

CHAPTER 43B**ALTERNATE FAMILY CARE: SPONSOR
LICENSING STANDARDS****Authority**

N.J.S.A. 26:2H-1 et seq., Specifically 26:2H-5.

Source and Effective Date

R.1996 d.109, effective February 20, 1996.
See: 27 N.J.R. 4480(a), 28 N.J.R. 1276(b).

Executive Order No. 66(1978) Expiration Date

Chapter 43B, Alternate Family Care: Sponsor Licensing Standards, expires on February 20, 2001.

Chapter Historical Note

Chapter 43B, Manual of Standards for Hospital Facilities, was filed by the Department of Institutions and Agencies and became effective prior to September 1, 1969. Revisions to Chapter 43B were filed by the Department of Institutions and Agencies on March 31, 1971 as R.1971 d.48. See: 2 N.J.R. 91(a), 3 N.J.R. 82(d). Pursuant to N.J.S.A. 26:2H-19, authority for the regulation and inspection of hospital facilities was transferred from the Department of Institutions and Agencies to the Department of Health, effective "at the beginning of the eighth biweekly pay period" after May 10, 1971. A petition for rulemaking was filed regarding advertising by hospitals. See: 18 N.J.R. 306(d), 19 N.J.R. 570(b). Chapter 43B, Manual of Standards for Hospital Facilities, was repealed by R.1990 d.77, effective February 5, 1990. See: 21 N.J.R. 2925(a), 22 N.J.R. 488(a). New rules governing the operation of hospital facilities were adopted at N.J.A.C. 8:43G, effective February 5, 1990.

Chapter 43B, Alternate Family Care: Sponsor Licensing Standards, was adopted as new rules by R.1996 d.109, effective February 20, 1996. See: Source and Effective Date.

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APPENDIX A**SUBCHAPTER 1. GENERAL PROVISIONS****8:43B-1.1 Scope**

(a) The rules in this chapter pertain to all sponsor agencies which administer an alternate family care program. The sponsor agency shall be responsible for overseeing and monitoring the quality of care and services provided by alternate family caregivers. Components of quality care addressed by these rules include qualifications of caregivers, safety of the caregiving environment, coordination of services and comprehensiveness of care.

(b) The rules in the chapter do not pertain to nonprofit religious or charitable organizations which facilitate the placement of members of the organization into the private homes of unrelated individuals. The Commissioner may also exempt entities or individuals who facilitate the placement of individuals into the private homes of unrelated individuals on a voluntary or informal basis. No such organization or individual exempted by this paragraph shall advertise or hold itself out as an alternate family care sponsor agency.

8:43B-1.2 Purpose

The purpose of this chapter is to establish standards for the provision of alternate family care (AFC) which is intended to offer frail, disabled and elderly persons, including persons who require long-term care, the option of receiving care in the home of individuals who have been approved and trained as caregivers. Caregivers shall provide room, board, personal care and supportive health and social services in their home. Clients shall be provided the opportunity to participate in caregiver family meals, recreation and social activities as well as to share areas of the house, such as the kitchen and living room, with the caregiver family.

8:43B-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Activities of daily living (ADL)” means the functions or tasks for self-care which are performed either independently or with supervision or assistance. Activities of daily living include at least: mobility, transferring, walking, grooming, bathing, dressing and undressing, eating and toileting.

“Advance directive” means a writing executed in accordance with the requirements of the New Jersey Advance Directive Health Care Act, N.J.S.A. 26:2H-53 et seq. An advance directive may encompass both the designation of a health care representative (“a proxy directive”) and/or a statement of personal wishes regarding health care in the event of loss of decision making capacity (“an instruction directive”).

“Alternate family care” means a contractual arrangement whereby no more than three persons receive room, board, personal care and other health care services in the home of an unrelated individual who has been approved by a sponsor agency and trained to provide the necessary caregiving.

“Caregiver” means an individual, approved by the sponsor agency, who is responsible for the care of a client.

“Client” means a frail, disabled or elderly person enrolled in an alternate family care program who resides in the home of a caregiver.

“Case management” means the process by which a professional nurse and/or social worker plans, locates, coordinates and monitors health and psychosocial services designed to meet the individual needs of the client being served.

“Client service plan” means an individualized written plan assessing the client’s need for services and outlining the method proposed to meet those needs.

“Communicable disease” means an illness, due to a specific infectious agent or its toxic products, which occurs through transmission of that agent or its products.

“Department” means the New Jersey State Department of Health.

“Personal care” means services supportive to the client’s care and comfort, including, but not limited to, assistance with activities of daily living.

“Sponsor agency” means a central services facility, licensed by the Department to administer an alternate family care program, which provides essential administrative and clerical support services to two or more caregivers within a given area.

“Substitute caregiver” means an individual who is responsible for the care of the client during the caregiver’s absence.

SUBCHAPTER 2. LICENSURE PROCEDURES

8:43B-2.1 Certificate of need

(a) According to N.J.S.A. 26:2H-1 et seq., and amendments thereto, a sponsor agency shall not be instituted, constructed, expanded, or licensed to operate except upon application for, and receipt of, a certificate of need issued by the Commissioner based upon criteria in N.J.A.C. 8:33H.

(b) Certificate of need application forms may be obtained from:

Certificate of Need Program
 Division of Health Planning and Resources Development
 New Jersey State Department of Health
 CN 360
 Trenton, New Jersey 08625

(c) The sponsor agency shall implement all conditions imposed by the Commissioner as specified in the certificate of need approval letter. Failure to implement the conditions may result in the imposition of sanctions in accordance with N.J.S.A. 26:2H-1 et seq., and all applicable regulations.

8:43B-2.2 Application for licensure

(a) Following receipt of a certificate of need, the holder of such certificate shall make application to the Commissioner for a license to operate a sponsor agency on forms prescribed by the Department. Such forms may be obtained from:

Director
Licensing, Certification and Standards
Division of Health Facilities Evaluation and Licensing
New Jersey State Department of Health
PO Box 367
Trenton, New Jersey 08625-0367
(609) 588-7726

(b) The applicant shall submit to the Department a non-refundable filing fee of \$250.00 for the initial licensure of a sponsor agency, and annually thereafter for renewal of the license.

(c) No agency or other health care provider shall advertise or claim itself to be a "sponsor agency" unless licensed as a sponsor agency.

(d) Each alternate family care sponsor agency shall be assessed a biennial inspection fee of \$100.00. This fee shall be assessed in the year the facility will be inspected, along with the annual licensure fee for that year. The fee shall be added to the initial licensure fee for new facilities. Failure to pay the inspection fee shall result in non-renewal of the license for existing facilities and the refusal to issue an initial license for new facilities. This fee shall be imposed only every other year even if inspections occur more frequently and only for the inspection required to either issue an initial license or to renew an existing license. This fee shall not be imposed for any other type of inspection.

Amended by R.1998 d.579, effective December 7, 1998.
See: 30 N.J.R. 3633(a), 30 N.J.R. 4221(b).
Added (d).

8:43B-2.3 Surveys and temporary license

(a) Following submission of the application for temporary licensure and prior to the initiation of services, a survey by representatives of the Health Facilities Inspection Program of the Department may be conducted to determine if the facility complies with the rules in this chapter:

1. The sponsor agency shall be notified in writing of the findings of the survey, including any deficiencies found;
2. The sponsor agency shall notify the Health Facilities Inspection Program of the Department when the deficiencies, if any, have been corrected, and the Health Facilities Inspection Program will schedule one or more resurveys of the facility prior to initiating services; and

3. Additional survey visits may be made to a sponsor agency at any time by authorized staff of the Department. Such visits may include, but not be limited to, the review of all sponsor agency documents, client records, home visits, and conferences with clients.

(b) Following submission of an application for licensure, and at the discretion of the Department, a preliminary conference for review of the conditions for licensure and operation may take place between staff of the Licensing, Certification, and Standards Program and representatives of the sponsor agency, who will be advised that the purpose of the temporary license is to allow the Department to determine the facility's compliance with N.J.S.A. 26:2H-1 et seq. and the rules pursuant thereto prior to issuance of a full license. A temporary license may be issued to a sponsor agency when all of the following conditions have been met:

1. Survey(s) by representatives of the Department indicate that the sponsor agency complies with the rules of this chapter;
2. The fee for filing of the application has been received by the Department and the application has been deemed complete;
3. Written approvals are on file with the Department from the local zoning, fire, health, and building authorities;
4. Personnel are employed in accordance with the staffing requirements in this chapter; and
5. Evidence of a current liability insurance policy.

(c) A temporary license shall be valid for a period of six months.

(d) An application for licensure may be denied if the applicant, during the preceding 12 months from the date of the application, was found to have violated state licensing or Federal certification requirements for operation of a health care facility which posed a serious and immediate threat to the health, safety or welfare of patients or residents. Such violation shall have resulted in the imposition of civil penalties, an action for revocation of a license, or curtailment of admissions.

(e) No sponsor agency shall be managed or operated by any person convicted of a crime relating adversely to the person's capability to manage or operate the sponsor agency.

(f) The temporary license shall be conspicuously posted at the sponsor agency's office.

(g) The temporary license is not assignable or transferable, and it shall become immediately void if the sponsor agency ceases to operate or if its ownership changes.

Public Notice: Waiver of Temporary Licensing of Facilities.
See: 29 N.J.R. 5107(b).

8:43B-2.4 Full license

(a) A full license shall be issued on expiration of the temporary license if surveys by the Department have determined that the sponsor agency is operated as required by N.J.S.A. 26:2H-1 et seq. and by the rules pursuant thereto.

(b) A full license shall be granted for a period of one year.

(c) The full license shall be conspicuously posted at the sponsor agency's office.

(d) The full license shall not be assignable or transferable, and it shall become immediately void if the sponsor agency ceases to operate or if its ownership changes.

(e) The license, unless suspended or revoked, shall be renewed annually on the original licensure date, or within 30 days thereafter but dated as of the original licensure date. The sponsor agency will receive a request for renewal fee 30 days prior to the expiration of the license. A renewal license shall not be issued unless the licensure fee is received by the Department.

8:43B-2.5 Surrender of license

(a) In the event a sponsor agency chooses to voluntarily cease operations, it shall notify each client, caregiver and the Department of Health at least 30 days prior to closure. A termination plan must be prepared and submitted to the Department for approval prior to implementation. The plan shall address, at a minimum, the procedures for the appropriate transfer of all services necessary to protect the health and welfare of clients. The license shall be returned to the Licensing, Certification and Standards Program of the Department within seven working days after cessation of operations.

(b) As directed under an order of revocation, refusal to renew, or suspension of license, the license shall be returned to the Licensing, Certification and Standards Program of the Department within seven working days after the revocation, non-renewal, or suspension of license.

8:43B-2.6 Waiver

(a) The Commissioner or his or her designee may, in accordance with the general purposes and intent of this chapter, waive sections of these rules if, in his or her opinion, such waiver would not endanger the life, safety, or health of clients or the public.

(b) A sponsor agency seeking a waiver of these rules shall apply in writing to the Director of the Licensing, Certification and Standards Program of the Department.

(c) A written request for waiver shall include the following:

1. The specific rule(s) or part(s) of the rule(s) for which waiver is requested;
2. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the sponsor agency upon compliance;
3. An alternative proposal which would ensure client safety; and
4. Documentation necessary to support the request, if applicable.

(d) The Department reserves the right to request additional information before processing a request for waiver.

8:43B-2.7 Action against a license

(a) If the Department determines that a sponsor agency is not in compliance with the requirements of this chapter, the Commissioner or his or her designee may take any and all necessary action as set forth at N.J.A.C. 8:43E. The Commissioner or his or her designee shall notify the sponsor agency in writing of such determination.

(b) The provisions of this section shall apply to a sponsor agency with either a temporary or a full license.

8:43B-2.8 Hearings

(a) Whenever the Department moves pursuant to N.J.A.C. 8:43E with regard to action against a license, the licensee may, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, request a hearing at the Office of Administrative Law.

(b) Prior to transmittal of any hearing request to the Office of Administrative Law, the Department may schedule a conference to attempt to settle the matter.

SUBCHAPTER 3. GENERAL REQUIREMENTS**8:43B-3.1 Compliance with laws and rules**

The sponsor agency shall comply with all applicable Federal, State and local laws, rules and regulations.

8:43B-3.2 Ownership

(a) The ownership and governance of the sponsor agency shall be disclosed to the Department in the sponsor agency's initial application for licensure. The Director of the Licensing, Certification and Standards Program shall be notified by the sponsor agency, in writing, of any proposed transfers or changes in ownership at least 30 days prior to the proposed change. All transfers of ownership must be in conformance with the certificate of need requirements for such transfers, as set forth at N.J.A.C. 8:33-3.3.

(b) The Director of the Licensing, Certification and Standards Program of the Department shall be notified by the sponsor agency of any proposed change in the location of the sponsor agency office(s) in writing at least 30 days prior to the change and in conformance with requirements for certificate of need.

8:43B-3.3 Submission of documents and data

(a) The sponsor agency shall, upon request, submit any documents which are required by the rules in the chapter to

be maintained to the Director of the Licensing, Certification and Standards Program. Additionally, the sponsor agency shall, upon request, submit data related to utilization, demographics, costs, charges, staffing, and other planning and financial data necessary to evaluate the quality of the program.

(b) The sponsor agency shall maintain an ongoing registry of all caregivers and clients. The following standards for maintaining the registry shall apply:

1. The register shall be kept up-to-date at all times. Placements, releases and the destination, and other changes shall be recorded within 48 hours. The names and addresses of all caregivers and the names of all clients residing within the caregiver's home shall be provided to the Department on a quarterly basis; and

2. All entries into the register shall be clear, legible, and written in ink or typed.

(c) The Department shall maintain an ongoing registry of all caregivers which shall include:

1. The names and addresses of all individuals who have served as caregivers;

2. A listing of all sponsor agencies by which the caregiver has been employed, as well as the dates of employment and the reasons for termination, if applicable;

3. The names of all clients to whom the caregiver has provided services; and

4. All known allegations or convictions relating to client abuse and/or neglect.

8:43B-3.4 Policy and procedure manual

(a) A policy and procedure manual(s) for the organization and operation of the alternate family care 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 at the sponsor agency's office for review by representatives of the Department at all times. The manual(s) shall include at least the following:

1. A comprehensive description of the services to be provided by the sponsor agency and the caregivers;

2. An organizational chart delineating the lines of authority, responsibility, and accountability for the administration of the alternate family care program;

3. Policies and procedures for identifying and reporting all diagnosed and/or suspected cases of client abuse, neglect or exploitation;

4. Policies and procedures for maintaining confidentiality of client records;

5. Policies and procedures for the maintenance of personnel records for each employee of the sponsor agency including, at a minimum, the individual's name, previous employment, educational background, credentials, license number with effective date and date of expiration (if applicable), certification (if applicable), verification of credentials, records of physical examinations, job description, records of staff orientation and staff education, and evaluations of job performance; and

6. Policies and procedures for the maintenance of personnel records for each caregiver including, at a mini-

mum, the individual's name, New Jersey criminal history check, previous employment, educational background, reference checks, home assessment, verification of credentials, if applicable, records of physical examinations and initial and annual evaluation of the caregiver's capacity to provide required services to the client.

(b) The sponsor agency shall make all policy and procedure manual(s) available and accessible to clients, client's family, prospective clients, caregivers, and referring agencies during normal business hours or by appointment.

8:43B-3.5 Provision of services

(a) The sponsor agency shall interview and evaluate individuals eligible to become caregivers to determine the appropriateness of the individual to care for a client in her or his home. The sponsor agency shall ensure that caregivers meet all of the criteria necessary to qualify as caregivers set forth at N.J.A.C. 8:43B-6.1. The evaluation process shall include, but not be limited to, the following:

1. Conducting an initial interview with the prospective caregiver and all household members;

2. Obtaining personal and employment references and a New Jersey criminal history check; and

3. Visiting prospective caregiver's home to assure compliance with physical environment requirements outlined at N.J.A.C. 8:43B-9.

(b) The sponsor agency shall establish a network of caregivers and/or community agencies available for emergency and temporary placement of clients.

(c) The sponsor agency shall develop and implement a complaint procedure for clients, caregivers and other interested parties. The procedure shall include a system for receiving complaints, a specified response time, assurance that complaints are referred appropriately for review, development of resolutions, and follow-up action.

(d) The sponsor agency shall have a policy addressing vacation and respite plans of the caregiver. The policy shall require prior approval by the sponsor agency, two-week notification and provisions for the continued care and safety of the client during the caregiver's absence.

(e) The sponsor agency shall establish and implement a written plan for monitoring the quality of care provided to clients. The plan shall include a mechanism to ensure participation of all disciplines in quality assurance activities and monitoring, and shall specify staff responsibilities for the quality assurance program.

(f) The sponsor agency shall be responsible for inspecting and supervising caregiver homes. This responsibility includes, at a minimum, an annual inspection of the caregiver's home to assure compliance with physical environment requirements.

8:43B-3.6 Caregiver training program

(a) The sponsor agency shall develop and provide a training program, approved by the Department, for caregivers who are not certified nurse aides, certified homemaker/home health aides or currently licensed as a practical or registered professional nurse.

(b) The sponsor agency shall assure and document that each caregiver has successfully completed the prescribed training program and is competent to serve as a caregiver.

(c) The approved training course shall be under the direction of a registered professional nurse and be appropriate to the service needs of the client. The curriculum of the training course should include, at a minimum, the subjects identified in Appendix A, incorporated herein by reference.

8:43B-3.7 Acceptance of clients

(a) The administrator of the sponsor agency, or a designated staff person, shall meet with the client and, if available, the client's family or legal guardian prior to placement. The information provided to the client during this meeting shall include, at a minimum, orientation to the policies and procedures, services provided, client rights and responsibilities, and a fee schedule for services.

(b) At this meeting, or prior to placement, the sponsor agency shall be provided with the name, address, and telephone number of a family member, legal guardian or responsible person who can be notified in the event of the client's illness or emergency, as well as the name and telephone number of the client's physician(s) and/or nurse practitioner(s).

(c) The sponsor agency shall arrange and/or conduct a preliminary meeting between the client and the caregiver with whom the client is to be placed, to determine whether the proposed placement is acceptable to each party.

8:43B-3.8 Written agreements

(a) The sponsor agency shall develop written agreements with each caregiver and client. This agreement shall be signed by a designated representative of the sponsor agency, the caregiver and the client. The agreement shall specify each party's rights and responsibilities, the services which are to be provided and the financial arrangements and charges.

(b) At the time of placement, agreements shall be made between the sponsor agency, caregiver and the client or the client's representative regarding the physician(s) and/or nurse practitioner(s) to be called in case of illness, or the person to be called for a client who because of religious affiliation is opposed to medical treatment.

(c) The sponsor agency shall provide each client with a written statement of the services to be provided by the caregiver and of all related charges. This statement shall include policies for payment fees and refunds and shall be provided to the client prior to, or at the time of, placement.

(d) The sponsor agency shall provide each client with advance written notification of any change in the agreement with the caregiver or changes regarding services provided and/or charges.

(e) The sponsor agency shall provide the client with a minimum of two weeks written notice if release or transfer is being considered, except in emergency circumstances.

(f) The sponsor agency shall include a requirement in the written agreement that the caregiver's home will be subject to inspection by the Department at any time.

8:43B-3.9 Personnel

(a) The sponsor agency shall ensure that the duties and responsibilities of all sponsor agency personnel (for example, nursing staff, social workers, etc.), as well as all caregivers, are described in job descriptions and in the policy and procedure manual.

(b) All sponsor agency personnel (for example, nursing staff, social workers, etc.) who provide client care shall be licensed, certified or authorized under the appropriate laws or rules of the State of New Jersey to provide such care.

8:43B-3.10 Caregiver and employee health status

(a) All caregivers and all employees of the sponsor agency who provide direct care to clients shall receive an initial health evaluation by a physician or nurse practitioner which includes a documented medical history. The sponsor agency shall establish a policy addressing the content and frequency of subsequent health examinations, as well as policies and procedures addressing precautionary measures to prevent the transmission of communicable diseases to clients.

(b) All caregivers, all persons residing in the home of the caregiver and all employees of the sponsor agency who provides direct care to clients shall receive a Mantoux tuberculin skin test with five tuberculin units of purified protein derivative prior to the placement of a client in the caregiver's home. The only exceptions are individuals with documented negative Mantoux skin test results (zero to nine millimeters of induration) within the last year, individuals with documented positive Mantoux skin test results (10 or more millimeters of induration), individuals who received appropriate medical treatment for tuberculosis or when medically contraindicated. Results of this test shall be acted upon as follows:

1. If the result is between zero and nine millimeters of induration, the test shall be repeated one to three weeks later; and

2. If the result is 10 millimeters or more of induration, a chest x-ray shall be performed and, if necessary, followed by chemoprophylaxis or therapy.

(c) A tuberculin skin test shall be repeated on an annual basis for all individuals identified in (b) above.

(d) The sponsor agency shall have policies addressing health evaluations and medical screening tests for individuals residing in the home of the caregiver.

8:43B-3.11 Reportable events

(a) The sponsor agency shall notify the Department immediately by telephone at (609) 588-7725, or at (609) 392-2020 after business hours, of any event occurring which jeopardizes the health or safety of clients or employees of the sponsor agency. Events which shall be reported to the Department include, but are not limited to, the following:

1. All suspected or confirmed cases of client abuse or neglect;
2. All alleged or suspected crimes by the caregiver or other member of the household which endanger the life or safety of the client;
3. All fires, disasters, accidents, or other unanticipated events which result in serious injury or death of a client and/or caregiver; and
4. A client's unplanned departure from the caregiver's home exceeding 24 hours.

(b) The Director of the Licensing, Certification and Standards Program shall be notified, in writing, within seven days of the resignation or termination of employment of a sponsor agency's administrator. The name and qualifications of the administrator's replacement shall be included in the written notification.

8:43B-3.12 Dismissal of caregiver

(a) The sponsor agency shall have written policies and procedures addressing the dismissal of a caregiver from the program due to conduct which jeopardizes the health or safety of the client. These policies and procedures shall be reviewed annually and shall be revised as needed. They shall include, at a minimum:

1. Identification of the grounds for termination, including:
 - i. Failure to provide care in accordance with the rules in this chapter and with the policies and procedures of the sponsor agency, including but not limited to abuse or neglect of the client;
 - ii. Violation of client's rights;
 - iii. Misappropriation of client's personal funds;
 - iv. Failure to maintain eligibility requirements as specified at N.J.A.C. 8:43B-6.1; and

2. Procedures for the safe and expeditious transfer of the client to an alternate site in the event of the dismissal of a caregiver.

(b) The sponsor agency shall notify the Department, in writing, whenever a caregiver is terminated and shall note, with specificity, the reasons for the termination.

8:43B-3.13 Notices

(a) The sponsor agency shall inform all clients that the following information is available in the sponsor agency's office during business hours to clients and the public:

1. All waivers granted by the Department;
2. A copy of the survey report and a list of deficiencies (if applicable) from the last annual licensure inspection and/or from any valid complaint investigation during the past 12 months; and
3. The hours of operation and the business hours of the sponsor agency.

SUBCHAPTER 4. ADMINISTRATION

8:43B-4.1 Appointment of administrator

The sponsor agency shall appoint an administrator who is responsible for all aspects of the alternate family care program. An alternate shall be designated in writing to act in the absence of the administrator. The administrator, or alternate, shall be available at all times. Neither the administrator nor the alternate shall have been convicted of any crime relating adversely to that individual's capability of managing the sponsor agency.

8:43B-4.2 Qualifications of administrator

The administrator shall have a baccalaureate degree in social work, nursing or a health or human services field and at least two years experience working with the disabled or frail elderly adults in a community setting. The administrator may serve in a dual role as either the registered nurse or social worker, if so qualified.

8:43B-4.3 Responsibilities of administrator

(a) The administrator shall be responsible for, but not limited to, the following:

1. Planning for, and administration of, the managerial, operational, fiscal and reporting components of the agency;
2. Establishing and maintaining liaison relationships, communication and integration with caregivers, clients and their families, in accordance with the philosophy and objectives of the program; and

3. Ensuring the development, implementation, and enforcement of all policies and procedures, including client rights.

8:43B-4.4 Nursing staff qualifications, availability and responsibilities

(a) The sponsor agency shall designate a registered professional nurse to be responsible for the direction and quality of nursing services provided to clients. This individual shall have at least one year experience working with the disabled or frail elderly adults in a community or institutional setting.

(b) The sponsor agency shall have at least one registered professional nurse available at all times. Available in this instance shall mean on call and capable of making a home visit as necessary.

(c) The responsibilities of the registered professional nurse shall include, but will not be limited to:

1. Developing nursing practice policies and procedures;
2. Performing nursing assessments of the client and preparing a health care component in the client service plan, if indicated;
3. Providing nursing services to the client, as needed;
4. Coordinating the provision of all health care services specified in the service plan developed for each client; and
5. Participating in the initial training and ongoing training of the caregiver.

8:43B-4.5 Social worker qualifications and responsibilities

(a) The sponsor agency shall designate a certified or licensed social worker to be responsible for the direction and quality of social work services provided to clients. This individual shall have at least one year of experience working with the disabled or elderly in a community or institutional setting.

(b) The sponsor agency shall provide social work services to clients who require them, in accordance with N.J.A.C. 13:44G.

(c) The responsibilities of the licensed or certified social worker shall include, but will not be limited to:

1. Performing social work assessments of the client and preparing a social work component in the client service plan, if indicated;
2. Providing social work counseling to the client, the client's family, and the caregiver, as needed;
3. Participating in the initial training and ongoing training of the caregiver; and

4. Contacting social service and other community resources for information, referrals, and services.

SUBCHAPTER 5. CLIENT CARE SERVICES

8:43B-5.1 Policies and procedures

(a) The sponsor agency shall establish written policies and procedures governing care provided to clients. These policies and procedures shall be reviewed on an annual basis and shall be revised as needed. They shall include, at a minimum:

1. Criteria for initial and ongoing placement of clients. This criteria shall be based upon the client's needs and shall assure the ability of the caregiver and sponsor agency to safely meet the personal, social, and nursing needs of the client;
2. Policies and procedures for assessing and monitoring the needs of clients, including at least:
 - i. Monitoring of the clients on a periodic basis;
 - ii. The referral of clients to other health care providers, or community agencies as appropriate; and
 - iii. Maintenance of records as required.
3. Policies and procedures for the administration of medications to clients within a caregiver's home, including at least:
 - i. Client self-administration;
 - ii. Training requirements for caregivers who will assist clients in the administration of medications. Such training shall include pertinent information about the medications' adverse effects, side effects and potential interactions;
 - iii. Circumstances where medications may be administered by the caregiver with consent of client;
 - iv. Circumstances where medications must be administered by qualified personnel, including licensed professional nurses or personal care assistants who are certified for administration of medications as defined at N.J.A.C. 8:36-1.8; and
 - v. System for caregivers to report suspected drug errors and adverse drug reactions to the sponsor agency's registered professional nurse;
4. A policy requiring the tuberculin screening of all clients prior to placement;

5. A policy to document evidence of annual vaccination against influenza for each client, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control most recent to the time of vaccination, unless such vaccination is medically contraindicated or the client has refused the vaccine, in accordance with N.J.A.C. 8:43B-8.1(a)2. Influenza vaccination for all clients shall be completed by November 30 of each year. Clients placed after this date, during the flu season and up to February 1, shall, as medically appropriate, receive influenza vaccination prior to or at the time of placement unless refused by the client.

6. Policy to document evidence of vaccination against pneumococcal disease for all clients who are 65 years of age or older, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control most recent to the time of vaccination, unless such vaccination is medically contraindicated or the client has refused offer of the vaccine in accordance with N.J.A.C. 8:43B-8.1(a)2. The sponsor agency shall provide or arrange for pneumococcal vaccination of clients who have not received this immunization, prior to or at the time of placement.

7. Policies and procedures concerning advance directives, including:

i. Requirement for an inquiry to be made of each client regarding the existence and location of an advance directive;

ii. Requirements for provision of a written statement of client rights regarding advance directives, approved by the Commissioner of Health or his or her designee, to clients prior to placement; and

iii. Requirements for documentation of (a)5i and ii above, in the client's record;

8. Procedures for monitoring and providing oversight of client funds when requested by the client, including:

i. Obtaining the client's written authorization for delegation of responsibility to the caregiver or other designated individual. This authorization shall be witnessed in writing by a designated representative of the sponsor agency and either a member of the client's family or the client's legal guardian;

ii. Providing the client with a quarterly written financial record of his or her funds if the client has delegated financial management responsibilities to the caregiver. The record shall show the amount of funds at the beginning and end of the accounting period, and include a list of all deposits and withdrawals, substantiated by receipts given to the client or his or her guardian. A copy of this record shall also be provided to the client's family or guardian, if applicable;

iii. Prohibiting caregivers from accepting any form of gift or bequest from a client or any designation by a

client as a beneficiary in an insurance policy, trust, will or any other testamentary device or from obtaining legal power of attorney over client funds or legal affairs; and

iv. Requiring the sponsor agency to have policies prohibiting caregivers from knowingly encouraging or accepting any form of gift or bequest from a client or any designation by a client as a beneficiary in an insurance policy, trust, will or any other testamentary device or from obtaining legal power of attorney over client funds or legal affairs.

9. Protocols to assure that transportation to all services identified in the client's service plan are provided directly or by arrangement; and

10. Protocols for transfer or release of client, including development of a written plan which shall include at least:

- i. The reason for, and date of, transfer or release;
- ii. The condition of client upon transfer or release;
- iii. A copy of the current client service plan; and
- iv. The destination of the client.

(c) The sponsor agency shall assure appropriate placement for clients who are transferred or released.

Amended by R.1998 d.258, effective May 18, 1998.

See: 30 N.J.R. 39(a), 30 N.J.R. 1853(c).

In (a), inserted new 5 and 6, and recodified former 5 through 8 as 7 through 10.

8:43B-5.2 Determination of program ineligibility

(a) A client may be transferred or determined ineligible to participate in the alternate family care program only for the following reasons:

1. The client has a medical condition, or requires a regimen of therapy, that cannot be adequately provided by the caregiver in the home;
2. The client is determined to be a danger to self or others following assessment by the sponsor agency case manager; and
3. The client does not comply with the written agreement.

8:43B-5.3 Case management services

(a) A case manager shall be assigned to each client prior to the client's placement in the home of a caregiver. The case manager shall be either a registered professional nurse or a licensed or certified social worker.

(b) The case manager shall be present in the caregiver's home on the day of placement to review and finalize the client service plan with the client and the caregiver.

(c) The case manager shall monitor the physical and psychosocial well being of the client on a regular and on-

going basis. The case manager shall visit the client in the caregiver's home on the following scheduled basis:

1. Weekly during the first month of placement; and
2. Once a month thereafter, and more frequently on an as-needed basis.

(d) If the case manager is a social worker, the registered professional nurse's quarterly monitoring visit, as required by N.J.A.C. 8:43B-7.3(c), may substitute for that month's scheduled visit by the case manager.

(e) The case manager shall ensure that services of another discipline or organization required by the client are provided directly or upon referral.

SUBCHAPTER 6. CAREGIVERS

8:43B-6.1 Qualifications of caregivers

(a) The sponsor agency shall ensure that each caregiver shall:

1. Be 21 years of age or older;
2. Have adequate oral and written communication skills;
3. Be physically, emotionally and mentally capable of complying with the requirements of the program and the provision of appropriate care to the client. This information shall be confirmed by the caregiver's primary care physician or nurse practitioner following a health evaluation;
4. Have no record of crimes of violence, sexual assault, abuse and neglect, fiscal malfeasance, or crimes of a similar nature as evidenced by attestation by the applicant;
5. Exhibit no personal conduct that may present a potential danger to the client such as abuse of alcohol or drugs; and
6. Provide proof of home ownership or a lease agreement.

(b) The sponsor agency shall assure that any other individual residing in the home meets the criteria outlined at (a)4 and 5 above.

8:43B-6.2 Substitute caregivers

(a) The sponsor agency shall develop a system to review and monitor the qualifications of individuals who provide care to the client in the absence of the caregiver.

(b) Substitute caregivers shall be at least 16 years of age, shall have adequate oral and written communication skills, shall be physically, emotionally and mentally capable of providing appropriate care to a client, and shall exhibit no personal conduct which might present a potential danger to a client, such as abuse of alcohol or drugs.

(c) In addition, any substitute caregiver who provides, on average, 20 or more hours of care per week shall meet all of the qualifications of caregivers set forth at N.J.A.C. 8:43B-6.1(a)1 through 5 and shall successfully complete the prescribed caregiver training program set forth at N.J.A.C. 8:43B-3.6 prior to providing care to any clients. Substitute caregivers who are certified nurse aides, homemaker/home health aides or professional licensed nurses shall be exempt from the training requirements of N.J.A.C. 8:43B-3.6.

8:43B-6.3 Caregiver/substitute caregiver responsibilities

(a) The sponsor agency shall assure that the caregiver or substitute caregiver is responsible, at a minimum, for the following:

1. Providing supervision and/or assistance with activities of daily living as specified in the client service plan;
2. Providing homemaking and personal care services essential to the client's health care and comfort at home, including provision of three nutritionally balanced meals daily, laundry, shopping, cleaning and general housekeeping in client's bedroom, bathroom and areas of socialization;
3. Ensuring that the client has clothing appropriate to the season;
4. Obtaining prompt medical care if the client becomes ill; and
5. Notifying the client's case manager if there is a significant change in the client's condition or if the service plan cannot be met due to changes or unexpected circumstances.

SUBCHAPTER 7. CLIENT ASSESSMENT, CLIENT SERVICE PLAN, AND HEALTH CARE SERVICES

8:43B-7.1 Client assessments

(a) Each client shall receive an initial assessment by the sponsor agency's registered professional nurse to determine the client's need for general and/or health care services. The initial nursing assessment shall not be required if a licensed physician specifies in writing, within 60 days prior to placement, that the client has no health care service needs and is appropriate for an alternate family care program.

(b) If the initial assessment indicates that the client requires health care services, a Standardized Resident Assessment Instrument (Minimum Data Set) as specified by the Department, or an equivalent instrument developed by the sponsor agency, shall be completed prior to placement. Completion of this assessment instrument shall be based on evaluations performed by nursing and social work staff and, when ordered by the physician, other health professionals. This assessment shall include, at a minimum, evaluation of the following:

1. Cognitive patterns;
2. Communication/hearing patterns;
3. Vision patterns;
4. Physical functioning and structural problems;
5. Continence;
6. Psychosocial well-being;
7. Mood and behavior patterns;
8. Activity pursuit patterns;
9. Disease diagnoses;
10. Health conditions;
11. Oral/nutritional status;
12. Oral/dental status;
13. Skin conditions;
14. Medication use; and
15. Special treatment and procedures.

(c) Each client shall receive a quarterly monitoring visit by a registered professional nurse and a semiannual reassessment. Clients who have been determined to have health care needs in accordance with the initial or subsequent nursing assessment described in (b) above shall receive a quarterly reassessment by a registered professional nurse.

8:43B-7.2 Client service plan

(a) A client service plan shall be developed for each client prior to, or on the day of, placement. The client service plan shall include, but not be limited to, the following:

1. The client's needs for assistance in activities of daily living (ADL) including designation of persons who will provide assistance;
2. The client's needs, if any, for assistance with transportation, and assistance with shopping, and errands;
3. Requirements for assistance with activities for socialization and recreation, as necessary;
4. The length of time which the client may be left alone and unsupervised, if any; and
5. The client's own personal needs and preferences.

(b) The client service plan shall include a health care component for each client who is assessed to need health care services. This health care component shall address, but not be limited to, the following:

1. Provision of nursing/health services including designation of persons who will provide such services;
2. Orders for treatment or services, medications, and diet, if needed;
3. Medications and how they are to be administered and by whom;
4. The specific goals of treatment or services, if appropriate;
5. The time intervals at which the client's response to treatment will be reviewed;
6. The measures to be used to assess the effects of treatment; and
7. The client's own personal needs and preferences.

(c) The client service plan shall be developed with participation of the client, the client's family, if available, and the caregiver.

(d) The case manager shall review and, if necessary, revise the client's service plan, at a minimum, every six months. Documentation in the client's record shall indicate review and any necessary revision(s) of the client service plan.

8:43B-7.3 Provision of health care services

(a) The sponsor agency shall arrange for health care services to be provided to clients as needed, in accordance with assessments and with the client service plan.

(b) The sponsor agency shall assure that client's receive health care services under the direction of a registered professional nurse.

(c) The health care professional shall notify the client's physician or nurse practitioner of any significant change in the client's physical or psychological condition.

(d) The sponsor agency shall ensure that an up-to-date log is maintained containing the names of all clients who are receiving health care services, the type of health care services being provided to the client, the agency providing the services, and the date and reasons for the client's discontinuance of health care services.

(e) The registered professional nurse or the client's physician or nurse practitioner shall be called at the onset of illness of any client to arrange for assessment of the client's nursing care needs or medical needs and for needed nursing care intervention or medical care.

(f) The sponsor agency shall arrange for the provision of emergency medical care, including notification of the client's family, if applicable.

(g) If it is determined that there is a medical need for a transfer to another caregiver's home or a health care facility because the caregiver cannot meet the client's needs such transfers shall be initiated promptly. The registered professional nurse shall be notified to ensure that the client is receiving appropriate care during the transfer period.

(h) The sponsor agency's registered professional nurse shall not be responsible for the administration of medications when the caregiver and the client enter into a private agreement allowing the caregiver to provide supervision of and assistance with administration of medications in accordance with the policies found at N.J.A.C. 8:43B-5.1(a)3.

SUBCHAPTER 8. CLIENT RIGHTS AND RESPONSIBILITIES

8:43B-8.1 Rights of each client

(a) Every client shall have the following rights, none of which shall be abridged by the caregiver or any member of the caregiver's household. These rights shall include, at a minimum, the right to:

1. Be treated with respect, dignity, courtesy, consideration and to have individual needs for privacy recognized and upheld;

2. Make choices with respect to services and lifestyle;

3. Participate, to the fullest extent that the client is able, in planning for his or her own treatment and care;

4. Receive and send mail in unopened envelopes, unless the client requests otherwise. The client also has a right to request and receive assistance in reading and writing correspondence;

5. Have access to shared areas of the house such as the kitchen and living room and to have reasonable opportunities for private and intimate physical and social interaction with other people;

6. Have access to a telephone without anyone deliberately listening to the conversation and, if technically feasible, to have a private telephone in his or her room at the client's own expense;

7. Be free from mental and physical abuse, free from exploitation, and free from chemical and physical restraints. Drugs and other medication shall not be used for punishment, for convenience of the caregiver, or in quantities that interfere with a client's daily activities;

8. Voice complaints without discrimination or reprisal. Any client is entitled to complain and present his or her grievances to the sponsor agency, to government agencies, and to anyone else without fear of interference, release or reprisal. The sponsor agency is required to provide each client with the names, addresses, and telephone numbers of the government agencies to which a patient can complain and ask questions, including the New Jersey Department of Health Complaint Hotline at 1-800-792-9770;

9. Release himself or herself from the program; and

10. Choose his or her own physician(s) or nurse practitioner(s).

(b) Each client shall be given a written statement of all client rights as well as any policies established by the sponsor agency involving client rights and responsibilities. The sponsor agency shall require each client or his or her legal guardian and the caregiver to sign a copy of this document.

8:43B-8.2 Responsibilities of each client

(a) The sponsor agency shall develop a written statement of client responsibilities which is provided to each client upon placement. This statement shall encourage client's to function as independently as possible and shall include, at a minimum, the responsibility to:

1. Comply with the client service plan developed with participation of the client, the client's family, if available and the caregiver;

2. Inform their caregiver about health changes; and

3. Treat agency staff and caregiver household family members in a respectful manner.

SUBCHAPTER 9. PHYSICAL ENVIRONMENT AND HOUSEKEEPING SERVICES

8:43B-9.1 Scope

The sponsor agency shall assure that any caregiver's home which serves as a placement site for one or more clients meets the standards set forth in this subchapter.

8:43B-9.2 General requirements

(a) The home shall meet all applicable local and State laws, including the State Uniform Construction Code, N.J.A.C. 5:23, regarding occupancy of a dwelling and health and fire standards.

(b) The home and grounds shall be well maintained at all times. The exterior of the house shall be adequately maintained in regard to paint, stairs, railings, windows, screens, storm windows, and grounds.

(c) All areas of the home shall be clean and free of vermin, rodents, trash and offensive odors.

(d) The home shall be maintained at a comfortable temperature for the client. The sponsor agency shall have a heat emergency plan to monitor indoor temperatures and be capable of implementing interventions for clients, when necessary.

(e) Lighting in the house shall be sufficient to prevent accidents. Stairs and hallways used by the client shall be illuminated with night lights. There shall be no exposed wiring anywhere in the home.

(f) Major plumbing, drains, sewer lines and septic systems shall be operable.

(g) The home shall be equipped and made accessible, as necessary, to meet the specific physical needs of the client(s) residing therein.

8:43B-9.3 Bedroom

(a) The client shall be furnished with a bedroom which may be shared with only one other client.

(b) The bedroom shall be furnished with a chair, bedside table, lamp, mirror and appropriate storage for personal belongings. There shall be adequate clear floor area to meet the specific physical needs of the client. "Clear floor area" means space exclusive of fixed closets, fixed wardrobes, alcoves, or vestibules.

(c) Each client shall be provided with a bed, box spring or bed spring, mattress and pillows. These items shall be unsoiled and in good condition.

(d) The bedroom shall have a door to ensure privacy and at least one window.

8:43B-9.4 Kitchen

(a) The kitchen shall be equipped with a refrigerator and stove and shall be clean and adequately maintained.

(b) Storage areas for food shall be clean and adequate in size. Food shall be safely stored and prepared.

(c) Garbage and trash shall be kept in receptacles and shall be disposed of promptly.

(d) There shall be a Class B dry chemical fire extinguisher within easy reach for grease fires.

8:43B-9.5 Bathroom facilities

(a) The client shall have access to a bathroom with a handwashing sink, toilet, bathtub and/or shower. The bathroom shall be accessible without disturbing the private space of another occupant of the home.

(b) The water temperature of the hot water for bathing and handwashing shall be maintained between 95 degrees and 110 degrees Fahrenheit (35 to 43 degrees Celsius).

(c) Hand rails shall be installed if needed by the client.

8:43B-9.6 Housekeeping services

(a) The caregiver shall provide the client a change of linen weekly or more frequently if needed.

(b) The caregiver shall provide laundry services for bedding, towels, and washable personal clothing or make available laundry equipment for the client's personal use.

(c) All areas of the home used by both the client and occupants of the home shall be properly maintained and kept clean.

(d) All furnishings available for use by the client shall be clean and in good repair. Items which are broken or worn to the extent that they may cause discomfort or present a danger to the client shall be promptly repaired, replaced or removed.

8:43B-9.7 Safety and fire protection

(a) There shall be a written fire plan outlining various escape route(s), which shall be routinely reviewed with the client.

(b) All escape route(s) out of the home shall be unobstructed.

(c) The home shall have at least one operable smoke detector on each floor which, when activated, sets off an alarm that is audible in all sleeping areas. The caregiver shall check the battery on a monthly basis.

SUBCHAPTER 10. RECORDS

8:43B-10.1 Maintenance of records

(a) The sponsor agency shall maintain a current, complete record for each client and caregiver.

(b) All records shall be maintained for a period of three years after the release of a client from the program.

(c) Records and information regarding the individual client shall be considered confidential and the client shall have the opportunity to examine such records in accordance with sponsor agency policies. The written consent of the client shall be obtained for release of his or her records to any individual not associated with the sponsor agency, except in the case of the client's transfer to a health care facility, or as required by law, third-party payor, or authorized government agencies.

8:43B-10.2 Client records

(a) The record for each client shall include:

1. A completed admission application and all records forwarded to the sponsor agency;

2. Client identification data including the client's name, last address, date of birth, address and telephone number of physician to be called, and the name and address of a responsible person who may be notified in the event of an emergency;

3. A copy of the client's service plan including physician orders and reports, if applicable, and progress notes by the registered professional nurse, social worker and case manager;

4. A copy of the client's nursing and social worker assessments based on individual clients' needs;

5. Written authorization by the client for management of the client's personal funds by the caregiver, if applicable;

6. Documentation of the existence or nonexistence of an advance directive and documentation of the sponsor agency's inquiry to the client, family or health care representative regarding this; and

7. A copy of the written statement of all client rights signed by the caregiver and the client, or his or her guardian.

8:43B-10.3 Caregiver records

(a) The record for each caregiver who has a client residing in his or her home shall include:

1. Documentation from the initial interview, including copies of the caregiver's letters of reference, criminal background check and assessment of the caregiver's home;
2. Proof of satisfactory completion of required training program;
3. A copy of the signed contract between the sponsor agency and the caregiver;
4. Records of physical examinations and evaluations of the caregiver's capacity to provide required services to the client;
5. A copy of the client's written authorization for the caregiver to manage his or her personal funds, if applicable.

8:43B-10.4 Records maintained by caregiver

(a) The sponsor agency shall ensure that each caregiver maintain a current record for each client placed in his or her home. Each client's record shall include at least the following:

1. Client identification data including the client's name, last address, date of birth, address, name and address of responsible person who can be notified in the event of an emergency and the telephone number of the physician or nurse practitioner to be called;
2. A copy of the contractual agreement signed by the sponsor agency, caregiver, and client or his or her guardian;
3. A copy of the written statement of all client rights signed by the caregiver and the client, or his or her guardian;
4. A copy of the client's written authorization for management of his or personal funds, if applicable and the quarterly financial records;
5. A current copy of the client's service plan; and
6. A record of visits by physicians and other health care providers not employed by the sponsor agency, including dates and comments if applicable.

APPENDIX A**CAREGIVER TRAINING COURSE CURRICULUM**

1. Module I. Overview of AFC Program
 - i. Expectations and responsibilities of the sponsor agency and caregiver.
2. Module II. Working with the Elderly and Disabled

- i. Concepts of communication
- ii. Understanding basic human needs and sensitivity to cultural differences
- iii. Psychological/social concerns of the elderly/disabled
- iv. Understanding mental health and mental illness, dementia and memory loss
- v. Relocation and readjustment
- vi. From independence to dependence
- vii. Sensitization to sensory changes
- viii. Recognizing common diseases

3. Module III. Personal Care Services

- i. Bathing, skin care, dressing, mouth care, foot care, hair care
- ii. Preventing the spread of disease
- iii. Simple procedures—vital signs, dressing changes
- iv. Medications; drug use; adverse reactions, side effects
- v. Incontinence and constipation

4. Module IV. Nutrition and Home Management

- i. Basics of good nutrition, including hydration
- ii. Special diets
- iii. Food preparation and spoilage

5. Module V. Rehabilitation/Restoration Care

- i. Body mechanics
- ii. Assisting with ambulation/transfer
- iii. Range of motion exercises

6. Module VI. Accident Prevention and Safety in the Home

- i. Emergency care and procedures
- ii. Safeproofing the home
- iii. Fire safety
- iv. First aid

7. Module VII. Agency Procedures

- i. Contract requirements
- ii. Recordkeeping, including plan of care
- iii. Supervision
- iv. Respite care
- v. Client rights

- vi. Financial management of client funds