



State of New Jersey
DEPARTMENT OF HEALTH

PO BOX 358
TRENTON, N.J. 08625-0358

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
	:	PENALTIES
NJ FACILITY ID #: NJ60A001	:	
	:	

TO: Victoria Priore
Administrator
Brighton Gardens of Florham Park
21 Ridgedale Avenue
Florham Park, NJ 07932
Fax: 973-966-8998

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. 8:36-1.1 et seq., General Licensure Procedures and Standards Applicable to All Licensed Facilities, and Standards for Licensure of Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs, the Commissioner of the Department of Health (the "Department") is authorized to inspect all assisted living facilities and to enforce N.J.A.C. 8:36-1.1 et. seq.

LICENSURE VIOLATIONS & MONETARY PENALTIES:

Survey Staff of the Department visited Brighton Gardens of Florham Park ("facility") on August 18, 2020 in response to a Complaint. The report of this visit, which is incorporated herein by reference, revealed the following licensure violations among others:

1. The facility was in violation of N.J.A.C. 8:36-4.1(a)(1) Posting and distribution of statement of resident rights– Survey Tag A355, that provides each assisted living provider will post and distribute a statement of resident rights for all residents of assisted living residences, comprehensive personal care homes, and assisted living programs and each resident is entitled to the right to receive personalized services and care in accordance with the resident's individualized general service and/or health service plan.

On August 18, 2020 the surveyor reviewed the medical record of a Resident who moved into the facility in March 2018 with a diagnosis that included Alzheimer's Disease and high blood pressure. The Resident Care Director (RCD) who is the Registered Nurse (RN) provided the surveyor with a copy of the Resident's RN assessment titled, "NJ 3.0 SEHA -V7", dated June 10, 2019 that revealed, "Intervention: Provide me with a safe environment - hospital bed in lowest position anytime I'm alone especially at nights. Remove potential hazards when possible." Based on interviews, observations, and record review, it was determined that the facility's staff failed to implement interventions identified on the General Service Plan (GSP) by not keeping the Resident's bed in the lowest position while occupied in order to reduce the risk of injury. As a result of these failures, the Resident's Progress Notes written by the Night Supervisor on August 19, 2019 indicated the facility's care manager staff found the Resident on the floor, the Resident sustained bruising and swelling to the left cheekbone and head, and the Resident sustained a facial fracture.

In accordance with N.J.A.C. 8:43E-3.4(a)(10), and because the deficiency resulted in actual harm or an immediate and serious risk of harm to a resident, a \$2,500 penalty is assessed for the violation and noncompliance that resulted in the August 19, 2019 incident when the facility found the resident on the floor. The total amount of the penalty assessed for the violation is \$2,500.

2. The facility also violated N.J.A.C. 8:36-17.3(a)(4) Resident environment- Survey Tag A1193 because based on interviews, observations, and record review, the facility failed to provide a safe environment and ensure all furnishings were properly functioning and in good working order for 1 of 3 residents reviewed when survey determined on August 18, 2020 the RCD stated that she was not aware that the Resident's bed was broken, and did not find out about the broken bed until after the Resident's fall on August 19, 2019. The RCD stated that the Assisted Living Coordinator was aware that the bed was broken but did not inform the RCD. The RCD further stated that it was her responsibility to follow up with the vendor to ensure that the Resident's hospital bed remained in safe working order. As a result of these failures the Resident fell to the floor, the Resident sustained bruising and swelling to the left cheekbone and head, and the Resident sustained a facial fracture.

In accordance with N.J.A.C. 8:43E-3.4(a)(10), and because the deficiency resulted in actual harm or an immediate and serious risk of harm to a resident, a \$2,500 penalty is assessed for the violation and noncompliance that resulted in the August 19, 2019 incident when the facility found the resident on the floor. The total amount of the penalty assessed for the violation is \$2,500.

These violations pertain to the care of residents of Brighton Gardens of Florham Park. In accordance with N.J.S.A. 26:2H-13 and N.J.A.C. 8:43E-3.4(a), Brighton Gardens of Florham Park is hereby assessed penalties amounting to \$5,000.

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 X20037.**

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 law 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:

- The written survey findings;
- A list of each specific deficiency the facility is contesting;
- A specific explanation of why each contested deficiency should be removed; and
- 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:

Darlene Jackson
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 review does not delay the imposition of any enforcement remedies.**

FORMAL HEARING:

Brighton Gardens of Florham Park 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. Brighton Gardens of Florham Park 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 Brighton Gardens of Florham Park is owned by a corporation, representation by counsel is required by law.

In the event of an OAL hearing regarding this matter, Brighton Gardens of Florham Park is further required to submit a written response to every charge as specified in this Notice, which shall accompany its written 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

MDJ:mdj

DATE: November 23, 2020

REGULAR AND

CERTIFIED MAIL:

RETURN RECEIPT REQUESTED

Control # X20037