

(b) No facility or program shall be owned or operated by any person convicted of a crime relating adversely to the person's capability of owning or operating the facility or program.

(c) The owner or governing authority of the facility or program shall assume legal responsibility for the management, operation, and financial viability of the facility or program.

#### 8:36-4.3 Submission and availability of documents

(a) The facility or program shall, upon request, submit in writing any documents which are required by this chapter to the Director of the Long Term Care Licensing and Certification Program of the Department. Additionally, upon request of the Department, the facility or program shall submit in writing data related to utilization, demographics, costs, charges, staffing, and other planning and financial data necessary to evaluate the services provided.

(b) The facility shall report the number of resident days per calendar year to the Department's Long Term Care Licensing and Certification Program by April 15 of each year, for the prior calendar year.

#### 8:36-4.4 Personnel

(a) The facility or program shall develop written job descriptions and ensure that personnel are assigned duties based upon their education, training, and competencies and in accordance with their job descriptions.

(b) All personnel who require licensure, certification, or authorization to provide resident care shall be licensed, certified, or authorized under the appropriate laws or rules of the State of New Jersey.

#### 8:36-4.5 Staffing requirements

(a) The facility or program shall maintain and implement written staffing schedules. Actual hours worked by each employee shall be documented.

(b) The facility shall provide on the premises at all times the following minimum numbers of employees:

1. At least one awake personal care assistant; and
2. At least one additional employee.

(c) The facility or program shall develop and implement a staff orientation and a staff education plan, including plans for each service and designation of person(s) responsible for training. All personnel providing personal care or health services shall receive orientation at the time of employment and at least annual in-service education regarding, at a minimum, the following:

1. The provision of services and assistance in accordance with the concepts of assisted living, including care

of residents with cognitive and physical impairment and dementia;

2. Emergency plans and procedures; and

3. The infection prevention and control program.

(d) The staffing level in this chapter is minimum only and the assisted living residence, comprehensive personal care, or assisted living program shall employ staff in sufficient number and with sufficient ability and training to provide the basic care and resident assistance and supervision required, based on assessment of the acuity of resident's needs.

(e) Personnel, including staff under contract, with a reportable communicable disease or infection shall be excluded from the assisted living residence, comprehensive personal care home, or assisted living program until examined by a physician who shall certify to the administrator that the condition will not endanger the health of residents or other employees.

(f) The facility or program shall exercise good faith and employ reasonable efforts to ensure that staff providing personal care and services to residents have not been convicted of a crime relating adversely to the person's ability to provide resident care, such as homicide, assault, kidnapping, sexual offenses, robbery, and crimes against the family, children or incompetents, except where the applicant or employee with a criminal history has demonstrated his rehabilitation in order to qualify for employment at the facility or program.

#### 8:36-4.6 Policy and procedure manual

(a) A policy and procedure manual(s) for the organization and operation of the facility or program shall be developed, implemented, and reviewed at intervals specified in the manual(s). Each review of the manual(s) shall be documented, and the manual(s) shall be available in the facility or program to representatives of the Department at all times. The manual(s) shall include at least the following:

1. An organizational chart delineating the lines of authority, responsibility, and accountability for the administration and resident care services of the facility or program;
2. A description of the services which the assisted living residence, comprehensive personal care home or assisted living program is capable of providing;
3. Policies and procedures for maintaining security;
4. Policies and procedures for reporting all diagnosed and/or suspected cases of resident abuse or exploitation. If the resident is 60 years of age or older, the State of New Jersey Office of the Ombudsman for the Institutionalized Elderly shall be notified, in compliance with N.J.S.A. 52:27G-7.1 et seq., at 1-800-792-8820;

5. Policies and procedures for maintaining confidentiality of resident records, including policies and procedures for examination of resident records by the resident and other authorized persons and for release of the resident's records to any individual outside the facility or program, as consented to by the resident or as required by law or third party payor;

6. Policies and procedures for the maintenance of personnel records for each employee, including at least his or her name, previous employment, educational background, credentials, license number with effective date and date of expiration (if applicable), certification (if applicable), verification of credentials, prior criminal records, records of physical examinations, job description, records of orientation and inservice education, and evaluation of job performance; and

7. Policies and procedures, including content and frequency, for physical examinations and immunizations and tuberculin testing upon employment and subsequently for employees and persons providing direct resident care services in the facility through contractual arrangements or written agreement.

(b) The facility shall make all policy and procedure manuals available to residents, guardians, designated responsible persons, prospective applicants, and referring agencies during normal business hours or by prior arrangement.

#### 8:36-4.7 Resident transportation

(a) The facility shall be capable of providing resident transportation, either directly or by arrangement, to and from health care services provided outside the facility, and shall promote reasonable plans for security and accountability for the resident and his or her personal possessions, as well as transfer of resident information to and from the provider of the service, as required by individual residents and specified in resident's service plans.

(b) The facility or program shall assist residents, if needed, in arranging for transportation to activities of social, religious, and community groups in which the resident chooses to participate.

#### 8:36-4.8 Written agreements

The facility or program shall have a written agreement or its equivalent, or a linkage for services not provided directly by the facility or program. If the facility or program provides care to residents with psychiatric disorders, the facility or program shall also have a written agreement with one or more community mental health centers specifying which services will be provided by the mental health center. The written agreements shall require that services be provided in accordance with this chapter.

#### 8:36-4.9 Reportable events

(a) The facility shall notify the Department immediately by telephone at 609-633-9034 (609-392-2020 after business hours), followed within 72 hours by written confirmation, of the following:

1. Interruption for three or more hours of basic physical plant services, such as heat, light, power, water, food, or staff;
2. Termination of employment of the administrator, and the name and qualifications of his or her replacement;
3. Occurrence of epidemic disease in the facility;
4. All fires, all disasters, all residents who are missing for 24 hours, and all deaths resulting from accidents or incidents in the facility or related to facility services. The written confirmation shall contain information about injuries to residents and/or personnel, disruption of services, and extent of damages;
5. Any major occurrence or incident of an unusual nature shall be reported immediately to the Department by telephone, and shall be confirmed in writing to the Department as soon as possible thereafter;
6. All alleged or suspected crimes which are serious crimes committed by or against residents, which have also been reported at the time of occurrence to the local police department; and
7. All suspected cases of resident abuse or exploitation which have been reported to the State of New Jersey Office of the Ombudsman for the Institutionalized Elderly.

#### 8:36-4.10 Notices

(a) The facility shall conspicuously post a notice that the following information is available in the facility during normal business hours, to residents and the public:

1. All waivers granted by the Department;
2. A copy of the last annual licensure inspection survey report and the list of deficiencies from any valid complaint investigation during the past 12 months;
3. Policies and procedures regarding resident rights;
4. Business hours of the facility;
5. Policies and procedures for maintaining security of the assisted living residence and comprehensive personal care home;
6. The toll-free hot line number of the Department; telephone numbers of county agencies and of the State of New Jersey Office of the Ombudsman; and
7. The names of, and a means to formally contact, the owner and/or members of the governing authority.

#### 8:36-4.11 Maintenance of records

(a) The facility shall maintain an annual chronological listing of residents admitted and discharged, including the destination of residents who are discharged.

**SUBCHAPTER 12. EMERGENCY SERVICES AND PROCEDURES****8:36-12.1 Emergency medical services**

(a) Emergency medical services shall be available to or arranged for residents requiring these services.

(b) The facility shall develop a written plan for arranging for emergency transportation of residents for medical care and returning them to the assisted living residence.

**8:36-12.2 Emergency plans and procedures**

(a) The facility shall develop written emergency plans, policies, and procedures which shall include plans and procedures to be followed in case of medical emergencies, power failures, fire, or natural disasters. The emergency plans shall be filed with the Department and the Department shall be notified when the plans are changed. Copies of emergency plans shall also be forwarded to other agencies in accordance with State and municipal laws.

(b) The emergency plans, including a written evacuation diagram specific to the unit that includes evacuation procedure, location of fire exits, alarm boxes, and fire extinguishers, and all emergency procedures shall be conspicuously posted throughout the facility. All employees shall be trained in procedures to be followed in the event of a fire and instructed in the use of fire-fighting equipment and resident evacuation as part of their initial orientation and at least annually thereafter. All residents shall be instructed in emergency evacuation procedures.

(c) Procedures for emergencies shall specify persons to be notified, process of notification and verification of notification, locations of emergency equipment and alarm signals, evacuation routes, procedures for evacuating residents, procedures for reentry and recovery, frequency of fire drills, tasks and responsibilities assigned to all personnel, and shall specify medications and records to be taken from the facility upon evacuation and to be returned following the emergency.

(d) Nothing in these rules shall supersede or imply non-compliance with the Uniform Fire Act or Uniform Fire Code (N.J.A.C. 5:70).

**8:36-12.3 Drills and tests**

(a) The facility shall conduct at least one drill of the emergency plans every month, of which at least one annually shall take place during every working shift. The facility shall maintain documentation of all drills, including the date, hour, description of the drill, participating staff, and signature of the person in charge. In addition to drills for emergencies due to fire, the facility shall conduct at least one drill per year for emergencies due to a disaster other than fire, such as storm, flood, other natural disaster, bomb threat, or nuclear accident (a total of 12 drills). All staff

shall participate in at least one drill annually, and selected residents may participate in drills.

(b) The facility shall request of the local fire department that at least one joint fire drill be conducted annually. Upon scheduling a joint fire drill, the facility shall notify first aid and civil defense agencies of this drill and shall participate in community-wide disaster drills.

(c) The facility shall test at least one manual pull alarm each month of the year and maintain documentation of test dates, location of each manual pull alarm tested, persons testing the alarm, and its condition.

(d) Fire extinguishers shall be conspicuously hung, kept easily accessible, shall be visually examined monthly and the examination shall be recorded on a tag which is attached to the fire extinguisher. Fire extinguishers shall also be inspected and maintained in accordance with manufacturers' and applicable National Fire Protection Association (NFPA) requirements and N.J.A.C. 5:70. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

(e) Nothing in these rules shall supersede or imply non-compliance with the Uniform Fire Act or Uniform Fire Code (N.J.A.C. 5:70).

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**SUBCHAPTER 13. RESIDENT RECORDS****8:36-13.1 Health record**

A current, complete health record shall be maintained for each resident who is receiving health care services.

**8:36-13.2 Confidentiality**

Records and information regarding the individual resident shall be considered confidential and the resident shall have the opportunity to examine such records, in accordance with facility or program policies. The written consent of the resident shall be obtained for release of his or her records to any individual outside the facility or program, except in the case of the resident's transfer to another health care facility, or as required by law, third-party payor, or authorized government agencies.

**8:36-13.3 Record retention**

All records shall be maintained for a period of 10 years after the discharge of a resident from the assisted living residence, comprehensive personal care home or assisted living program.

**8:36-13.4 Record availability**

The records required by this subchapter shall be maintained for all residents and shall be kept available on the

premises for review at any time by representatives of the Department.

#### 8:36-13.5 Register

(a) A register which contains a current census of all residents, along with other pertinent information, shall be maintained by each assisted living residence, comprehensive personal care home, or assisted living program. The following standards for maintaining the register shall apply:

1. The administrator or the administrator's designee shall make all entries in the register and shall be responsible for its maintenance and safe-keeping;
2. The register shall be kept up-to-date at all times. Admissions, discharges and discharge destination, and other changes shall be recorded within 48 hours;
3. The register, which is a permanent record, shall be kept in a safe place; and
4. All entries into the register shall be clear, legible, and written in ink or typed.

#### 8:36-13.6 Residents' individual records

(a) Each resident's record shall include at least the following:

1. The resident's completed admission application and all records forwarded to the facility;
2. The resident's name, last address, date of birth, name and address of sponsor or interested agency, date of admission, date of discharge (and discharge destination) or death, the name, address and telephone number of physician to be called, and the name and address of nearest relative, guardian, responsible person, or interested agency, together with any other information the resident wishes to have recorded;
3. A copy of the resident's service plan and/or health care plan, if applicable; and
4. All assessments and treatments by health care and service providers shall be entered according to the standards of professional practice. Documentation and/or notes from all health care and service providers shall be entered according to the standards of professional practice.

#### 8:36-13.7 Record of death

Whenever a resident dies in the assisted living residence, the administrator or the administrator's designee shall include written documentation from the physician of the date and time of death, the name of the person who pronounced the death, disposition of the body, and a record of notification of the family. A physician, registered nurse or paramedic may make a determination and pronouncement of death in accordance with N.J.A.C. 13:35-6.2(d) and (e).

### SUBCHAPTER 14. RESIDENT RIGHTS

#### 8:36-14.1 Posting and distribution of statement of resident rights

(a) To assure the highest quality of services, each assisted living provider will post and distribute a statement of resident rights, as approved and issued by the Department in accordance with N.J.S.A. 30:13-1 et seq., the Nursing Home Patients Bill of Rights, and consistent with the following principles of assisted living:

1. To provide personalized services and care to meet each resident's needs;
2. To foster the independence and individuality of each resident;
3. To treat each resident with respect, courtesy, consideration and dignity;
4. To assure each resident the right to make choices with respect to services and lifestyle;
5. To assure each resident's right to privacy;
6. To nurture the spirit and uniqueness of each resident;
7. To encourage families and friends participation in resident service planning and implementation; and
8. To provide opportunities for the assisted living facilities and programs to become a valuable community resource.

### SUBCHAPTER 15. HOUSEKEEPING, SANITATION, SAFETY AND MAINTENANCE

#### 8:36-15.1 Provision of services

(a) The facility shall provide and maintain a sanitary and safe environment for residents.

(b) The facility shall provide housekeeping, laundry, pest control, and maintenance services, and shall provide assistance to residents who require assistance with these services in their residential units.

#### 8:36-15.2 Housekeeping

(a) A written work plan for housekeeping operations shall be established and implemented, with categorization of cleaning assignments as daily, weekly, monthly, or annually within each area of the facility. The facility shall have a written schedule that determines the frequency of cleaning and maintenance of all equipment, structures, areas, and systems.

1. The contract shall stipulate that a tenant shall not be prohibited from participation in the assisted living program due to the location or physical characteristics of the unit in which the tenant resides.

2. The contract shall stipulate that tenants shall not be involuntarily moved from one unit to another within the building for the purpose of receiving the services of the assisted living program.

3. The contract shall include a written acknowledgment by the publicly subsidized housing building manager and owner that each has reviewed the provisions of N.J.A.C. 8:36 and will permit the assisted living program's operation in accordance with such provisions.

4. The contract shall state that there are policies and procedures for the publicly subsidized housing staff to notify the assisted living program of any substantial change in a resident's condition noticed by housing staff.

5. The contract shall state that there are policies and procedures which ensure the on-premises presence of at least one publicly subsidized housing staff or assisted living program provider staff 24 hours per day. This staff shall be responsible for contacting appropriate authorities, including the assisted living program, in the event of an emergency situation involving a resident or the building as a whole.

6. The assisted living program provider shall submit written documentation to the Department that each building for which it is contracting to provide services is a publicly subsidized housing building.

(d) The assisted living program provider shall submit to the Department a copy of the resident agreement/contract it shall utilize at each site at which it shall provide services. The agreement/contract shall include at least the following:

1. The services that will be provided;
2. The charges for services;
3. The circumstances under which services and charges will be revised, with at least 30 days prior written notice;
4. The circumstances and processes under which a resident will be discharged from the program in accordance with the provisions of N.J.A.C. 8:36-4.1(d) and (e); and
5. Resident rights and responsibilities.

#### 8:36-18.3 Services provided to residents

(a) Each assisted living program shall comply with the applicable provisions in N.J.A.C. 8:36-1, 2, 4 through 9, 11, 13 and 14.

(b) Each assisted living program provider shall be capable of providing or arranging for the provision of assistance with personal care, and of nursing, pharmaceutical, dietary and

social work services to meet the individual needs of each resident.

(c) The assisted living program provider shall be capable of providing or arranging for the provision of nursing services to maintain residents, including residents who require formal long-term care. However, a resident may be, but is not required to be, removed from program participation if it is documented in the health care plan that a higher level of care is required as demonstrated by one or more of the characteristics identified in N.J.A.C. 8:36-4.1(d)1 through 8.

(d) The assisted living program's service agreement with each resident shall clearly specify if the program will or will not continue to provide, or arrange for the provision of, services to residents with the characteristics described in N.J.A.C. 8:31-4.1(d)1 through 8, to what extent and, if applicable, at what additional cost.

(e) In the event that the assisted living program removes a resident from program participation as permitted by (c) above, it shall provide the resident with information to assist in obtaining the level of care required.

(f) Each assisted living program is authorized to provide "specialized long term care" services, as defined in N.J.A.C. 8:36-1.3, to residents as required.

#### 8:36-18.4 Policy and procedure manual

A policy and procedure manual(s) for the organization and operation of the assisted living program shall be developed, implemented and reviewed in accordance with the provisions of N.J.A.C. 8:36-4.6(a)1, 2, 4 through 7, and (b). The manual(s) shall be available in all assisted living program sites, the assisted living program provider main office, and to representatives of the Department.

#### 8:36-18.5 Resident transportation

(a) The assisted living program provider shall have written policies and procedures for arranging resident transportation to and from health care services provided outside of the program site, and shall provide reasonable plans for security and accountability for the resident and his or her personal possessions.

(b) The assisted living program provider shall develop a mechanism for the transfer of appropriate resident information to and from the providers of service, as required by individual residents and as specified in their service plans.

#### 8:36-18.6 Notices

(a) The assisted living program provider and each program site shall conspicuously post a notice that the following information is available to residents and the public at the program site and at the assisted living program provider's main office during normal business hours:



1. All waivers from the provisions of this chapter granted by the Department;

2. A copy of the last annual licensure inspection survey report and the list of deficiencies from any valid complaint investigation during the past 12 months;

3. Policies and procedures regarding resident rights and responsibilities;

4. Business hours and telephone number of the assisted living program provider main office;

5. The toll-free hot line number of the Department; telephone numbers of county agencies dealing with senior service issues; and the telephone number of the State of New Jersey Office of the Ombudsman for the Institutionalized Elderly; and

6. The names of, and a means to formally contact, the administration of the assisted living program provider.

#### 8:36-18.7 Maintenance of records

(a) The assisted living program shall maintain an annual listing of residents admitted and discharged, including the destination of residents who are discharged to a health care facility.

(b) Statistical data, such as resident census and program characteristics shall be forwarded on request, in a format provided by the Department.

#### 8:36-18.8 Notification requirements

(a) When known, and with the resident's consent, the resident's family, guardian, and/or designated responsible person or designated agency shall be notified promptly in the event of the following:

1. The resident acquires an acute illness requiring medical care;

2. Any serious accident, criminal act or incident occurs which involves the resident and results in serious harm or injury or results in the resident's arrest or detention. The Department's Long Term Care Licensing and Certification Program shall also be notified in writing of these events;

3. The resident is discharged from the program; or

4. The resident expires. The assisted living program shall have a written procedure established with the program site to ensure that dual notifications of death do not occur.

(b) Notification of any occurrence noted in (a) above shall be documented in the resident's record.

#### 8:36-18.9 Administration and staffing

(a) The administrator of an assisted living program shall:

1. Hold a current New Jersey license as a nursing home administrator, or be eligible to take the New Jersey Nursing Home Administrator's Licensing Examination, according to the Department of Health and Senior Services requirements contained in N.J.A.C. 8:34; or

i. Have successfully completed an assisted living training course which covers the concepts and rules of assisted living as outlined in this chapter, given by a person(s) qualified to train assisted living administrators, in accordance with N.J.A.C. 8:36-1.5(a)4; and

ii. Have successfully completed a Department competency examination, which covers the concepts and rules delineated in this chapter; and

2. Comply with the requirements at N.J.A.C. 8:36-1.5(a)1 and 2.

(b) The assisted living program provider shall ensure that all personnel providing health care services are assigned duties based on their education, training, competencies and pursuant to all laws, rules, and regulations applicable to State professional licensing and certification boards and agencies.

(c) Adequate staffing shall be provided based on all assessed needs of residents.

#### 8:36-18.10 Financial arrangements

(a) If the assisted living program offers financial management services, it shall develop written policies and procedures for such services, including any charges for such services.

(b) The assisted living program shall:

1. Inform residents of any and all fees for services and charges for supplies routinely provided by the program. Residents and/or their family, guardian or designated community agency shall be given at least 30 days prior written notice of any change in fees for services or charges for supplies routinely provided. At the resident's request, this information shall be provided to the resident's family, guardian or designated community agency;

2. Maintain a written record of all financial arrangements with the resident and/or his or her family, guardian or designated community agency, with copies furnished to the resident; and

3. Provide the resident with information regarding financial assistance available from third party payors and/or other payors and referral systems for resident financial assistance.

#### 8:36-18.11 Resident assessments, service plans, health care plans and health care services

(a) Each resident living in publicly subsidized housing who elects to participate in an assisted living program shall receive an initial assessment pursuant to N.J.A.C. 8:36-7.1(a).