



State of New Jersey  
DEPARTMENT OF HEALTH

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

www.nj.gov/health

PHILIP D. MURPHY  
Governor

SHEILA Y. OLIVER  
Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA  
Commissioner

---

IN RE: LICENSURE VIOLATION	:	NOTICE OF
	:	ASSESSMENT OF
NJ FACILITY ID#: NJ22032402	:	PENALTIES
LICENSE#: 20C100	:	

---

TO: Shalom Stein  
Administrator  
Victoria Commons Retirement Center  
610 Townbank Road  
North Cape May, New Jersey 08204  
Fax: 609 898-9644

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. Assisted living residence facilities are licensed in accordance with N.J.S.A. 26:2H-1 and N.J.A.C. 8:36. Pursuant to the Act and N.J.A.C. 8:36, Standards for Licensure of Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs, 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 inspect all assisted living facilities and to enforce N.J.A.C. 8:36.

**LICENSURE VIOLATIONS AND MONETARY PENALTIES:**

Survey staff of the Department visited the Victoria Commons Retirement Center on August 5, 2021 for a standard recertification survey. The report of this visit, which is incorporated herein by reference, substantiated several violations of N.J.A.C. 8:36-17.6(b), which requires a facility to maintain the hot water used for residents' bathing and handwashing at a temperature of at least 105 degrees Fahrenheit and not in excess of 120 degrees Fahrenheit. At 8:55 a.m. on August 5, 2021, survey staff measured the water temperature in residents' rooms across the four living units of the facility. Survey staff recorded the water temperatures in rooms D101, D102, F101, F102, F201, and F207 to be over 120 degrees Fahrenheit. The hot water for bathing and handwashing in these units ranged between 129 degrees Fahrenheit and 145 degrees Fahrenheit, all in excess of the maximum 120 degrees Fahrenheit.

The facility provided the survey team with a removal plan on August 6, 2021, which required the temporary repair and eventual replacement of the mixing valve. The survey team reported that the hot

water temperatures were within the normal range after implementation of the removal plan and at a survey revisit.

N.J.A.C. 8:43E-3.4(a)10 allows the Department to impose a monetary penalty for violations resulting in either actual harm to a patient or resident, or in an immediate and serious risk of harm. A monetary penalty of \$2,500 per violation may be assessed for each day noncompliance is found.

In accordance with N.J.A.C. 8:43E-3.4(a)10, and because the violations of licensure regulations related to resident care or physical plant standards represented an immediate and serious risk of harm, the penalty assessed for each violation is \$2,500 per violation. The total penalty assessed for the six violations of N.J.A.C. 8:36-17.6(b) is \$15,000.

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 # X21017.**

**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:

Darlene Jackson  
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 Victoria Commons Retirement Center is entitled to a prompt formal hearing at the Office of Administrative Law (OAL) to challenge this assessment of penalties pursuant to N.J.S.A. 26:2H-134. Please note that a facility's rights to IDR and an administrative law hearing are not mutually exclusive and both may be simultaneously invoked by the facility. The Victoria Commons Retirement Center must advise this Department within 30 days of receipt of this letter if it requests an OAL hearing regarding this matter.

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 Victoria Commons Retirement Center is owned by a corporation, representation by counsel is required by law.

In the event of an OAL hearing regarding this matter, the Victoria Commons Retirement Center is further required to submit a written response to every charge as specified in this Notice, which shall accompany its request for a hearing.

In accordance with N.J.A.C. 8:43E-3.5(c)1, failure to submit a written request for a hearing within 30 days from the date of receipt of this notice will render this a final agency decision assessing the amount of the penalty, which shall then become due and owing. Further, at the request of the Department, the Clerk of the Superior Court or the Clerk of the Superior Court, Law Division, Special Civil Part, shall record the final order assessing the penalty on the judgment docket of the court, in accordance with N.J.S.A. 2A-58-10. The final agency decision shall thereafter have the same effect as a judgment of the court.



---

Lisa King, Regulatory Officer  
Office of Program Compliance

DATE: October 29, 2021  
REGULAR AND  
CERTIFIED MAIL:  
RETURN RECEIPT REQUESTED  
Control # X21017