

the same or substantially similar F-level or higher level deficiencies as defined by the federal Centers for Medicare and Medicaid Services (CMS) within the prior three years. N.J.S.A. 26:2H-46.1 requires the Department to impose an increased penalty upon a licensed nursing home for violations within a three-year period of the same or a substantially similar F-level or higher-level deficiency. N.J.S.A. 26:2H-46.1 requires that an increased penalty be imposed for a repeat F-level violation that is cited at a survey or any other inspection conducted “pursuant to State or federal law or regulation,”

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.

LICENSURE VIOLATIONS:

Based on surveys conducted by Department staff on December 19, 2024, May 17, 2024, and December 13, 2022, the Facility failed to comply with N.J.S.A. 30:13-18 (P.L. 2020. C. 112). N.J.S.A. 30:13-18 establishes minimum staffing requirements for nursing homes. N.J.S.A. 30:13-18 requires nursing homes to maintain the following minimum direct care staff -to-resident ratios: (1) one certified nurse aide (CNA) to every eight residents for the day shift; (2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members shall be CNAs, and each staff member shall be signed in to work as a CNA and shall perform CNA duties; and (3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member shall sign in to work as a CNA and perform certified nurse aide duties.

The Department has determined that the staffing violations substantiated on December 19, 2024, May 17, 2024, and December 13, 2022, were F-level or higher deficiencies. The Facility’s failure to comply with N.J.S.A. 30:13-18 at these surveys were F-level deficiencies because the violations were widespread and resulted in no actual harm with the potential for more than minimal harm that is not immediate jeopardy. 42 C.F.R. 488.404 (b) sets forth criteria for determining the seriousness of federal deficiencies. An F-level deficiency is a deficiency that results in no actual harm with a potential for more than minimal harm that is not immediate jeopardy, and the deficiency is widespread. 42 C.F.R. 488.404 (b) (1) (ii) and (2) (iii) and Nursing Home Compare Technical Users’ Guide (cms.gov), p. 3.

The facility’s violations of N.J.S.A. 30:13-18 were widespread because the December 19, 2024, survey substantiated that the Facility failed to comply with the nurse staffing requirements on

sixteen different days (16 of 35-day shifts). The May 17, 2024, survey substantiated that the Facility failed to comply with the nurse staffing requirements on eighty-two different days (82 of 84-day shifts, 2 of 42-evening shifts and 1 of 7-overnight shifts). The December 13, 2022, survey substantiated that the Facility failed to comply with the nurse staffing requirements on twelve different days (12 of 14-day shifts). At these surveys, the Survey staff reviewed the Nurse Staffing Reports completed by the facility for various weeks, which revealed staff-to-resident ratios that did not meet the minimum requirements. In addition to being widespread, these staffing violations also had the potential for more than minimal harm to residents throughout the facility. Therefore, these violations of State law meet the federal criteria for F-level violations at 42 C.F.R. 488.404 (b) (1) (ii) and (2) (iii).

The facts supporting these deficiencies are set forth in surveys dated on December 19, 2024, May 17, 2024, and December 13, 2022 which are incorporated herein by reference.

MONETARY PENALTIES:

N.J.A.C. 8:43E-3.4(a)8 allows the Department to impose a monetary penalty of \$1,000 per violation for each day noncompliance is found for multiple deficiencies related to patient care or physical plant standards throughout a facility, and/or where such violations represent a direct risk that a patient's physical or mental health will be compromised, or where an actual violation of a resident's or patient's rights is found.

Subsequent to the staffing deficiencies found at the December 13, 2022, survey, the December 19, 2024, and May 17, 2024, surveys substantiated that the facility failed to meet the requirements of N.J.S.A. 30:13-41 on ninety-eight different days.

In accordance with N.J.A.C. 8:43E-3.4(a)8, the penalty assessed for each day on which noncompliance was found is \$1,000 per day. The total penalty assessed for the violations on the surveys on December 19, 2024, and May 17, 2024, (or the days the facility was not in compliance) is **\$98,000 (98 days x \$1,000)**.

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 X25006.**

INFORMAL DISPUTE RESOLUTION AND FORMAL HEARING:

As per our Department's records, you did not request an Informal Dispute Resolution but submitted a Request for a Formal Hearing with the Office of Administrative Law on January 16, 2025, to challenge the factual findings and/or the assessed penalties.

Thank you for your attention to this important matter and for your anticipated cooperation. If you have any questions regarding this Notice of Assessment, please contact Nadine Jackman, Office of Program Compliance, at Nadine.Jackman@doh.nj.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lisa King".

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

LK:RSM:nj

DATE: February 10, 2025

EMAIL: srieder@avaloncarecenter.com

REGULAR AND CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Control # X25006