



State of New Jersey  
DEPARTMENT OF HEALTH

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

[www.nj.gov/health](http://www.nj.gov/health)

PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lt. Governor

KAITLAN BASTON, MD, MSc, DFASAM  
Commissioner

In Re Licensure Violation:	:	
	:	
Sunflower Medical Adult Day Care	:	NOTICE OF ASSESSMENT OF
(NJ Facility ID # NJ408210)	:	PENALTIES
	:	
	:	

TO: Jamie Ryan, Administrator  
Sunflower Medical Adult Day Care  
300 Broadway  
Bayonne, New Jersey 07002

Dear Administrator Ryan:

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 the Department of Health (the "Department") is authorized to inspect all health care facilities and to enforce the Manual of Standards for Licensure of Adult Day Care Health Services Facilities set forth at N.J.A.C. 8:4FJ-1.1 et seq.

**LICENSURE VIOLATIONS & MONETARY PENALTIES**

Staff of the Department visited Sunflower Medical Adult Day Care ("Sunflower") on October 13, 2023, to conduct a complaint survey. The report of this visit, which is incorporated herein by reference, revealed the following licensure violations:

- Surveyors determined that the program administrator failed to develop and implement the facility policy and procedure titled "Emergency Services and Procedures" for one of three participants. When the surveyor inquired about incidents that occurred in the last three months, the administrator reported an incident that occurred on August 24, 2023, when program participants were being transported to the facility by bus. During the ride, the bus driver observed one of the participants, who had been eating a peanut butter and jelly sandwich, coughing and choking. Instead of calling 911, the bus driver called the facility administrator and continued driving to the facility because, according to the driver, he was only two minutes away from the facility, but the local hospital was ten blocks away. Upon arrival, a nurse boarded the bus and performed CPR. However, the participant later died at a local hospital. Upon interview, the driver acknowledged that facility protocol in the event of an incident on the bus was to pull over, call 911 and call the facility. The facility administrator confirmed that the protocol was to pull over, assess the situation and call 911. The administrator also confirmed that all facility buses have signage indicating that eating is not allowed on the bus. According to the administrator, participants and drivers were in-serviced on transportation safety following the incident.
- Review of the facility policy titled "Emergency Services and Procedures" confirmed that, in the event of an emergency during transport, the driver must stop the vehicle, administer first aid and then drive to the nearest emergency shelter using yellow flashers. The policy did not include for the driver to pull over and call 911 or to drive to the center.
- In addition, the facility failed to provide documented evidence that the required minimum in-service training was provided upon re-hire for the Director of Nursing and upon hire for the bus driver.

These violations pertain to the care of participants using the services at Sunflower.

The facility was in violation of N.J.A.C. 8:43F-3.1(b)(1-7)(Administration), N.J.A.C. 8:43F-6.3(e)(1)(i)(General Services) and N.J.A.C. 8:43F-17.1(a)(1)(Transportation Services). The administrator failed to develop and implement its facility policy and procedure for emergencies, the facility failed to provide the minimum in-service education upon hire, and staff failed to follow the emergency policy by not providing safe transportation to a participant during transport.

N.J.S.A. 26:2H-13 and N.J.A.C. 8:43E-3.4(a)(10) allows the Department to impose a monetary penalty of \$2,500 for violations resulting in either actual harm to a patient or resident, or in an immediate and serious risk of harm, which may be assessed for each day noncompliance is found. In accordance with N.J.A.C. 8:43E-3.4(a)(10) and because these violations resulted in either actual harm to a participant, or in an immediate and serious risk of harm, for each of the three violations, a penalty of \$2,500 per day is assessed for August 24, 2023, the date the participant experienced a choking incident on the bus. Thus, the total penalty assessed is \$7,500.

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 AX23015.

You may also pay the penalty through the Department of Health's website at <https://www.nj.gov/health/healthfacilities/epayments.shtml#3>

### **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**

Sunflower 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 any or all of the following: the factual survey findings and/or the assessed penalties. Sunflower 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 Sunflower is owned by a corporation, representation by counsel is required.

In the event of an OAL hearing regarding the curtailment, Sunflower 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 Sunflower 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 Nadine Jackman, Office of Program Compliance at [Nadine.Jackman@doh.nj.gov](mailto:Nadine.Jackman@doh.nj.gov).

Sincerely,



Gene Rosenblum, Director  
Office of Program Compliance  
Division of Certificate of Need and Licensing

LK:jlm:nj

DATE: May 16, 2024  
REGULAR AND E-MAIL  
Control #AX23015

- c. Stefanie Mozgai  
Pamela Lebak  
Kara Morris  
Kiisha Johnson  
Michele Palicia  
Andrea McCray Reid  
Gene Rosenblum  
Lisa King