

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 Silver'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 42 shifts. Survey also found that Silver had failed to hire a qualified Infection Control Preventionist for the facility. 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 violation is \$1,000 per violation. The total penalty assessed for the 43 violations is \$43,000.

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 # X21028**

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:

Darlene Jackson
Office of Program Compliance

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 Silver on October 18, 2021 through October 22, 2021 and again on October 25, 2021 through October 27, 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 by surveyors during interviews with residents, observations of residents, interviews with Silver staff, actual head counts of staff and review of New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Reports.

The deficient practice was specifically evidenced by the following:

1. Review of "New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Report" for the weeks of 09/12/21 and 09/19/21 revealed the facility was deficient in CNA staffing for 14 of 14-day shifts, deficient for total staff to residents on 1 of 14 evening shifts, and deficient in total staff to residents for 1 of 14 overnight shifts.
2. Review of "New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Report" for the weeks of Review of 09/26/21, 10/03/21, and 10/10/21 revealed the facility was deficient for CNA staffing on 19 of 21 day shifts and deficient for total staff for residents on 3 of 21 overnight shifts.
3. Review of "New Jersey Department of Health Long Term Care Assessment and Survey Program Nurse Staffing Report" for the weeks of 10/17/21 and 10/24/21 revealed the facility was deficient for CNA staffing for 4 of 14 days shifts.

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

The survey also determined that Silver failed to meet the requirements of N.J.A.C. 8:39-19.4(d), mandatory infection control and sanitation. Based on interview, record review, and review of pertinent facility documentation, it was identified that the facility failed to adhere to the Executive Directive No. 20-0261 issued by the New Jersey Commissioner of Health in response to the COVID-19 Pandemic by failing to hire a qualified Infection Control Preventionist for the facility.

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

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:

Silver is entitled 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). Silver may request a hearing to challenge any or all of the following: the factual survey findings and/or the assessed penalties. Silver 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 Silver is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the curtailment, Silver 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.

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: December 10, 2021
FACSIMILE
E-MAIL: TLevovitz@completecarmgmt.com
REGULAR AND CERTIFIED MAIL: 7016 2070 0001 0872 5979
RETURN RECEIPT REQUESTED
Control # X21028