



State of New Jersey
DEPARTMENT OF HEALTH

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Governor

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KAITLAN BASTON, MD, MSC, DFASAM
Commissioner

In Re Licensure Violation:	:	CURTAILMENT OF ADMISSIONS
	:	AND READMISSIONS ORDER
SINAI POST ACUTE NURSING AND	:	
REHAB CENTER	:	
(NJ Facility ID# NJ060713)	:	
	:	
	:	
	:	
	:	

TO: Yoel S. Mann, Administrator
 Sinai Post Acute Nursing and Rehabilitation Center
 65 Jay Street
 Newark, New Jersey 07103
 ymann@sinaipostacutecare.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. 8:43E-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.

On December 23, 2016, the Centers for Medicare and Medicaid Services (CMS) issued Revised S&C 16-21-ALL, which contained updated guidance to surveyors on federal requirements for providing services to justice-involved individuals. The guidance clarifies that skilled nursing facilities and nursing facilities participating in Medicare and Medicaid, regardless of payor source, "must assess all individuals' needs, and must be able to maintain compliance with the Requirements for Participation for all residents (which means offering the same rights, protections, and individualized care and services." The guidance recognizes that some Department of Corrections or law enforcement terms of "placement may conflict with CMS requirements if the terms affect the care and services provided by the facility or violate the resident's rights." Further, the guidance provides that "[i]n such a case, if a facility agreed to enforce restrictive law enforcement terms applied to a resident (for example, restricting visitors), the nursing home would not be in compliance with federal requirements and would risk enforcement action and termination from participation if it did so."

Likewise, just as "[t]he facility may not establish policies or impose conditions on the resident that result in restrictions that violate federal law and regulation[s]," skilled nursing facilities and nursing facilities must comply with state regulations including, but not limited to, N.J.A.C. 8:39-4.1 (Resident Rights), N.J.A.C.

8:39-7.3 (Mandatory Resident Activity Services) and N.J.A.C. 8:39-27.1 (Mandatory Policies, Procedures and Practices for Quality of Services).

LICENSURE VIOLATIONS

Staff from the Department's Health Facility, Survey and Field Operations (HFS&FO) unit were on-site at Sinai Post Acute Nursing and Rehab Center (Sinai) from July 11, 2024, to July 15, 2024, for a complaint investigation. During the inspection, the surveyors found the following violations:

- a. The facility failed to ensure that 11 justice-involved residents were afforded the autonomy to participate in group activities and community dining, freely communicate with visitors, leave their rooms at will, and have their meals served in a dignified manner.
- b. The facility failed to ensure that 11 justice-involved residents were treated in a dignified manner and with respect by adhering to the rights of the residents. Specifically, the residents were secluded in their rooms, the residents were supervised while performing activities of daily living, the residents were not allowed to intermingle with other residents, the residents were not allowed to eat in the dining room with other residents or to have visitation without permission, and the residents were physically restrained.
- c. The facility failed to ensure that 11 justice-involved residents were able to facilitate resident self-determination through support of resident choices, such as signing admission agreements, attending daily activities consistent with their interests, interacting with members of the community and participating in community activities both inside and outside of the facility, and attending group dining.
- d. The facility failed to ensure that 11 justice-involved residents were not involuntarily secluded.
- e. The facility failed to ensure that 11 justice-involved residents' rights were respected and that residents were treated in a dignified manner, including being free from any physical restraint.
- f. The facility Administrator failed to ensure that 11 justice-involved residents received the care and services to enhance their quality of life, by failing to ensure the following policies and procedures were being implemented: Resident Rights, Restraints, Activities of Daily Living, and Activities for 11 justice-involved residents to ensure resident safety and well-being, and failed to ensure that the admission agreements were reviewed and signed by 11 justice-involved residents.

As a result of these violations, the justice-involved residents, who came with prison restrictions that are in conflict with both CMS and state law requirements, were not afforded the same rights and quality of care to which all New Jersey nursing home residents are entitled.

CURTAILMENT OF ADMISSIONS AND READMISSIONS

As you were notified by telephone on July 16, 2024, effective upon the facility's notification, the Department ordered the curtailment of new admissions of justice-involved residents who would come with prison restrictions that are in conflict with CMS requirements. In addition, the Department ordered the curtailment of readmissions of justice-involved residents who have prison restrictions that are in conflict with CMS requirements. The facility census at the time of the order was 11 justice-involved residents.

This enforcement action was taken in accordance with the provisions set forth at N.J.A.C. 8:43E-3.1 (Enforcement Remedies Available) and 3.6 (Curtailment of Admissions) in response to serious violations observed by Department staff in Sinai during its on-site inspection.

Please be advised that N.J.A.C. 8:43E-3.4(a)(2) provides for a penalty of \$250 per day for each resident admitted to the facility in violation of this curtailment order.

The Curtailment of Admissions and Readmissions shall remain in place until the facility is otherwise notified in writing by a representative of this Department.

FORMAL HEARING

Sinai is entitled to contest the curtailment, pursuant to N.J.S.A. 26:2H-14, by requesting a formal hearing at the Office of Administrative Law (OAL). Sinai may request a hearing to challenge any or all of the following: the factual survey findings and/or the curtailment. Sinai must advise this Department within 30 days of the date of this letter if it requests an OAL hearing regarding the curtailment.

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 Sinai is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the curtailment, Sinai 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.

Due to the emergent situation and the immediate and serious risk of harm posed to the residents, the Department will not hold the curtailment in abeyance during any appeal of the curtailment.

Thank you for your attention to this important matter and for your anticipated cooperation. If you have any questions concerning the Curtailment of Admissions and Readmissions Order, please contact Lisa King, Office of Program Compliance, at Lisa.King@doh.nj.gov.

Sincerely,



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

GR:JLM:eg
DATED: July 23, 2024
E-MAIL
Control #X24068

C. Nursing Home Administrators Licensing Board
Frank Skrajewski, Health Facilities Evaluation And Licensing
Pamela Lebak, Health Facility Survey and Field Operations
Kara Morris, Health Facility Survey and Field Operations

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Carol Hamill, Health Facility Survey and Field Operations
Laurie Brewer, New Jersey Long-Term Care Ombudsman