

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

In Re: 301 Rope Ferry Road, LLC of Waterford, CT
 d/b/a Bayview Health Care
 301 Rope Ferry Road
 Waterford, CT 06385

CONSENT ORDER

WHEREAS, 301 Rope Ferry Road, LLC of Waterford, CT d/b/a Bayview Health Care (“Bayview” or “Facility”) has been issued License number 2318 to operate a Chronic & Convalescent Nursing Home under Connecticut General Statutes (“Statutes”) § 19a-490 by the Connecticut Department of Public Health (“Department”); and,

WHEREAS, the United States Centers for Disease Control and Prevention (“CDC”) and the State of Connecticut are responding to an outbreak of respiratory disease caused by a novel (new) coronavirus that was first detected in China in 2019 and which has now been detected in many locations internationally, including in the United States. The disease has been named “coronavirus disease 2019” (“COVID-19”); and,

WHEREAS, the State of Connecticut (“Connecticut”) is experiencing community transmission of COVID-19; and,

WHEREAS, Connecticut Governor Ned Lamont declared civil preparedness and public health emergencies on March 10, 2020; and,

WHEREAS, there exists a critical need to cohort and care for patients of long-term care facilities who have been diagnosed with COVID-19 while reducing the risk of infection to patients who have not been exposed to or diagnosed with COVID-19; and,

WHEREAS, the Department is implementing a medical surge plan ("Plan") to expand capacity and slow the spread of COVID-19 in Connecticut long-term care facilities; and,

WHEREAS, in order to expand capacity and make more facilities available for such Plan, it is necessary to use nursing homes which will be dedicated to the care of patients diagnosed with COVID-19 ("COVID Recovery Facilities"). COVID Recovery Facilities can be previously unoccupied buildings, dedicated to the care of patients who have been diagnosed with COVID-19 ("Alternate COVID Recovery Facilities") or existing facilities which can dedicate specific units/areas within the nursing home that are separate from the rest of the facility, dedicated to the care of patients who have been diagnosed with COVID-19 ("Existing Facilities"); and

WHEREAS, the Facility has agreed to establish a COVID Recovery Facility in accordance with the Commissioner Order executed on April 11, 2020; and,

NOW THEREFORE, the Department acting herein and through Renée D. Coleman-Mitchell, Commissioner of the Department, and the Facility acting herein and through Lawrence Santilli, Manager, hereby stipulate and agree as follows only with respect to the 30 beds specifically being dedicated for the care of COVID-19 positive residents:

1. This Order shall remain in effect for the duration of the aforementioned public health and civil preparedness emergency as determined by the Governor of Connecticut and until such time each patient is safely discharged to an appropriate destination.
2. The Facility shall ban visitation in accordance with the Commissioner Order executed March 13, 2020, <https://portal.ct.gov/-/media/Office-of-the-Governor/News/20200313-DPH-nursing-home-order.pdf?la=en>. The Facility shall comply with all statutes and regulations applicable to its license and shall comply with all Orders issued by the Governor or the Commissioner. Failure to comply with any statutes or regulations applicable to its license or any Orders issued by the Governor or the Commissioner shall subject the Facility to disciplinary action and any remedies provided by law.

3. The Facility shall maximize the use of Medicare coverage for any eligible patient and in accordance, with the Centers for Medicare and Medicaid (“CMS”) authority under Section 1812(f) of the Social Security Act, in which CMS has waived the 3-day prior hospitalization requirement for coverage of a skilled nursing services and shall include, but not be limited to:
 - a. Individuals who presently reside at, or are discharged to, the Facility; and
 - b. Individuals who are discharged from hospitals to the Facility, or any other Alternate COVID Recovery Facility that Athena may be authorized to operate. Effective immediately, the Facility shall employ a Minimum Data Set (MDS) Coordinator who shall ensure completion of the MDS assessment in accordance with the relief that CMS has provided with regards to the time requirements.
4. To the extent available, the Facility shall ensure that an adequate supply of Personal Protective Equipment (“PPE”) is available to meet the needs of patients, staff and healthcare workers. If the Facility is unable to procure sufficient PPE to meet its needs, it shall immediately inform the Department.
5. During the term of this Order, the Facility shall not implement any new patient care services including, but not limited to: short term subacute care; or units specializing in the care of diagnostics groupings or an age specific population without prior notification and written approval from the Department.
6. The Facility shall ensure that all communication from the Long Term Care Ombudsman Program is disseminated immediately to all patients and families.
7. The Facility shall facilitate return of any patient who previously resided in a Chronic and Convalescent Nursing Home (“CCNH”), prior to their hospitalization to return to their CCNH of origin or other location as the patient may desire. The Facility shall be required to notify the CCNH of origin and coordinate the return of such patient, when a bed is available, after it has been determined by two separate laboratory tests at least 24 hours or more apart, that such patient has tested negative for COVID-19.
8. The Administrator, the Director of Nursing Services, Medical Director, or designee of the Governing Authority at the Facility shall telephone conference with the Department at a minimum of once a week for the duration of this

Consent Order. The teleconference shall include, but not be limited to, discussions related to the care and services provided by the Facility, staffing patterns and adequacy of PPE.

9. Any records maintained by the Facility in accordance with any state or federal law or regulation or as required by this Order shall be made available to the Department, upon request. Any rights the Facility may have to claim and exert privilege to quality assurance or peer review documents under state and/or federal law are preserved and not limited or waived by this Order.
10. Effective upon the execution of this Consent Order, the Facility shall designate a registered nurse as the infection control nurse 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 an infection control committee. Such infection control nurse must dedicate a minimum of sixteen (16) hours per week to the thirty (30) bed COVID-19 positive unit. The infection control nurse shall plan his/her schedule to ensure that he/she does not move from the COVID-19-positive unit to the remaining units in the Facility unless such other units are also COVID-19 positive. Therefore, the infection control nurse must end his/her shift in the COVID-19-positive unit. If, in a particular situation in the judgment of the infection control nurse, there exists a medical necessity to move between units, the provisions of this paragraph shall not apply except that once the situation is resolved, the nurse must stay in/return to the COVID-19-positive unit.
11. The Infection Control Nurse at the Facility shall implement an infection prevention, surveillance and control program which shall have as its purpose the protection of patients and personnel. The registered nurse hired for this position must hold a current and unrestricted license in Connecticut and have expertise and experience specific to infection control. The Infection Control Nurse may also be responsible for staff education in the area of infection control. The Infection Control Nurse, in conjunction with the Director of Nurses, Medical Director and Administrator shall implement a mechanism to ensure that each patient with an infection is properly identified and receives the appropriate care and services

pertinent to the identified infection. The Infection Control Nurse shall ensure the following at the Facility:

- 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 such policies/procedures as necessary;
 - c. All staff, including, but not limited to, nursing, recreation, social service, housekeeping, maintenance, and dietary have been trained and demonstrate competency in infection control practices, with a special focus on when and what PPE is required, donning/doffing PPE, PPE conservation strategies, and hand hygiene. Housekeeping and maintenance staff shall be provided training regarding cleaning and disinfection.
 - d. In-servicing all staff regarding infection control principles and practices;
 - e. Evaluating patients on admission to determine the existence of an infection;
 - f. Developing of policies and procedures relative to assessing for appropriate room, roommate and isolation protocols;
 - g. Accurate line listings of patient infections to include date of onset of infection, 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. The Facility shall ensure the training in paragraph eleven (11) is provided to all employees directly employed by the Facility and including contracted employees. All such training shall be documented and maintained by the Facility. Such records shall be made available to the Department upon request and shall be retained for a five (5) year period.
13. The Infection Control Nurse at the Facility shall provide weekly to the Department a line listing of all patients as noted in paragraph 11g and any patient deaths.
14. Effective upon the execution of this Order, the Facility, through its Governing Body, the Administrator and Director of Nursing Services, shall ensure substantial compliance with the following:

- a. Sufficient nursing personnel are available to meet the needs of the patients to the extent possible. If the Facility is unable to procure sufficient nursing personnel due to the unavailability of nursing personnel, it shall immediately notify the Department;
- b. Patients are 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;
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;
- h. 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;
- i. Necessary supervision and assistive devices are provided to prevent accidents;
- j. Patient injuries of unknown origin are thoroughly investigated, tracked, and monitored;

- k. Linen is in good condition and adequate in supply to meet the needs of the patients; and,
 - l. Medical records shall be maintained in accordance with accepted professional standards and practices. Medical records shall be maintained on each patient that are accurately documented, readily accessible, and systematically organized.
15. Effective upon the execution of this Order, the Facility shall appoint a free floating Registered Nurse Supervisor on the first and second shifts. Such free floating supervisor must dedicate a minimum of sixteen (16) hours per week to the 30 bed COVID-19 positive unit. The supervising nurse shall plan his/her schedule to ensure that he/she does not move from the COVID-19-positive unit to the remaining units in the Facility unless such other units are also COVID-19-positive. Therefore, the supervising nurse must end his/her shift in the COVID-19-positive unit. If, in a particular situation in the judgment of the supervising nurse, there exists a medical necessity to move between units, the provisions of this paragraph shall not apply except that once the situation is resolved, the nurse must stay/return in the COVID-19-positive unit.
16. Individuals appointed as Nurse Supervisors at the Facility shall not carry a patient assignment and shall have previous experience in a supervisory role.
17. Nurse Supervisors at the Facility 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, with such training being documented by the Licensee;
 - c. Nurse Supervisors shall be supervised and monitored by a representative of the Facility's Administrative Staff, (e.g. Director of Nursing Services or Assistant Director of Nursing Services) to ensure the Nurse Supervisors are functioning in accordance with this Order and state and federal requirements. Said administrative supervision 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 a period of five (5) years and available for the Department's review upon request; and,
- d. Nurse Supervisors shall be responsible for ensuring that all care is provided timely to patients by all caregivers and is in accordance with individual comprehensive care plans.
18. The Facility shall maintain a minimum nurse aide staffing ratios for COVID-19 positive units as follows: (A Unit is COVID-19 positive if one patient on such unit is COVID-19 positive).
- a. 1st shift – ten (10) patients to one (1) nurse aide.
 - b. 2nd shift – ten (10) patients to one (1) nurse aide.
 - c. 3rd shift – fifteen (15) patients to one (1) nurse aide.
19. The Facility shall maintain minimum licensed nursing staffing ratios for COVID-19 positive units as follows: (A Unit is COVID-19 positive if one patient on such unit is COVID-19 positive).
- a. 1st shift – fifteen (15) patients to one (1) licensed nurse.
 - b. 2nd shift – fifteen (15) patients to one (1) licensed nurse.
 - c. 3rd shift – thirty (30) patients to one (1) licensed nurse.
20. Effective immediately upon execution of this Order, the Administrator and Director of Nurses at the Facility shall meet at a minimum of three (3) times a week to discuss staffing in correlation to patient acuity and staffing shall be adjusted if necessary to meet the needs of the patients.
21. Effective immediately upon execution of this Order, daily rounds shall be conducted at the Facility by the DNS 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 at the Facility 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.

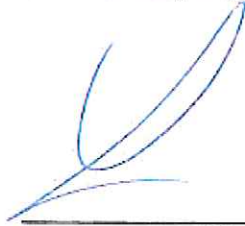
23. Effective within two (2) weeks of execution of this Consent Order, the Medical Director or designee at the Facility shall perform the following duties:
 - a. Conduct rounds on all patients at least once a week;
 - b. Review, analyze and offer recommendations regarding Facility data, to include but not be limited to, pressure sore and infection control notes; and
 - c. Review protocols and other recommendations as to the specific cases of individual patients.
24. Effectively immediately and upon execution of this Consent Order, the Facility shall notify the Department immediately, if any of the following positions become vacant:
 - a. Administrator;
 - b. DNS;
 - c. ADNS (if applicable);
 - d. Medical Director;
 - e. Infection Control Nurse; and
 - f. Free Floating Supervisor.
25. The Facility, within seven (7) days of the execution of this Consent Order shall provide the names and resumes of the proposed Administrator, DNS, and ADNS (as applicable) for Department review.
26. Within seven (7) days of the execution of this Consent Order, the Facility shall designate an individual to monitor the requirements of this Order. The name of the designated individual shall be provided to the Department within said timeframe.
27. Any documentation required by this Consent Order shall be directed to:

Department of Public Health
Facility Licensing and Investigations Section
410 Capitol Avenue, P.O. Box 340308, MS #12 HSR
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. The Facility agrees that the compliance with all of the terms and conditions of this Consent Order is part of the responsibility of the Facility's governing authority as set forth in Public Health Code Section 19-13-D8(e). The Facility further agrees that failure to comply with any of the terms and conditions of this Consent Order shall constitute grounds for disciplinary action pursuant to Section 19a-494 of the Connecticut General Statutes. Nothing herein shall be construed as limiting the Department's other available legal remedies against the Facility 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, or any other administrative and judicial relief provided by law.
29. 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.
30. The Facility 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 order is executed or may become available in the future, provided that this stipulation shall not deprive the Facility of any other rights that it may have under the laws of the State of Connecticut or of the United States.
31. The Facility 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. The undersigned signatories represent and warrant that they are authorized to execute this Consent Order on behalf of the party they represent.

By:



Lawrence Santilli, Manager
Baview Health Care

May 8, 2020

STATE OF CONNECTICUT,
DEPARTMENT OF PUBLIC HEALTH

By:



Renee D. Coleman-Mitchell, MPH
Commissioner, Department of Public Health

May 11, 2020

