

CHAPTER 33H
CERTIFICATE OF NEED: POLICY MANUAL
FOR LONG TERM CARE SERVICES

Authority

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

Source and Effective Date

R.1998 d.134, effective March 16, 1998.
 See: 29 N.J.R. 3794(a), 30 N.J.R. 1085(a).

Executive Order No. 66(1978) Expiration Date

Chapter 33H, Certificate of Need: Policy Manual for Long Term Care Services, expires on March 16, 2001.

Chapter Historical Note

Chapter 33H, Certificate of Need: Reviews of Long-Term Care Facilities and Services, was adopted as R.1980 d.404, effective September 18, 1980. See: 12 N.J.R. 393(a), 12 N.J.R. 579(b).

Pursuant to Executive Order No. 66(1978), Chapter 33H was readopted as R.1985 d.413, effective July 19, 1985. See: 17 N.J.R. 1216(a), 17 N.J.R. 2034(a).

Pursuant to Executive Order No. 66(1978), Chapter 33H, Certificate of Need: Reviews of Long-Term Care Facilities and Services, was readopted as R.1990 d.303, effective May 16, 1990. See: 22 N.J.R. 897(a), 22 N.J.R. 1938(a).

Chapter 33H, Certificate of Need: Reviews of Long-Term Care Facilities and Services, was repealed and a new Chapter 33H, Certificate of Need Policy Manual for Long Term Care Services, was adopted by R.1992 d.344, effective September 8, 1992. See: 24 N.J.R. 2014(a), 24 N.J.R. 3144(a). Pursuant to Executive Order No. 66(1978), Chapter 33H, Certificate of Need Policy Manual for Long Term Care Services, expired on September 8, 1997.

Chapter 33H, Certificate of Need: Policy Manual for Long Term Care Services, was adopted as new rules by R.1998 d.134, effective March 16, 1998. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

8:33H-1.1	Purpose; scope
8:33H-1.2	Definitions
8:33H-1.3	Role of counties, Local Advisory Boards, and the State in long-term care planning
8:33H-1.4	Projection of need for long-term care placements
8:33H-1.5	Pediatric long-term care
8:33H-1.6	Specialized long-term care
8:33H-1.7	Assisted living residences and assisted living programs
8:33H-1.8	Hospital-based subacute long term care units
8:33H-1.9	Size and occupancy of nursing homes and nursing units
8:33H-1.10	Comprehensive personal care homes
8:33H-1.11	Statewide restricted admissions facilities
8:33H-1.12	Residential health care facilities
8:33H-1.13	Conversion or elimination of licensed or Certificate of Need approved beds or services
8:33H-1.14	Quality of care and licensure track record requirements for long-term care, assisted living residences, comprehensive personal care homes, and residential health care facilities
8:33H-1.15	Utilization requirements for Medicaid-eligible patients, Supplemental Security Income (SSI) recipients, and former psychiatric patients

8:33H-1.16	Cost-efficiency and financial feasibility
8:33H-1.17	Environmental and physical plant considerations
8:33H-1.18	Location of facilities
8:33H-1.19	Prioritization criteria and recommended features for the approval of nursing home projects
8:33H-1.20	Relationship between licensure and certificate of need requirements

SUBCHAPTER 1. GENERAL PROVISIONS

8:33H-1.1 Purpose; scope

(a) The purpose of this chapter is to set forth Certificate of Need and related planning requirements for long-term care services.

(b) The Department has a major responsibility for the promotion of high quality, efficiently and economically rendered health services which are available to all citizens of the State. To ensure significant progress toward the achievement of this goal, the Department should direct planning and Certificate of Need activities toward the following:

1. Health promotion and minimization of debilitation;
2. Enhancement of the quality of life of long-term care consumers/patients and their families and/or significant others;
3. Expansion of long-term care options to maximize consumer choice;
4. Increased geographic, economic, and architectural accessibility of long-term care services;
5. Expansion of long-term care services to the extent that they are needed, while minimizing excess, underutilized capacity;
6. Increased affordability of long-term care services, the cost of which must be borne by consumers and the government;
7. Access to long-term care services without regard to race, ethnicity, or medical diagnoses, including HIV infection or a history of psychiatric illness;
8. Coordination of long-term care services; and
9. Community participation in decision-making about the development of expanded long-term care services.

(c) The rules contained in this chapter address the Certificate of Need requirements for the following categories and types of facilities, as they are defined in N.J.A.C. 8:33H-1.2:

1. Nursing homes;
2. Comprehensive personal care homes;

3. Pediatric long-term care;
4. Specialized long-term care;
5. Assisted living residences;
6. Assisted living programs;
7. Statewide restricted admissions facilities;
8. Residential health care facilities;
9. Alternate family care programs; and
10. Hospital-based subacute long term care units.

(d) Home health care is recognized as an important component of the long-term care system; however, the Certificate of Need requirements for home health care agencies are not contained in this chapter. Applicants interested in offering home health services in New Jersey should refer to N.J.A.C. 8:33L.

(e) Some patients in nursing homes may, on occasion, require rehabilitative care. The rehabilitative services offered to patients in most nursing homes are distinguished from comprehensive rehabilitation, which may only be offered by a licensed rehabilitation hospital. Applicants interested in offering comprehensive rehabilitation should refer to N.J.A.C. 8:33M.

(f) The provisions contained in this chapter shall apply uniformly to Certificate of Need applications for private and public facilities, whether State, county, municipal, incorporated, not incorporated, proprietary, or nonprofit, unless it is otherwise stated.

(g) Where a Certificate of Need is granted for long-term care beds, the applicant shall agree to occupy those beds with patients who require general nursing home care or, if so designated in the letter of approval, specialized long-term care. Applicants approved for long-term care beds shall not admit patients who require a different licensing category of care, such as comprehensive rehabilitation, unless the Commissioner has determined that admission is warranted to respond to an emergency situation and has granted approval in writing.

1. Applicants shall not advertise their facilities' services in such a way that consumers might reasonably construe that the level of care provided is something other than general nursing home care or, if so designated in the letter of approval, specialized long-term care.

Amended by R.1993 d.671, effective December 20, 1993.
See: 25 N.J.R. 3719(a), 25 N.J.R. 6031(a).

Case Notes

Religiously sponsored nursing homes not exempt from certificate of need requirements: religious need another factor in certificate determination. Attorney General Formal Opinion 1974-No. 2.

8:33H-1.2 Definitions

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

“Adult day health care program” means a facility which is licensed by the Department of Health to provide preventive, diagnostic, therapeutic, and rehabilitative services under medical supervision to meet the needs of functionally impaired adult patients. Adult day health care facilities provide services to patients for a period of time which does not exceed 12 hours during any calendar day.

“Aging in place” means a process whereby individuals remain in their living environment despite the physical and/or mental decline and growing needs for supportive services that may occur in the course of aging. For aging in place to occur, services are added, increased, or adjusted to compensate for the person’s physical and/or mental decline.

“AIDS Community Care Alternatives Program” or “AC-CAP” means a Medicaid Federal waiver program which offers all Medicaid services plus special home and community-based services, including case management, to persons who are financially eligible and diagnosed as having AIDS. At a minimum, the person must meet the nursing facility level of care criteria and be maintained in the community at a cost that is no greater than the cost to Medicaid for institutional care.

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

“Alternate family care program” means a program operated by a community-based agency, institution, facility, or private entity which is responsible for recruiting, screening, training, and supervising alternate family caregivers, as well as matching clients with alternate family caregivers and monitoring client status within this arrangement.

“Applicant” means an individual, a partnership, a corporation (including associations, joint-stock companies, and insurance companies), or a political subdivision (including a county or municipal corporation) that submits a Certificate of Need application.

“Assisted living” means a coordinated array of supportive personal and health services, available 24 hours per day, to residents who have been assessed to need these services, including residents who require formal long-term care. Assisted living promotes resident self-direction and participation in decisions that emphasize independence, individuality, privacy, dignity, and homelike surroundings.