



State of New Jersey
DEPARTMENT OF HEALTH

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

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lt. Governor

www.nj.gov/health

KAITLAN BASTON, MD, MSc, DFASAM
Commissioner

In Re Licensure Violation:	:	
	:	
Silver Lake Hospital LTACH	:	NOTICE OF ASSESSMENT OF
	:	PENALTIES
(NJ Facility ID# NJ 24009)	:	
	:	
	:	
	:	

TO: Karli Kohut, President and Chief Executive Officer
Silver Lake Hospital LTACH
495 N. 13th Street
Newark, New Jersey 07107
Karli.Kohut@silverlakehospital.org

Dear Ms. Kohut:

Effective immediately, the Department of Health (the Department) is assessing penalties pursuant to N.J.A.C. 8:43E-3.4(a)(11) upon Silver Lake Hospital LTACH (hereinafter Silver Lake or the facility) because the facility has failed to produce documentation that was requested by the Department's surveyors that the facility erroneously maintains is protected from disclosure under the Patient Safety Act, N.J.S.A. 26:2H-12.23 et seq.

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. General hospitals are licensed in accordance with N.J.S.A. 26:2H-1 and N.J.A.C. 8:43G. Pursuant to the Act, N.J.A.C. 8:43G (Hospital Licensing Standards) and N.J.A.C. 8:43E (General Licensure Procedures and Standards Applicable to All Licensed Facilities), the Commissioner of the Department of Health is authorized to inspect all health care facilities and to enforce the Manual of Hospital Licensing Standards set forth at N.J.A.C. 8:43G-1.1 et seq.

By way of background, the Department received a complaint that raised issues concerning patient care at Silver Lake. In response to the complaint, the Department sent a survey team to the facility on July 2, 2024, and July 3, 2024. The survey team requested Incident Reports, the Code Gray Log, the Incident/Grievance Accident Log, and Quality Assurance and Performance Improvement (QAPI) meeting minutes as part of its investigation. Silver Lake refused to provide the requested documents, claiming that the Patient Safety Act, N.J.S.A. 26:2H-12.23 et seq., protected the documents from disclosure. Silver Lake did provide a heavily redacted copy of QAPI meeting minutes.

By letter dated July 31, 2024, in response to an e-mail from Edward A. Cienki, Silver Lake's President and Chief Operating Officer, the Department informed Silver Lake that, pursuant to the Health Care Facilities Planning Act, "[a]t the request of the commissioner, health care facilities shall furnish to the [Department of Health] such reports and information as it may require to effectuate the provisions and purposes of this act, excluding confidential communications from patients." N.J.S.A. 26:2H-5(e). The Department informed Silver Lake that the Incident Reports, the Code Gray Log, the Incident/Grievance Accident Log, and the unredacted QAPI meeting minutes requested by the Department are not Patient Safety Work Product pursuant to 42 C.F.R. 3.20 and were not protected from disclosure to the Department by N.J.A.C. 8:43E-10.9 (b) and set forth the reasons why the facility's position was erroneous. The Department gave the facility five days to produce the requested documents to the survey team and notified the facility that its failure to produce the requested documentation would result in enforcement action against the hospital. To date, the facility has not provided the requested records to the Department.

MONETARY PENALTIES:

N.J.A.C. 8:43E-3.4(a)11 allows the Department to impose a monetary penalty "[f]or failure to report information to the Department as required by statute or licensing regulation, after reasonable notice and an opportunity to cure the violation, \$ 250.00 per day." In accordance with N.J.A.C. 8:43E-3.4(a)11, the penalty assessed for each day on which noncompliance was found is \$250 per day from August 18, 2024, through December 2, 2024 (107 days). The total penalty assessed is \$26,750. The penalty will continue to accrue at \$250 per day from December 2, 2024, until the requested records are provided to the Department.

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 X24044.**

INFORMAL DISPUTE RESOLUTION (IDR)

N.J.A.C. 8:43E-2.3 provides facilities the option to challenge factual 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:

The facility is entitled to contest 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 findings and/or the assessed penalties. The facility 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:

Silver Lake Hospital LTACH
Notice of Assessment of Penalties
December 2, 2024
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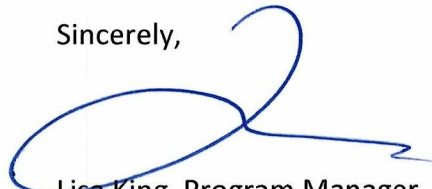
Attention: OAL Hearing Requests
Office of Legal and Regulatory Compliance, New Jersey Department of Health
P.O. Box 360
Trenton, New Jersey 08625-0360

Corporations are not permitted to represent themselves in OAL proceedings. Therefore, if the facility is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the penalty, the facility 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.

Thank you for your attention to this important matter and for your anticipated cooperation. If you have any questions regarding this Notice of Assessment, please contact Nadine Jackman, Office of Program Compliance, at Nadine.Jackman@doh.nj.gov.

Sincerely,



Lisa King, Program Manager
Office of Program Compliance
Division of Certificate of Need and Licensing

LK:JLM:nj
DATE: December 2, 2024
E-MAIL
REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
c. Edward A. Cienki, President and Chief Operating Officer
(Edward.Cienki@silverlakehospital.org)
Order Distribution List

Control # AX24044