



State of New Jersey
DEPARTMENT OF HEALTH

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PHILIP D. MURPHY
Governor

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 INTENT TO
SUMMARILY SUSPEND

TO: Lowell Fein, Administrator
Sterling Manor
794 North Forklanding Road
Maple Shade, New Jersey 08052
LFein@sterlingmanorNC.com

As more fully detailed below, the Department of Health (the Department) is issuing to Sterling Manor a Notice of Intent to Summarily Suspend its long-term care facility license because its financial instability, quality of care issues and imminent termination of its Medicare and Medicaid provider agreement by the Centers for Medicare and Medicaid Services (CMS) present an imminent threat to the health, safety or welfare of its residents if they are not immediately rectified, and because the Department must ensure an orderly transition in the event of a facility closure due to the loss of Medicare and Medicaid funding.

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-5e, "[a]t the request of the commissioner, health care facilities shall furnish to the Department of Health and Senior Services such reports and information as it may require to effectuate the provisions and purposes of this act, excluding confidential communications from patients." In particular, the Commissioner is empowered to inquire into health care services and the operation of health care facilities and to conduct periodic inspections of such facilities with respect to the fitness and adequacy of the premises, equipment, personnel, rules and bylaws and the adequacy of financial resources and sources of future revenues. Moreover, pursuant to N.J.S.A. 26:2H-42.1(c), the Department may take appropriate actions to ensure continuity of care for, and the safety of, residents of long-term care facilities that are in financial distress.

MEDICAID FRAUD DIVISION DISQUALIFICATION AND FINANCIAL STATUS

Sterling Manor is licensed by the Department as a long-term care facility with a 124-bed capacity. As a long-term care facility, Sterling Manor is required to provide comprehensive nursing home services, including dietary services, social services and medical care, in a safe environment to medically frail and

cognitively impaired individuals. To maintain its license, Sterling Manor must maintain its ability to provide its nursing home residents with the necessary services called for under the rules.

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 takes effect, Sterling Manor will 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 Mordechai "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.

As a result of its disqualification, and the disqualification of related individuals and entities, DMAHS will not pay for any item or service that Sterling Manor furnishes, directs, orders, prescribes, manages or supervises, or in which Sterling Manor participates in any manner, pursuant to N.J.A.C. 10:49-11.1(b). If Sterling Manor is employed by or contracts with a provider (including a Managed Care Organization) in any of the programs that are reimbursed on a fee-for-service basis, or if Sterling Manor is associated with a Managed Care Organization with which DMAHS contracts, DMAHS will not authorize payment for any item or service in which Sterling Manor is involved in any capacity.

According to financial information Sterling Manor provided to the New Jersey Department of Human Services, as of June 30, 2024, its proportion of Medicaid days was 88% based upon the Nursing Facility Quarterly Financial Data NF-1 form. As of December 31, 2023, based upon Medicare cost report records, Sterling Manor had a proportion of 88% of patient days billed to a Medicaid payer.

As of February 10, 2025, when its disqualification from the Medicaid program takes effect, Sterling Manor will no longer have its overwhelming revenue source, which is necessary for it to pay for its staff and the goods and services necessary to operate the long-term care facility. Such failure will subject the residents of the facility to either actual harm, or an immediate and serious risk of harm, because the facility may be unable to provide its residents with necessary care and services.

SPECIAL FOCUS FACILITY

On August 28, 2024, the Department notified Sterling Manor that it had been designated by 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. As you were advised, the Special Focus initiative is intended to promote a rapid and substantial improvement in the quality of care in identified nursing homes and end the pattern of repeated cycles of noncompliance with quality of care requirements. Among the repeated instances of noncompliance was the facility's failure to maintain the sprinkler system in operating condition according to the National Fire Safety Protection Association codes and standards. A time-limited waiver issued by CMS for the sprinkler system expired in 2023.

Further, the facility is not rated in the CMS Nursing Home Five-Star Quality Rating System due to serious quality of care issues. In 2024 alone, Department surveyors have cited the facility for nine immediate jeopardy level deficiencies.

MULTIPLE CURTAILMENTS OF ADMISSIONS ORDERS AND DIRECTED PLANS OF CORRECTION

On January 5, 2024, the Department issued to Sterling Manor a Curtailment of Admissions Order and Directed Plan of Correction, requiring the facility to retain the full-time, on-site services of an Administrator Consultant who is a New Jersey Licensed Nursing Home Administrator and the full-time, on-site services of a Consultant Director of Nursing. The Department curtailed all new admissions to the facility as well as

readmissions of any residents sent to a hospital for a drug overdose. The facility census at the time of the curtailment was 100. On March 6, 2024, the Department lifted the curtailment order and Directed Plan of Correction.

On October 28, 2024, the Department issued to Sterling Manor another Curtailment of Admissions Order and Directed Plan of Correction, requiring the facility to retain the full-time, on-site services of an Administrator Consultant who is a New Jersey Licensed Nursing Home Administrator and the full-time, on-site services of a Registered Nurse. The facility census at the time of the order was 84, with two residents out of the facility for hospital stays. The Curtailment of Admissions Order and Directed Plan of Correction were issued after an October 15, 2024, complaint survey cited a federal violation at a scope and severity of "G" for actual harm to a resident who had an overdose at the facility. The facility was cited for this same deficiency previously during a complaint survey conducted on January 25, 2024, at a scope and severity level of an "L," which constituted widespread immediate jeopardy, with five residents identified. During the October 15, 2024, survey, the Department also cited the facility for a state violation of N.J.S.A. 30:13-18 (Minimum Staffing Requirements for Nursing Homes). Despite being part of the Special Focus initiative and despite the Department's enforcement actions, Sterling Manor continues the same pattern of non-compliance.

STATE PENALTY ASSESSMENT

On October 3, 2024, the Department issued a Notice of Assessment of Penalties to Sterling Manor assessing a \$65,000 penalty for repeated violations of the state staffing law. See N.J.S.A. 26:2H-46.1. (Increase in Penalties for Deficiencies Outlined in Federal Centers for Medicare and Medicaid Services Guidance) and N.J.S.A. 30:13-18 (Minimum Staffing Requirements for Nursing Homes).

INFORMATION REQUIREMENT ORDERS

Beginning on September 6, 2024, the Department attempted to ascertain the facility's ownership and management, but met with little success. On September 6, 2024, September 19, 2024 and September 30, 2024, the Department asked the facility's administrator to advise the Department if the facility was managed under a management services agreement. The administrator initially replied, on September 11, 2024, that there was no management company at the facility, and on September 30, 2024, he advised the Department that there had been a management company in place until August 1, 2024, but they were no longer there and had not been replaced. The Department then requested the name of the management company and its start date. On October 3, 2024, the Department was advised by an Ombudsman investigator that the administrator had advised the investigator that Michael Konig owned the facility and would attend a meeting with DOH at the Department's request. However, the Department did not request Konig's attendance, and he was removed from the attendee list when the Department asked what his role was. The administrator listed Alicia Lopaz as "owner representative," but failed to provide information about her role when asked.

Then, on October 7, 2024, at a meeting with CMS and the Department to discuss the facility's onboarding as a Special Focus Facility, Mr. Weisz, who is the facility's listed owner, claimed that he was the sole owner and that Michael Konig manages the facility. But, Mr. Weisz said that he had no documentation of a management agreement. Moreover, when the administrator mentioned an "ownership group," and the Department asked who that was, Mr. Weisz said "Konig." The administrator said that he did not know what goes on above him.

On October 9, 2024, the Department issued to Sterling Manor an Information Requirement Order, requiring the facility to provide information needed to clarify the facility's ownership and management structure and to ensure resident health and safety in view of the facility's designation as a Special Focus Facility. In response to the order, the facility advised the Department that the facility was owned by H.W. Weidco/Ster, LLC and that the limited liability company was owned 99.5% by Mark Weisz and .5% by Reese Weisz. Despite requesting information regarding the facility's management structure, the facility failed to reveal to the Department who was really managing the facility. According to a report issued by OSC, Steven Krausman, Michael Konig, and their related entities managed,

operated, and/or provided services to a total of ten New Jersey nursing homes, including Sterling Manor, with three of the ten facilities, including Sterling Manor, owned by Mark Weisz.

On December 6, 2024, the Department issued to Sterling Manor, an Information Requirement Order requiring the facility to provide to the Department information demonstrating its financial ability to continue to operate its long-term care facility and its preparedness to close the facility in the event of a financial failure. This order followed a CMS notice, issued on November 21, 2024, advising Sterling Manor that its provider agreement in the Medicare and Medicaid programs will be terminated on January 31, 2025, unless substantial compliance has been achieved before January 31, 2025. Specifically, the Department's order required Sterling Manor to, on or before December 13, 2024, submit a detailed financial report and plan consistent with N.J.S.A. 26:2H-42.1. The order delineated the following information to be provided to the Department:

1. The financial report and plan shall set forth, among other things, any defaults in the punctual payment when due of (1) any debt service where the debt is secured by real estate or assets of the nursing home, (2) any rent payments, (3) any payroll payments, and (4) any payroll tax obligations. The report should also provide proof that the facility has paid all property taxes and water/sewer charges associated with the real property on which the facility is located. A current balance sheet, income statement and projection of cash flow will be helpful, but not required, for the Department's analysis of any possible financial distress.
2. In light of the facility's impending CMS termination, the plan shall explain in detail how the facility will (1) maintain and retain current staff, (2) care and provide for the safety, welfare and maintenance of all residents, and (3) maintain and satisfy the operating expenses of the facility.
 - A. The facility shall provide proof of its ability to meet payroll for 90 days beyond the January 31, 2025, effective date of the CMS termination, which may include a current and projected balance sheet, current and projected statement of cash flow, current and projected income statement, bank statements, bank reconciliation and a statement of sources of potential funding subsequent to the CMS termination.
 - B. The facility shall provide proof of its ability to meet all its operating expenses, including, but not limited to, medication, supplies, food, and contracted services, to ensure continuity of care and delivery of services to residents, for 90 days beyond the January 31, 2025, effective date of the CMS termination, which may include a current and projected balance sheet, current and projected statement of cash flow, current and projected income statement, accounts payable aging, bank statements, bank reconciliation and a statement of sources of potential funding subsequent to the CMS termination.
 - C. If Sterling Manor plans to demonstrate its ability to meet payroll and all its operating expenses beyond January 31, 2025, by transferring ownership of the facility, Sterling Manor shall, at minimum, identify the proposed new owner and the closing date, and provide evidence of confirmation of same by the proposed new owner.
3. The facility's emergency operations plan.
4. A draft closure plan if the facility cannot provide the other requested information.
5. Completion of the attached Resident Demographic form.

As of the date of this notice, the facility has failed to provide the required information.

CMS CIVIL MONETARY PENALTIES AND IMPENDING TERMINATION OF PROVIDER AGREEMENT

On August 23, 2024, CMS issued a notice assessing a \$134,780 civil monetary penalty as of August 23, 2024, and a continuing penalty of \$505 per day for deficiencies identified on the July 31, 2024, survey. In addition, CMS notified the facility that its provider agreement in the Medicare and Medicaid programs would be terminated January 31, 2025, unless substantial compliance is achieved before January 31, 2025.

On October 22, 2024, CMS issued a notice assessing an additional penalty based upon deficiencies identified on the October 15, 2024, complaint survey. The total penalty for the two surveys was \$266,450 as of October 22, 2024, and a continuing penalty of \$505 per day until substantial compliance is achieved.

On November 21, 2024, CMS issued a notice advising Sterling Manor that its provider agreement in the Medicare and Medicaid programs will be terminated on January 31, 2025, unless substantial compliance has been 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 17, 2024, CMS issued a 23-day termination notice advising Sterling Manor that unless the facility removed the Immediate Jeopardy before December 29, 2024, CMS would terminate the facility's Medicare and Medicaid provider agreements. The letter also informed the facility that it would be receiving a separate notice imposing a penalty for the immediate jeopardy deficiencies identified on a December 6, 2024, Department survey. Although the immediate jeopardy has since been removed and the December 29, 2024 termination date is no longer effective, the January 31, 2025, termination date remains in effect.

CORRECTIVE ACTION:

Pursuant to N.J.S.A. 26:2H-14 and N.J.A.C. 8:43E.8, the Commissioner may order the summary suspension of a license of a health care facility or a component or distinct part of a facility upon a finding that violations pertaining to the care of patients or to the hazardous or unsafe conditions of the physical structure pose an imminent threat to the health, safety, and welfare of the public or the residents of the facility. In accordance with N.J.S.A. 26:2H-14 and N.J.A.C. 8:43E-3.8, the Department hereby notifies Sterling Manor that it shall have 72 hours in which to demonstrate that corrective action has been taken by the facility to correct any violation that poses an imminent threat to the health, safety and welfare of its residents. See also N.J.S.A. 26:2H-42.1(c) (providing that the Department may take appropriate actions to ensure continuity of care for, and the safety of, residents of long-term care facilities that are in financial distress). Specifically, the facility shall, within 72 hours, provide to the Department a financial report and plan demonstrating its financial ability to continue to operate its long-term care facility beyond the January 31, 2025, CMS termination date and the February 10, 2025, MFD disqualification date. The financial report and plan shall include:

1. Information regarding any defaults in the punctual payment when due of (1) any debt service where the debt is secured by real estate or assets of the nursing home, (2) any rent payments, (3) any payroll payments, and (4) any payroll tax obligations. The report should also provide proof that the facility has paid all property taxes, water/sewer and gas/electric charges associated with the real property on which the facility is located. A current balance sheet, income statement and projection of cash flow will be helpful, but not required, for the Department's analysis of any possible financial distress.
2. A detailed explanation of how the facility will (1) maintain and retain current staff, (2) care and provide for the safety, welfare and maintenance of all residents, and (3) maintain and satisfy the operating expenses of the facility after the CMS termination and the MFD disqualification take effect.

- A. The facility shall provide proof of its ability to meet payroll for 90 days beyond the effective dates of the CMS termination and MFD disqualification, which may include a current and projected balance sheet, current and projected statement of cash flow, current and projected income statement, bank statements, bank reconciliation and a statement of sources of potential funding subsequent to the CMS termination and the MFD disqualification.
- B. The facility shall provide proof of its ability to meet all its operating expenses, including, but not limited to, medication, supplies, food, and contracted services, to ensure continuity of care and delivery of services to residents, for 90 days beyond the January 31, 2025, effective date of the CMS termination and the February 10, 2025 date of the MFD disqualification, which may include a current and projected balance sheet, current and projected statement of cash flow, current and projected income statement, accounts payable aging, bank statements, bank reconciliation and a statement of sources of potential funding subsequent to the CMS termination and the MFD disqualification.
- C. If Sterling Manor plans to demonstrate its ability to meet payroll and all its operating expenses beyond the January 31, 2025 CMS termination date and the February 10, 2025 MFD disqualification date, by transferring ownership of the facility, Sterling Manor shall, at minimum, identify the proposed new owner and the closing date, and provide evidence of confirmation of same by the proposed new owner.

3. A facility closure plan.

If Sterling Manor fails to implement corrective action within 72 hours and it continues to pose an imminent threat to the health, safety or welfare of the public or the residents of the facility, then the Department will issue a notice of summary suspension of Sterling Manor's license and order immediate correction of any violations as a prerequisite to reinstatement of the license.

The information required pursuant to this order shall be emailed to: Stefaniej.Mozgai@doh.nj.gov, Michael.Kennedy@doh.nj.gov, Kara.Morris@doh.nj.gov, Gene.Rosenblum@doh.nj.gov, Lisa.King@doh.nj.gov, and Jean.Markey@doh.nj.gov.

N.J.A.C. 8:43E-3.4(a)11 provides a \$250 penalty for the failure to report information to the Department as required by statute or licensing regulation, after reasonable notice and an opportunity to cure the violation, which may be assessed for each day noncompliance is found.

RIGHT TO HEARING

In the event that the Department issues a summary suspension of Sterling Manor's license, the Facility will have a right to a hearing consistent with N.J.S.A. 26:2H-14.

NOTIFICATION OF RESIDENTS

The facility shall be prepared to notify residents, family members and legal representatives, pursuant to N.J.S.A. 26:2H-126, and be prepared to enact its emergency plan, pursuant to N.J.A.C. 8:39-31.6, which the facility must implement to effectuate an orderly transfer of residents in the event the Department moves forward with a summary suspension.

Please note 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. Such notice must be provided at least 60 days prior to the closure. While 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.

Thank you for your attention to this important matter and for your anticipated cooperation. If you have any questions concerning this order, 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:JLM:nj

DATED: December 27, 2024

E-MAIL

REGULAR AND CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Control #X24141

- C. Order Service List
Brian Rath, Esq., via email: Brian.Rath@bipc.com