



State of New Jersey
DEPARTMENT OF HEALTH

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MIKIE SHERRILL
Governor

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Lt. Governor

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DR. RAYNARD E. WASHINGTON
Acting Commissioner

In Re Licensure Violation:

Active Day of Pleasantville

(NJ Facility ID# NJAD01001)

NOTICE OF ASSESSMENT
OF PENALTIES

TO: Yvonne Malinowski, Administrator
Active Day of Pleasantville
750 West Delilah Road
Pleasantville, New Jersey 08232
ymalinowski@activeday.com

Dear Administrator:

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 (the "Department") is authorized to inspect all health care facilities and to enforce the Standards for Adult Day Health Services set forth at N.J.A.C. 10:164-1.1 et seq.

LICENSURE VIOLATIONS

Staff of the Department visited Active Day of Pleasantville ("Active Day," or the "Center") on February 25, 2025, to conduct a complaint survey. The report of this visit, which is incorporated herein by reference, revealed violations of N.J.A.C. 8:43F-3.1(b)(1-7), Tag 0223, Administration; N.J.A.C. 8:43F-4.2(a)(8), Tag 0327, Participant's Rights; N.J.A.C. 8:43F-12.1, Tag 0577, Social Work Services; and N.J.A.C. 8:43F-18.1(b)(1-7), Tag 0831, Quality Improvement.

Facts substantiating these violations follow.

Tag 0223, Administration

On February 25, 2025, the surveyor interviewed the Area Director regarding a Reportable Event Record submitted to the New Jersey Department of Health (the Department) on February 18, 2025. The Area Director stated that, while auditing employee files, she noticed that the former Center Director hired a Social Service Coordinator as a Social Worker without the proper credentials or license on April 27, 2023. This Social Service Coordinator was eventually terminated on February 18, 2025, almost two years later. The Social Service Coordinator had a bachelor's degree of Arts in Sociology and was working on her master's in clinical psychology. Yet, pursuant to the facility policy titled, "Job Description: Social Services Coordinator," the candidate must have a degree in Social Work, a Master of Social Work degree or Bachelor of Sciences degree. Thus, in violation of N.J.A.C. 8:43F-12.1 and the facility's specified job qualifications

for the Social Worker position, the facility hired an employee who failed to meet the necessary qualifications. The facility failed to ensure that all personnel are assigned duties based upon their education, training, competencies, and job descriptions, and failed to implement the facility policy titled, "Job Description: Social Services Coordinator."

As set forth below, the facility also failed to ensure the development, implementation, and enforcement of all policies and procedures, including participant rights, and failed to develop a policy and procedure to address suspected abuse of a participant, which may have occurred outside the provider's domain. The facility failed to implement the facility policies titled, "Member Incident Management and Reporting Policy"

The facility failed in the planning and administering of the managerial, operational, and reporting components of the facility.

Tag 0327, Participant's Rights

In August of 2021, Participant #1 was first admitted to Active Day with diagnoses of cognitive delay and seizure. Participant #1 was not diagnosed with any deficiencies to the participant's fingers or toes.

On March 23, 2023, a Program Aide reported to the Registered Nurse on staff (RN) an observation of swollen black-and-blue fingers on the right hand of Participant #1 after the participant arrived at the Center and was taken to the bathroom. At 10:01 am, a Content Note signed by the RN revealed, "Client came into program this morning with ecchymotic, edematous fingers of his/her left hand (all fingers except his/her thumb were involved). The group home supervisor was notified that the member needed to be seen at urgent care or the hospital emergency room. Member was picked up at 10:45 am." Indeed, the RN did call the participant's group home supervisor, who picked up the participant, and transported the participant to urgent care for evaluation. The Center was not sure where and how the participant obtained the swollen black-and-blue fingers. However, the Incident Summary report, documented by the former Center Director, concluded, "Abuse or Neglect cannot be confirmed or ruled out at the Group Home."

On March 25, 2023, a Reportable Event Record Report was submitted to the Department regarding the injury of unknown origin for Participant #1.

Following Participant's entry at urgent care, the RN entered a comment into a Content Note. On March 29, 2023, at 9:49 am, she documented that she received a report from urgent care, which stated that the participant had multiple finger fractures, and that the participant needed to follow up with "Orthopedic" in one-to-two days.

A further Content-Note entry by the RN, on March 31, 2023 at 1:06 pm, revealed that, at approximately 11:00 am, the client had "ecchymotic areas at the base of his/her 3rd and 4th toes of his/her right foot. The little (5th) toe of the right foot was erythematous." A call was placed to the group home supervisor, who stated that she was aware of the bruises. However, no documented evidence showed that the Center investigated the possibility that abuse had occurred at the Center.

During its February 25, 2025, investigation, the surveyor interviewed the Center's Area Director. During the interview, the Area Director stated that the former Center Director who reported the incident was no longer employed by the company and could not recall the incident.

Also, during this time, the surveyor reviewed Active Day's policy entitled, Member Rights and Responsibilities. As an affirmation of participant's rights, the policy recognized that, "All members of the Center have the right to the following: d) Be free from mental, verbal, sexual, physical abuse and neglect"

Tag 0577, Social Work Services

On April 27, 2023, the Center Director hired a Social Service Coordinator as a Social Worker, but without the proper credentials. The Social Service Coordinator had a bachelor's degree of Arts in Sociology and was working on her master's in clinical psychology at the time.

On January 12, 2024, an application for certification of the Social Service Coordinator as a Social Worker was filed with the Board of Social Work Examiners.

On October 1, 2024, the application was denied by the Attorney General's office.

On November 5, 2024, an additional appeal was submitted, and the Center was awaiting another response. No evidence indicates that the appeal was accepted or that the denial was overturned.

On January 10, 2025, the Area Director audited the facility's employee files, which revealed that the Center Director hired the Social Service Coordinator as a Social Worker without the proper credentials. The Area Director immediately contacted the former Center Director, who was no longer employed at the company. The Center Director informed the Area Director that the employee had the qualifications of a Social Worker. Yet the employee's qualifications failed to satisfy the requisites for the job. Accordingly, per the Area Director, the Social Service Coordinator's duties were suspended immediately.

On January 16, 2025, the Area Director discovered the application for certification, the denial by the Attorney General's office, and the appeal. The Area Director did not say if she was aware of the appeal's status at that time.

On February 18, 2025, the Social Service Coordinator was terminated, almost two years after the April 26, 2023-hire date. Upon the termination, the facility submitted a Reportable Event Record Report to the New Jersey Department of Health.

During the February 25, 2025-investigation, the surveyor reviewed the facility's "Job Description: Social Services Coordinator," and under "Qualification," the description revealed the following requirements: "Must have a degree in Social Work, a MSW degree or BS degree." Thus, the facility failed to ensure that a qualified Social Worker was employed at the facility from April 27, 2023, through February 18, 2025, as required by N.J.A.C. 8:43F-12.1 and the facility's Job description qualifications for a Social Service Coordinator.

The surveyor who conducted the interview informed the Area Director of the deficient practice and requested a removal plan to prevent a future occurrence. The Area Director provided a removal plan, and that plan was received and accepted on February 27, 2025.

Tag 0831, Quality Improvement

During the February 25, 2025 visit, the surveyor interviewed the Area Director and reviewed documents associated with the facility's failure to hire a qualified Social Worker. The surveyor asked the Area Director if, after the Center Director hired a new staff, any other staff reviewed the new-hire credentials. The Area Director responded in the negative. The surveyor then requested the new-hire policy for review and inquired how often a new-hire audit should be conducted. The Area Director stated that she was not sure and provided the surveyor with the "Quality Improvement" policy. The surveyor reviewed the facility's "Job Description: for Social Service Coordinator." Under the subtitle, "Qualification," the policy documented the Social Worker, "Must have a degree in Social Work, a MSW degree or BS degree."

Also, the Surveyor review of the policy titled, "Quality Improvement Health Care Audit/Utilization Review" documented that the audit should have been done annually. Despite this requirement, the file audit was not completed annually as per policy and no proper follow up was conducted to ensure that the Center or the former Center Director received the Social Worker certification needed to serve in the Social Worker role. Additionally, the employee continued to serve in the role as a Social Worker for almost two years, even after Active Day received both the initial denial for certification and the denial of the appeal.

Accordingly, the facility violated N.J.A.C. 8:43F-18.1 (b) which provides that quality improvement activities shall include, but not be limited to "at least annual review of staff qualifications and credentials..."

Summary of deficiencies

In sum, during its inspection, surveyors concluded that the facility violated the following regulations:

N.J.A.C. 8:43F-3.1(b)(1-7), Tag 0223, Administration; N.J.A.C. 8:43F-4.2(a)(8), Tag 0327, Participant's Rights; N.J.A.C. 8:43F-12.1, Tag 0577, Social Work Services; and N.J.A.C. 8:43F-18.1(b)(1-7), Tag 0831, Quality Improvement.

N.J.A.C. 8:43F-3.1(b)(1-7), Tag 0223, Administration

The facility's Administrator failed to ensure the development, implementation, and enforcement of all policies and procedures, including participant rights, failed in the planning and administering of the managerial, operational, and reporting components of the facility, and failed to ensure that all personnel are assigned duties based upon their education, training, competencies, and job descriptions. The facility's Administrator failed to develop a policy and procedure to address suspected abuse of a participant, which may have occurred outside the provider's domain, and failed to implement the facility policies titled, "Job Description: Social Services Coordinator" and "Member Incident Management and Reporting Policy"

N.J.A.C. 8:43F-4.2(a)(8), Tag 0327, Participant's Rights

The facility failed to ensure that, at a minimum, each participant admitted to the facility is free from mental and physical abuse.

N.J.A.C. 8:43F-12.1, Tag 0577, Social Work Services

The facility failed to ensure that all social workers were licensed or certified by the New Jersey State Board of Social Work Examiners, pursuant to N.J.S.A. 45:15BB-1 et seq.

N.J.A.C. 8:43F-18.1(b)(1-7), Tag 0831, Quality Improvement

The facility failed to ensure at least an annual review of staff qualifications and credentials.

MONETARY PENALTIES

N.J.A.C. 8:43F-12.1, Tag 0577, Social Work Services; and N.J.A.C. 8:43F-3.1(b), Tag 0223, Administration

N.J.A.C. 8:43E-3.4(a)(8) provides that the Department may assess a monetary penalty of \$1000 per violation where there are "multiple deficiencies related to patient care or physical plant standards throughout a facility, and/or 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...." N.J.A.C. 8:43E-3.4(b) provides that "Except for violations deemed to be immediate and serious threats, the Department may decrease the penalty assessed in accordance with (a) above, based on the compliance history of the facility; the number, frequency and/or severity of violations by the facility; the measures taken by the facility to mitigate the effects of the current violation, or to prevent future violations; the deterrent effect of the penalty; and/or other specific circumstances of the facility or the violation."

In accordance with N.J.A.C. 8:43E-3.4(a)(8) and N.J.A.C. 8:43E-3.4(b), because the violations were not immediate and serious threats, and in view of the deterrent effect of the penalty,, the Department is assessing a \$100-per-day penalty for Active Day's failure to hire a qualified person for the Social Worker position and failure to implement the facility policy titled, "Job Description: Social Services Coordinator," in violation of N.J.A.C. 8:43F-3.1(b)(1) and N.J.A.C. 8:43F-12.1, for the period from April 27, 2023 to February 18, 2025. These dates correspond to the time the facility first hired an unqualified Social Services Coordinator in the Social-Worker role, to the time it removed that employee from the position. Because the facility employed an unqualified worker in this role for 474 days (excluding weekends), the total penalty assessed for this violation is \$47,400.00.

N.J.A.C. 8:43F-4.2(a)(8), Tag 0327, Participant's Rights and N.J.A.C. 8:43F-3.1(b), Tag 0223, Administration

N.J.A.C. 8:43E-3.4(a)(10) provides that the Department may assess 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...." The Department is assessing a \$2,500-per-violation penalty for Active Day's failures on two occasions to investigate the possibility that an injured resident was abused at its facility on March 23, 2023 and March 31, 2023. The facility's Administrator also failed to develop a policy and procedure to address suspected abuse of a participant, which may have occurred outside the provider's domain, and failed to implement the facility policy titled "Member Incident Management and Reporting Policy." The total penalty assessed for the two occasions when the facility's failed to investigate is \$5,000.00.

N.J.A.C. 8:43F-18.1(b) Tag 0831, Quality Improvement

N.J.A.C. 8:43E-3.4(a)(7) provides that the Department may assess a monetary penalty of \$500 per violation where there are "violations of licensure regulations related to patient care or physical plant standards that represent a risk to the health, safety, or welfare of patients or residents of a facility or the general public...." The \$500 penalty may be assessed per violation where such deficiencies are isolated or occasional and do not represent a pattern or widespread practice throughout the facility. The Department is assessing a \$500-per-violation penalty for Active Day's failures to "ensure at least an annual review of staff qualifications and credentials..." in violation of N.J.A.C. 8:43F-18.1(b). Thus, the penalty assessed for this violation is \$500.00.

The total amount of all penalties (\$52,900.00) must 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 # AX25004.**

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

Active Day 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 of the following: the factual survey findings and/or the assessed penalties. Active Day 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 Active Day is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the curtailment, Active Day 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 Active Day 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.

Sincerely,



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

LK:ss
DATE: January 30, 2026
E-MAIL: ymalinowski@activeday.com
REGULAR AND CERTIFIED MAIL, RETURN RECEIPT REQUESTED
Control# **AX25004**