



State of New Jersey
DEPARTMENT OF HEALTH

PHILIP D. MURPHY
Governor

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TAHESHA L. WAY
Lt. Governor

www.nj.gov/health

KAITLAN BASTON, MD, MSc, DFASAM
Commissioner

In Re:

AVALON REHAB AND CARE CENTER
(NJ Facility ID# NJ61629)

INFORMATION REQUIREMENT
ORDER

TO: Eli Berman, Administrator
Avalon Rehab and Care Center
2020 Route 23 North
Wayne, New Jersey 07470
avalonpac61629@avaloncarecenter.com
bmcmonigle@avaloncarecenter.com

As more fully detailed below, the New Jersey Department of Health (the Department) hereby orders Avalon Rehab and Care Center (Avalon) to submit to the Department information that is needed because the facility's financial viability, and consequently the provision of services to residents in its care, is threatened by its anticipated suspension and the anticipated suspension of related individuals and entities, from the New Jersey Medicaid program. The Department must ensure continuity of care to residents and an orderly transition in the event of a facility closure.

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. Pursuant to N.J.S.A. 26:2H-5e, "[a]t the request of the commissioner, health care facilities shall furnish to the Department of Health and Senior Services such reports and information as it may require to effectuate the provisions and purposes of this act, excluding confidential communications from patients." Moreover, pursuant to N.J.S.A. 26:2H-42.1(c), the Department may take appropriate actions to ensure continuity of care for, and the safety of, residents of long-term care facilities that are in financial distress.

MEDICAID FRAUD DIVISION SUSPENSION

Avalon is licensed by the Department as a long-term care facility with a 170-bed capacity. As a long-term care facility, Avalon is required to provide comprehensive nursing home services, including dietary services, social services and medical care, in a safe environment to medically frail and cognitively impaired individuals. To maintain its license, Avalon must maintain its ability to provide its nursing home residents with the necessary services called for under the rules.

On February 6, 2025, the New Jersey Office of the State Comptroller, Medicaid Fraud Division (MFD), issued a Self-Executing Notice of Suspension stating its intent to suspend 2020 Route 23 Operating Company, LLC, doing business as Avalon Rehab and Care Center, Kevin Breslin, KBWB Operations, LLC and its owners from further participation in any capacity in the New Jersey Medical Assistance and Health Services ("Medicaid"), NJ FamilyCare, Work First New Jersey/General Assistance, Pharmaceutical Assistance to the Aged and Disabled, and Senior Gold Prescription Discount Programs, and any other programs administered in whole or in part by the Division of Medical Assistance and Health Services (DMAHS), effective 60 days from the date of the notice.

As a result of its suspension, and the suspension of related individuals and entities, DMAHS will not pay for any item or service that Avalon furnishes, directs, orders, prescribes, manages or supervises, or in which Avalon, and/or the excluded individuals or entities, participate in any manner, pursuant to N.J.A.C. 10:49-11.1(b). If Avalon is employed by or contracts with a provider (including a Managed Care Organization) in any of the programs that are reimbursed on a fee-for-service basis, or if Avalon is associated with a Managed Care Organization with which DMAHS contracts, DMAHS will not authorize payment for any item or service in which Avalon and/or the excluded individuals or entities are involved in any capacity.

According to Medicare cost report records for fiscal year 2023, Avalon had a proportion of 84.66% of patient days billed to a Medicaid payer. As of May 7, 2025, when its suspension from the Medicaid program takes effect, Avalon will no longer have its overwhelming revenue source, which is necessary for it to pay for its staff and the goods and services necessary to operate the long-term care facility. Financial failure will subject the residents of the facility to either actual harm, or an immediate and serious risk of harm, because the facility may be unable to provide its residents with necessary care and services.

Pursuant to N.J.A.C. 8:39-9.1(b), "[t]he facility shall not be owned or operated by any person convicted of a crime relating adversely to the person's capability of owning or operating the facility." Further, N.J.A.C. 8:33-4.10(d)(3) provides that "[a] certificate of need application may be denied where an applicant has not demonstrated such capacity, as evidenced by continuing violations or a pattern of violations of State licensure standards or Federal certification standards or by existence of a criminal conviction or a plea of guilty to a charge of fraud, patient or resident abuse or neglect, or crime of violence or moral turpitude."

INFORMATION REQUIREMENT ORDER

By March 3, 2025, Avalon shall provide to the Department information demonstrating its financial ability to continue to operate its long-term care facility and its preparedness to close the facility in the event of a financial failure. Specifically, Avalon shall, on or before March 3, 2025, submit a detailed financial report and plan consistent with N.J.S.A. 26:2H-42.1.

1. The financial report and plan shall set forth, among other things, any defaults in the punctual payment when due of (1) any debt service where the debt is secured by real estate or assets of the nursing home, (2) any rent payments, (3) any payroll payments, and (4) any payroll tax obligations. The report should also provide proof that the facility has paid all property taxes and water/sewer charges associated with the real property on which the facility is located. A current balance sheet, income statement and projection of cash flow will be helpful, but not required, for the Department's analysis of any possible financial distress.
2. In light of the facility's impending MDF suspension, the plan shall explain in detail how the facility will (1) maintain and retain current staff, (2) care and provide for the safety, welfare and maintenance of all residents, and (3) maintain and satisfy the operating expenses of the facility.
 - A. The facility shall provide proof of its ability to meet payroll for 90 days beyond the May 7, 2025, effective date of the MDF suspension, which may include a current and projected

balance sheet, current and projected statement of cash flow, current and projected income statement, bank statements, bank reconciliation and a statement of sources of potential funding subsequent to the MDF suspension.

- B. The facility shall provide proof of its ability to meet all its operating expenses, including, but not limited to, medication, supplies, food, and contracted services, to ensure continuity of care and delivery of services to residents, for 90 days beyond the May 7, 2025, effective date of the MDF suspension, which may include a current and projected balance sheet, current and projected statement of cash flow, current and projected income statement, accounts payable aging, bank statements, bank reconciliation and a statement of sources of potential funding subsequent to the MDF suspension.
 - C. If Avalon plans to demonstrate its ability to meet payroll and all its operating expenses beyond May 7, 2025, by transferring ownership of the facility, Avalon shall, at minimum, identify the proposed new owner and the closing date, and provide evidence of confirmation of same by the proposed new owner.
- 3. The facility's emergency operations plan.
 - 4. A draft closure plan if the facility cannot provide the other requested information.
 - 5. Completion of the attached Resident Demographic form.

The information required pursuant to this order shall be emailed to: Stefaniej.Mozgai@doh.nj.gov, Michael.Kennedy@doh.nj.gov, Gene.Rosenblum@doh.nj.gov, Lisa.King@doh.nj.gov, and Jean.Markey@doh.nj.gov.

N.J.A.C. 8:43E-3.4(a)11 provides a \$250 penalty for the failure to report information to the Department as required by statute or licensing regulation, after reasonable notice and an opportunity to cure the violation, which may be assessed for each day noncompliance is found.

Please note that if the facility is not financially viable or intends to close, pursuant to N.J.S.A. 26:2H-126, a long- term care facility is required to provide its residents, its residents' legal representatives, if any, and the Department with written notice when the facility is slated for closure. Such notice must be provided at least 60 days prior to the closure. While the statute permits the Department to waive the 60-day notice requirement, such a waiver is limited to emergency situations that warrant a more immediate closure of the facility. In addition, pursuant to N.J.A.C. 8:39-4.1, "[e]ach resident shall be entitled to...receive written notice at least 30 days in advance when the nursing home requests the resident's transfer or discharge, except in an emergency. Written notice shall include the name, address, and telephone number of the State Long-Term Care Ombudsman, and shall also be provided to the resident's next of kin or guardian 30 days in advance." N.J.A.C. 8:39-4.1(a)32.

Thank you for your attention to this important matter and for your anticipated cooperation. If you have any questions concerning this order, please contact Lisa King, Office of Program Compliance, at Lisa.King@doh.nj.gov.

Sincerely,



Gene Rosenblum, Director
Office of Program Compliance
Division of Certificate of Need and Licensing

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GR:JLM:nj
DATED: February 25, 2025
E-MAIL
REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Control #X25049

C. Order Service List