

NEBRASKA

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DEPT. OF HEALTH AND HUMAN SERVICES

Department of Health and Human Services
Division of Public Health
State of Nebraska



Jim Pillen, Governor

Notice of Disciplinary Action Against a Health Care Facility

Notification is hereby given of **Disciplinary Action** against Skilled Nursing Facility/Nursing Facility License #NH0059, issued by the Department of Health and Human Services, Division of Public Health to The Mulberry At Waverly, located at 11041 North 137th St, Waverly, Nebraska 68462.

The Disciplinary Action being imposed is as follows:

- A. The facility is **Prohibited from Admitting** residents to this facility until you have demonstrated compliance, to the satisfaction of the Department, regarding all violations outlined in this notice, as determined by an onsite revisit.
- B. The facility's license will be placed on **Probation for a Period of 180 days beginning July 9, 2024**. During this probationary period, the facility may continue to operate under the following terms and conditions of the probation:
 1. The facility must submit a Plan of Correction that establishes and implements a process to correct violation of the licensure regulation found at 175 NAC 12-006.09 which pertains to Care and Treatment. This process must include:
 - The method and frequency of assessment to identify residents at risk, including identifying risk and causal factors and the person responsible for the assessments;
 - Guidance to staff related to suggested interventions and the time frame for implementation;
 - The method utilized to ensure that identified interventions are documented on the care plan and implemented by staff;
 - The method utilized to ensure that the process is implemented and routinely reviewed to evaluate the effectiveness of the process and implement changes as needed; and
 - The person responsible for the implementation and evaluation of the process.
 2. The facility must submit a report regarding residents with changes in condition. The first of such reports is due on July 19, 2024 and every other week thereafter during the Period of Probation. Such reports must describe:

- The factors identified that placed the resident at risk;
- The interventions implemented that are targeted towards the risk factors; and
- The evaluations that have occurred to determine the effectiveness of the interventions.

All written descriptions, reports, and other information required by this Notice must be submitted to dhhs.healthcarefacilities@nebraska.gov.

If the Department requires modification in the required descriptions or reports, it shall notify you in writing. Subsequently, you must reply within ten (10) working days of notification by the Department by resubmitting the description or report with modifications to the Department for approval. The Department reserves the right to make minor unilateral modifications to the required description or report. You must implement the process as described in the approved description within the time frame specified.

The **basis** for this Disciplinary Action is violation of Neb. Rev. Stat. §71-448 which states that the Department may take disciplinary action against a license issued under the Health Care Facility Licensure Act on any of the following grounds:

- (1) Violation of any of the provisions of theHealth Care Facility Licensure Act.....or the rules and regulations adopted and promulgated under such Act;
- (3) Conduct or practices detrimental to the health or safety of a person residing inthe health care facility....

These violations were evidenced by the facility's failure to follow protocol related to incomplete assessments when determining the death of two residents.

The CMS-2567 Report for the survey dated June 17, 2024 specifies the manner by which the violations were evidenced. The CMS-2567 Report is incorporated by this reference and made part of this notification.

If you fail to correct the violation or comply with the disciplinary action, the Department may take additional disciplinary action, as specified in Neb. Rev. Stat. §71-449, against your license.

This Notice of Disciplinary Action is being sent as required by Neb. Rev. Stat. §71-451. The Disciplinary Action in this Notice shall become final on **July 9, 2024**, which is 15 days after the mailing date of this Notice unless you make a written request within such 15 days for either an informal conference or a hearing.

This Notice requires a response to the Director of the Division of Public Health, Department of Health and Human Services. **Any such response needs to be made and sent to the email address previously provided in this notice.** The written response needs to indicate that you:

1. Desire to contest the Notice and request an informal conference with a representative of the Department in person or by other means;
2. Desire to contest the Notice and request a hearing; or
3. Do not contest the Notice.

Dated this 24th day of June, 2024.

Timothy Tesmer, MD
Chief Medical Officer
Division of Public Health
Department of Health and Human Services



Dan Taylor, RN, Administrator
Health Facilities Licensure Unit
301 Centennial Mall South
Lincoln, NE 68509-4669

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Disciplinary Action was sent to the Facility and to the person or entity who is the licensee for this Facility at the last known address of record, by certified United States mail with sufficient postage paid on this 24th day of June, 2024.



Linda Stenvers, Administrative Specialist
Office of Long Term Care Facilities
Health Facilities Licensure Unit, Division of Public Health
Department of Health and Human Services