



State of New Jersey
DEPARTMENT OF HEALTH

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

www.nj.gov/health

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA
Commissioner

In Re Licensure Violation:	:	
	:	
New Vista Nursing and	:	CURTAILMENT OF
Rehabilitation Center	:	ADMISSIONS ORDER,
(NJ Facility ID# NJ 60730)	:	DIRECTED PLAN OF
	:	CORRECTION AND
	:	NOTICE OF ASSESSMENT OF
	:	PENALTIES
	:	
	:	
	:	
	:	

TO: Yehoshua Aron, Administrator (jaron@newvistanursing.com)
New Vista Nursing and Rehabilitation Center
300 Broadway
Newark, New Jersey 07104

Dear Mr. Aron:

Effective immediately, the Department of Health (hereinafter, "the Department") is ordering the curtailment of all admissions to New Vista Nursing and Rehabilitation Center (hereinafter "New Vista"), excluding readmissions, and a Directed Plan of Correction (hereinafter "DPOC"), requiring New Vista to hire additional staff to meet the staffing requirements of N.J.S.A. 30:13-18 and N.J.A.C. 8:39-5.1(a). In addition, New Vista is directed to hire an outside staffing agency to ensure that New Vista is recruiting, hiring, and retaining new staff to meet these staffing requirements. The Department is also assessing penalties pursuant to N.J.A.C. 8:43E-3.4(a)

These enforcement actions are being taken in accordance with the provisions set forth at N.J.A.C. 8:43E-2.4 (Plan of Correction), 3.1 (Enforcement Remedies Available), 3.4 (civil monetary penalties) and 3.6 (Curtailment of Admissions) in response to serious staffing deficiencies observed by Department staff in New Vista during its on-site inspection.

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.

LICENSURE VIOLATIONS:

Staff from the Department's Health Facility Survey and Field Operations (HFS&FO) were on-site at New Vista on September 10 and September 13 through 17, 2021. Based on observation, interview, and review of pertinent facility documentation it was determined that the facility failed to provide sufficient nursing staff to: a.) provide nursing and related services to ensure the residents' safety and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments, individual plans of care and in accordance with the facility assessment, and b.) meet minimum staffing requirements. This deficient practice was identified on 3 of 3 nursing units, during interviews conducted with 2 of 10 residents who attended a resident council meeting, for 2 of 40 residents reviewed, for care concerns related to staffing and during a meal observation. The deficient practice was also evidenced by numerous interviews with New Vista staff.

The deficient practice was evidenced by the following:

1. The surveyor interviewed and/or observed various New Vista residents, certified nurse aides (CNAs) and other New Vista staff on the survey dates. These interviews and observations confirmed staffing deficiencies and that residents of New Vista were not receiving adequate care. The details of these interviews and observations are contained in the survey report.
2. Review of "New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Report for the weeks of 06/13/21 and 06/20/21 revealed that the facility was not in compliance with the state of New Jersey minimum staffing requirements for nursing homes for 12 of 14 day shifts (7:00 AM - 3:00 PM), deficient for total staff to residents on two of 14 evening shifts (3:00 PM - 11:00 PM), and deficient on one of 14 night shifts (11:00 PM - 7:00 AM).
3. Review of "New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Report for the weeks of 08/22/21 and 08/29/21 revealed that the facility was not in compliance with the State of New Jersey minimum staffing requirements for nursing homes for 14 of 14 day shifts, deficient for total staff to residents on three of 14 evening shifts, and deficient for three of 14 night shifts.
4. The surveyors entered the facility to conduct a re-certification survey on 09/10/21. The surveyor reviewed the facility "New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Report" for 09/10/21 through 09/17/21, which revealed that the facility was not in compliance with the State of New Jersey minimum staffing requirements for nursing homes for 8 of 8 day shifts.

These New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Reports are further detailed in the survey report.

CURTAILMENT:

The Department hereby orders the curtailment of all admissions to New Vista Healthcare Center (hereinafter "New Vista"), except readmissions.

DIRECTED PLAN OF CORRECTION:

The Department hereby directs New Vista to hire additional staff to meet the staffing requirements of N.J.S.A. 30:13-18 and N.J.A.C. 8:39-5.1(a). In addition, New Vista is directed to engage an outside staffing agency to ensure that New Vista recruits, hires and retains new staff to meet these staffing requirements.

Please be advised that this curtailment and DPOC shall remain in place until New Vista is otherwise notified by the Department.

Please be advised that N.J.A.C. 8:43E-3.4(a)(2) provides for a penalty for each resident admitted in violation of this curtailment order.

Failure to comply with any State regulations and/or with this order will result in the imposition of further enforcement remedies, including but not limited to, civil monetary penalties, and may include summary suspension and/or license revocation.

New Vista shall report to the Department by Friday, October 22, 2021, to confirm that the minimum staffing requirements have been met and that a staffing agency has been retained. The initial report shall include the contract with the staffing agency and the New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Reports. The initial report may be submitted via e-mail to Pam.Lebak@doh.nj.gov; Marie.Chapman@doh.nj.gov; Walter.Kowalski@doh.nj.gov, and Gene.Rosenblum@doh.nj.gov. Every two weeks thereafter, New Vista shall provide the New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Reports via email to Pam.Lebak@doh.nj.gov and Marie.Chapman@doh.nj.gov.

MONETARY PENALTIES:

N.J.A.C. 8:43E-3.4(a)8 allows the Department to impose a monetary penalty for multiple deficiencies related to patient care or physical plant standards throughout a facility, and/or when such violations represent a direct risk that a patient's physical or mental health will be compromised, or where an actual violation of a resident's or patient's rights is found. A penalty of \$ 1,000 per violation may be assessed for each day noncompliance is found.

The surveyors confirmed that New Vista's New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Reports reveal that the facility failed to meet staffing requirements on a minimum of 34 days. These multiple staffing deficiencies represented a direct risk to resident care.

In accordance with N.J.A.C. 8:43E-3.4(a)8, and because the violations of licensure regulations related to resident care or physical plant standards represented a risk to the health, safety, or welfare of the residents of a facility, the penalty assessed for each day noncompliance was found is \$1,000 per day. The total penalty assessed for the 34 days New Vista was not in compliance is \$34,000.

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 X21023.**

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 an in-person conference at the Department, 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:

Darlene Jackson
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:

New Vista is entitled to contest the curtailment, and to challenge the assessment of penalties pursuant to N.J.S.A. 26:2H-134, by requesting a formal hearing at the Office of Administrative Law (OAL). New Vista may request a hearing to challenge any or all of the following: the factual survey findings, the curtailment, and/or the assessed penalties. New Vista must advise this Department within 30 days of the date of this letter if it requests an OAL hearing regarding the curtailment.

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 New Vista is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the curtailment, New Vista 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.

Due to the emergent situation and the immediate and serious risk of harm posed to the residents, please be advised that the Department will not hold the curtailment or the DPOC in abeyance during any appeal of the curtailment.

Finally, be advised that Department staff will monitor compliance with this notice to determine whether corrective measures are implemented by New Vista 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 penalties. 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. Should you have any questions concerning this order, please contact Lisa King, Office of Program Compliance at (609) 376-7751.

Sincerely,



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

DATE: October 15, 2021
FACSIMILE
E-MAIL (jaron@newvistanursing.com)
REGULAR AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED
Control # X21023