State of New Jersey
DEPARTMENT OF HEALTH
PO BOX 358
TRENTON, N.J. 08625-0358
www.nj.gov/health

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

JEFFREY A. BROWN
Acting Commissioner

In Re Licensure Violation:

Cedar Harbor Medical Day Care Center

(NJ Facility ID# NJ908115)

AMENDED NOTICE OF ASSESSMENT OF PENALTIES

TO: Jacob Spitzer, Administrator
admin@cedarharborday.com
Cedar Harbor Medical Day Care Center
545 East 1st Avenue
Roselle, New Jersey 07203

This Notice of Assessment of Penalties issued on June 19, 2025, is hereby corrected to reflect the day the Department's Health Facility, Survey and Field Operations visited Cedar Harbor Medical Day Care Center, which was November 29, 2023. We are revising the Notice of Assessment of Penalties, but the timeline to request a hearing or Informal Dispute Resolution remains unaffected and will run from the date of the original Notice of Assessment.

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 Adult Day Health Services Facilities set for at N.J.A.C. 8:43F-1.1 et seq.

LICENSURE VIOLATIONS & MONETARY PENALTIES

Staff from the Department's Health Facility, Survey and Field Operations visited Cedar Harbor Medical Day Care Center (hereinafter "Cedar Harbor Medical") on November 29, 2023, for the purpose of conducting a complaint survey. The report of this visit, which is incorporated herein by reference, revealed that Cedar Harbor Medical committed numerous violations of regulations at N.J.A.C. 8:43F.

A) The facility is in violation of N.J.A.C 8:43F-3.1(b)(1-7): Administration due to its:
- Failure to implement and enforce all policies and procedures including participants' rights;

- Failure to plan and administer the managerial, operational, fiscal, and reporting components of the facility;
- Failure to participate in the quality improvement program for participant care and staff;
- Failure to ensure that all personnel are assigned duties based upon their education, training, competencies, and job descriptions;
- Failure to ensure the provision of staff orientation, staff education and ongoing staff training in accordance with N.J.A.C. 8:43F-6.3;
- Failure to establish and maintain liaison relationships and communication between facility staff and service providers with participants and their caregivers; and
- Failure to verify that each Medicaid-eligible participant is eligible to receive services available at the adult health services facility prior to the participant's entry into the program.
- The facility failed to comply with this regulation as set forth below.

B) The facility is in violation of N.J.A.C. 8:43F-17.1(a)(1) which sets forth that the facility shall provide safe transportation services, either directly or through contractual arrangements, to all participants who require transportation between the facility and the participant's home. No participant's total transportation time between the facility and the participant's home shall exceed two hours daily. The facility failed to comply with this regulation as set forth below.

C) The facility is also in violation of N.J.A.C. 8:43F-17.2, which sets forth that the facility shall develop and implement plans for security and accountability for the participant and the participant's possessions while transportation services are being provided. As set forth below, the facility failed to provide safe transportation services from the facility to the participant's home and failed to ensure that no participant's total transportation time exceeded two hours.

Based on interviews and record reviews, Department staff determined that on November 15, 2023, the facility failed to transport and drop off Participant #2 at their group home. Instead, the driver missed the participant's stop and left them on the bus for hours. The participant was reported missing to local police by the director of the group home. The police called the Administrator, who stated he would send someone over. The police and the director drove back to the center, where three officers climbed the gated fence to the parking lot. They found the participant awake, crying, cold, and soiled in bowel movement. The police investigation revealed the participant was left unattended on the bus for approximately three hours. The Administrator told the police that the driver confessed to forgetting to drop off Participant #2.

The Administrator failed to follow its "General Services Provided" policy, which requires all participants to be transported to and from their homes, ensuring transportation does not exceed two hours. The Administrator also failed to follow its "Transportation Procedures: Procedures Regarding Clients/Families" policy, which mandates that all clients be taken directly to their home according to a coordinated route. The driver stated that when he transported participants home, he missed Participant #2's stop and forgot to drop them off. The driver did not conduct a walk-through of the bus, but instead checked the rear-view mirror and left when he saw no one.

The surveyor reviewed the driver's transport log, which indicated that Participant #2 was dropped off at 1:25 p.m. When questioned, the driver stated he recorded the drop-off time when he returned to the center, mistakenly thinking the participant had already been dropped off. The driver explained he typically wrote the drop-off time at the time of the actual drop-off. The surveyor noted an "error" on the transport log, indicating incorrect times for Participants #1 and #2. The log revealed that Participant #2 actually departed the facility at 2:10 p.m. and was not returned until approximately 4:10 p.m., leaving the participant on the bus until found by police at around 6:30 p.m.

D) The facility is in violation of N.J.A.C. 8:43F-4.2(a)(8) Participant rights, policies, and procedures, which provides that the facility shall ensure that at a minimum, each participant admitted to the facility: is free

from mental and physical abuse, free from exploitation, and free from the use of chemical and physical restraints. Medications shall not be used for punishment or for the convenience of facility personnel. The facility failed to ensure that a participant was free from the use of physical restraints.

During an interview with the driver, the driver stated he did not see or hear Participant #2 on the bus because the participant was in their wheelchair, which was secured in the rear of the bus. The driver informed the surveyor that on November 15, 2023, he used four hooks (Q'Straints) to secure the participant in the rear of the bus. The police investigation report revealed the participant was left unattended secured at four points with Q'Straints in their wheelchair on the facility's bus, which was locked and parked in a gated parking lot.

Penalty: In accordance with N.J.A.C. 8:43E-3.4(a)(10), because the facility's violations of N.J.A.C 8:43F-3.1(b)(1-7) , N.J.A.C. 8:43F-17.1(a)(1), N.J.A.C. 8:43F-17.2, and N.J.A.C. 8:43F-4.2(a)(8) pose an immediate and serious risk of harm to patients or residents, $2,500 per violation, is assessed for November 15, 2023, the date the participant was left on the bus unattended secured at four points with Q'Straints in their wheelchair on the facility's bus for approximately three hours until the police found them, to December 1, 2023, the day that all staff was trained as required by the plan of correction. Because the facility does not provide services on weekends, penalties are not assessed for weekend days. Thus, the total penalty assessed for this violation is $2,500 per violation × 4 violations × 12 working days, resulting in a total penalty of $120,000.

E) The facility is in violation of N.J.A.C. 8:43F-3.4(a)(6) which provides that the facility shall notify the Department immediately by telephone, followed by written confirmation within 72 hours of alleged or suspected crimes committed by or against participants, which shall also be reported at the time of occurrence to the local police department. See N.J.S.A. 2C:24-8. Abandonment, or neglect of elderly persons, or disabled adults.

Based on interviews and pertinent document review, it was determined that the facility failed to notify the Department when a participant was left on a facility bus unattended in the center's parking lot, and the local police department became involved. During an interview with the surveyor, the Administrator stated he reported the incident to the regional director. The regional director contemplated whether to report it to the Department. He stated that, to his knowledge, the incident was not reported to the Department. The facility Administrator also failed to follow the facility's policy, "Mandatory Notification-Reportable Events", which requires the facility to notify the Department of any occurrences of any reportable events including all alleged or suspected crimes committed by or against the participant, which shall also be reported at the time of occurrence to the local police department.

Penalty: In accordance with N.J.A.C. 8:43E-3.4(a)(11), because the facility is in violation of N.J.A.C. 8:43F-3.4(a)(6), a penalty of $250.00 per day is assessed from November 15, 2023, the date the facility was to notify the Department of a missing participant who was found on a bus unattended by local police to November 28, 2023, the date survey asked the Administrator if any incidents or accidents took place in the center in the last three months and the Administrator informed the surveyor of the reportable event. Thus, the total penalty assessed for thirteen (13) days is $3,250.

Therefore, based on the facts supporting the deficiencies set above and in accordance with N.J.A.C. 8:43E-3.4(a)(10), N.J.A.C. 8:43F-3.4(a)(6), and N.J.A.C. 8:43F-4.2(a)(8) the total penalty assessed is $123,250.

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 X24020.**

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:

Cedar Harbor Medical 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 the factual survey findings and/or the assessed penalties. Cedar Harbor Medical 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 Cedar Harbor Medical is owned by a corporation, representation by counsel is required.

In the event of an OAL hearing regarding the curtailment, Cedar Harbor Medical 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 Cedar Harbor Medical 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: June 25, 2025
E-MAIL: admin@cedarharborday.com
REGULAR AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED
Control# X24020