



State of New Jersey
DEPARTMENT OF HEALTH

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www.nj.gov/health

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

KAITLAN BASTON, MD, MSc, DFASAM
Acting Commissioner

In Re Licensure Violation:	:	
	:	CURTAILMENT OF
	:	ADMISSIONS
Excel Care at Manalapan	:	ORDER AND
	:	DIRECTED PLAN OF
(NJ Facility ID# NJ61323)	:	CORRECTION
	:	
	:	
	:	

TO: Ben Friedman, Administrator
Excel Care at Manalapan
104 Pension Road
Manalapan, NJ 07726

Dear Mr. Friedman:

This letter confirms the verbal order given to you by the Department of Health (hereinafter, “the Department”) on March 14 2023, ordering Excel Care at Manalapan (hereinafter, “Excel Care”) to curtail all admissions, including readmissions, and imposing a Directed Plan of Correction (DPOC) requiring Excel Care to retain the full-time services of a Consultant Administrator, Consultant Director of Nursing, and a Consultant Infection Control Preventionist, and to hire an Infection Control Preventionist as a regular, permanent employee.

These enforcement actions are being taken in accordance with the provisions set forth at N.J.A.C. 8:43E-2.4 (Plan of Correction) and 3.1 (Enforcement Remedies Available), after Staff from the Department's Health Facility Survey and Field Operations (HFS&FO or Survey) were on-site at Excel Care and found at least thirty deficiencies, including deficiencies resulting in harm to residents and a deficiency posing an immediate and serious threat of harm to a resident.

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:

Staff from Survey were on-site at the Excel Care on March 6, 2024. Based on observations, interviews, and review of pertinent Facility documentation, it was determined that the Facility violated the following: N.J.A.C. 8:39-4.1 (resident rights); N.J.A.C. 39-5.1 (access to care); N.J.A.C. 8:39-9.2 (administrator); N.J.A.C. 8:39-9.5 (residents' accounts); N.J.A.C. 8:39-13.2 (resident grievances); N.J.A.C. 8:39-13.3 (communication qualifications); N.J.A.C. 8:39-19.1 (mandatory organization for infection control); N.J.A.C. 8:39-19.4 (mandatory policies and procedures for infection control); N.J.A.C. 8:39-25.1 (mandatory nurse staffing); N.J.A.C. 8:39-27.1 (mandatory policies for quality of care); N.J.A.C. 8:39-29.2 (mandatory drug administration); N.J.A.C. 8:39-31.2 (mandatory general maintenance); N.J.A.C. 8:39-33.1, 33.2 (quality assessment); and N.J.S.A. 30:13-18 (staffing). The Department may cite additional deficiencies based upon completion of the final survey report.

The Survey team substantiated the following deficient practices: the failure to comply with emergency preparedness requirements; the failure to treat residents with respect and dignity on 2 of 2 units and the failure to address resident grievances; the failure to maintain clean, sanitary and homelike resident rooms and common areas on 2 of 2 units, where rooms and furniture were in disrepair; the failure to provide appropriate incontinence care and personal hygiene for 12 of 18 residents by double-diapering residents; a resident with a history of urinary tract infections, was observed double-diapered and saturated in urine, and developed a urinary tract infection; the failure to follow physician's orders for an antipsychotic medication, which resulted in increased behaviors that necessitated the transfer of a resident out to crisis via 911; the failure to supervise and implement interventions to prevent falls for a resident with a history of falls, who fell and sustained a fracture; the failure to follow a physician order for a resident who was allergic to eggs and who was observed eating a hard-boiled egg during breakfast. The Survey team also cited deficiencies related to residents' personal needs account (PNA) because residents were not receiving \$50.00 as required, and were only receiving \$ 25.00, and the residents were not receiving their PNA money on the weekends. The Survey team cited food quality issues because the Kosher menu was changed and the facility did not notify the residents, and also cited improper food temperatures. The Survey team also found staffing deficiencies because the Director of Nursing (DON) was also acting as the full-time infection control preventionist, and the facility also failed to ensure that the designated licensed DON worked on a full-time basis as the DON. The Survey team found that, for at least one dayshift, the facility had only four certified nurse aides (CNAs) for seventy-two residents, while there should have been nine CNAs on duty. The Survey team also cited the facility for inadequate infection control due to improper handwashing and because the facility had no monitoring system for tracking infections.

The Survey team determined that the facility's failure to provide an egg-free diet for a resident allergic to eggs, had caused, or was likely to cause, serious injury, harm, impairment, or death to residents.

You will receive a complete inspection report detailing all deficiencies and factual findings. Additional facts supporting these deficiencies will be set forth in the survey report to be provided, which is incorporated herein by reference.

CURTAILMENT:

The Department hereby orders the continuation of curtailment of all admissions to Excel Care, including readmissions.

Please be advised that N.J.A.C. 8:43E-3.4(a)(2) provides for a penalty of \$250 per day for each resident at the facility in violation of this curtailment order.

DIRECTED PLAN OF CORRECTION:

a. The facility must retain the full-time, on-site services of an Administrator Consultant in accordance with N.J.A.C. 8:34-1.1 et seq., who shall be responsible for consultation services concerning the day-to-day operations of the facility. The Administrator Consultant must be approved by the Department. The facility shall provide the name and resume of the proposed Administrator Consultant by submitting the name and resume to Christina.Farkas@doh.nj.gov, and Kara.Morris@doh.nj.gov, Gene.Rosenblum@doh.nj.gov and Lisa.King@doh.nj.gov by 12:00 noon on March 21, 2024. The Administrator Consultant shall 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 Administrator Consultant shall be retained no later than the close of business, March 25, 2024. The contract with the consultant shall include provisions for immediate corrective action with applicable state licensing standards. The consultant shall have no previous or current ties to the facility's principals, management and/or employers or other related individuals of any kind, including, but not limited to employment, business, or personal ties. The Administrator Consultant and facility shall submit weekly progress reports, beginning on March 29, 2024, and continuing each Friday thereafter. The progress reports shall be submitted to Christina.Farkas@doh.nj.gov, and Kara.Morris@doh.nj.gov.

The Administrator Consultant shall:

1. Assess the facility's compliance with all applicable state licensing standards and identify areas of non-compliance;
2. Oversee the development, implementation and evaluation of corrective action plans;
3. Develop and implement compliance management systems at the facility;
4. Collaborate with facility leadership to ensure that operating procedures, systems and standards align with compliance requirements;
5. Ensure staff training needed to comply with applicable licensing standards; and,

6. Take other actions as may be necessary to ensure identification of compliance issues and implementation of timely corrective measures.

The weekly progress reports by the Administrator Consultant and the facility should be sent every Friday by 1:00 p.m. to Christina.Farkas@doh.nj.gov, and Kara.Morris@doh.nj.gov. These weekly reports shall include timely status updates regarding:

1. Identified areas of non-compliance;
2. Corrective measures to address identified areas of non-compliance; and,
3. Status of corrective measures implementation.

b. Excel Care shall retain the full-time services of a Consultant Director of Nursing who is a Registered Nurse (RN). The Consultant DON must be approved by the Department. The facility shall provide the Department with the name and resume by 12:00 noon March 21, 2024. The resume should be sent to Christina.Farkas@doh.nj.gov, Kara.Morris@doh.nj.gov, Gene.Rosenblum@doh.nj.gov, and Lisa.King@doh.nj.gov. The consultant DON shall be on-site for no less than 40 hours per week, with documented coverage of all shifts and weekends, until further notice from the Department. The approved Consultant Director of Nursing shall be retained no later than the close of business, March 25, 2024. They shall be responsible for ensuring that immediate corrective action is taken to ensure resident safety is not jeopardized and applicable state licensing standards are met.

c. Excel Care shall retain the full-time services of a Certified Infection Control Practitioner (ICP) consultant, to begin providing services to the facility no later than March 25, 2024. The facility shall provide the Department with the name and resume of the consultant by March 21, 2024. You may contact the Association of Professionals in Infection Control and Epidemiology (apic.org) to obtain the names of ICPs in your area. The resume should be sent to Christina.Farkas@doh.nj.gov, Kara.Morris@doh.nj.gov, Gene.Rosenblum@doh.nj.gov, and Lisa.King@doh.nj.gov. The ICP consultant shall be on-site for no less than 40 hours per week, with documented coverage of all shifts and weekends, until further notice from the Department. The contract with this consultant shall include provisions for immediate corrective action ensuring resident safety is not jeopardized and applicable state licensing standards are met.

d. Excel Care shall retain an infection preventionist (IP) as an employee in accordance with the requirements of N.J.S.A. 26:2H-12.87, to begin providing services at the facility no later than March 25, 2024. In accordance with N.J.S.A. 26:2H-12.87(e)(1)(b)(ii), the infection preventionist shall be qualified by education, training and shall have at least five years of infection control experience or be certified in infection control by the Certification Board of the Certification Board of Infection Control and Epidemiology. The IP must be approved by the Department. The facility shall provide the Department with the name and resume of the IP by 12:00 noon March 21, 2024. The resume should be sent to Christina.Farkas@doh.nj.gov, Kara.Morris@doh.nj.gov, Gene.Rosenblum@doh.nj.gov and Lisa.King@doh.nj.gov. The IP shall be on-site for no less than 40 hours per week, with documented coverage of all shifts and weekends, until further notice from the Department. The IP shall meet the requirements of N.J.S.A. 26:2H-12.87 (e) and (f) and

shall be responsible for ensuring that immediate corrective action is taken to ensure resident safety is not jeopardized and applicable state licensing standards are met.

e. The facility shall send weekly reports every Friday by 1:00 p.m. to the Communicable Disease Services (CDS) Healthcare Associated Infections Coordinator, Jason Mehr, MPH, CIC, at Jason.Mehr@doh.nj.gov with a copy to Christina.Farkas@doh.nj.gov. These weekly reports shall include timely updates regarding outbreak investigation, identified cases (as defined by CDS) and the progress of infection prevention. In addition, the facility is directed to maintain timely communication with the Department as may be required by CDS staff, including both the facility's infection prevention team and the consultants.

The DPOC shall remain in place until the facility is otherwise notified in writing by a representative of this Department.

Department staff will monitor facility compliance with this order to determine whether corrective measures are implemented by the facility 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 enforcement actions, including penalties.

Please be advised that you may be subject to other enforcement remedies in addition to this order.

FORMAL HEARING:

Excel Care is entitled to contest the curtailment, pursuant to N.J.S.A. 26:2H-14, by requesting a formal hearing at the Office of Administrative Law (OAL). Excel Care may request a hearing to challenge any or all of the following: the factual survey findings and/or the curtailment. Excel Care 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 Excel Care is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the curtailment, Excel Care 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.

Since the surveyors have determined that an immediate and serious risk of harm is posed to the residents, please be advised that the Department will not hold the curtailment or the DPOC in abeyance during any appeal of the curtailment.

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 that reads "Gene Rosenblum". The signature is fluid and cursive, written over the printed name.

Gene Rosenblum

Director

Office of Program Compliance

Division of Certificate of Need and Licensing

DATE: March 18, 2024

FACSIMILE

E-MAIL (BFriedman@excelcaremanalapan.com)

REGULAR AND CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Control # X24028