



State of New Jersey  
DEPARTMENT OF HEALTH

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

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

PHILIP D. MURPHY  
Governor

TAHESHA L. WAY  
Lt. Governor

KAITLAN BASTON, MD, MSc, DFASAM  
Commissioner

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In Re Licensure Violation:	:	CURTAILMENT OF ADMISSIONS
	:	ORDER
ALLAIRE REHAB AND NURSING	:	
(NJ Facility ID# NJ061314)	:	
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	:	
	:	
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TO: Martin Gruen, Administrator  
Allaire Rehab and Nursing  
115 Dutch Lane Road  
Freehold, New Jersey 07728  
[mgruen@allairehc.com](mailto:mgruen@allairehc.com)

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.

On December 23, 2016, the Centers for Medicare and Medicaid Services (CMS) issued Revised S&C 16-21-ALL, which contained updated guidance to surveyors on federal requirements for providing services to justice-involved individuals. The guidance clarifies that skilled nursing facilities and nursing facilities participating in Medicare and Medicaid, regardless of payor source, "must assess all individuals' needs, and must be able to maintain compliance with the Requirements for Participation for all residents (which means offering the same rights, protections, and individualized care and services)." The guidance recognizes that some Department of Corrections or law enforcement terms of "placement may conflict with CMS requirements if the terms affect the care and services provided by the facility or violate the resident's rights." Further, the guidance provides that "[i]n such a case, if a facility agreed to enforce restrictive law enforcement terms applied to a resident (for example, restricting visitors), the nursing home would not be in compliance with federal requirements and would risk enforcement action and termination from participation if it did so."

Likewise, just as "[t]he facility may not establish policies or impose conditions on the resident that result in restrictions that violate federal law and regulation[s]," skilled nursing facilities and nursing facilities must comply with state regulations including, but not limited to, N.J.A.C. 8:39-4.1 (Resident Rights), N.J.A.C. 8:39-7.3 (Mandatory Resident Activity Services) and N.J.A.C. 8:39-27.1 (Mandatory Policies, Procedures and Practices for Quality of Services).

## LICENSURE VIOLATIONS

Staff from the Department's Health Facility, Survey and Field Operations unit were on-site at Allaire Nursing and Rehab (Allaire) from August 13, 2024, to August 15, 2024, for a complaint investigation. During the inspection, the surveyors found the following violations:

- a. The facility failed to ensure 1 of 1 justice-involved individual was able to facilitate resident self-determination through support of resident choices including but not limited to sign admission agreements, attend daily activities consistent with their interests, interact with members of the community and participate in community activities both inside and outside of the facility, and attend group dining.
- b. The facility failed to ensure that 1 of 1 justice-involved individual rights were respected and were treated in a dignified manner which included being free from any physical restraint.
- c. The facility failed to ensure that 1 of 1 justice-involved individual was not involuntarily secluded.
- d. The facility failed to ensure that 1 of 1 justice-involved individual was afforded the autonomy to participate in group activities, community dining, freely communicate with visitors, leave rooms at will and as well as serving meals in a dignified manner.
- e. The facility failed to ensure that 1 of 1 justice-involved individual was treated in a dignified manner with respect by adhering to the rights of the resident who was not allowed to have any material items or food of any kind or to have visitation without permission.
- f. The facility administration failed to ensure that the justice-involved individual received the care and services to enhance their quality of life by failing to ensure the following policies and procedures were being implemented: Resident Rights, Restraints, Activities of Daily Living, and Activities for 1 of 1 justice-involved individual to ensure resident safety and well-being and failed to ensure that the admission agreements were reviewed and signed by the justice-involved individual.

As a result of these violations, the justice-involved resident, who came with jail or prison restrictions that are in conflict with both CMS and state law requirements, was not afforded the same rights and quality of care to which all New Jersey nursing home residents are entitled.

## CURTAILMENT OF ADMISSIONS

As you were notified by telephone on August 16, 2024, effective upon the facility's notification, the Department ordered the curtailment of new admissions of justice-involved residents who would come with jail or prison restrictions that are in conflict with CMS requirements. The facility census at the time of the order was no justice-involved residents.

This enforcement action was taken in accordance with the provisions set forth at N.J.A.C. 8:43E-3.1 (Enforcement Remedies Available) and 3.6 (Curtailment of Admissions) in response to serious violations observed by Department staff in Allaire during its on-site inspection.

Please be advised that N.J.A.C. 8:43E-3.4(a)(2) provides for a penalty of \$250 per day for each resident admitted to the facility in violation of this curtailment order.

The Curtailment of Admissions shall remain in place until the facility is otherwise notified in writing by a representative of this Department.

## FORMAL HEARING

Allaire is entitled to contest the curtailment, pursuant to N.J.S.A. 26:2H-14, by requesting a formal hearing at the Office of Administrative Law (OAL). Allaire may request a hearing to challenge any or all of the following: the factual survey findings and/or the curtailment. Allaire 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

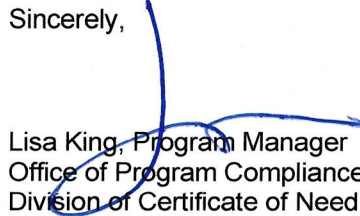
Corporations are not permitted to represent themselves in OAL proceedings. Therefore, if Allaire is owned by a corporation, representation by counsel is required. In the event of an OAL hearing regarding the curtailment, Allaire is further required to submit a written response to each and every charge 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.

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

Thank you for your attention to this important matter and for your anticipated cooperation. If you have any questions concerning the Curtailment of Admissions Order, please contact Lisa King, Office of Program Compliance, at [Lisa.King@doh.nj.gov](mailto:Lisa.King@doh.nj.gov).

Sincerely,



Lisa King, Program Manager  
Office of Program Compliance  
Division of Certificate of Need and Licensing

LK:JLM:nj  
DATED: August 19, 2024  
E-MAIL  
Control #X24075

- C.     Nursing Home Administrators Licensing Board  
        Pamela Lebak, Health Facility Survey and Field Operations  
        Kara Morris, Health Facility Survey and Field Operations  
        Arlene R. McNinch, Health Facility Survey and Field Operations  
        Carol Hamill, Health Facility Survey and Field Operations  
        Laurie Brewer, New Jersey Long-Term Care Ombudsman