



State of New Jersey
DEPARTMENT OF HEALTH

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

www.nj.gov/health

PHILIP D. MURPHY
Governor

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Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA
Commissioner

IN RE: LICENSURE VIOLATION

NJ FACILITY ID #: NJ35A001

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NOTICE OF
ASSESSMENT OF
PENALTIES

TO: Susan Wiest, Administrator
Cardinal Village
455 Hurffville-Crosskeys Road
Sewell, New Jersey 08080

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 Manual of Standards for Licensure of Assisted Living Residence, Comprehensive Personal Care Homes, and Assisted Living Programs set forth at N.J.A.C. 8:36-1.1 et seq.

LICENSURE VIOLATIONS & MONETARY PENALTIES:

Staff of the Department visited Cardinal Village ("facility") on August 24, 2020 to conduct a Complaint survey. 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. 8:36-3.4(a)(1) – Survey Tag A310. The facility failed to follow its "Abuse Prevention Plan" policy to safeguard its residents, including from abuse. The facility's "Mandatory Reporting" policy and procedure was not implemented to ensure that suspected and staff-witnessed physical abuse incidents on November 15, 2019, November 19, 2019, November 22, 2019, November 25, 2019 and January 29, 2020 by Resident # 2 towards his spouse, Resident # 3, were investigated and reported to the appropriate State agencies, including but not limited to the New Jersey Department of Health. The facility also failed to follow its "Abuse Prevention Plan" and "Mandatory Reporting" policy when it failed to ensure the safety of Resident # 1 and failed to investigate and report to the New Jersey

Department of Health Resident # 2's physical assault of Resident # 1 on July 12, 2020. This assault took place in Resident # 1's apartment, when Resident # 2 struck Resident # 1 in the face multiple times, requiring the overnight hospitalization of Resident # 1.

In accordance with N.J.A.C. 8:43E-3.4(a)(10), because the violations resulted in actual harm, to multiple residents, the penalty assessed for this violation is \$ 15,000, which is calculated at \$ 2,500 for each of the six violations.

2. The program was in violation of N.J.A.C. 8:36-4.1(a)(16) – Survey Tag A389. The facility failed to post and distribute a statement of resident rights for all residents of assisted living residences, advising the residents that they are entitled to be free from physical and mental abuse.

In accordance with N.J.A.C. 8:43E-3.4(a)(7), because the deficiencies represent a risk to the health, safety or welfare of residents but are isolated or occasional, the penalty assessed for this violation is \$500.

3. The facility was in violation of N.J.A.C. 8:36-5.10(a)(3) – Survey Tag A565. The facility failed to investigate and report to the New Jersey Department of Health Resident # 2's numerous instances of physical aggression and abusive behavior towards his spouse, Resident # 3, which were documented in nurses' notes November 15, 2019, November 19, 2019, November 22, 2019, November 25, 2019 and January 29, 2020. The facility also failed to investigate and report to the New Jersey Department of Health Resident # 2's physical assault of Resident # 1 on July 12, 2020. This assault took place in Resident # 1's apartment, when Resident # 2 struck Resident # 1 in the face multiple times, requiring the overnight hospitalization of Resident # 1.

In accordance with N.J.A.C. 8:43E-3.4(a)(10), because the violations resulted in actual harm to multiple residents, the penalty assessed for this violation is \$ 15,000, which is calculated at \$ 2,500 for each of the six violations.

4. The program was in violation of N.J.A.C. 8:36-7.2(e)(1-5) – Survey Tag A735. The facility failed to develop or implement a health service plan for Resident # 2, who has a history of combative behavior and physical aggression towards others, including residents and staff.

In accordance with N.J.A.C. 8:43E-3.4(a)(10), because the violations resulted in actual harm to other residents, the penalty assessed for this violation is \$2,500.

These violations pertain to the care of residents using the services at Cardinal Village. In accordance with N.J.S.A. 26:2H-13 and N.J.A.C. 8:43E-3.4(a), Cardinal Village is hereby assessed penalties amounting to \$ 33,000.

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 X20039.**

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.

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 may request a formal hearing at the Office of Administrative Law as set forth herein below. Please note that 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:

1. The written survey findings;
2. A list of each specific deficiency the program 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:

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:

Cardinal Village 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 invoked simultaneously. Cardinal Village 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 Cardinal Village is owned by a corporation, representation by counsel is required.

In the event of an OAL hearing regarding this matter, Cardinal Village is further required to submit a written response to each and every charge as specified in this Notice, which shall accompany your 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, Program Manager
Office of Program Compliance

GR: LK: jac

DATE: November 18, 2020
REGULAR AND
CERTIFIED MAIL:
RETURN RECEIPT REQUESTED
Control # X20039