3. Utilization review staff shall visit each patient and review the patient's medical record prior to admission in order to ensure that for each patient:

i. An appropriate length of stay is expected;

ii. The level of care provided in the unit is commensurate with the patient's needs; and

iii. A discharge plan has been prepared prior to admission;

4. Utilization review staff shall assess each patient on the first day, the fourth day, and daily thereafter to ensure the continued appropriateness of the patient's stay in the unit; and

5. Utilization review staff shall retrospectively examine diagnostic and length of stay information concerning each admission. Such information shall be reported to the Department quarterly on a form and in a manner prescribed by the Department. The $35.00 per admission health care quality fee prescribed by P.L. 1996, c.102, shall accompany submission of the form to the Department. Such form shall be submitted to the Department within 30 days after the conclusion of each quarter.

Petition for Rulemaking.
See: 34 N.J.R. 1975(b).
Petition for Rulemaking.
See: 35 N.J.R. 2532(a).
Amended by R.2004 d.298. effective August 2, 2004.
See: 36 N.J.R. 640(a), 36 N.J.R. 3528(a).
In (d), rewrote 5.

8:39–47.5 Licensure renewal

(a) Renewal of a license to operate a hospital-based subacute care unit shall be based upon the unit's compliance with the rules in this subchapter, all other pertinent rules in this chapter, the provisions of State of New Jersey P.L. 1996, c.102, and Federal Medicare requirements at P.L. 89–97 (42 U.S.C. §§ 1395 et seq.).

(b) The Department shall use the aggregate length of stay (total patient days/number of admissions) for the hospital-based subacute care unit as a monitoring benchmark, as an indicator of conformance with provisions of P.L. 1996, c.102, and as a condition of licensure renewal. For each annual renewal of the license, if the aggregate length of stay for patients admitted to the hospital-based subacute care unit during the four quarters immediately preceding the renewal application is determined to be greater than eight days, the Department shall not renew the subacute care license for the next annual licensure renewal cycle. A hospital shall not be permitted to reapply for a new certificate of need for a hospital-based subacute care unit for six months from the date of licensure nonrenewal or revocation.

1. In the case of licensure renewal applications submitted to the Department within one year after initial licensure, the aggregate length of stay shall be determined for the three quarters immediately preceding the licensure renewal application and used by the Department in accordance with (c) above.

2. For any patient who remains in the hospital-based subacute care unit in accordance with all provisions of N.J.A.C. 8:39–47.4(a)1, patient days accrued after the hospital has issued its written notice to discharge to the long-term care facility of origin shall not be included in the calculation of aggregate length of stay for the unit.

Amended by R.2004 d.298, effective August 2, 2004.
See: 36 N.J.R. 640(a), 36 N.J.R. 3528(a).
Deleted former (b); recodified former (c) as (b).

APPENDIX B

GUIDELINE FOR THE MANAGEMENT OF INAPPROPRIATE BEHAVIOR AND RESIDENT TO RESIDENT ABUSE

I. The initial resident assessment should include a psychosocial behavior component with interventions, if appropriate, in the care plan. Reassessment should be done at least quarterly, or at any time when a resident's pattern of behavior changes. Resident response to interventions should be recorded in the medical record.

II. Inappropriate behavior and/or actions should trigger an immediate reassessment with adjusted interventions; notification of the physician and/or the designated resident representative. Resident response should be recorded in the medical record. The facility's actions/interventions in response to behavior changes should also be part of the plan of care and should be appropriately recorded. Prompt reassessment of behavioral changes will in most cases avert the continued progression of inappropriate behavior.

III. Inappropriate behavior and/or actions involving other residents should be identified in the records of all involved residents including assessments, interventions and responses. Notifications of physician and/or designated resident representatives should also be recorded in medical records of all involved residents.

IV. Incidents of inappropriate behavior or actions of abuse between residents should result in the following actions, as applicable:
- A. Immediate assessments of involved residents;
- B. Notification of attending physicians or advanced practice nurses;
- C. Interventions and responses of residents;
- D. Notification of residents' designated representatives;
- E. Protection of involved residents' civil and constitutional rights;
- F. Determination by administrator of facility's ability to assure safety and security of all patients;
- G. Implementation of emergency or short-term precautions to assure safety while working toward resolution; and
- H. Notification of police if necessary.

V. In the event that it is determined that a resident must be removed from the facility, the transfer should be initiated in accordance with the provisions of this chapter.

VI. Transfer from the facility should be based on the appropriate evaluation and transfer order of the attending physician, advanced practice nurse, facility medical director and/or consultant psychiatrist.

VII. In the event of an immediate emergency situation only:

1. Have patient removed to emergency room of local hospital for medical and/or psychiatric evaluation and consultation by a physician or advanced practice nurse. Return of patient to the long-term care facility should be based on the physician's or advanced practice nurse's written notation of the appropriateness of returning the resident to the long-term care setting. The administrator is responsible for the decision to accept or deny the return of the resident according to N.J.A.C. 8:39;
2. A police complaint should be filed against the abuser and have the individual removed. The complaint can be filed by the facility or the abused party; and
3. Notify all agencies (that is, Medicaid if applicable, Ombudsman for the Institutionalized Elderly, if applicable (over 60) and the Department of Health and Senior Services.)

VIII. In the event all guidelines have been followed and resolution has not taken place, assistance should be requested from the Department.

IX. Facility policies and procedures to address inappropriate resident behavior, including resident to resident abuse, should include all of the above outlined actions.

X. To determine resident's emotional adjustment to the nursing facility, including his/her general attitude, adaptation to surroundings, and change in relationship patterns, the following areas should be evaluated:

1. Sense of Initiative/Involvement

Intent: To assess degree to which the resident is involved in the life of the nursing home and takes initiative in activities.

Process: Selected responses should be confirmed by the resident's behavior (either verbal or nonverbal) over the past seven days. The primary source of information is the resident. Secondarily, staff members who have regular contact with the resident should be consulted (for example, nursing assistants, activities personnel, social work staff, or therapists if the person receives active rehabilitation). Also, consider how resident's cultural standards affect the level of initiative or involvement.

Definition: At ease interacting with others—Consider how resident behaves during time you are together, as well as reports of how resident behaves with other residents, staff, and visitors. Does resident try to shield himself/herself from being with others? Does he/she spend most time alone? How does he/she behave when visited?

At ease doing planned or structured activities—Consider how resident responds to such activities. Does he/she feel comfortable with the structure or restricted by it?

At ease with self-initiated activities—These include leisure activities (for example, reading, watching TV, talking with friends), and work activities (for example, folding personal laundry, organizing belongings). Does resident spend most of his/her time alone, or does resident always look for someone to find something for him/her to do?

Establishes his/her own goals—Consider statements resident makes like, "I hope I am able to walk again," or "I would like to get up early and visit the beauty parlor." Goals can be as traditional as wanting to learn how to walk again following a hip replacement, or wanting to live to say goodbye to a loved one. Some things may not be stated

Involvement in life of the facility—Consider whether resident partakes of facility events, socializes with peers, discusses activities.

Resident accepts invitations into most group activities—Is resident willing to try group activities even if later, deciding the activity is not suitable and leaving? Does resident regularly refuse to attend group programs?

2. Unsettled Relationships

Intent: To indicate the quality and nature of the resident's interpersonal contacts (that is, how resident interacts with staff members, family, and other residents).

Process: During routine nursing care activities, observe how the resident interacts with staff members and with other residents. Do you see signs of conflict? Talk with direct-care staff (for example, nursing assistants, dietary aides who assist in the dining room, social work staff, or activities aides) and ask for their observations of behavior that indicate either conflicted or harmonious interpersonal relationships. Consider the possibility that the staff members describing these relationships may be biased.

Definition: Covert/open conflict with and/or repeated criticism of staff—Resident chronically complains about some staff members to other staff members; resident verbally criticizes staff members in therapeutic group situations, causing disruption within the group; or resident constantly disagrees with routines of daily living. (Note: Checking this item does not require any assumption about why the problem exists or how it could be remedied.)

Unhappiness with roommate—Includes frequent requests for roommate changes, grumbling about roommate spending too long in the bathroom, or complaints about roommate rummaging in another's belongings.

Unhappiness with residents other than roommate—Includes chronic complaints about the behaviors of others, poor quality of interaction with other residents, lack of peers for socialization. This refers to conflict or disagreement outside of the range of normal criticisms or requests (that is, beyond a reasonable level).

Openly expresses conflict/anger with family or close friends—Includes expressions of feelings of abandonment, ungratefulness, lack of understanding, or hostility regarding relationships with family/friends.

Absence of personal contact with family/friends—Absence of visitors or telephone calls from significant others in the last seven days.