



The Facility failed to ensure the Governing Body maintained oversight and safe operations of the Facility by ensuring elevators that fail inspection are locked out to prevent use until repaired.

**2. N.J.A.C. 8:43G-24.1(c)** which requires that "The safety committee shall review all reports and be responsible for ensuring that all reports are referred appropriately and follow-up action is documented." The Facility failed to report a failed elevator inspection to the Environment of Care Committee and failed to document a review of the inspection reports. During the survey, it was revealed that the Safety Committee never followed up on deficiencies identified concerning Elevator # 2.

**3. N.J.A.C. 8:43G-24.4(d)** which requires that "Routine maintenance inspections of elevators shall be conducted in accordance with local ordinances."

The Facility failed to provide evidence that elevators are routinely inspected and maintained. Elevator #2 was last inspected on November 18, 2022, by the New Jersey Department of Community Affairs, Division of Codes and Standards, Elevator Safety Unit. The inspection report indicated that the elevator shall remain locked out until repaired and re-inspected and the applicable certificate is received. Elevator #2 was never locked out and continued to operate until it malfunctioned on September 28, 2023.

The facts substantiating the violations of these rules are set forth below.

On November 18, 2022, a State elevator inspection was conducted of the Facility's elevators by the New Jersey Department of Community Affairs, Division of Codes and Standards, Elevator Safety Unit, which issued a report stating: "Elevator #2, . . . Elevator device(s) with items marked Lock Out will remain locked out until the repairs/corrections on items marked Lock Out are satisfactorily completed, the device is re-inspected, and applicable certificate is received." The inspection report stated, "Citation Code: 1965-A17.1 2.212.9.d, Due Date: November 18, 2023, Description: Needs rope shortening only 2 inches runby and ropes are rouge [sic] indicating wear, Lockout: YES."

On October 2, 2023, in the presence of the Chief Executive Officer and the Director of Plant Maintenance, maintenance records for the Facility's three (3) elevators were reviewed. The maintenance records indicated that elevator number two (#2) was found to have uncorrected deficiencies from the last state elevator inspection and lacked a valid Certificate of Compliance by the New Jersey Department of Community Affairs, Division of Codes and Standards, Elevator Safety Unit.

During an interview on October 2, 2023, the Surveyor asked the Chief Executive Officer if he/she was notified that elevator #2 needed to be locked out. He replied that he was "Not sure." The Chief Executive Officer stated that, "The elevator should have been locked out until the repairs were made."

On October 2, 2023, the Director of Plant Maintenance stated in an interview that, "I was unaware that the elevator needed to be locked out. I'm not sure if I was present for the inspection as I was not the Director of Facilities at the time of that elevator inspection." He added that, "The elevator should have been locked out until the repairs were made and a new certificate was received. We don't know when we received the inspection report."

On October 17, 2023, the Director of Plant Maintenance stated that the elevator contractor never told him that the elevator should be locked out.

During an interview on October 2, 2023, the Chief Executive Officer confirmed the following: "Elevator #2 malfunctioned on September 28, 2023, at approximately 6:27 PM. A visitor entered the elevator on the first floor. As the visitor entered the elevator, the elevator began to move upward with the doors open. The visitor fell forward, causing his legs to protrude out of the elevator door. The visitor's legs became wedges between the elevator and the elevator shaft walls, causing the elevator to become jammed and stopped the upward movement. The visitor was extricated from the elevator by the Fire Department and transported by Emergency Medical Services to the hospital."

During an interview on October 17, 2023, the Surveyor inquired about the Governing Board. The Chief Executive Officer stated, "There is one Governing Board which oversees all of Kessler's properties. I report to the Main Governing Board." The Chief Executive Officer was asked if the elevator maintenance for elevator #2 was reported to the Governing Board, and he replied, "No."

In the same October 17, 2023 interview, the Chief Executive Officer also confirmed that the Environment of Care Committee (EOC) did not report on any elevator inspections or deficiencies for the last two quarters.

The 2022 Annual Evaluation of the Environment of Care Committee and 2023 Action Plan with a revised date of November 2022 states that, "Organization of the Environment of Care Function, Objective: The EOC committee provides overall oversight in maintaining the safety plans of the hospitals to address all elements of safety including the physical environment, security, hazardous material safety, fire safety, safe utilities, and safe medical equipment."

The Environment of Care Quarterly Meeting Minutes dated April 11, 2023 and July 20, 2023, made no mention of the State Elevator Inspection Report conducted on November 18, 2022, and issued November 21, 2022, that indicated Elevator #2 had a deficiency creating a safety hazard that required the elevator to be locked out.

In summary, the Facility failed to have an established and functioning governing body responsible for establishing hospital-wide policy, adopting bylaws, maintaining quality of care, and providing institutional management and planning as required by N.J.A.C. 8:43G-5.1(b). The Facility failed to ensure the Governing Board maintained oversight and safe operations of the Hospital by ensuring elevators that fail inspection are locked out to prevent use until repaired.

The Facility also failed to have the Safety Committee review all reports and be responsible for ensuring that all reports are referred appropriately, and follow-up action is documented as required by N.J.A.C. 8:43G-24.1(c). The Facility failed to report the failed elevator inspection to the Environment of Care Committee and failed to document a review of the inspection reports. During the survey, it was revealed that the Safety Committee never followed up on the deficiencies identified concerning Elevator # 2.

Finally, the Facility failed to conduct routine maintenance inspections of elevators in accordance with the local ordinances, as required by N.J.A.C. 8:43G-24.4(d). The Facility failed to provide evidence that elevators are routinely inspected and maintained. Elevator #2 was last inspected on November 18, 2022, by the New Jersey Department of Community Affairs, Division of Codes and Standards, Elevator Safety Unit. The inspection report indicated that the elevator shall remain locked out until repaired and re-inspected and the applicable certificate is received. Elevator # 2 was never locked out and continued to operate until it malfunctioned on September 28, 2023.

The failure to close Elevator #2, even after it was ordered closed until proper repairs had been made, resulted to its malfunction on September 28, 2023, which injured a visitor causing his legs to protrude out of the elevator door and causing the elevator to become jammed and stopped the upward movement. The visitor was extricated from the elevator by the Fire Department and transported by Emergency Medical Services to the hospital with unknown injuries. The above multiple deficiencies related to physical plant standards represent a direct risk that a patient's physical or mental health will be compromised.

#### **MONETARY PENALTIES:**

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

The surveys on October 17, 2023 and May 31, 2024 determined that the violation began on October 2, 2023 and was corrected by the Facility on May 31, 2024, or a total of 242 days.

N.J.A.C. 8:43E-3.4 (b) Civil monetary penalties provides that "Except for violations deemed to be immediate and serious threats, the Department may decrease the penalty assessed in accordance with (a) above, based on the compliance history of the facility; the number, frequency and/or severity of violations by the facility; the measures taken by the facility to mitigate the effects of the current violation, or to prevent future violations; the deterrent effect of the penalty; and/or other specific circumstances of the facility or the violation."

In accordance with N.J.A.C. 8:43E-3.4(a)8 and (b), the Department is assessing a \$500 per day penalty for the Facility's failure to comply with requirements of N.J.A.C. 8:43G-5.1(b), N.J.A.C. 8:43G-24.1(c) and N.J.A.C. 8:43G-24.4(d), or  $\$500 \times 242 = \$121,000$ .

**Therefore, the total penalty for these violations is \$121,000 for these violations of N.J.A.C. 8:43G-5.1(b), N.J.A.C. 8:43G-24-1(c) and N.J.A.C. 8:43G-24.4(d).**

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 AX24026.**

#### **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 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 challenge 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 the factual survey findings and/or the assessed penalties. The Facility must advise the Department within 30 days of the date of this letter if it requests an OAL hearing regarding the findings and/or penalty.

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

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.

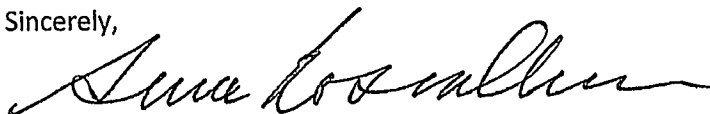
Corporations are not permitted to represent themselves in OAL proceedings. Therefore, if the Facility is owned by a corporation, representation by counsel is required. In the event of an OAL hearing, the Facility

is 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.

Finally, be advised that Department staff will monitor compliance to determine whether corrective measures are implemented by the Facility to comply with the regulations cited herein. 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. 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. Should you have any questions concerning this order, please contact Lisa King, Office of Program Compliance at (609) 376-7751.

Sincerely,

A handwritten signature in black ink, appearing to read "Gene Rosenblum", written in a cursive style.

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

GR:RSM:nj

DATE: April 25, 2025

E-MAIL: [pdrisscoll@kessler-rehab.com](mailto:pdrisscoll@kessler-rehab.com)

REGULAR AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Control# AX24026