



State of New Jersey
DEPARTMENT OF HEALTH

PHILIP D. MURPHY
Governor

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

TAHESHA L. WAY
Lt. Governor

www.nj.gov/health

KAITLAN BASTON, MD, MSc, DFASAM
Commissioner

In Re Licensure Violation:	:	
	:	
CarePoint Health – Bayonne Medical Center	:	NOTICE OF ASSESSMENT OF
	:	PENALTIES
(NJ Facility ID# NJ 10901)	:	
	:	

TO: Dr. Mohammad a Zubair, Administrator
CarePoint Health – Bayonne Medical Center
29 E.29th Street
Bayonne, New Jersey 07002
mohammad.zubair@carepointhealth.org

Dear Dr. Zubair:

Effective immediately, the Department of Health (the Department) is assessing penalties pursuant to N.J.A.C. 8:43E-3.4(a)(12) upon CarePoint Health – Bayonne Medical Center (hereinafter BMC or the facility) because the facility has failed to implement a Certificate of Need condition of approval, namely, its failure to add, within 90 days of licensing, a minimum of three community members to its Board of Trustees.

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, 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).

On March 20, 2023, the Department approved, with conditions, the August 29, 2022, Certificate of Need application for the transfer of ownership of BMC, which involved converting from an entirely for-profit ownership structure to an ownership structure that included for-profit and

non-profit entities. A series of transactions resulted in the creation of CarePoint Health Systems, Inc. (the Non-Profit), a New Jersey Non-Profit Corporation, as the indirect controlling legal entity of BMC, as well as CarePoint Health -- Christ Hospital and CarePoint Health -- Hoboken University Medical Center.

On January 10, 2024, the Department appointed Robert Iannaccone as a financial monitor for all the three CarePoint Hospitals, including BMC. By letter dated February 22, 2024, the Department acknowledged the series of ownership transactions that occurred from April 1, 2022, to October 21, 2023, which facilitated the conversion of its ownership structure. The conditions on licensure noted in the CN approval letter became conditions on the existing license upon the Department's issuance of the Transfer of Ownership Acknowledgment on February 22, 2024.

In multiple communications with CarePoint Health Systems, Inc., the Department requested confirmation that the facility implemented the Certificate of Need condition that it add a minimum of three community members to its Board of Trustees. Specifically, the Department requested that the Non-Profit entity identify each member of its Board of trustees and identify which members were community members. In addition, the Department requested that the Non-Profit entity identify each member of the BCM Board of Trustees, as well as identify which three members were community members. Financial monitor Robert Iannaccone eventually was provided with a June 26, 2024, resolution of the Board of Trustees of CarePoint Health Systems, Inc., evidencing the appointment of individuals that satisfied the Certificate of Need condition as to the Non-Profit entity.

MONETARY PENALTIES:

N.J.A.C. 8:43E-3.4(a)12 allows the Department to impose a monetary penalty against a facility that fails to implement a Certificate of Need requirement. Specifically, N.J.A.C. 8:43E-3.4(a)(12) provides that when a facility fails to implement a Certificate of Need condition of approval, the Department may impose a fine of "\$1,000 per day, which shall be assessed either from the date specified in the Certificate of Need for implementation of the specific condition of approval, if identified, or from the date on which the Certificate of Need was considered to be implemented."

In accordance with N.J.A.C. 8:43E-3.4(a)12, the penalty assessed for each day that BCM was noncompliant with its Certificate of Need condition of approval is \$1,000 per day from May 22, 2024, which is 90 days after the date the Department acknowledged the series of ownership transactions, through June 26, 2024, the date of issuance of the resolution for the CarePoint Health Systems Board of Trustees. Therefore, BCM was not in compliance with its Certificate of Need requirement for a period of 35 days, resulting in a \$35,000 assessed penalty.

The total amount of this penalty is required to be paid within 90 days of receipt of this letter by certified check or money order made payable to the "Treasurer of the State of New Jersey" and

shall be 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 X24043.**

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

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:

The facility is entitled to contest the assessment of penalties pursuant to N.J.S.A. 26:2H-13 by requesting a formal hearing at the Office of Administrative Law (OAL). The facility may request a hearing to challenge any or all of the following: the factual findings and/or the assessed

penalties. The facility must advise this Department within 30 days of the date of this letter if it requests an OAL hearing. If the facility requests a hearing, then the penalty shall be held in abeyance until such time as the hearing has been concluded and a final decision rendered.

Please forward your OAL hearing request to:

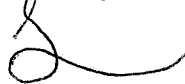
Attention: OAL Hearing Requests
Office of Legal and Regulatory Compliance, New Jersey Department of Health
P.O. Box 360
Trenton, New Jersey 08625-0360

Corporations are not permitted to represent themselves in OAL proceedings. Therefore, if the facility is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the penalty, the facility is further required to submit a written response to each and every charge as specified in this notice, which shall accompany its written request for a hearing.

Failure to submit a written request for a hearing within 30 days from the date of this notice will render this a final agency decision. The final agency order shall thereafter have the same effect as a judgment of the court. The Department also reserves the right to pursue all other remedies available by law.

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,



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

LK:SS
DATE: October 31, 2024
E-MAIL mohammad.zubair@carepointthealth.org
REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Control # AX24043