



State of New Jersey  
DEPARTMENT OF HEALTH

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www.nj.gov/health

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Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA  
Commissioner

In Re Licensure Violation:	:	
	:	
WOODLAND BEHAVIORAL	:	NOTICE OF
AND NURSING CENTER	:	ASSESSMENT OF
(NJ Facility ID# NJ61901)	:	PENALTIES
	:	
	:	

TO: Menachem (Michael) Spiegel, Administrator  
Woodland Behavioral and Nursing Center  
99 Mulford Road  
PO Box 1279  
Andover, New Jersey 07821

Dear Mr. Spiegel:

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.

The Department's January 14, 2022, Directed Plan of Correction (DPOC) required Woodland Behavioral and Nursing Center (hereinafter "Woodland" or "the facility") to submit a plan detailing its measures to hire and retain staff and to submit weekly progress reports regarding its implementation of the staffing plan. In the Department's February 17, 2022, correspondence responding to the facility's 30-60-90 day plan, the Department notified the facility that staffing at the facility must meet the needs of the residents in accordance with State law and required the facility to submit an acceptable plan to address the staffing shortage and meet required staffing ratios by increasing staff, reducing the facility census or a combination of both.

On March 23, 2022, the Department issued another DPOC requiring the facility to retain the full-time, on-site services of a minimum of two Social Work Consultants who meet the State and federal requirements and that would be approved in advance by the Department. The facility was required to provide the names and resumes of the proposed Social Work Consultants by close of business on March 28, 2022. The Social Work Consultants were required to be present in the facility for no less than 40 hours per week, with documented coverage of all shifts and weekends, until further notice from the Department. The approved Social Work Consultants were required to be retained no later than the close of business, March 31, 2022.

Multiple on-site surveys of the facility and documentation submitted by the facility have demonstrated that the facility has failed to meet the social work staffing requirements of N.J.A.C. 8:39-39.3 since as early as March 4, 2022. Therefore, the Department is now imposing a monetary penalty on Woodland pursuant to N.J.A.C. 8:39-3.4(a)8. These enforcement actions are being taken in accordance with the provisions set forth at N.J.A.C. 8:43E- 3.1 (Enforcement Remedies Available), and 3.4 (civil monetary penalties) in response to serious social work staffing deficiencies observed by Department staff in Woodland during its numerous on-site inspections and in response to documentation submitted by the facility.

#### **STAFFING REQUIREMENTS:**

N.J.A.C. 8:39-39.3 requires the facility to “provide an average of at least 20 minutes of social work services per week for each resident, which **requires at least one full-time equivalent social worker for every 120 residents.**” N.J.A.C. 8:39-39.3(a)(emphasis supplied).

N.J.S.A. 45:15BB-4 provides that “no person shall engage in the practice of social work as a certified or licensed social worker or present, call or represent himself as a certified or licensed social worker unless certified or licensed.” N.J.S.A. 45:15BB-6 sets forth the following requirements to be licensed or certified as a social worker:

- a. The board shall issue a license as a “licensed clinical social worker” to an applicant who has:
  - (1) Received a master’s degree in social work from an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education, or a doctorate in social work from an accredited institution of higher education;
  - (2) Had at least two years of full-time experience in the practice of clinical social work under the supervision of a clinical social worker licensed by this State or who, by virtue of the supervisor’s education and experience, is eligible for

licensure in this State as a licensed clinical social worker, or any other supervisor who may be deemed acceptable to the board;

- (3) Satisfactorily completed minimum course requirements established by the board to ensure adequate training in methods of clinical social work practice; and
  - (4) Passed an appropriate examination provided by the board for this purpose.
- b. The board shall issue a license as a “licensed social worker” to an applicant who has:
- (1) Received a master’s degree in social work from an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education or a doctorate in social work from an accredited institution of higher education; and
  - (2) Passed an appropriate examination provided by the board for this purpose.
- c. The board shall certify an applicant who has:
- (1) received a baccalaureate degree in social work from an educational program accredited, or in candidacy for accreditation, by the Council on Social Work Education; or
  - (2) on or before the effective date of this act, acquired a baccalaureate degree in a field related to human services from an accredited institution of higher education and has engaged in full-time social work for at least one year prior to the effective date of P.L.1995, c. 66.

In addition, federal law requires that “[a]ny facility with more than 120 beds must employ a qualified social worker on a full-time basis”. 42 C.F.R. §483.70(p). The minimum requirements for a qualified social work under federal law include:

- (1) An individual with a minimum of a bachelor’s degree in social work or a bachelor’s degree in a human services field including, but not limited to, sociology, gerontology, special education, rehabilitation counseling, and psychology; and
- (2) One year of supervised social work experience in a health care setting working directly with individuals.

42 C.F.R. §483.70(p)(1)-(2).

#### **LICENSURE VIOLATIONS:**

Multiple on-site surveys of the facility and documentation submitted by the facility have demonstrated that Woodland has failed to meet the social work staffing requirements of N.J.A.C. 8:39-39.3 since as early as March 4, 2022. With an average census of 409 from the week of March 4 through April 18, the facility should have employed the equivalent of an average of 3.38 social workers per week during this time. The records reviewed during the surveys and submitted by Woodlands demonstrate, however, that the facility provided only the equivalent of an average of 1.7 social workers per week during this time.

According to facility reporting as of March 23, 2022, the facility had only a Director of Social Work and Behavioral Services, a part-time social worker and an independent social work consultant. A Unit Social Worker was listed as out on a leave of absence. In addition, two Unit Social Workers had recently resigned. In addition, according to survey reports and documentation submitted by the facility through April 18, 2022, the facility has only employed the equivalent of 2.5 social workers since March 4, 2022.

Based on interviews and record reviews conducted by Survey staff, it was determined that the facility failed to ensure that a certified and/or licensed Social Worker (SW) was available to each resident for at least 20 minutes per week and failed to the minimum State Social Worker requirement to provide at least one full-time equivalent per 120 residents. This deficient practice was evidenced by the following:

On March 29, 2022 at 9:00 AM, during an entrance conference at the facility, the Director of Nursing (DON) stated that as of March 29, 2022, there were 403 residents residing at the facility.

On March 31, 2022 at 10:30 AM, the surveyor interviewed the Director of Social Services (DSS) and the Consultant Social Worker (CSW). The DSS stated that the facility had two full time SWs including the director and one part-time SW. The DSS stated that ideally the facility would have four full time SWs and one full time director.

On April 5, 2022 at 2:24 PM, the DSS provided the surveyor with the facility's Social Work Schedule for the week of March 27, 2022 through April 3, 2022.

On April 5, 2022 at 2:25 PM, the surveyor again interviewed the DSS. The surveyor asked the DSW if the facility met the mandatory minimum standards for the amounts and availability of SWs at the facility. The DSS responded, "probably not." The DSS went on to state that the facility had roughly 400 residents and that he and the SW work at the facility full time (40 hours per week) and that a CSW works three days a week (24 hours per week).

A review of the facility's Social Work Schedule revealed that, cumulatively, the DSS, SW, and CSW provided 99.25 hours of social service during the week of March 27, 2022 through April 3, 2022.

To provide the required 20 minutes of social services to each of the 403 residents at the facility, the DSS, SW, and CSW would had to have worked 134 hours cumulatively per week to provide the required social service.

On April 5, 2022 at 3:00 PM, the surveyor discussed the findings with the Licensed Nursing Home Administrator (LNHA), the Regional LNHA, the Consultant LNHA, and the DON. No additional information was provided to the survey team to dispute the findings.

A review of the facility's "Department Heads, Key Staff and Consultants" information sheets e-mailed to the Department both pre and post survey, revealed that on March 4, March 18, March 25, April 1, April 11 and April 18, 2022, that the facility continued to fail to meet the minimum State Social Worker requirement to provide at least 1 full-time (FT) equivalent per 120 residents as follows:

03/04/2022

Census 429

Number of SWs =2.5 (2 FT and 1 part-time (PT)), required 3.5

The documentation submitted by the facility showed that there was one PT SW onsite, there was no evidence provided to support the number of hours this employee worked at the facility.

03/10/22

Census 426

Number of SWs =2.5 (2 FT and 1 PT SW), required 3.5

The Department Heads, Key Staff and Consultants form indicated that there was one PT SW onsite, there was no documentation provided to support the number of hours this employee worked at the facility from 3/4/22-3/25/22.

Review of the Consultant SW billing statements, e-mailed to the Department on 4/18/22 indicated the Consultant SW began on 3/15/22, not 3/10/22 as the Department Heads, Key Staff and Consultants form reflected.

03/18/2022

Census 419

Number of SWs=2 (1 FT and 1 PT SW and 1 PT SW Consultant), required 3.5

The Department Heads, Key Staff and Consultants form submitted on 3/18/22 indicated that there was one PT SW onsite, there was no documentation/time sheet provided to support the number of hours this employee worked at the facility from 3/4/22-3/25/22.

The Consultant SW (CSW) billing statement e-mailed to the department on 4/18/22 indicated the CSW worked 28.5 hours on site from 3/15 to 3/17/22 and from 3/22 to 3/24/22 the CSW worked a total of 29.25 hours on-site.

On April 13, 2022, after the survey, the Department requested the timesheets for the one part-time SW and the Consultant SW. Although the aforementioned submitted documentation indicated that there was one PT SW onsite, there was no supporting documentation (time sheets) provided to support the number of hours this employee worked at the facility providing social services to the residents from 3/4/22 to 3/25/22.

03/25/2022

Census: 406

Number of SWs=2 (1 FT and 1 PT SW and 1 PT SW Consultant), required 3.4

The CSW billing statement e-mailed to the Department on 4/18/22 indicated the CSW worked 28.5 hours on site from 3/15 to 3/17/22 and from 3/28 to 4/1/22 the CSW worked 28.75 hours on-site.

04/01/2022

Census 402

Number of SWs=2 (1 FT and 1 PT SW and 1 PT SW Consultant), required 3.25

The time sheet records for the one PT SW indicated from 3/27 to 4/8/22 he worked 21.33 hours on site at the facility.

The CSW billing statement e-mailed to the Department on 4/18/22 indicated the CSW worked 30.0 hours on site from 4/1 to 4/8/22.

04/11/2022

Census 394

Number of SWs=1 (1 PT SW and 1 PT SW Consultant), required 3.28

The CSW billing statement e-mailed to the department on 4/18/22 indicated the CSW worked 28.5 hours on site from 4/3 to 4/10/22.

04/18/2022

Census 389 Number of SWs=1 (1 PT SW and 1 PT SW Consultant), required 3.24

A review of the PT SW time sheets and CSW billing statement received on 4/18/22 by e-mail confirmed that they both worked part-time at the facility. The Consultant SW began part-time (3-days per week) on 3/14/22. The PT SW began part-time on 3/27/22.

Failure to have at least the minimum required social work staff violates State law and impedes the facility's efforts to reduce its census if needed to assure adequate certified nurse aide and nurse staffing for all residents. Moreover, adequate social work staffing is critical to providing all the social work services to residents (and their families) mandated by N.J.A.C. 8:39-39.4 and necessary to meet their needs.

**MONETARY PENALTIES:**

N.J.A.C. 8:43E-3.4(a)8 allows the Department to impose a monetary penalty for multiple deficiencies related to patient care or physical plant standards throughout a facility, and/or when 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. A penalty of \$1,000 per violation may be assessed for each day noncompliance is found.

The surveys of Woodlands and the documentation submitted by the facility confirm that Woodlands has failed to provide sufficient social work staffing for 45 days from March 4, 2022 through April 18, 2022. These multiple social work staffing deficiencies represented a direct risk to resident care and are in violation of N.J.A.C. 8:39-39.4.

In accordance with N.J.A.C. 8:43E-3.4(a)8, and because the violations of licensure regulations related to resident care or physical plant standards represented a risk to the health, safety, or welfare of the residents of a facility, the penalty assessed for each day noncompliance was found is \$1,000 per day. The total penalty assessed for the 45 days Woodland was not in compliance is \$45,000.

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 X21023.

**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:

Jannelie Claudio  
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:**

Woodland is entitled to challenge the assessment of penalties pursuant to N.J.S.A. 26:2H-134, by requesting a formal hearing at the Office of Administrative Law (OAL). Woodland may request a hearing to challenge any or all of the following: the factual survey findings, and/or the assessed penalties. Woodland 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 Woodland is owned by a corporation, representation by counsel is required. In the event

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of an OAL hearing regarding the curtailment, Woodland 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.

Finally, be advised that Department staff will monitor compliance with this notice to determine whether corrective measures are implemented by Woodland 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 penalties.

Thank you for your attention to this important matter and for your anticipated cooperation. If you have any questions concerning this order, please contact Lisa King, Office of Program Compliance, at (609) 376-7751.

Sincerely,



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

April 19, 2022  
E-MAIL (Mspiegel@woodlandbehavioral.com)  
REGULAR AND CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Control # X21030

Cc: Nursing Home Administrators Licensing Board  
Frank Skrajewski  
Donna Koller, Health Facility Survey and Field  
Operations  
Pamela Lebak, Health Facility Survey and Field  
Operations  
Bonnie G. Stevens  
Kiisha Johnson