

8:36-1.6 Qualifications of dietitians

The dietitian shall possess a bachelor's degree from an accredited college or university with a major area of concentration in a nutrition-related field of study, and one year of full-time professional experience or graduate-level training in nutrition.

8:36-1.7 Qualifications of licensed practical nurses

Each licensed practical nurse shall be so licensed by the New Jersey State Board of Nursing.

8:36-1.8 Qualifications of personal care assistants

(a) Each personal care assistant shall have completed:

1. A nurse aide training course approved by the New Jersey State Department of Health and shall have passed the New Jersey Nurse Aide Certification Examination; or
2. A Homemaker-Home Health Aide training program approved by the New Jersey Board of Nursing and shall be so certified by the Board; or
3. Another equivalent training program approved by the Department which emphasizes the concepts of assisted living and successful completion of a Department-approved competency examination.

(b) Each personal care assistant shall receive orientation prior to or upon employment and on-going inservice education regarding the concepts of assisted living.

(c) The responsibilities of a personal care assistant may be performed by a person who is enrolled in one of the three training programs referred to in (a) above, but such a person must complete the program and pass the examination or become certified (as the case may be) within six months of the date of hire or cease functioning as a personal care assistant. A personal care assistant-in-training may not administer medication or fulfill the requirement at N.J.A.C. 8:36-4.5(b) that a facility must have one awake personal care assistant on the premises at all times.

(d) Personal care assistants who administer medications shall meet the following requirements:

1. Current certification in good standing as a nurse aide, homemaker/home health aide, or completion of other Department approved course, as described at (a)1, 2 and 3 above;
2. Successful completion of the medication administration training course approved by the Department of Health and Board of Nursing, in accordance with N.J.A.C. 8:36-9.3(c); and
3. Successful completion of a Department of Health approved, standardized examination regarding medication administration for personal care assistants. An oral examination shall not substitute for the written component of this examination.

Amended by R.1994 d.496, effective October 3, 1994.
See: 26 N.J.R. 2187(a), 26 N.J.R. 4046(a).

8:36-1.9 Qualifications of pharmacists

Each pharmacist shall be so registered by the New Jersey State Board of Pharmacy.

8:36-1.10 Qualifications of physicians

Each physician shall be licensed or authorized by the New Jersey State Board of Medical Examiners to practice medicine in the State of New Jersey.

8:36-1.11 Qualifications of registered professional nurses

Each registered professional nurse shall be so licensed by the New Jersey State Board of Nursing.

8:36-1.12 Qualifications of social workers

Each social worker shall be licensed or certified by the New Jersey State Board of Social Work Examiners.

SUBCHAPTER 2. LICENSURE PROCEDURES**8:36-2.1 Certificate of Need**

(a) According to N.J.S.A. 26:2H-1 et seq., and amendments thereto, a health care facility shall not be instituted, constructed, expanded, licensed to operate, or closed except upon application for, and receipt of, a Certificate of Need issued by the Commissioner.

(b) Application forms for a Certificate of Need and instructions for completion 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 08625-0360
609-292-6552

(c) The facility 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 amendments thereto.

8:36-2.2 Application for licensure

(a) Following receipt of a Certificate of Need, any person, organization, or corporation desiring to operate an assisted living residence shall make application to the Commissioner for a license on forms prescribed by the Department. Such forms may be obtained from:

Director
 Licensing and Certification & Standards
 Division of Health Facilities Evaluation and Li-
 censing
 New Jersey State Department of Health
 CN 367
 Trenton, New Jersey 08625
 609-588-7726

CN 367
 Trenton, New Jersey 08625-0367
 609-588-7731

(b) Any long term care facility, residential health care facility, or Class "C" boarding home planning to provide assisted living services shall obtain licensing approval from the Department prior to initiating services.

(c) A copy of the assisted living residence or comprehensive personal care home admission agreement or other document stating the scope of a facility's services shall be forwarded to the Director, Licensing and Certification & Standards (see (a) above for address) for review when application for licensure is made. Review shall ensure that the admission agreement does not violate any requirements contained herein, any conditions placed on Certificate of Need approval, or any applicable State or Federal statutes. This subsection does not apply when a continuing care retirement community (CCRC), as defined at N.J.A.C. 8:36-1.3, contracts with its residents to provide assisted living pursuant to a continuing care agreement. This subsection does apply, however, when a CCRC provides assisted living to a person who is not a party to a continuing care agreement.

(d) The Department shall charge a nonrefundable fee of \$500.00 plus \$10.00 per bed (for the number of licensed beds) for the filing of an application for licensure of an assisted living residence and comprehensive personal care home and for the annual renewal of the license. The facility shall receive a license for the maximum number of beds available in its residential units.

(e) Each applicant for a license to operate a facility shall make an appointment for a preliminary conference at the Department with the Licensing and Certification Program.

8:36-2.3 Newly constructed or expanded facilities

(a) Any assisted living residence or comprehensive personal care home with a construction program, whether a Certificate of Need is required or not, shall submit plans to the Health Facilities Construction Services of the Department for review and approval prior to the initiation of construction.

(b) The licensure application for a newly constructed, renovated or expanded facility shall include written approval of final construction of the physical plant by:

Health Facilities Construction Services
 Division of Health Facilities Evaluation and Licen-
 sure
 New Jersey State Department of Health

(c) An on-site inspection of the construction of the physical plant shall be made by representatives of Health Facilities Construction Services to verify that the building has been constructed in accordance with the architectural plans approved by the Department.

8:36-2.4 Surveys and temporary license

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the Health Facilities Inspection Program of the Department shall be conducted to determine if the facility adheres to the rules in this manual.

1. The facility shall be notified in writing of the findings of the survey, including any deficiencies found.
2. The facility 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 occupancy.

(b) A temporary license may be issued to a facility when the following conditions are met:

1. A preliminary conference (see N.J.A.C. 8:36-2.2(d)) for review of the conditions for licensure and operation has taken place between the Licensing and Certification Program and representatives of the facility, 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 amendments thereto, and the rules pursuant thereto;
2. The initial survey required by N.J.A.C. 8:36-2.4(a) results in a finding of substantial compliance with the requirements of this chapter.
3. The completed licensure application is on file with the Department;
4. The fee for filing of the application has been received by the Department;
5. A copy of the admission agreement is on file with the Department;
6. Written approvals are on file with the Department from the local zoning, fire, health, and building authorities;
7. Written approvals of the water supply and sewage disposal system from local officials are on file with the Department for any water supply or sewage disposal system not connected to an approved municipal system;
8. Survey(s) by representatives of the Department indicate the facility adheres to the rules in this chapter; and

9. Personnel are employed in accordance with the staffing requirements in this chapter.

(c) No facility shall admit residents to the facility until the facility has the written approval and/or license issued by the Licensing and Certification Program of the Department. Violators of this requirement will be subject to penalties for operating a facility without a license, pursuant to N.J.S.A. 26:2H-14.

(d) Survey visits may be made to a facility at any time by authorized staff of the Department. Such visits may include, but not be limited to, the review of all facility documents and resident records and conferences with residents.

(e) A temporary license may be issued to a facility for a period of up to six months, subject to renewal as determined by the Department.

(f) The temporary license shall be conspicuously posted in the facility.

(g) The temporary license shall not be assignable or transferable and shall be immediately void if the facility ceases to operate or if the facility ownership changes.

8:36-2.5 Full license

(a) A full license shall be issued on expiration of the temporary license, if surveys by the Department have determined that the facility is in substantial compliance with the requirements of this chapter, and is operated as required by N.J.S.A. 26:2H-1 et seq.

(b) A license shall be granted for a period of one year or less, as determined by the Department.

(c) The license shall be conspicuously posted in the facility.

(d) The license shall not be assignable or transferable, and it shall be immediately void if the facility permanently 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 facility 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, or if the facility is more than 60 days delinquent in payment of a penalty issued pursuant to N.J.S.A. 26:2H-14.

(f) The license may not be renewed if local rules, regulations and/or requirements are not met, on a case by case basis.

8:36-2.6 Surrender of license

The facility shall notify each resident, the resident's physician, and any guarantors of payment at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license. In such cases, the license shall be returned to the Licensing, Certification and Standards Program of the Department within seven working days after the voluntary surrender, revocation, non-renewal, or suspension of license.

8:36-2.7 Waiver

(a) The Commissioner or his or her designee may, in accordance with the general purposes and intent of N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the rules in this chapter, waive sections of these rules if, in his or her opinion, such waiver would not endanger the life, safety, or health of residents or the public.

(b) A facility 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 facility upon adherence;
3. An alternative proposal which would ensure resident safety; and
4. Documentation to support the request for waiver.

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

(e) All requests for waivers to the physical plant requirements in subchapters 3 and 17 shall be fully explained, justified, and approved as part of the certificate of need application submitted in accordance with N.J.S.A. 26:2H-1 et seq. and N.J.A.C. 8:36-2.1(a).

8:36-2.8 Action against a license

(a) If the Department determines that operational or safety deficiencies exist, it may require that all admissions to the facility cease. This may be done simultaneously with, or in lieu of, action to revoke licensure and/or impose a fine. The Commissioner or his or her designee shall notify the facility in writing of such determination.

(b) The Commissioner may order the immediate removal of residents from a facility whenever he or she determines imminent danger to any person's health or safety.

(c) The provisions of (a) and (b) above shall apply to facilities with a temporary or provisional license and facilities with a full license.

8:36-2.9 Hearings

(a) If the Department proposes to suspend, revoke, deny, assess a monetary penalty, or refuse to renew a license, the licensee or applicant may request a hearing which shall be conducted 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.

(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.

8:36-2.10 Advertisement of assisted living

Only facilities licensed as assisted living residences or comprehensive personal care homes may describe and offer themselves to the public as providing assisted living services and care or other similar services. Violation of this requirement shall constitute operation of a health care facility without a license, and shall be subject to penalty in accordance with N.J.S.A. 26:2H-14.

SUBCHAPTER 3. PHYSICAL PLANT AND ENVIRONMENT

8:36-3.1 Scope

(a) The standards in this subchapter shall apply to new construction of assisted living residences or alterations or renovations to existing buildings to create assisted living residences.

(b) Prior to approval of a certificate of need for a transfer of ownership, the Department may conduct a physical plant inspection of the facility to determine the extent of physical plant deficiencies, based upon current codes and standards.

1. A report of the physical plant inspection shall be provided to the prospective buyer and seller.

2. A plan of correction shall be submitted to the Department for all physical plant deficiencies.

(c) New buildings and alterations, renovations and additions to existing buildings for assisted living residences shall conform with the New Jersey Uniform Construction Code, N.J.A.C. 5:23-3.2, Use Group I-1 of the subcode.

8:36-3.2 Restrictions

Mixed use occupancy shall not be permitted in buildings classified as High Hazard (H), Factory (F) or Assembly (A-2) Use Groups.

8:36-3.3 Ventilation

(a) Means of ventilation shall be provided in accordance with the Uniform Construction Code, N.J.A.C. 5:23 either by windows or by mechanical ventilation for every habitable room.

(b) Means of ventilation shall be provided for every bathroom or water closet (toilet) compartment. Ventilation shall be provided either by a window with an openable area or by mechanical ventilation.

8:36-3.4 Exit access passageways and corridors

The width of passageways, aisles and corridors shall have a minimum of 44 inches of clear space.

8:36-3.5 Automatic fire detection system

(a) Smoke detectors shall be provided in all residents' bedrooms, living rooms, and "studio apartment" units, whether or not the facility contains a comprehensive automatic fire suppression system throughout.

(b) All fire detection systems shall be installed in accordance with the Uniform Construction Code, N.J.A.C. 5:23 and NFPA 72 E.

8:36-3.6 Fire suppression systems

All facilities shall be provided with a fire suppression system in accord with the Uniform Construction Code, N.J.A.C. 5:23.

8:36-3.7 Interior finish requirement

Interior wall, ceiling and floor finishes shall be in compliance with the Uniform Construction Code, N.J.A.C. 5:23.

8:36-3.8 Minimum Unit Size

(a) Residential units occupied by one person shall have a minimum of 150 square feet of clear and useable floor area. ("Clear and useable floor area" means space exclusive of closets, bathroom and kitchenette.)

(b) In units occupied by more than one resident, there shall be a minimum of 80 additional square feet of clear floor area for each additional occupant.

(c) Residential units shall be lockable by the occupant(s). Egress from the unit must be possible at all times and locking hardware shall enable occupant(s) to gain egress from within by means of a simple operation. All residential units shall be accessible by means of a master key or similar system which is available at all times in the facility, and available at all times for use by designated staff.

(d) Each residential unit shall have an exterior glazed area equal to at least eight percent of the clear floor area.