



State of New Jersey  
**DEPARTMENT OF HEALTH**

PO BOX 358  
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[www.nj.gov/health](http://www.nj.gov/health)

PHILIP D. MURPHY  
*Governor*

SHEILA Y. OLIVER  
*Lt. Governor*

SHEREEF M. ELNAHAL, MD, MBA  
*Commissioner*

May 8, 2019

Caroline Bogart  
The Livingston Surgery Center  
200 South Orange Avenue  
Livingston, NJ 07039

Via facsimile: 973-322-7542

Via email: [carolinebogart@livingstonasc.com](mailto:carolinebogart@livingstonasc.com)

**RE: Curtailment of Admissions for Eye Procedures Order**  
Facility NJ22223

Dear Ms. Bogart:

This will confirm yesterday's telephone call between you and staff of the Office of Program Compliance of the New Jersey Department of Health, wherein you were ordered to curtail all admissions for eye procedures at The Livingston Surgery Center, effective at close of business yesterday.

This action is being taken based on a recommendation from Health Survey and Field Operations (Survey) staff. Surveyors who visited the facility on April 17 and 18, 2019, identified a deficiency regarding the facility's improper use of flashing to sterilize eye procedure equipment in non-emergent situations, which violated N.J.A.C. 8:43A-14.4(a) and posed an immediate and serious risk of harm to patients. On May 6, 2019, after receipt of the facility's plan to remove this risk, surveyors conducted a follow-up visit and found that the plan was not fully implemented, and that a nurse indicated that instruments may be flashed when a doctor brings them on the day of surgery.

This order shall remain in place until formally lifted by the Department.

Please be advised that N.J.A.C. 8:43E-3.4(a) provides for a penalty of \$250 per day for each patient admitted in violation of this curtailment order.

## **FORMAL HEARING**

The Livingston Surgery Center is entitled to a prompt formal hearing at the Office of Administrative Law (OAL) to challenge the curtailment.

The Livingston Surgery Center must advise the Department within 30 days of receipt of this letter to request an OAL hearing regarding this matter.

Please forward your OAL hearing request to:

Attention: OAL Hearing Requests  
Office of Legal and Regulatory Compliance, Room 805  
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 The Livingston Surgery Center is owned by a corporation, representation by counsel is required.

In the event of an OAL hearing regarding this matter, The Livingston Surgery Center 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.

Please call 609-984-8128 if you have any questions regarding this curtailment.

Sincerely,



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

Control # AX19003

C: Stefanie Mozgai  
Lisa King  
Jean Markey  
Jean DeVitto  
Marcela Maziarz