



State of New Jersey
DEPARTMENT OF HEALTH

PHILIP D. MURPHY
Governor

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

TAHESHA L. WAY
Lt. Governor

www.nj.gov/health

KAITLAN BASTON, MD, MSC, DFASAM
Commissioner

In Re:

STERLING MANOR
(NJ Facility ID# NJ060312)

NOTICE OF ASSESSMENT OF
PENALTIES

TO: Mordechay Weitz
H.W. Weidco/Ster
1155 Bloomfield Avenue
Clifton, New Jersey 07012
Mark@markweisz.com

The Department of Health (the Department) is assessing penalties pursuant to N.J.S.A. 26:2H-14 and N.J.A.C. 8:43E-3.4(a)8 upon Sterling Manor because the facility closed without providing the 60-day statutory notice required by N.J.S.A. 26:2H-126 (Notification to Residents of Closing, Relocation of Nursing Home, Assisted Living Facility; Exceptions) and violated resident rights by failing to provide 30 days' notice of discharge required by N.J.A.C. 8:39-4.1 (Resident Rights).

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.

Pursuant to N.J.S.A. 26:2H-126:

- a. Except as provided in subsection b. of this section, at least 60 days prior to the proposed date of the closing or relocation of a nursing home or assisted living residence licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), the nursing home or assisted living administrator shall notify, in writing, a resident of the facility, the resident's legal representative, if applicable, and the Department of Health of the closing or relocation of the facility.
- b. The Commissioner of Health may waive the 60-day notice requirement in subsection a. of this section if the commissioner determines that an emergency situation warrants a more immediate closure or relocation of the nursing home or assisted living residence. In the case of such an emergency situation, the administrator of the facility shall notify, in writing, a resident, the resident's legal representative, if applicable, and the Department of Health of the closure or relocation as soon as practicable.

As used in this section, an "emergency situation" may include: the suspension or revocation of the facility license by the commissioner; decertification of the facility by the federal Medicare program established pursuant to Title XVIII of the "Social Security Act," Pub.L.89-97 (42 U.S.C. s.1395 et seq.), or the Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.); or any other event as prescribed by regulation of the commissioner.

Pursuant to N.J.A.C. 8:39-4.1 (Resident Rights), "[e]ach resident shall be entitled to the following rights:"

To receive written notice at least 30 days in advance when the nursing home requests the resident's transfer or discharge, except in an emergency. Written notice shall include the name, address, and telephone number of the State Long-Term Care Ombudsman, and shall also be provided to the resident's next of kin or guardian 30 days in advance [N.J.A.C. 8:39-4.1(a)32].

By way of background, on August 28, 2024, the Department notified Sterling Manor that it had been designated by the Centers for Medicare and Medicaid Services (CMS) as a Special Focus Facility due to its history of noncompliance with quality of care and safety requirements under Medicare over the past three years. On November 21, 2024, CMS issued a notice advising Sterling Manor that its provider agreement in the Medicare and Medicaid programs would be terminated on January 31, 2025, unless substantial compliance was achieved before January 31, 2025. In addition, CMS issued a Directed Plan of Correction that required, among other things, the retention of a temporary manager. The letter also advised the facility that CMS was imposing a Mandatory Denial of Payment for New Admissions effective immediately. CMS amended this notice on November 27, 2024, to include effective dates for the Directed Plan of Correction.

On December 12, 2024, the New Jersey Office of the State Comptroller (OSC), Medicaid Fraud Division (MFD) issued a Self-Executing Notice of Disqualification stating its intent to disqualify H.W. Weidco/Ster, LLC, doing business as Sterling Manor, from the New Jersey Medicaid program and any other program administered in whole or in part by the Department of Human Services, Division of Medical Assistance and Health Services (DMAHS), effective 60 days from the date of the notice. Accordingly, if the exclusion were to take effect, Sterling Manor would be disqualified on February 10, 2025. In addition, OSC issued Notices of Disqualification to related individuals and corporate entities it found to have "engaged in serious and pervasive fraud and/or abuse of the New Jersey Medicaid program," including Mordechay "Mark" Weisz, the owner of H.W. Weidco/Ster, and other individuals and entities who were found by OSC to have provided management and operational services to ten low-rated Medicaid-funded nursing homes throughout New Jersey in which they concealed their roles.

On December 17, 2024, CMS issued a 23-day termination notice advising Sterling Manor that unless the facility removed before December 29, 2024, the immediate jeopardy that had been cited in facility surveys, CMS would terminate the facility's Medicare and Medicaid provider agreements. Although the immediate jeopardy was removed and the December 29, 2024 termination date was no longer effective, the January 31, 2025, termination date remained in effect.

In the Department's December 27, 2024, Notice of Intent to Summarily Suspend, the Department notified Sterling Manor that "[t]he facility shall be prepared to notify residents, family members and legal representatives, pursuant to N.J.S.A. 26:2H-126," that "if the facility is not financially viable or intends to close, pursuant to N.J.S.A. 26:2H-126, a long-term care facility is required to provide its residents, its residents' legal representatives, if any, and the Department with written notice when the facility is slated for closure and that "[s]uch notice must be provided at least 60 days prior to the closure." Further, the Department informed the facility that "[w]hile the statute permits the Department to waive the 60-day notice requirement, such a waiver is limited to emergency situations that warrant a more immediate closure of the facility."

Subsequently, by e-mail dated January 8, 2025, the facility's administrator notified the Department "that Sterling Manor NH will be closing with an anticipated closing date of January 31, 2025 and/or until all

residents have been safely discharged to an alternate location.” However, on January 10, 2025, the administrator e-mailed the Department and advised that “Sterling Manor Nursing Center is now closed and empty of all residents.” Sterling Manor did not request that the Department waive the 60-day notice to residents requirement provided in the statute based upon an emergency situation. Sterling Manor did not provide the statutory-mandated 60-day notice or the 30-day regulatory-mandated notice.

The facility’s abrupt closure without the statutory and regulatory notice to the Department and residents did not constitute an emergency situation within the meaning of either the statute or regulation. The facility had notice on November 21, 2024, that its provider agreement in the Medicare and Medicaid programs would be terminated on January 31, 2025, unless substantial compliance was achieved before January 31, 2025, ample time to determine its inability to comply and provide the required notice.

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 “where an actual violation of a resident’s or patient’s rights is found,” which may be assessed for each day noncompliance is found. In accordance with N.J.S.A. 26:2H-14 (Unlicensed Health Care Facility; Rules; Violations; Penalties) and N.J.A.C. 8:43E-3.4(a)8, the Department is assessing a civil monetary penalty of \$1,000 per day for 60 days, i.e., for each day that the facility failed to provide the required 60-day notice, which includes the failure of the facility to give the required 30-day notice. The total penalty assessed is \$60,000.

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 X25041.**

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:

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. If a hearing is requested, then the penalty shall be held in abeyance until such time as the hearing has been concluded and a final decision rendered.

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.

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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,

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

GR:JLM:nj
DATE: February 18, 2025
E-MAIL
REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

- c. Order Distribution List
Mark Weisz (MWeisz@BroadwayHealthcare.com)
Yuliya Goyster (ygoyster@broadwayhealthcare.com)
Alicia Lopaz (ALopaz@BroadwayHealthcare.com)
L9600@aol.com

Control #X25041