

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
FACILITY LICENSING AND INVESTIGATIONS SECTION**

IN RE: Athena Newtown, LLC
 d/b/a Newtown Rehabilitation and Health Care Center
 139 Toddy Hill Road
 Newtown, CT 06470

CONSENT ORDER

WHEREAS, Newtown Rehabilitation and Health Care Center (“Licensee”), has been issued License No. 2446 to operate a chronic and convalescent nursing home known as Newtown Rehabilitation and Health Care Center, (“Facility”) under Connecticut General Statutes section 19a-490 by the Connecticut Department of Public Health (“Department”); and,

WHEREAS the Facility Licensing and Investigations Section (“FLIS”) of the Department conducted unannounced inspections on various dates commencing on January 13, 2023 and concluding on January 26, 2023; and,

WHEREAS, on January 13, 2023, an immediate jeopardy was identified in the areas of resident neglect and inadequate staffing; and,

WHEREAS, the Department, during the course of the aforementioned inspections also identified violations of the Connecticut General Statutes and/or Regulations of Connecticut State Agencies and documented such violations in a violation letter dated January 31, 2023; and,

WHEREAS an office conference regarding the aforementioned violation letters was held between the Department and the Licensee; and,

WHEREAS, on March 9, 2023, a revisit by the Department was conducted, and soon thereafter the Facility was determined to be back in substantial compliance with statutes and regulations related to the provision of care; however, the Department conducted additional unannounced visits which concluded on March 21, 2023, and the results of such visits indicated numerous violations which were documented in a violation letter dated April 6, 2023.

WHEREAS the Licensee agrees to the conditions set forth herein.

NOW THEREFORE, the FLIS of the Department acting herein and through Adelita Orefice, its Acting Branch Chief, and the Licensee, acting herein and through Lawrence Santilli, its Manager hereby stipulate and agree as follows:

1. The Licensee shall execute a contract with an Independent Nurse Consultant (“INC”) pre-approved in writing by the Department within two (2) weeks of the effective date of this Consent Order. The INC’s duties shall be performed by a single individual unless otherwise approved by the Department. The Licensee shall incur the cost of the INC and any other costs associated with compliance with this Consent Order. Failure to pay the INC in a timely basis and in accordance with the contract, as determined by the Department in its sole and absolute discretion, shall constitute a violation of this Consent Order. Failure to pay the costs associated with the INC’s duties may result in a civil penalty not to exceed one thousand (\$1000.00) dollars per day until such costs are paid.
2. The INC shall function in accordance with the FLIS’s INC Guidelines (Exhibit A - copy attached). The INC shall be a registered nurse who holds a current and unrestricted license in Connecticut. The registered nurse assuming the functions of the INC shall not be included in meeting the nurse staffing requirements of the Regulations of Connecticut State Agencies. The INC shall provide consulting services for a minimum of six (6) months at the Facility unless the Department identifies through inspections or any other information that the Department deems relevant that a longer time period is necessary to ensure substantial compliance with applicable federal and state statutes and regulations. The INC shall be at the Facility forty (40) hours per week and arrange his/her schedule in order to be present at the Facility at various times on all three shifts including holidays and weekends. The Department will evaluate the hours of the INC at the end of a three (3) month period and may, in its sole and absolute discretion, reduce or increase the hours of the INC and/or responsibilities, if the Department determines, based upon any information it deems relevant, that the reduction or increase is warranted. The terms of the contract executed with the INC shall include all pertinent provisions contained in this Consent Order. The Department shall base any decision regarding a reduction in the hours of services of the INC upon onsite inspections conducted by the Department and based on all other information the Department deems relevant.

3. The INC shall act and perform the duties assigned herein at all times to serve the interest of the Department in assuring the safety, welfare and well-being of the patients and to secure compliance with applicable federal and state law and shall not accept any direction or suggestion from the Licensee or its employees that will deter or interfere in fulfilling this obligation.
4. The INC shall confer with the Licensee's Administrator, Director of Nursing Services, Medical Director and other staff determined by the INC to be necessary to the assessment of nursing services and the Licensee's compliance with federal and state statutes and regulations.
5. The Facility may admit new patients as of the effective date of this Consent Order except that there shall be no more than three new patients per week for the first four weeks of this Consent Order.
6. The INC shall make recommendations to the Licensee's Administrator, Director of Nursing Services and Medical Director for improvement in the delivery of direct patient care in the Facility. If the INC and the Licensee are unable to reach an agreement regarding the INC's recommendation(s), the Department, after meeting with the Licensee and the INC shall make a final determination, which shall be binding on the Licensee. Copies of all INC reports shall be simultaneously provided to the Director of Nurses, Administrator, Medical Director and the Department.
7. The INC shall have the responsibility for:
 - a. Assessing, monitoring, and evaluating the delivery of direct patient care by registered nurses, licensed practical nurses, and nurse aides and implementing prompt training and/or remediation in any area in which a staff member demonstrated a deficit. Records of said training and/or remediation shall be maintained by the Licensee for review by the Department;
 - b. Assessing, monitoring, and evaluating the coordination of patient care and services delivered by the various health care professionals providing services;
 - c. Assessment of the Facility's staffing plan for compliance with local, state and federal laws and regulations;
 - d. Recommending to the Department an increase in the INC's contract hours if the INC is unable to fulfill the responsibilities within the stipulated hours per week; and

- e. Monitoring the continued implementation of the Licensee's plan of correction submitted in response to the violation letters dated January 31, 2023. (Exhibit A).
8. The INC, the Licensee's Administrator, and the Director of Nursing Services shall meet with the Department every four (4) weeks for the first four (4) months after the effective date of this Consent Order and thereafter at twelve (12) week intervals throughout the tenure of the INC. The meetings shall include discussions of issues related to the care and services provided by the Licensee and the Licensee's compliance with applicable federal and state statutes and regulations.
9. Any records maintained in accordance with any state or federal law or regulation or as required by this Consent Order shall be made available to the INC and the Department, upon request.
10. Effective upon the execution of this Consent Order, the Licensee shall designate an infection preventionist to be responsible for the day to-day operation of an infection control and surveillance program for a minimum of forty (40) hours per week under the direction of the infection control committee.
11. The Infection Preventionist shall ensure the following:
 - a. Maintaining an effective infection control program;
 - b. Reviewing the Facility's policies/procedures pursuant to infection control prevention, with the Director of Nurses, Medical Director and Administrator and revise as necessary;
 - c. In-servicing all staff regarding infection control principles and practices;
 - d. Evaluating patients on admission to determine the existence of an infection;
 - e. Developing of policies and procedures relative to assessing for appropriate room, roommate and isolation protocols;
 - f. Determining compliance with the Facility's policies and procedures for cohorting of patients with infections;
 - g. Accurate line listings of patient infections to include date of onset of infection, type of infection, site of infection, treatment, room location and any culture/lab results; and
 - h. Evaluation of staff on a routine basis, on all three shifts, regarding the implementation of infection control techniques.

12. Within fourteen (14) days of the execution of this Consent Order the Director of Nurses review and revise, as necessary, policies and procedures related to patient abuse and neglect and patient rights.
13. Within twenty-one (21) days of the effect of the Consent Order all new facility staff and agency staff hired on or after February 1, 2023, shall be inserviced to the policies and procedures identified above.
14. The Facility's medical staff shall review all policies and procedures related to patient rights and patient abuse/neglect.
15. Effective upon the execution of this Consent Order, the Licensee, through its Governing Body, Administrator and Director of Nursing Services, shall ensure substantial compliance with the following:
 - a. Sufficient nursing and nutritional services personnel are available to meet the needs of the patients;
 - b. Patients are maintained, clean, comfortable and well groomed;
 - c. Patient treatments, therapies and medications are administered as prescribed by the physician and in accordance with each patient's comprehensive care plan;
 - d. Patient assessments are performed in a timely manner and accurately reflect the condition of the patient;
 - e. Each patient care plan is reviewed and revised to reflect the individual patient's problems, needs and goals, based upon the patient assessment and in accordance with applicable federal and state laws and regulations;
 - f. Nurse aide assignments accurately reflect patient needs;
 - g. Each patient's nutritional and hydration needs are assessed and monitored in accordance with his/her individual needs and plan of care;
 - h. The personal physician or covering physician is notified in a timely manner of any significant changes in patient condition including, but not limited to, decline in skin integrity, presence of any infection, and deterioration of mental, physical, nutritional, and/or hydration status. In the event that the personal physician does not adequately respond to the patient's needs or if the patient requires immediate care, the Medical Director is notified;
 - i. Patients with pressure sores and/or impaired skin integrity are provided with the necessary care to treat and prevent pressure sores and/or impaired skin integrity.

Wounds, including pressure sores, are monitored and assessed in accordance with current regulations and standards of practice;

- j. All patient care shall be provided in accordance with recognized standards of care;
 - k. Necessary supervision and assistive devices are provided to prevent accidents;
 - l. The kitchen and food storage areas are in compliance with all local, state and federal laws and regulations;
 - m. Policies and procedures related to dehydration prevention will be reviewed and revised to include, in part, notification of the attending physician or medical director when the patient's fluid intake does not meet their assessed needs;
 - n. Patient injuries of unknown origin are thoroughly investigated, tracked and monitored; and;
 - o. All Facility staff shall have annual performance evaluations conducted timely.
16. The Licensee shall maintain a minimum nurse aide staffing ratios as follows:
- a. 1st shift – nine (9) patients to one (1) nurse aide.
 - b. 2nd shift – eleven (11) patients to one (1) nurse aide.
 - c. 3rd shift – twenty (20) patients to one (1) nurse aide.
17. The Licensee shall maintain minimum licensed nursing staffing ratios as follows:
- a. 1st shift – thirty (30) patients to one (1) licensed nurse.
 - b. 2nd shift – thirty (30) patients to one (1) licensed nurse.
 - c. 3rd shift – thirty (30) patients to one (1) licensed nurse.
18. Effective upon the execution of this Consent Order, the Licensee shall appoint a free-floating registered nurse supervisor on the first and second shift whose primary responsibility is the assessment of patients and the care provided by nursing staff. A nurse supervisor shall maintain a record of any patient related issue(s) or problem(s) identified on his or her shift and a notation as to the subsequent action taken to resolve the problem(s). Such records shall be made available to the Department upon request and shall be retained for a five (5) year period.
19. Individuals appointed as Nurse Supervisor shall be employed by the Facility (unless otherwise approved by the Department), shall not carry a patient assignment and shall have previous experience in a supervisory role.
20. Nurse Supervisors shall be provided with the following:

- a. A job description which clearly identifies the supervisor's day-to-day duties and responsibilities;
 - b. A training program which clearly delineates each Nurse Supervisor's responsibilities and duties with respect to patient and staff observations, interventions and staff remediation;
 - c. Nurse Supervisors shall be supervised and monitored by a representative of the Licensee's Administrative Staff, (e.g., Director of Nursing Service or Assistant Director of Nursing Service) to ensure the Nurse Supervisors are functioning in accordance with this Consent Order and state and federal requirements. Said administrative supervising and oversight shall be provided on all three (3) shifts on an irregular schedule of visits. Records of such administrative visits and supervision shall be retained for the Department's review; and,
 - d. Nurse Supervisors shall be responsible for ensuring that all care is provided to patients by all caregivers is in accordance with individual comprehensive care plans.
21. Effective immediately upon execution of this Order, daily rounds shall be conducted by the Director of Nursing and Free-Floating Supervisor at which time all patients shall be observed for appropriate grooming, hygiene, positioning and care needs, changes in condition and infection control monitoring. Documentation shall be maintained of any problems identified along with interventions instituted to correct said problems and available for review by the Department. Documentation of all such rounds shall be maintained at the Facility for a minimum period of five (5) years.
 22. Effective immediately upon execution of this Order, the Administrator shall conduct a daily round on all patient units and provide patients and families with the opportunity to discuss concerns relative to the nursing home and the provision of care/service. Documentation shall be maintained of any problems identified along with interventions instituted to correct said problems and available for review by the Department. Documentation of all such rounds shall be maintained at the Facility for a minimum period of five (5) years.
 23. Effective within two (2) weeks of execution of this Consent Order, the Medical Director shall perform the following duties:
 - a. Conduct rounds on all patients at least once a week;
 - b. Audit at a minimum, five (5) medical records per week;
 - c. Review, analyze and offer recommendations regarding facility data, to include but not be limited to, pressure sore and infection control notes; and

- d. Review protocols and other recommendations as to the specific cases of individual patients.
24. The Licensee, within two (2) days of the execution of this Consent Order, shall designate an individual within the Facility to monitor the requirements of this Consent Order. The name of the designated individual shall be provided to the Department within said timeframe.
25. A Quality Assurance Performance Improvement Program shall be instituted by the Licensee, which will identify a Quality Assurance Performance Improvement Committee, consisting of, at least, the Licensee Administrator, Director of Nurses and Medical Director. The Committee shall meet at least once every thirty (30) days to review all reports or complaints relating to patient care and compliance with federal state laws and regulations. The INC shall have the right to attend and participate in all Committee meetings and to evaluate and report on the design of the quality assurance programs implemented by the Committee. The activities of the Quality Assurance Performance Improvement Committee shall include, but not be limited to, assessing all patients of the Licensee to identify appropriateness of care and services, determination and adoption of new policies to be implemented by Licensee's staff to improve patient care practices, and routine assessing of care and response to treatment of patients affected with pressure sores and/or infections. In addition, this Committee shall review and revise, as applicable infection control policies and procedures and monitor their implementation. The Committee shall implement a quality assurance program that will measure, track and report on compliance with the requirements of this Licensure Consent Agreement. The Committee shall measure and track the implementation of any changes in the Licensee's policies, procedures, and allocation of resources recommended by the Committee to determine compliance with and effectiveness of such changes. A record of quality assurance meetings and subject matter discussed will be documented and available for review by the Department. Minutes of all such meetings shall be maintained at the Facility for a minimum period of five (5) years.
26. Within fourteen (14) days of the effective date of this Consent Order, the Licensee shall incorporate into its Quality Assessment and Performance Improvement Program a method to monitor implementation of the requirements of the Consent Order and those recommendations implemented as a result of the INC assessment. A report on such measures shall be presented every three months to Medical Staff and Nursing Staff.

27. Any reports required by this Consent Order shall be directed to:
- Maureen Goals-Markure, RN, MSN
Supervising Nurse Consultant
Facility Licensing and Investigations Section
Department of Public Health
410 Capitol Avenue, P.O. Box 340308 MS #12HSR
Hartford, CT 06134-0308
28. All parties agree that this Consent Order is an Order of the Department with all of the rights and obligations pertaining thereto and attendant thereon. Nothing herein shall be construed as limiting the Department's available legal remedies against the Licensee for violations of the Consent Order or of any other statutory or regulatory requirements, which may be sought in lieu of or in addition to the methods of relief listed above, including all options for the issuance of citations, the imposition of civil penalties calculated and assessed in accordance with Section 19a-524 et seq. of the General Statutes, or any other administrative and judicial relief provided by law. This Consent Order may be admitted by the Department as evidence in any proceeding between the Department and the Licensee in which compliance with its terms is at issue. The Licensee retains all of its rights under applicable law. The allegations and findings contained in the violation letter referenced above shall be deemed true in any subsequent proceeding in which the licensee's compliance with the Consent Order is at issue or the licensee's compliance with Connecticut statutes and regulations and/or with federal statutes and regulations is at issue.
29. The Licensee agrees that this Consent Order will be reported consistent with federal and state law and regulations and consistent with Department policy. In addition, the Licensee agrees that this Consent Order will be posted on the Department's website.
30. The Licensee agrees that this Consent Order does not limit any other agency or entity in any manner including but not limited to any actions taken in response to the factual basis of this Consent Order.
31. The Licensee waives its right to a hearing regarding any discipline or penalty imposed pursuant to this Consent Order, however, the Licensee shall be allowed to present documentary evidence to the Department prior to the imposition of a discipline or penalty. Upon written notice of the imposition of a penalty under this Consent Order, the Licensee shall pay the penalty to the Department within fifteen days of said notice. In the event that the penalty is not paid within said time, in addition to other remedies permitted by law,

Licensee hereby authorizes the Commissioner of Social Services to immediately withhold from any payment due to the Licensee an amount equal to any penalty imposed under this Consent Order upon written notice of the Department.

32. The execution of this Consent Order has no bearing on any criminal liability without the written consent of the Director of the MFCU or the Bureau Chief of the Department of Criminal Justice's Statewide Prosecution Bureau.
33. The terms of this Consent Order shall remain in effect for a period of two (2) years from the effective date of this Consent Order unless otherwise specified in this Consent Order.
34. The Licensee agrees that this Consent Order and the terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum including any right to review under the Uniform Administrative Procedure Act, Chapter 368a of the Statutes, Regulations that exists at the time the agreement is executed or may become available in the future, provided that this stipulation shall not deprive the Licensee of any other rights that it may have under the laws of the State of Connecticut or of the United States.
35. Should the Licensee not be able to maintain substantial compliance with the requirements of the Consent Order, the Department retains the right to issue charges including those identified in the violation letters referenced in this Consent Order.
36. The Licensee has consulted with its attorney prior to the execution of this Consent Order.

WITNESS WHEREOF, the parties hereto have caused this Consent Order to be executed by their respective officers and officials, which Consent Order is to be effective as of the later of the two dates noted below.

Lawrence Santilli, Manager
Newtown Rehabilitation and Health Care Center

On this 20th day of April 2023 before me, personally appeared Lawrence Santilli, who acknowledged himself to be the Manager of Newtown Rehabilitation and Health Care Center and that he, as such Manager being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Licensee by himself as Manager.

My Commission Expires: 8/31/26
(If Notary Public)

Shannon B Donahue
Notary Public
Commissioner of the Superior Court

Shannon B. Donahue
Notary Public, State of Connecticut
My Commission Expires 08/31/2026

STATE OF CONNECTICUT,
DEPARTMENT OF PUBLIC HEALTH

By:
Adelita Orefice, Acting Branch Chief
Healthcare Quality and Safety

May 3, 2023

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