



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  
Acting Commissioner

To: Long-Term Care Facilities  
From: Michael J. Kennedy, J.D. <sup>MTK</sup>  
Executive Director, Division of Certificate of Need and Licensing  
Date: October 5, 2023  
Subject: Long-Term Care Facility Reporting and Notification Requirements

As you are aware, the positive financial position of a long-term care facility is critical to its ability to provide quality care to its residents. To facilitate the Department of Health's identification of facilities that are in financial distress and, as a result, may be unable to continue to render necessary care to their residents, long-term care facilities are statutorily mandated to report certain negative financial events to the Department.

Additionally, in the event a long-term care facility decides to close, whether for financial insolvency or for another reason, the facility is statutorily mandated to provide advanced notice of the closure to its residents, its residents' representatives, and the Department. Absent an emergency, sufficient notice of the closure is needed to afford the facility's residents adequate time to identify new facilities of their choice and provide for the orderly transfer of the residents to their new homes.

Moreover, the Department's rules outline the responsibilities of a long-term care facility when it is discharging or transferring a resident. Included in these responsibilities is requirement that a facility provide advance notice to a resident of a discharge or transfer from the facility.

This memorandum is to remind facilities of these reporting and notice requirements, as outlined below.

#### **Reporting Payment Default**

Pursuant to N.J.S.A. 26:2H-42.1, each long-term care facility is required to report to the Department when it defaults on a scheduled payment of: 1) a debt service payment where the debt is secured by real estate or assets of the nursing home; 2) a rent payment; 3) payroll; or 4) payroll tax obligation. The facility must report to the Department its failure to make one or more of these enumerated payments within **five days** of the default. Reports of payment defaults may be made via email to the Office of Health Care Financing at [OHCF@doh.nj.gov](mailto:OHCF@doh.nj.gov).

## **Closure Notifications**

As set out in N.J.S.A. 26:2H-126, a long-term care facility is required to provide its residents, its residents' legal representatives, if any, and the Department with written notice when the facility is slated for closure. Such notice must be provided at least 60 days prior to the closure. While the statute permits the Department to waive the 60-day notice requirement, such a waiver is limited to emergency situations that warrant a more immediate closure of the facility. Emergencies that would warrant a waiver of the 60-day notice requirement include a suspension or revocation of the facility's license, decertification of the facility by the Centers for Medicare and Medicaid Services and those emergencies outlined in the Department's rules.

## **Transfer/Discharge Rights and Notice**

N.J.A.C. 8:39-4.1(a)(31) provides that nursing home residents may be transferred or discharged only for one or more of the following reasons, with the reason for the transfer or discharge recorded in the resident's medical record: i.) In an emergency, with notification of the resident's physician or advanced practice nurse and next of kin or guardian; ii.) For medical reasons or to protect the resident's welfare or the welfare of others; iii.) To comply with clearly expressed and documented resident choice, or in conformance with the New Jersey Advance Directives for Health Care Act, as specified in N.J.A.C. 8:39-9.6 (d); or iv.) For nonpayment of fees, in situations not prohibited by law. Pursuant to N.J.A.C. 8:39-4.1 (a)(32), a nursing facility must provide residents with written notice at least 30 days in advance of when the nursing home requests the resident's transfer or discharge, except in an emergency. Written notice shall include the name, address, and telephone number of the New Jersey Office of the Ombudsman for the Institutionalized Elderly and shall also be provided to the resident's next of kin or guardian 30 days in advance.

## **Enforcement Remedies**

If a facility fails to comply with the above statutory and regulatory mandates, then the Department may initiate an enforcement action against the facility, pursuant to N.J.S.A. 26:2H-13 and 14. Specifically, as outlined in the Department's rules, N.J.A.C. 8:43E, violations of the above statutory and regulatory requirements may result in a monetary penalty, a directed plan of correction, a curtailment of admissions, placing the facility on a provisional license status and/or the suspension or revocation of the facility's license.

Please be guided accordingly.

If you have any questions, please contact me at [Michael.Kennedy@doh.nj.gov](mailto:Michael.Kennedy@doh.nj.gov).