



State of New Jersey  
DEPARTMENT OF HEALTH

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

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

PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lt. Governor

KAITLAN BASTON, MD, MSc, DFASAM  
Acting Commissioner

In Re Licensure Violation:	:	AMENDED
	:	
Complete Care at Bey Lea	:	NOTICE OF ASSESSMENT OF
	:	
(NJ Facility ID# NJ 61529)	:	PENALTIES
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TO: Yosef Gerson, Administrator  
Complete Care at Bey Lea, Llc  
1351 Old Freehold Road  
Toms River, New Jersey 08753

Dear Mr. Gerson:

On June 12, 2023, the Department of Health (hereinafter, "the Department") assessed penalties pursuant to N.J.S.A. 26:2H-46.1 and N.J.A.C. 8:43E-3.4 upon Complete Care at Bey Lea because the facility had 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 three 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. N.J.S.A. 26:2H-46.1 requires that an increased penalty be imposed for a repeat F-level violation that is cited at a survey or any other inspection conducted "pursuant to State or federal law or regulation, . . . ."

This notice amends the notice of assessment of penalties issued on June 12, 2023, to clarify the requirements of the law imposing an increased penalty for violations within a three-year period of the same or a substantially similar F-level or higher-level deficiency. A notice of appeal of the June 12, 2023, notice of assessment of penalties was filed by the facility with the Department on July 14, 2023 and was

transmitted by the Department to the Office of Administrative Law on August 3, 2023. This amended notice of assessment of penalties will be transmitted by the Department to the Office of Administrative Law to replace the June 12, 2023 notice of assessment of penalties in the pending appeal.. Therefore, an additional right to appeal is not necessary and is not offered in this amended notice of assessment of penalties.

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 21, 2023 and September 21, 2021, the facility failed to comply with N.J.S.A. 30:13-18 (P.L. 2020. C. 112). The Department has determined that the staffing violations substantiated on May 21, 2023 and September 21, 2021 were F-level or higher deficiencies. N.J.S.A. 30:13-18 establishes minimum staffing requirements for nursing homes. The facts supporting these deficiencies are set forth in surveys dated May 21, 2023 and September 21, 2021, which are incorporated herein by reference.

The facility's failure to comply with N.J.S.A. 30:13-18 on May 21, 2023 and September 21, 2021 were F-level deficiencies because the violations were widespread and resulted in no actual harm with the potential for more than minimal harm that is not immediate jeopardy. 42 C.F.R. 488.404 (b) sets forth criteria for determining the seriousness of federal deficiencies. An F-level deficiency is a deficiency that results in no actual harm with a potential for more than minimal harm that is not immediate jeopardy, and the deficiency is widespread. 42 C.F.R. 488.404 (b) (1) (ii) and (2) (iii) and Nursing Home Compare Technical Users' Guide (cms.gov), p. 3. As set forth below, the facility's violations of N.J.S.A. 30:13-18 on May 21, 2023 were widespread because the survey substantiated that the facility failed to comply with the nurse staffing requirements on the day shift on fourteen different days. The September 21, 2021, the survey substantiated that the facility failed to meet the nurse staffing requirements on the day shift on twelve different days. In addition to being widespread, these staffing violations also had the potential for more than minimal harm to residents throughout the facility. Therefore, these violations of State law meet the federal criteria for F-level violations at 42 C.F.R. 488.404 (b) (1) (ii) and (2) (iii).

N.J.S.A. 30:13-18 requires nursing homes to maintain the following minimum direct care staff -to-resident ratios: (1) one certified nurse aide (CNA) to every eight residents for the day shift; (2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members shall be CNAs, and each staff member shall be signed in to work as a CNA and shall perform CNA duties; and (3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member shall sign in to work as a CNA and perform certified nurse aide duties.

#### **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.

The survey substantiated that Complete Care at Bey Lea failed to meet the requirements of N.J.S.A. 30:13-18 on fourteen days during the day shift:

A review by Survey staff of the "Nurse Staffing Report," completed by the facility for the week of April 30, 2023 through May 6, 2023, revealed staff-to-resident ratios that did not meet the minimum requirements. The facility was deficient in CNA staffing for residents on seven of seven day shifts as follows:

On 04/30/2023 the facility had 6 CNAs for 98 residents on the day shift, 12 CNAs were required.  
On 05/01/2023 the facility had 8 CNAs for 95 residents on the day shift, 12 CNAs were required.  
On 05/02/2023 the facility had 8 CNAs for 94 residents on the day shift, 12 CNAs were required.  
On 05/03/2023 the facility had 9 CNAs for 94 residents on the day shift, 12 CNAs were required.  
On 05/04/2023 the facility had 9 CNAs for 94 residents on the day shift, 12 CNAs were required.  
On 05/05/2023 the facility had 8 CNAs for 94 residents on the day shift, 12 CNAs were required.  
On 05/06/2023 the facility had 7 CNAs for 95 residents on the day shift, 12 CNAs were required.

A review by Survey staff of the "Nurse Staffing Report," completed by the facility for the week of May 7, 2023 through May 13, 2023 revealed staff-to-resident ratios that did not meet the minimum requirements. The facility was deficient in CNA staffing for residents on 7 of 7 day shifts as follows:

On 05/07/2023 the facility had 8 CNAs for 95 residents on the day shift, 12 CNAs were required.  
On 05/08/2023 the facility had 7 CNAs for 93 residents on the day shift, 12 CNAs were required.  
On 05/09/2023 the facility had 8 CNAs for 93 residents on the day shift, 12 CNAs were required.  
On 05/10/2023 the facility had 9 CNAs for 93 residents on the day shift, 12 CNAs were required.  
On 05/11/2023 the facility had 8 CNAs for 93 residents on the day shift, 12 CNAs were required.  
On 05/12/2023 the facility had 7 CNAs for 94 residents on the day shift, 12 CNAs were required.  
On 05/13/2023 the facility had 8 CNAs for 94 residents on the day shift, 12 CNAs were required.

In accordance with N.J.A.C. 8:43E-3.4(a)8, the penalty assessed for each day on which noncompliance was found is \$1,000 per day. The total penalty assessed for the violations (or the days the facility was not in compliance) is \$14,000.

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 # X23022.**

#### **INFORMAL DISPUTE RESOLUTION (IDR):**

The facility was offered the opportunity to request informal dispute resolution in the notice of assessment of penalties issued on June 12, 2023. Therefore, another opportunity for informal dispute resolution is not offered.

#### **FORMAL HEARING:**

Complete Care at Bey Lea has already requested a formal hearing at the Office of Administrative Law (OAL) pursuant to N.J.S.A. 26:2H-13. The notice of appeal was transmitted by the Department to the OAL on August 3, 2023. There is no need to request another hearing because the matter is already pending in the OAL.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Gene Rosenblum".

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

DATE: September 26, 2023  
E-MAIL (Ygerson@ccbeylea.com)  
REGULAR AND CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
Control # X23022