



State of New Jersey
DEPARTMENT OF HEALTH

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

MIKIE SHERRILL
Governor

DR. DALE G. CALDWELL
Lt. Governor

www.nj.gov/health

DR. RAYNARD E. WASHINGTON
Commissioner

In Re Licensure Violation:	:	
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Bishop McCarthy Center for Rehab & Healthcare	:	REVISED NOTICE OF
	:	ASSESSMENT OF PENALTIES
(NJ Facility ID# NJ 60601)	:	
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TO: Tinu Thomas- Administrator
Bishop McCarthy Center for Rehab & Healthcare
1045 E. Chestnut Avenue
Vineland, New Jersey 08360
Slevi84@ch6.org

Dear Ms. Thomas:

On April 10, 2024, the Department of Health (hereinafter "the Department") issued a notice of assessment to Bishop McCarthy Center for Rehab & Healthcare (hereinafter "Bishop" or "the facility") assessing a total civil monetary penalty of \$20,000 for staffing violations identified on the March 28, 2024, April 27, 2022 and November 15, 2021, surveys. The Department assessed the penalty at \$1,000 for each of the twenty days of staffing shortages. On May 18, 2026, the Department issued a revised notice of assessments assessing a total penalty of \$21,000 (14 days x \$1,500) for repeat staffing violations identified on the September 26, 2024 survey. This assessment revised the November 8, 2024 2nd assessment of penalties based on the same survey. On September 17, 2025 the Department issued a third notice of assessment assessing a total

penalty of \$49,500 (33 days x \$1,500) for repeat staffing violations identified on the June 17, 2025 survey. The Department is revising its September 17, 2025, notice of assessment because N.J.S.A. 26:2H-46.1 (Increase in Penalties for Deficiencies outlined in Federal Centers for Medicare and Medicaid Services Guidance) requires that the facility "shall be subject to a penalty that shall be more severe than the penalty imposed for the previous violation".

Effective immediately, the Department of Health (hereinafter "the Department") is assessing penalties pursuant to N.J.S.A. 26:2H-46.1 and N.J.A.C 8:43E-3.4 upon the facility because the facility has incurred two or more of the same or substantially similar F-level or higher-level deficiencies as defined by the federal Centers for Medicare and Medicaid Services (CMS) within the prior three years. N.J.S.A 26:2H-46.1 requires the Department to impose an increased penalty upon a licensed nursing home for violations within a three-year period of the same or a substantially similar F-level or higher-level deficiency. N.J.S.A. 26:2H-46.1 requires that an increased penalty be imposed for a repeat F-level violation that is cited at a survey or any other inspection conducted "pursuant to State or federal law or regulation."

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. 8:391.1 et seq.

LICENSURE VIOLATIONS:

Based on surveys conducted by Department staff on March 28, 2024, April 27, 2022 and November 15, 2021, the facility failed to comply with N.J.S.A. 30:13-18 (P.L. 2020. C. 112). N.J.S.A. 30:13-18 establishes minimum staffing requirements for nursing homes. N.J.S.A. 30:13-18 requires nursing homes to maintain the following minimum direct care staff -to-resident ratios: (1) one certified nurse aide (CNA) to every eight residents for the day shift; (2) one direct care staff member to every 10 residents for the evening shift, provided that no fewer than half of all staff members shall be CNAs, and each staff member shall be signed in to work as a CNA and shall perform CNA duties; and (3) one direct care staff member to every 14 residents for the night shift, provided that each direct care staff member shall sign in to work as a CNA and perform certified nurse aide duties.

As a result of the above-referenced surveys, on April 10, 2024, the Department issued a notice of assessment of penalties assessing a total civil monetary penalty of \$20,000. The facility requested a hearing and that matter is currently pending appeal before the New Jersey Office of Administrative Law.

Following the issuance of the April 10, 2024, notice of assessment, a revised second notice of assessment was issued by the Department on May 18, 2026, based on an additional survey conducted by Department staff on September 26, 2024. That notice revised the November 8, 2024 notice of assessment that addressed repeat violations of N.J.S.A. 30:13-18 and constituted a second enforcement action for substantially similar deficiencies within the prior three-year period. The May 18, 2026 notice assessed a total civil monetary penalty of \$21,000.

Following the surveys on which the issuance of the April 10, 2024 and May 18, 2026, notices of assessment, were based, the facility on the June 17, 2025 survey, again failed to comply with N.J.S.A. 30:13-18. The Department has determined that the staffing violations substantiated on June 17, 2025, were F-level or higher deficiencies. The facility's failure to comply with N.J.S.A. 30:13-18 at this survey were F-level deficiencies because the violations were widespread and resulted in no actual harm with the potential for more than minimal harm that is not immediate jeopardy. 42 C.F.R. 488.404 (b) sets forth criteria for determining the seriousness of federal deficiencies. An F-level deficiency is a deficiency that results in no actual harm with a potential for more than minimal harm that is not immediate jeopardy, and the deficiency is widespread. 42 C.F.R. 488.404 (b) (1) (ii) and (2) (iii) Nursing Home Compare Technical Users' Guide (cms.gov), p. 6 (April 2025 Edition).

The facility's violations of N.J.S.A. 30:13-18 were widespread because the June 17, 2025, survey substantiated that the facility failed to comply with the nurse staffing requirements on thirty-three different days (33 of 81-day shifts). During this survey, the Survey staff reviewed the Nurse Staffing Reports completed by the facility for various weeks, which revealed staff-to-resident ratios that did not meet the minimum requirements. In addition to being widespread, these staffing violations also had the potential for more than minimal harm to residents throughout the facility. Therefore, these violations of State law meet the federal criteria for F-level violations at 42 C.F.R. 488.404 (b) (1) (ii) and (2) (iii). The facts supporting these deficiencies are set forth in the surveys dated June 17, 2025, which is incorporated herein by reference. The facility's violations were repeat violations of deficiencies cited on the September 26, 2024, and March 28, 2024 surveys, which were within the prior three years of the June 17, 2025 survey.

MONETARY PENALTIES:

N.J.A.C. 8:43E-3.4(a)8 allows the Department to impose a monetary penalty of \$1,000 per violation for each day noncompliance is found for multiple deficiencies related to patient care or physical plant standards throughout a facility, and/or where 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. This regulation was the basis for the penalty imposed in the April 10, 2024, notice of assessment. Pursuant to N.J.S.A. 26:2H-46.1, however, a facility

"shall be subject to a penalty that shall be more severe than the penalty imposed for the previous violation." This regulation was the basis for the penalty imposed in the May 18, 2026, revised notice of assessment imposing a \$1,500 per violation for each day noncompliance is found for multiple deficiencies related to patient care or physical plant standards throughout a facility, and/or where 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.

In accordance with N.J.S.A. 26:2H-46.1, the Department is imposing an increased penalty of \$2,000 for each day for which noncompliance was found (i.e., \$500 more per day than the previously imposed penalty). The total revised penalty assessed for the violations on the June 17, 2025 survey (or the days the facility was not in compliance) is **\$66,000 (33 days x \$2,000)**.

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 X26227.

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.**

If IDR was offered and requested by your facility for the corresponding federal deficiency that was cited at the same survey and your facility requests another IDR for the corresponding State deficiency cited at the same survey and arising from the same set of facts, the Department will either consolidate the IDRs or treat the first IDR decision as binding. The Department does not offer a second IDR for the same set of disputed facts that were challenged in a prior IDR offered by the Department.

FORMAL HEARING:

The facility is entitled to contest 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). Because the facility requested a hearing on the original notice of assessment, it is not necessary for the facility to request another hearing, and the Department will forward the notice to its counsel for inclusion in the record of the pending appeal, and this will now be the controlling Notice of Assessment for purposes of the OAL appeal subject to the OAL's approval.

Thank you for your attention to this important matter and for your anticipated cooperation. If you have any questions regarding this Notice of Assessment, please contact Nadine Jackman, Office of Program Compliance, at Nadine.Jackman@doh.nj.gov

Sincerely,

A handwritten signature in blue ink that reads "Lisa King" followed by a stylized flourish.

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