



State of New Jersey  
DEPARTMENT OF HEALTH

PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lt. Governor

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

[www.nj.gov/health](http://www.nj.gov/health)

KAITLAN BASTON, MD, MSc, DFASAM  
Commissioner

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In Re Licensure Violation:	:	
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Winchester Gardens Health Care Center	:	NOTICE OF ASSESSMENT OF
	:	
(NJ Facility ID# NJ 07028)	:	PENALTIES
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TO: David Weiner, Administrator  
Winchester Gardens Health Care Center  
333 Elmwood Avenue  
Maplewood, New Jersey 07040

Dear Mr. Weiner:

Effective immediately, the Department of Health (hereinafter, "the Department") is assessing penalties pursuant to N.J.S.A. 26:2H-46.1 and N.J.A.C. 8:43E-3.4 upon Winchester Gardens Health Care Center (hereinafter "Winchester Gardens") because Winchester Gardens has incurred two or more of 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 two 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 recognized by CMS.

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 May 31, 2024 and October 4, 2022, the facility failed to comply with F-812 (42 C.F.R. 483.60) at the F-level because the facility failed to maintain proper kitchen sanitation practices and failed to store potentially hazardous foods in a manner to prevent foodborne illness. At the surveys on May 31, 2024, and October 4, 2022, Department staff also substantiated that the facility failed to ensure the alarm system was maintained in accordance with NFPA 101 (2012 edition) section 9.6.1.3, in violation of K-345 and NJAC 8:39-31.1(c) and 31.2(e) NFPA 70, 72. This deficient practice had the potential to affect all of the residents in the facility. The facts supporting these deficiencies are set forth in surveys dated May 31, 2024, and October 4 21, 2022, which are incorporated herein by reference.

The facility's failure to comply with F812 and K-345 on May 31, 2024 and October 4, 2022 were cited at the F-level because these deficiencies were widespread and resulted in no actual harm with the potential for more than minimal harm that is not immediate jeopardy.

#### **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 deficiencies found at the October 4, 2022 survey, the May 31, 2024 survey substantiated that the facility again failed to meet the requirements of F812 and K-345

In accordance with N.J.A.C. 8:43E-3.4(a)8, the penalty assessed for each violation is \$1,000 per violation. The total penalty assessed for the violations of F-812 and K-345 on the surveys on May 31, 2024 is \$2,000 (two violations 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 X24053.**

#### **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 an in-person conference at the Department, 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.**

**If IDR was offered and requested by your facility for the corresponding federal deficiency that was cited at the same survey and your facility requests another IDR for the corresponding State deficiency cited at the same survey and arising from the same set of facts, the Department will either consolidate the IDRs or treat the first IDR decision as binding. The Department does not offer a second IDR for the same set of disputed facts that were challenged in a prior IDR offered by the Department.**

**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.

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](mailto:Nadine.Jackman@doh.nj.gov).

Sincerely,



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

DATE: June 13, 2024  
FACSIMILE  
E-MAIL ( [SLippy@springpointsl.org](mailto:SLippy@springpointsl.org) )  
REGULAR AND CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Control # X24053