



State of New Jersey
DEPARTMENT OF HEALTH

PO BOX 360
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www.nj.gov/health

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

KAITLAN BASTON, MD, MSc, DFASAM
Acting Commissioner

IN RE: LICENSURE VIOLATION	:	NOTICE OF
CAREPOINT HEALTH	:	ASSESSMENT OF
BAYONNE MEDICAL CENTER	:	PENALTIES
NJ LICENSE# NJ10901	:	
	:	

TO:

Alfredo Rabines, Chief Hospital Executive
 CarePoint Health-Bayonne Medical Center
 29 East 29th Street
 Bayonne, New Jersey 07002

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. General hospitals are licensed in accordance with N.J.S.A. 26:2H-1 and N.J.A.C. 8:43G. Pursuant to the Act and N.J.A.C. 8:43G, Hospital Licensing Standards, and N.J.A.C. 8:43E, General Licensure Procedures and Standards Applicable to All Licensed Facilities, the Commissioner of the Department of Health (the "Department") is authorized to enforce N.J.A.C. 8:43G and N.J.A.C. 8:33, Certificate of Need: Application and Review Process. Your facility has not complied with N.J.A.C. 8:33-3.3, which requires a certificate of need for a transfer of ownership in a general hospital. As explained below, the Department is assessing a civil monetary penalty (CMP) of \$500 per day upon Bayonne Medical Center pursuant to N.J.A.C. 8:43E-3.4(a)5 for failing to comply with N.J.A.C. 8:33-3.3.

LICENSURE VIOLATIONS AND MONETARY PENALTIES:

N.J.A.C. 8:33-3.3(a) requires a certificate of need for a transfer of ownership in a general hospital. General hospitals are required to submit a certificate of need application for Department approval of any proposed transfer that establishes a ten percent ownership interest in the hospital or greater. See N.J.A.C. 8:33-3.3(h)(1). N.J.A.C. 8:43E-3.4(a)5 imposes a \$500 per day penalty for a transfer of ownership of a health care facility that was made without Department approval from the date of the transfer of ownership to the date of discovery by the Department.

The ownership interests in Bayonne Medical Center held by Vivek Garipalli (Garipalli) and James Lawler (Lawler) have been transferred to a non-profit entity, CarePoint Health Systems (the Non-Profit). Both Garipalli and Lawler held ownership interests in Bayonne Medical Center that required certificate of need approval prior to the transfers.

Initially, preliminary transactions were completed which involved the creation of new holding companies that were inserted into the ownership structure between the entities that directly held Garipalli's and Lawler's indirect ownership interests in the Hospital, and the Non-Profit, which did not result in transfers of ten percent or greater of Garipalli's or Lawler's ownership interests in the Hospital. Garipalli's new holding company with part of his ownership interest was inserted into the ownership structure on April 1, 2022, and on May 4, 2022, Lawler's holding company was inserted into the ownership structure of the Hospital. The creation and insertion of the Holding Companies into the ownership structure of the Hospital only required advance notice to the Department in accordance with N.J.A.C. 8:33-3.3(h)(6), as they involved a change in the controlling legal entity but not in individuals with ownership interests of ten percent or greater.

On May 5, 2022, 100% of Garipalli's remaining indirect ownership interest in Bayonne Medical Center held through the holding company was contributed to the Non-Profit. Then on September 9, 2022, Lawler's entire indirect ownership interest in Bayonne Medical Center, held through the holding company, was contributed to the Non-Profit.

As a result of these transfers, the Non-Profit holds a controlling interest in Bayonne Medical Center. The donation of Garipalli's and Lawler's ownership interests into the Non-Profit required Certificate of Need approval by the Commissioner of Health prior to completing the transactions. N.J.A.C. 8:33-3.3(a). A full review certificate of need application was filed to seek Department approval of the donation of Garipalli's and Lawler's interests in Bayonne Medical Center. However, the donation of these interests occurred without Department approval. The Department discovered the Garipalli transfer of ownership on May 11, 2022 when it was notified of the transfer in a letter from the hospital. The Department discovered the Lawler transfer of ownership on November 14, 2022 when it received responses to completeness questions from the hospital.

The Department is now imposing a **\$500 per day** civil monetary penalty pursuant to N.J.A.C. 8:43E-3.4(a)5 for the Garipalli ownership transfer, beginning on May 5, 2022, the day of the transfer, through May 11, 2022, the day the Department discovered that the transfer was made. The penalty assessed upon Bayonne Medical Center for the Garipalli transfer is \$3,500 (7 days times \$500 = \$3,500).

The Lawler transfer is also subject to the civil monetary penalty in accordance with N.J.A.C. 8:43E-3.4(a)5. Because the Garipalli transfers had not been approved by the Department at the time Lawler made his transfer, the Department did not deem the Non-profit entity to hold ten percent or more of the equity of the hospital. Accordingly, notification of the transfer would not suffice and the transfer required a certificate of need. In accordance with N.J.A.C. 8:43E-3.4(a)5, the penalty assessed upon Bayonne Medical Center for the Lawler transfer runs from September 9, 2022 (the day of transfer), through November 14, 2022 (the date of discovery). The penalty assessed upon Bayonne Medical Center for the Lawler transfer is \$33,500 (67 days times \$500 = \$33,500).

The total per-day penalty for the two unapproved transfers of ownership is \$37,000 (31,500 + 3,500).

Compliance with N.J.A.C. 8:33-3.3 is a condition of State licensure and, in accordance with N.J.A.C. 8:43E-5.1 (a)(b), failure to comply with this regulation will be included in future track record evaluation.

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 AX23006.**

INFORMAL DISPUTE RESOLUTION (IDR):

N.J.A.C. 8:43E-2.3 provides facilities the option to challenge factual 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 a telephone conference, or review of facility documentation only. The request must include an original and ten (10) copies of the following:

1. A specific explanation of why you are contesting the facts supporting the imposition of the civil monetary penalty; and
2. 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.**

FORMAL HEARING:

Bayonne Medical Center 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. The facility 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
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 Bayonne Medical Center is owned by a corporation, representation by counsel is required by law.

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

DATE: November 9, 2023
REGULAR AND
CERTIFIED MAIL:
RETURN RECEIPT REQUESTED

Control #AX23006