

(g) The application shall include a statement of the applicant's commitment to assuring access to assisted living for individuals with nursing home-level care needs, as defined in N.J.A.C. 8:33H-1.2. Within 36 months after licensure, at least 20 percent of the facility's residents shall be individuals with nursing home-level care needs. This percentage shall be computed based on the number of resident days per calendar year and may include direct admissions as well as maintained residents with nursing home-level care needs. The facility shall report this information to the Department of Health by April 15 of each year for the prior calendar year.

(h) In order to assure two-way access to care between hospitals and the assisted living residence, the applicant shall maintain signed referral and/or transfer agreements with at least two New Jersey hospitals, including at least one State, county, or private psychiatric hospital. At the time of initial licensure, the facility shall sign and subsequently maintain these written agreements.

(i) Certificate of Need applications submitted subsequent to the time that Medicaid reimbursement for assisted living residences becomes generally available shall include a statement of commitment to provide access and continuity of care for Medicaid-eligible patients, including former psychiatric patients, who need nursing home level care.

Repeal and New Rule, R.1993 d.671, effective December 20, 1993.
See: 25 N.J.R. 3719(a), 25 N.J.R. 6031(a).
Section was "Adult day health care programs."

8:33H-1.9 Size and occupancy of nursing homes and nursing units

(a) The targeted annual occupancy rate for nursing homes should be 90 percent.

1. Certificate of Need applicants proposing the addition of long-term care beds at nursing homes with an annual occupancy rate of less than 90 percent of the licensed bed capacity for the most recent calendar year shall not be approved.

(b) Nursing homes shall be designed and sized to promote a homelike environment, as opposed to a hospital-like environment, efficient facility operation, and a high quality of life and care.

(c) The Certificate of Need application for a new or expanding nursing home or for a long-term care bed addition to an existing facility shall state the number of long-term care beds which is proposed for each nursing unit. The maximum nursing unit size for long-term care shall be 64 beds.

(d) The applicant shall provide detailed documentation to show that each and every proposed nursing unit containing long-term care beds, regardless of its size, shall be staffed with at least one licensed nurse (that is, a registered nurse or licensed practical nurse) for each shift around the clock,

and that there shall be at least two nursing personnel assigned to each nursing unit for each shift around the clock, and that the facility shall comply with or exceed all other applicable staffing requirements contained in N.J.A.C. 8:39, and that operation of the facility will be financially feasible thus staffed.

1. As a condition of Certificate of Need approval, the long-term care applicant shall agree to comply with the staffing requirements in (d) above, even if this necessitates exceeding the minimum staffing standards required for licensure, which are contained in N.J.A.C. 8:39.

(e) The maximum size of facilities receiving Certificate of Need approval for general or specialized long-term care beds shall be 240 beds.

1. An exception to the maximum size requirement in (e) above may be made in the case of existing facilities which are licensed for more than 240 long-term care beds, which propose to reduce their long-term care bed complement by at least 15 percent. Such facilities may be approved to maintain a licensed capacity which will exceed 240 long-term care beds at project completion, after a proposed number of long-term care beds has been eliminated, provided that all other applicable requirements of this chapter are met.

2. An exception to (e) above may be made in the case of Statewide restricted admissions facilities, which may be given consideration for an expansion which will result in a net capacity of more than 240 beds, provided that the facility meets the requirements of N.J.A.C. 8:33H-1.11 and all other applicable requirements of this chapter.

(f) A facility which is licensed for more than 240 general and/or specialized long-term care beds, which proposes to add long-term care beds, may receive Certificate of Need approval provided that the applicant designs the project to result in two or more separately licensed and staffed facilities, each in compliance with the maximum size requirement in (e) above. However, a facility which is licensed for more than 240 general and/or specialized long-term beds which proposes a replacement or renovation project without adding beds may be considered for Certificate of Need approval, provided that it complies with all other applicable requirements of this chapter.

(g) The maximum unit size for specialized long-term care beds shall be 32 beds.

Case Notes

Nursing home operator was entitled to use variance for construction of congregate care housing facility adjunctive to nursing home. *Jayber, Inc. v. Municipal Council of Tp. of West Orange*, 238 N.J.Super. 165, 569 A.2d 304 (A.D.1990), certification denied 122 N.J. 142, 584 A.2d 214, certification denied 122 N.J. 142, 584 A.2d 215.

8:33H-1.10 Comprehensive personal care homes

(a) In order to improve the utilization of readily available residential health care and "Class C" boarding home beds, to give current residents of these facilities the opportunity to age in place, and to improve access to care for many hospitalized patients and others who need long-term care placements, the Department shall give consideration to the conversion of residential health care facilities and "Class C" boarding homes to comprehensive personal care homes. The Department aims to preserve and promote the residential atmosphere of these settings, while enhancing the level of care and services they may provide, in accordance with the licensure standards at N.J.A.C. 8:36. Furthermore, in the case of hospice, the Department aims to promote the establishment of comprehensive personal care homes to serve terminally ill persons who lack adequate caregiving support to meet their needs while residing at home.

(b) The applicant for a comprehensive personal care home shall submit a Certificate of Need application for expedited review, in accordance with the applicable provisions of N.J.A.C. 8:33.

(c) Eligibility for conversion to a comprehensive personal care home shall be open exclusively to the following:

1. Freestanding residential health care facilities which were either licensed or Certificate of Need-approved on or before December 20, 1993;
2. Residential health care beds located within a long-term care facility that was licensed or Certificate of Need-approved on or before December 20, 1993;
3. Licensed long-term care beds; and
4. "Class C" boarding homes which were licensed or under construction on or before December 20, 1993.

(d) Eligibility for the construction of new comprehensive personal care beds shall be open exclusively to the following:

1. Existing comprehensive personal care homes and existing facilities proposing conversion to a comprehensive personal care home that wish to add a limited number of beds. Within any five year period commencing at the time of licensure, the new construction of no more than 20 beds as an addition to an existing or proposed comprehensive personal care home may be considered for Certificate of Need approval.
 - i. Applicants who wish to add more than 20 beds shall apply for approval as an assisted living residence.
 2. Hospice programs which have been Medicare-certified for at least 12 consecutive months. If approved, the facility shall be constructed using the current New Jersey Uniform Construction Code, Use Group I-1, which is applicable for residential health care facilities.

i. As a condition of Certificate of Need approval, the facility shall be occupied exclusively by patients who are eligible for hospice services.

ii. The facility shall contain no more than 20 comprehensive personal care beds at project completion.

(e) Only applications proposing the conversion of facilities which are capable of meeting the physical plant standards for licensure as a comprehensive personal care home, in accordance with N.J.A.C. 8:36, shall receive consideration for approval to convert to comprehensive personal care.

1. All requests for waivers to the physical plant requirements in N.J.A.C. 8:36-3 and 8:36-17 shall be fully explained, justified, and approved in accordance with N.J.A.C. 8:36-2.7, as part of the certificate of need application.

(f) Only applications proposing either conversion of the facility's entire complement of beds, or conversion of one or more separate and distinct units, wings, floors, or areas within the facility, shall receive consideration for approval to convert to comprehensive personal care.

(g) With regard to the facility's physical plant (for example, corridor widths, room size, handicap accessibility), the applicant shall identify the facility's capacity and limitations for meeting the needs of those residents who may require nursing home-level care. In this context, the applicant shall identify how and whether residents with common long-term care problems such as reduced mobility, incontinence, and dementia can safely and effectively be accommodated in accordance with the licensing standards at N.J.A.C. 8:36.

1. Comprehensive personal care homes shall have no more than two residents per bedroom. Applicants shall propose the conversion of that number of beds which will result in no more than two residents per room. If the facility has bedrooms with more than two occupants, the applicant shall propose a plan to achieve occupancy of no more than two residents per room in the comprehensive personal care beds.

(h) Applicants proposing the conversion of an existing, licensed residential health care facility or "Class C" boarding home shall provide a description of the facility, its current services, staff qualifications, the community in which it is located, linkages with other community agencies, residents' demographics (for example, age, race/ethnicity, payer mix), and recent occupancy data.

(i) The applicant shall provide a description of the proposed comprehensive personal care program and a plan for how it will be implemented in the facility, in accordance with the licensing requirements at N.J.A.C. 8:36. The plan shall include, but not be limited to, a description of new staff roles and responsibilities, staff orientation and training regarding assisted living concepts, resident orientation and education regarding new services to be provided, as needed, and specific changes in the operation of the facility which will be necessary to comply with the licensure standards for comprehensive personal care homes.