



State of New Jersey

DEPARTMENT OF HEALTH
OFFICE OF EMERGENCY MEDICAL SERVICES
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Governor

SHEILA Y. OLIVER
Lt. Governor

KAITLAN BASTON, MD, MSc, DFASAM
Acting Commissioner

In Re Licensure Violation:	:	
	:	
HOMESTEAD REHABILITATION AND	:	ORDER TO CEASE USE OF
HEALTHCARE CENTER	:	ILLEGAL CONTRACTS AND
(NJ Facility ID #061905)	:	PAY RESTITUTION
	:	
	:	
	:	

TO: Lepty Dwyer, Administrator
Homestead Rehabilitation and Healthcare Center
129 Morris Turnpike
Newton, New Jersey 07860
Ldwyer@homesteadrhcc.com

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. 8:39-1.1 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.

NATCEP Training Regulations

The New Jersey Department of Health ("Department") oversees long-term care facilities as well as the Nurse Aide Training and Competency Evaluation Program (NATCEP) curriculum applicable to all nurse aides within the state. Certified Nurse Aides (CNA) must complete the NATCEP training and successfully pass the Competency Evaluation Program (CEP) to acquire state certification. The responsibility to implement a NATCEP program in a long-term care facility or

nursing home falls upon the Licensed Nursing Home Administrator, who ensures adherence to State and Federal laws and regulations. Specifically, under N.J.A.C. 8:39-43.14, Licensed Nursing Home Administrators are responsible for the implementation of training programs in accordance with the rules of subchapter N.J.A.C. 8:39-43.

Pursuant to N.J.A.C. 8:39-43.13, the Department is authorized to deny, suspend, or withdraw approval of a facilities training program. See also 42 C.F.R. 483.151. In accordance with 42 C.F.R. 483.151(f)(2), “The State may withdraw approval of a nurse aide training and competency evaluation program or nurse aide competency evaluation program if the State determines that any of the applicable requirements of §483.152 or §483.154 are not met by the program.” Pursuant to 42 C.F.R. 483.154 (c)(2), “No nurse aide who is employed by, or who has received an offer of employment from, a facility on the date on which the aide begins a nurse aide competency evaluation program may be charged for any portion of the program.” Furthermore, N.J.A.C. 8:39-43.18(g) provides that: “No nurse aide shall be required, as a condition of employment, to pay the cost of the training program in the event of voluntary or involuntary termination of employment.”

Facts

The Department has received credible evidence indicating that Homestead Rehabilitation and Healthcare Center (“Homestead”) has been providing CNA training through its approved NATCEP program while requiring prospective CNAs to sign contracts that violate federal and state regulations. Specifically, Homestead has been requiring trainees to sign agreements that mandate reimbursement for the expenses of their CNA training if they leave their employment at Homestead—whether by choice or involuntarily—within the first year and a half of working with Homestead. The language in the contract states the following, “In the event I leave the HRHCC employment prior to the end of my commitment, I will reimburse the HR&HCC the amount of \$2500 as repayment for the classroom instruction.” The contract also stipulates that in the event of termination by the facility, CNAs are required to pay Homestead a sum of \$2500. Additionally, students are obligated to pay a fee of \$75.00/hour to instructors in the event they call-out on the day of instruction. Furthermore, Homestead has brought lawsuits through the Sussex County Superior Court against CNAs for failing to comply with these repayment obligations.

A letter sent to the Department on behalf of the facility by Gregory Pakolow, Esq., on November 10, 2023, acknowledged that Homestead had actively pursued an expansive recruitment campaign targeting CNAs. Additionally, Homestead admitted to adopting proactive measures, including covering tuition and testing expenses, to incentivize unemployed or underemployed individuals to enroll in their CNA school. However, it should be underscored that as a NATCEP and a long-term care facility, Homestead is obligated, by the federal and state regulations set forth above, to bear the expenses associated with the training of CNAs who accept employment with the facility. Accordingly, Homestead’s contracts with CNAs described above and all efforts to enforce those contracts violate the express federal and state regulations that pertain to the fees associated with nurse aide training for CNAs.

In accordance with N.J.A.C. 8:39-43.11 & 43.12, any program conducting NATCEP training is mandated to maintain comprehensive student records for each participant, inclusive of statistical data for individual courses, along with an annual written evaluation report.

Order

As you were notified verbally on November 20, 2023, the Department ordered Homestead to immediately cease using and enforcing contracts that require CNAs to reimburse Homestead for training fees.

In addition, the Department is ordering the following to be sent to Gene Rosenblum (Gene.Rosenblum@doh.nj.gov) and Lisa King (Lisa.King@doh.nj.gov) by December 1, 2023:

- A statement, executed by you, which specifically acknowledges that it is an offense for any person to offer for filing with a governmental agency any written instrument knowing that the instrument contains a false statement or false information, punishable by a fine and or imprisonment (N.J.S.A. 2c:28-3).
- A list of all the NATCEP classes that were conducted by Homestead.
- A list of all of the people trained in NATCEP classes at Homestead, and their contact information, including address, telephone number, and email address.
- A list of all the CNAs at Homestead who signed the illegal contracts described above, including their contact information.
- A list of all the CNAs who were sued by Homestead for training fees, including their contact information.
- A list of all the CNAs who were sent demands for training fees, whether by email, letter, or otherwise, including their contact information.
- A list of all the CNAs who reimbursed Homestead for training fees, including their contact information, and the amount paid by the CNA.
- A draft letter sent to the Department for approval, which, upon Department approval, will be sent to CNAs at and formerly at Homestead, stating the following:
 - The contract they entered into does not comport with the state and federal regulations.
 - The contract is not enforceable.
 - CNAs are not required to pay for training fees for any reason or at any time.
- A list of facilities with common ownership to Homestead, including contact information.

In addition, the Department is ordering the following to be completed by December 20, 2023:

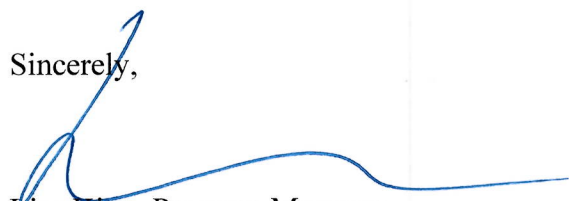
- The letter approved by the Department concerning the illegal contracts, to be sent to all current and former CNAs at Homestead who entered into the illegal contracts, with proof of delivery.
- Valid proof that Homestead reimbursed all CNAs who paid Homestead for training fees. If you provide proof of reimbursement via email, copy Gene Rosenblum (Gene.Rosenblum@doh.nj.gov) and Lisa King (Lisa.King@doh.nj.gov).

- A plan of correction demonstrating future training and contracts that fully comply with federal and state law. The plan of correction should include the following:
 - How corrective action will be accomplished for those CNAs found to have been affected by the deficient practice.
 - Address what measures will be put into place or systemic changes made to ensure that the deficient practice will not recur.
 - Indicate how the facility plans to monitor its performance to make sure that compliance is ongoing.
 - Include dates when corrective action will be completed.

Be advised that the Department will monitor facility compliance with this Order to determine whether corrective measures are implemented by the facility and whether restitution is paid in a timely fashion. 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 enforcement actions. Such actions may include suspension or termination of your training program and/or a referral to the New Jersey Nursing Home Administrators Licensing Board. The Department reserves the right to pursue all other remedies available by law.

Your attention to this matter is anticipated. If you have any questions concerning the Order, please contact Lisa King, Office of Program Compliance, at Lisa.King@doh.nj.gov.

Sincerely,



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

LK:MT:nj
DATED: November 27, 2023
E-MAIL: ldwyer@homesteadrhcc.com
Control #AX23016