionally, the Licensed Nursing Home Administrator (LNHA) was unable to provide the Facility policies and procedures to Survey upon entrance to the Facility on September 21, 2022, and the Facility's Infection Preventionist is unqualified.

The Facility failed to ensure a cognitively impaired resident was free from sexual abuse. The Facility failed to investigate an allegation of sexual abuse involving a resident with a prior history of sexual abuse. Survey interviews with four aides confirmed that in August 2022 Facility staff observed a Resident, who is a registered sex offender, exiting the room of Resident #10. Resident #10 is a cognitively impaired resident who is dependent on staff for all activities of daily living. Facility staff observed the resident self-propelling out of Resident #10's room. Resident #10 was visibly distraught, crying, asking for their mother, and when Facility staff asked what happened Resident #10 exclaimed "rape!" Four Facility Certified Nurse Aides (CNA) confirmed to Survey that the Administration, including the Licensed Nursing Home Administrator (LNHA) and Director of Nursing (DON), were aware of the incident and did not report the incident to the police, send Resident#10 to the hospital, or take any statements regarding the incident. Additionally, the Facility did not move Resident #10's room to protect them until two weeks later.

The Facility also failed to prevent verbal abuse, which was witnessed by a surveyor. On September 23, 2022, a surveyor observed a CNA loudly arguing with Resident #56 on the locked unit. The CNA pointed her finger in the resident's face while she was arguing with the resident. A nurse and other Facility staff were present during the altercation. After the altercation, Resident #56 immediately went to the surveyor and asked, "can you help me, all I want is a diaper." The staff failed to immediately report the altercation and CNA #2 continued to work. Three days later CNA #2 was sent home after an alleged 2nd incident reported by a resident's family member. The Facility failed to investigate for the first incident, and it failed to put any interventions in place to prevent further abuse.

The Licensed Nursing Home Administrator (LNHA) was unable to provide Facility policies and procedures requested by Survey upon entrance to the Facility on September 21, 2022.

The Facility failed to take immediate action to prevent the spread of COVID-19 by failing to have or follow any process to conduct comprehensive contact tracing upon the identification of a COVID-19 infection. The Facility's system wide failure to conduct complete COVID-19 close contact tracing and to conduct COVID-19 testing upon the identification of a new COVID-19 case posed a serious and immediate risk to the health

and well-being of all residents who resided at the Facility and who were placed at risk for contracting a contagious infectious and potentially deadly virus.

The Facility failed to take immediate action to prevent the spread of COVID-19 (a deadly virus) by failing to conduct immediate resident and staff testing upon the identification of COVID-19 positive staff and or residents. The deficient practice was identified because of Survey's review of two recent residents' positive COVID-19 test results (Resident #52 and #44). Both residents were symptomatic on September 20, 2022. Both residents were not immediately tested for COVID-19. The Facility provided no evidence of COVID-19 testing performed on September 9, 2022 in response to both symptomatic residents.

Additionally, the Infection Preventionist Registered Nurse had not been in contact with the Local Health Department for guidance and failed to follow the Facility Outbreak Response plan. The Facility's failure to take immediate action to remove exposure risks placed all residents and staff at risk for contracting the potentially fatal COVID-19 virus.

Further, the Facility's designated, full-time Infection Preventionist did not meet the New Jersey state-mandated qualifications to function as the Facility's Infection Preventionist. The Facility's Infection Preventionist was not certified in Infection Control/Prevention and had not completed the necessary module trainings to perform in the role.

You will receive a complete inspection report detailing all deficiencies.

CURTAILMENT:

The Department hereby orders the curtailment of all admissions and readmissions at the Facility.

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 admitted to the Facility in violation of this curtailment order.

DIRECTED PLAN OF CORRECTION:

The Facility must retain the full-time, on-site services of an Administrator Consultant who is a Licensed Nursing Home Administrator, and who shall be approved in advance by the Department. The Facility shall provide the name and resume of the proposed Administrator Consultant by submitting the name and resume to Lisa.King@doh.nj.gov and Donna.Koller@doh.nj.gov by close of business on October 10, 2022. The Administrator Consultant shall be present in the Facility for no less than 40 hours per week, with documented coverage of all shifts and weekends, until further notice from the Department. The approved Administrator Consultant shall be retained no later than the close of business, October 14, 2022. The contract with the Administrator shall include provisions for immediate corrective action ensuring resident safety is not jeopardized and applicable state licensing standards are met.

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 October 21, 2022 and continuing each Friday thereafter. The progress reports shall be submitted to Donna.Koller@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 Donna.Koller@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 Facility must retain the full-time, on-site services of a Registered Nurse Consultant to begin providing services to the Facility as a consultant Director of Nursing no later than October 14, 2022. The consultant Director of Nursing shall be completely independent of the Facility and have no previous or current ties to the Facility's principals, management and/or employees or other related individuals of any kind, including, but not limited to, employment, business, or personal ties. The Facility shall provide the Department with the name and resume of the consultant by October 10, 2022. The resume should be sent to Donna.Koller@doh.nj.gov and Lisa.King@doh.nj.gov. The consultant Director of Nursing shall be on-site for no less than 40 hours per week, with documented coverage of all shifts and weekends, until further notice from the Department. The contract with this consultant Director of Nursing shall include provisions for immediate corrective action ensuring resident safety is not jeopardized and applicable state licensing standards are met.

The Facility must retain the full-time, on-site services of a Certified Infection Control Practitioner (ICP) consultant to begin providing services to the Facility no later than October 21, 2022. The ICP Consultant shall be completely independent of the Facility and have no previous or current ties to the Facility's principals, management and/or employees or other related individuals of any kind, including, but not limited to, employment, business, or personal ties. The Facility shall provide the Department with the name and resume of the consultant by October 10, 2022. The resume should be sent to Donna.Koller@doh.nj.gov and Lisa.King@doh.nj.gov.

You may contact the Association of Professionals in Infection Control and Epidemiology (apic.org) to obtain the names of ICPs in your area. The ICP consultant shall be on-site for no less than 40 hours per week, with documented coverage of all shifts and weekends, until further notice from the Department. The contract with this consultant shall include provisions for immediate corrective action ensuring resident safety is not jeopardized and applicable state licensing standards are met.

The Facility should send weekly reports every Friday by 1:00 p.m. to the Communicable Disease Services (CDS) Healthcare Associated Infections Coordinator, Jason Mehr, MPH, CIC, at Jason.Mehr@doh.nj.gov with a copy to Donna.Koller@doh.nj.gov. These weekly reports shall include timely updates regarding the outbreak investigation, identified cases (as defined by CDS) and the progress of infection prevention. In addition, the Facility is directed to maintain timely communication with the Department as may be required by CDS staff, including both the Facility's infection prevention team and the consultants.

The progress reports shall be submitted along with the weekly reports required above to Donna.Koller@doh.nj.gov. In addition, the Facility is directed to maintain timely communication with the Department, as may be required.

The Curtailment and DPOC shall remain in place until the Facility is otherwise notified in writing by a representative of this Department. Furthermore, 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 penalties. Please also be advised that you may be subject to other enforcement remedies in addition to this order.

FORMAL HEARING:

Avant is entitled to contest the curtailment by requesting a formal hearing at the Office of Administrative Law (OAL). Avant may request a hearing to challenge the factual survey findings and the curtailment. Avant 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:

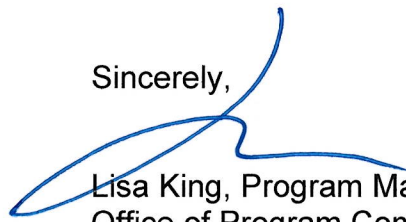
Attention: OAL Hearing Requests
Office of Legal and Regulatory Compliance, New Jersey Department of Health
P.O. Box 360
Trenton, New Jersey 08625-0360

Corporations are not permitted to represent themselves in OAL proceedings. Therefore, if Avant is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the curtailment, Avant 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 me at (609) 376-7751.

Sincerely,



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

DATE: October 5, 2022 E-MAIL (jchadwick@avantrehab.com)
(fcortez@excelsiorcaregroup.com)
REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Control # X21044

Cc: Nursing Home Administrators Licensing Board
Frank Skrajewski
Donna Koller, Health Facility Survey and Field
Operations
Pamela Lebak, Health Facility Survey and Field
Operations
Bonnie G. Stevens
Kiisha Johnson