



State of New Jersey
DEPARTMENT OF HEALTH
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www.nj.gov/health

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Governor

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Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA
Commissioner

IN RE:	:	
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MERION GARDENS ASSISTED LIVING	:	CURTAILMENT OF ADMISSIONS
(NJ Facility ID# NJ75A001)	:	ORDER AND DIRECTED PLAN OF
	:	CORRECTION
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	:	

DATE: January 27, 2021

TO Merion Gardens Assisted Living
 Shelly Ayars, Administrator
 315 Merion Avenue
 Carneys Point, New Jersey 08069

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. To effectuate the provisions and purposes of the Act, the Department has the power 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, and personnel. Consistent with this authority, the Department promulgated regulations setting forth the type and scope of inspections conducted at health care facilities. N.J.A.C. 8:43E-2.1

On January 19, 2021, State surveyors conducted an on-site, COVID-focused infection control survey of Merion Gardens Assisted Living (the Facility), which is licensed by the Department

as an Assisted Living Residence. The survey found that the Facility was not in compliance with infection control standards for Licensure of Assisted Living Residences, Comprehensive Personal Care Homes and Assisted Living Programs set forth in New Jersey Administrative Code Section 8:36, the Centers for Disease Control and Prevention (CDC) recommended practices to prepare for COVID-19 and Executive Directive No. 20-026¹.

SURVEY FINDINGS

The survey found that the facility failed to develop policies or failed to implement facility policies to ensure appropriate infection control practices were followed in accordance with the Centers for Disease Control (CDC) guidelines, the New Jersey Department of Health (NJDOH) guidelines and the NJDOH's Executive Order No. 20-026¹ to prevent the spread of COVID-19. Specifically, the facility failed to:

- perform weekly COVID-19 tests on all previously COVID-19 negative residents and to wait three months to test previously COVID-19 positive residents unless they developed new symptoms consistent with COVID-19 in accordance with Executive Order No. 20-026¹;
- ensure staff performed appropriate screening of residents in accordance with the requirements in Executive Order No. 20-026¹ for Phase 0 for 5 of 5 reviewed residents (Residents #2, #5, #6, #7 and #8);
- limit communal dining or maintain social distancing of six feet apart of residents while eating for 4 of 4 residents (Residents #9, #10, #11 and #12);
- ensure that staff used disinfectant products that were on the Environmental Protection Agency List N, disinfectants for use against SARs-CoV, the virus that causes COVID-19;
- develop an Outbreak Response Plan with all the required elements listed in the NJDOH Executive Order No. 20-026¹;
- perform ongoing COVID-19 testing of all facility staff related to the extent of COVID-19 in the community according to the regional positivity rate reported in the COVID-19 Activity Level Index Weekly Report in the prior week in accordance with QSO-20-38 of Executive Directive No. 20-026¹; and
- retain a qualified Infection Preventionist (IP) or contract with an infection control service accordance with Executive Directive 20-026¹ to prevent the spread of infection during the COVID-19 Pandemic.

Pursuant to the Department's powers, and in order to slow the spread of COVID-19 in the community and protect vulnerable populations from contracting the virus, the Department orders that the Facility curtail its admissions and it issues it a directed plan of correction pursuant to N.J.A.C. 8:43E-3.6 and N.J.A.C. 8:43E-2.4(d).

CURTAILMENT OF ADMISSIONS ORDER

Pursuant to N.J.A.C 8:43E-3.6, the Department may impose a curtailment of admissions where violations of licensing regulations are found that pose an immediate and serious threat of harm to patients or residents of a health care facility. Because the violations outlined above pose an immediate threat of harm to the residents of the Facility, the Department ORDERS that the Facility is prohibited from accepting new admissions until further notice. The effective date of the curtailment is January 26, 2021, which is the date the Department verbally notified the Facility of the curtailment order.

DIRECTED PLAN OF CORRECTION (DPOC)

The Department of Health further DIRECTS the following plan of correction pursuant to N.J.A.C. § 8:43E-2.4(d). The Facility shall:

Retain the full-time services of a Certified Infection Control Practitioner (ICP) consultant to begin providing services to the Facility no later than February 1, 2021. The ICP 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 consultant shall be completely independent of Merion Gardens Assisted Living. The Facility shall provide the Department with the name and resume of the consultant by January 29, 2021. The Facility may contact the Association of Professionals in Infection Control and Epidemiology (apic.org) to obtain the names of ICPs in its area. The ICP consultant's resume should be sent to Donna.Koller@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 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, Jason.Mehr@doh.nj.gov, with a copy to Donna.Koller@doh.nj.gov. These weekly reports shall include timely updates regarding identified areas of non-compliance with infection control protocol, corrective measures to address identified areas of non-compliance and status of corrective measures implementation. The Facility shall also report the status of any outbreak investigation and identified cases (as defined by CDS). In addition, the Facility is directed to maintain timely communication with the Department as may be required, including by both the Facility's infection prevention team and the ICP consultant.

Under this curtailment Order and DPOC, the Facility shall comply with the applicable standards in N.J.A.C. 8:36-1 et seq. (Standards For Licensure of Assisted Living Residences,

Comprehensive Personal Care Homes, and Assisted Living Programs), as modified by the Department's operational waivers, the unwaived Medicare conditions of 42 C.F.R. 483.1 et seq. (Requirements for Long Term Care Facilities), and the conditions as modified by the Centers for Medicare & Medicaid Services 1135 blanket waivers and the New Jersey specific 1135 waivers.

This curtailment and DPOC shall remain in place until the Facility is otherwise notified in writing by a representative of this Department. Please also be advised that Department staff will monitor Facility compliance with this order to determine whether corrective measures are implemented by the Facility in a timely fashion.

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. 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 other supporting documentation or correspondence submitted within 10 business days of the scheduled IDR will only be considered at the discretion of the IDR panel. Any supporting documentation or correspondence for the IDR should be sent via first class mail and by electronic mail to:

Darlene Jackson
Office of Program Compliance
New Jersey Department of Health
P.O. Box 358
Trenton, New Jersey 08625-0358
Darlene.Jackson@doh.nj.gov

The IDR review and conference will be conducted by professional Department staff who do not participate in the survey process. Requesting IDR review does not delay the imposition of any enforcement remedies.

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RIGHT TO HEARING:

Pursuant to N.J.A.C. 8:43E-4.1, Merion Gardens Assisted Living is also entitled to a prompt formal hearing at the Office of Administrative Law (OAL) to challenge this curtailment order. Merion Gardens Assisted Living may request a hearing to challenge either the factual survey findings or the curtailment, or both. Please note that facility rights to IDR (Informal Dispute Resolution) and administrative law hearings are not mutually exclusive, and both may be invoked simultaneously.

Merion Gardens Assisted Living must advise this Department within 30 days of receipt of this letter to request an OAL hearing regarding this matter.

Please forward your OAL hearing request to:

Office of Legal and Regulatory Compliance
Attn: OAL HEARING REQUESTS
New Jersey State Department of Health
P.O. Box 360
Trenton, New Jersey 08625-0360

Corporations are not permitted to represent themselves in OAL proceedings. Therefore, if Merion Gardens Assisted Living is owned by a corporation, representation by counsel is required.

In the event of an OAL hearing regarding this matter, Merion Gardens Assisted Living is further required to submit a written response to each and every charge as specified in this order, which shall accompany your written request for a hearing.

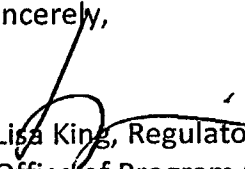
OTHER REMEDIES:

Failure to comply with the curtailment of admissions order and DPOC may result in the imposition of penalties and/or other applicable remedies. N.J.A.C. 8:43E-3.4(a)(2) provides for a penalty of \$250 per day for each patient admitted in violation of this curtailment order.

Thank you for your attention to this important matter and for your anticipated cooperation. If you have any questions regarding this Curtailment of Admissions Order and Directed Plan of Correction, please contact Lisa King in the Office of Program Compliance at Lisa.King@doh.nj.gov. For other questions, please contact the New Jersey Coronavirus and Poison Center Hotline at (800) 222-1222. For COVID-19 updates, please continue to check to the Department's website for routinely updated information at <https://www.nj.gov/health/cd/topics/ncov.shtml>.

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Sincerely,



Lisa King, Regulatory Officer
Office of Program Compliance
Division of Certificate of Need
and Licensing
New Jersey Department of Health

LK:MDJ
January 27, 2021
Control #20041/Event ID #VQOL11
Via Certified, Regular Mail and E-Mail
(administratormerion@comcast.net)

c. Nursing Home Administrators Licensing Board
Frank Skrajewski, Long Term Care Licensing
Donna Koller, Long Term Care Survey & Certification
Pamela Lebak, Long Term Care Survey & Certification