



State of New Jersey
DEPARTMENT OF HEALTH

PHILIP D. MURPHY
Governor

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TRENTON, N.J. 08625-0358

TAHESHA L. WAY
Lt. Governor

www.nj.gov/health

KAITLAN BASTON, MD, MSc, DFASAM
Commissioner

In Re Licensure Violation:

Care One at the Cupola

(NJ Facility ID# NJ5A000)

NOTICE OF ASSESSMENT
OF PENALTIES

TO: Risa Kory, Administrator
Care One at the Cupola
W 100 Ridgewood Avenue
Paramus, New Jersey 07652

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 (the "Department") is authorized to inspect all health care facilities and to enforce the Standards for Licensure of Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs set forth at N.J.A.C. 8:36-1.1 et seq.

LICENSURE VIOLATIONS & MONETARY PENALTIES

Staff from the Department's Health Facility, Survey and Field Operations visited Care One at the Cupola (hereinafter "Care One") on April 5, 2024, for the purpose of conducting a complaint survey. The report of this visit, which is incorporated herein by reference, revealed the following licensure violations:

- A. The facility is in violation of N.J.A.C. 8:36-11.4(b). All medications shall be administered by qualified personnel in accordance with prescriber orders, facility or program policy, manufacturer's requirements, cautionary or accessory warnings, and all Federal and State laws and regulations.

Survey staff reviewed medical records (MR) and a document titled, "Progress Notes" which revealed a physician progress note dated January 10, 2022, which indicated that a resident had not received ten (10) medications from January 6, 2022, to January 10, 2022, during the prescribed medication times. This was due to a delay in the delivery of the resident's medications from the facility's contracted pharmacy. The surveyor further reviewed the resident's Medication Administration Record for January 2022 with the facility's Director of Nursing (DON) which revealed that the following medications were not administered:

1. Align Probiotic 4MG (milligrams) CAP (capsules) was not administered as prescribed on January 6, 2022, January 7, 2022, January 8, 2022, January 9, 2022, and January 10, 2022.
2. Cholestyramine 4GM (grams) – pack was not administered as prescribed on January 6, 2022, January 7, 2022, January 8, 2022, January 9, 2022, and January 10, 2022.
3. Imipramine 50MG was not administered as prescribed on January 6, 2022, January 7, 2022, January 8, 2022, January 9, 2022, and January 10, 2022.
4. Methenamine HIPP (Hippurate) 1GM (gram) TAB (tablet) was not administered as prescribed on January 6, 2022.
5. Nitrofurant Mono 100MG was not administered as prescribed on January 6, 2022.
6. Preservision AREDS (Age-Related Eye Disease Study) – TAB Multivitamins was not administered as prescribed on January 6, 2022.
7. Vita (Vitamin) D3 50MCG (micrograms) was not administered as prescribed on January 6, 2022.
8. Vitamin C 500MG was not administered as prescribed on January 6, 2022, January 7, 2022, January 8, 2022, and January 9, 2022
9. Mucinex E.R. (Extended Release) 600MG was not administered as prescribed on January 7, 2022, January 8, 2022, January 9, 2022, January 10, 2022
10. Melatonin 1MG was not administered as prescribed on January 7, 2022, January 8, 2022, and January 9, 2022.

A review of the facility's policy and procedure titled, "Assisted Living: Administration of Medication" with the revision date of March 5, 2010, revealed, "The center has established a policy for the safe administration of medication. 1. This center will assist residents to obtain pharmaceutical services in accordance with their physician's order and with each resident's service plan or health service plan." The surveyor interviewed the facility's DON who stated that the resident's medications were not dispensed because the medications were not delivered by the facility's contracted pharmacy.

In accordance with N.J.A.C. 8:43E-3.4(a)(8), because such violations are related to patient care and represent a direct risk that a resident's physical or mental health will be compromised, a penalty of \$1,000 per violation is assessed from January 6, 2022, the first day the resident was not administered prescribed medications, to January 10, 2022, the last day the resident was not administered the prescribed medications. Thus, the total penalty assessed for this violation is \$5,000.

- B. The facility is also in violation of N.J.A.C 8:36-15.2, which sets forth that records required by this subchapter shall be maintained for all residents and shall be kept available on the premises for review at any time by representatives of the Department.

On April 5, 2024, while conducting a complaint survey, the surveyor asked the DON to provide a resident's closed medical records (MR). The requested documents included the resident's Face Sheet, Physician Order Sheet, History, and Physical, including the Physician certification stating the resident was appropriate for the assisted living level of care, the resident's initial Registered Nurse assessment, General Service Plan, Health Service Plan, Progress Notes, and Medication Administration Record. The facility's DON informed the surveyor that the facility was not in possession of the resident's complete MR because the resident was discharged from the facility and their medical records were stored off-site. The surveyor was only provided with the part of the MR that revealed the Admission Record. The surveyor did not receive the Physician Order Sheet, History, and Physical documents, including the Physician certification, Registered Nurse Assessment, and General Service Plan.

In accordance with N.J.A.C. 8:43E-3.4(a)(11), and because the violations are violations of regulations related to a failure to report information to the Department as required by statute or licensing regulation, after reasonable notice and opportunity to cure the violation, \$250.00 per day is assessed from April 5, 2024, the date the surveyor requested the resident's closed medical record, to May 30, 2024, the day an acceptable POC was received and the facility agreed to upload all medical records in the Electronic Medical Records (EMR) database making records available for surveyors, as needed. Thus, the penalty assessed for this violation for 56 days x \$250.00, for a total of \$14,000.

Care One is hereby assessed total penalties amounting to \$19,000.

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 X24063.**

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:

Nadine Jackman, 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:

Care One is entitled to challenge the assessment of penalties pursuant to N.J.S.A. 26:2H-13, by requesting a formal hearing at the Office of Administrative Law (OAL). The facility may request a hearing to challenge any or all of the following: the factual survey findings and/or the assessed penalties. Care One must advise this Department within 30 days of the date of this letter if it requests an OAL hearing.

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 Care One is owned by a corporation, representation by counsel is required.

In the event of an OAL hearing regarding the penalty, Care One 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 Care One 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. Should you have any questions concerning this notice, 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:LK:jc:nj

DATE: January 24, 2025

E-MAIL: RKory@care-one.com

REGULAR AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Control# X24063