

CHAPTER 36

STANDARDS FOR LICENSURE OF ASSISTED LIVING RESIDENCES AND COMPREHENSIVE PERSONAL CARE HOMES

Authority

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

Source and Effective Date

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Chapter 36, Standards for Licensure of Assisted Living Residences and Comprehensive Personal Care Homes, expires on December 20, 1998.

Chapter Historical Note

Chapter 36, Standards for Licensure of Intermediate Dialysis Facilities, was adopted as R.1973, d.363, effective January 1, 1974. See: 5 N.J.R. 372(b), 6 N.J.R. 11(b). Amendments became effective June 23, 1976 as R.1976 d.195. See: 8 N.J.R. 224(b), 8 N.J.R. 330(c). Chapter 36 was repealed by R.1980 d.39, effective January 17, 1980. See: 11 N.J.R. 620(b), 12 N.J.R. 76(c). Chapter 36, Standards for Licensure of Assisted Living Residences and Comprehensive Personal Care Homes, was adopted as R.1993 d.672. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. DEFINITIONS AND QUALIFICATIONS**8:36-1.1 Scope**

(a) The rules in this chapter pertain to all facilities which provide assisted living services. These rules constitute the basis for the licensure of assisted living residences and comprehensive personal care homes by the New Jersey State Department of Health.

(b) Assisted living residences shall comply with N.J.A.C. 8:36-1 through 16; comprehensive personal care homes shall comply with N.J.A.C. 8:36-17.

8:36-1.2 Purpose

(a) The purpose of these rules is to establish standards for assisted living residences and comprehensive personal care homes which are intended to promote "aging in place" in a homelike setting for frail elderly and disabled persons, including persons who require formal long-term care. Assisted living residences and comprehensive personal care homes assure that residents receive supportive health and social services as they are needed to enable them to maintain their independence, individuality, privacy, and dignity in an apartment-style living unit. The assisted living environment promotes resident self direction and personal decision-making while protecting residents' health and safety.

(b) An assisted living residence or comprehensive personal care home offers a suitable living arrangement for persons with a range of capabilities, disabilities, frailties, and strengths. In general, however, assisted living is not appropriate for individuals who are incapable of responding to their environment, expressing volition, interacting, or demonstrating any independent activity. For example, individuals in a persistent vegetative state who require formal long-term care should not be placed or cared for in an assisted living residence or comprehensive personal care home.

(c) The aim of this chapter is to establish minimum rules with which an assisted living residence or comprehensive personal care home must comply in order to be licensed to operate in New Jersey.

8:36-1.3 Definitions

The following words and terms, when 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.

"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.

"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.

"Assisted living residence" means a facility which is licensed by the Department of Health to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed, for four or more adult persons unrelated to the proprietor. Apartment units offer, at a minimum, one unfurnished room, a private bathroom, a kitchenette, and a lockable door on the unit entrance.

"Assistance with transfer" means providing verbal and physical cuing or the physical assistance of no more than two facility staff or both while the resident moves between bed and a standing position or between bed and a chair or wheelchair.

"Available" means ready for immediate use (pertaining to equipment) or capable of being reached (pertaining to personnel), unless otherwise defined.

"Bedridden" means physically unable to rise from bed, even with assistance with transfer from the bed.

"Commissioner" means the New Jersey State Commissioner of Health.

"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 from a reservoir to a susceptible host.

"Comprehensive personal care home" means a facility which is licensed by the Department of Health to provide room and board and to assure that assisted living services are available when needed, to four or more adults unrelated to the proprietor. Residential units in comprehensive personal care homes house no more than two residents and have a lockable door on the unit entrance.

"Continuing care retirement community" means a facility that has received a certificate of authority pursuant to the Continuing Care Retirement Community Regulation and Financial Disclosure Act, N.J.S.A. 52:27D-330 et seq.

"Department" means the New Jersey State Department of Health.

"Documented" means written, signed, and dated.

"Employee" means a person who is gainfully employed in the assisted living facility on a full or part-time basis and for whom a record of hours worked and wages paid are maintained and who meets the health, age and other requirements of this chapter. Reimbursement for such employment may include salaries, wages, room and board, or any combination thereof. A person placed in the assisted living facility under a purchase of care or service agreement by the facility, or the resident, is not considered an employee.

"Formal long-term care" means ongoing assistance with activities of daily living and health care services, provided on a daily or regular basis to people with disabling long-term illnesses by nurses or other health care professionals or by personnel under the direction and supervision of health care professionals, as ordered by a physician.

"Full-time" means relating to a time period established by the facility as a full working week, as defined and specified in the facility's policies and procedures.

"Governing authority" means the organization, person, or persons designated to assume legal responsibility for the management, operation, and financial viability of the facility.

"Guardian" means a person appointed by a court of competent jurisdiction to handle the affairs and protect the rights of any resident of the facility who has been declared a mental incompetent. Guardian does not include a person affiliated with the facility, its operations or personnel, unless ordered by the court.

"Health care service" means any service provided to a resident of an assisted living residence or comprehensive personal care home that is ordered by a physician and required to be provided or delegated by a licensed, registered or certified health care professional. Any other service, whether or not ordered by a physician, that is not required to be provided by a licensed, registered or certified health care professional is not to be considered a health care service. For purposes of this definition a certified health care professional excludes certified homemaker/home health aide and certified nurse aides.

"Health care facility" means a facility so defined in N.J.S.A. 26:2H-1 et seq., and amendments thereto.

"Job description" means written specifications developed for each position in the facility, containing the qualifications, duties and responsibilities, and accountability required of employees in that position.

"Hospice" means a program of palliative and supportive services provided to terminally ill persons and their families in the form of physical, psychological, social and spiritual care.

"Licensed nursing personnel" (licensed nurse) means registered professional nurses or practical (vocational) nurses licensed by the New Jersey State Board of Nursing.

"Nursing supervision" means services which are provided to a resident whose condition requires continued monitoring of vital signs and physical and cognitive status. Such services shall be medically complex enough to require ongoing assessment, planning, or intervention by a nurse; required to be performed by or under the supervision of licensed nursing personnel or other professional personnel for safe and effective performance; required on a daily basis; and consistent with the nature and severity of the resident's condition or the disease state or stage.

"Personal care" means services supportive to residents' care and comfort, including, but not limited to, assistance with activities of daily living. Except as required by these rules, personal care need not be provided by a personal care assistant.

"Personal care assistant" means a person who is qualified in accordance with N.J.A.C. 8:36-1.8.

"Resident" means a person who lives in an assisted living residence or comprehensive personal care home.

"Residential unit" means a separate apartment or unit where one or more individuals reside within the assisted living residence or a room or rooms where residents reside within a comprehensive personal care home.

"Responsible person" means a person who has been designated by the resident and who has agreed to assist the resident, as needed, in arranging for health, social and financial services or making decisions regarding such services.

"Self administration" means a procedure in which any medication is taken orally, injected, inserted, or topically or otherwise administered by a resident to himself or herself. The complete procedure of self-administration includes removing an individual dose from a previously dispensed (in accordance with the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39), labeled container (including a unit dose container), verifying it with the directions on the label, and taking orally, injecting, inserting, or topically or otherwise administering the medication.

"Shift" means a time period defined as a full working day by the facility in its policy manual.

"Signature" means at least the first initial and full surname and title (for example, R.N., L.P.N., D.D.S., M.D., D.O.) of a person, legibly written with his or her own hand. A controlled electronic signature system may be used.

"Specialized care" or "specialized long-term care" means the care of individuals who must use a respirator or mechanical ventilator and the care of patients with severe behavior management problems, such as combative, aggressive, and disruptive behaviors.

"Staff education plan" means a written plan which describes a coordinated program for employee education for each service, including inservice programs and on-the-job training.

"Staff orientation plan" means a written plan for the orientation of each new employee to the duties and responsibilities of the service to which he or she has been assigned, as well as to the personnel policies of the facility.

"Supervision" means authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his or her sphere of competence, with initial direction and periodic on-site inspection of the actual act of accomplishing the function or activity.

1. "Direct supervision" means supervision on the premises.

8:36-1.4 Qualifications of all staff

All staff shall be emotionally stable, be in good physical and mental health, be of good moral character, and exhibit a concern for the safety and well-being of residents.

8:36-1.5 Qualifications of the administrator of an assisted living residence or comprehensive personal care home

(a) The administrator of an assisted living residence or comprehensive personal care home shall:

1. Be at least 18 years of age;
2. Possess a high school diploma or equivalent; and
3. Hold a current New Jersey license as a nursing home administrator, or be eligible to take the New Jersey Nursing Home Administrator's Licensing Examination, according to Department of Health requirements; or complete an Assisted Living training course approved by the Department of Human Services or other equivalent training as approved by the Department of Health, within one year of his or her employment as administrator.

(b) The administrator of an assisted living residence or comprehensive personal care home shall participate at least annually in a minimum of at least 10 hours of continuing education regarding assisted living concepts and related topics, as specified and approved by the Department of Health or the Nursing Home Administrators Licensing Board.

(c) The owner of an assisted living residence who meets the qualifications listed in (a) above may also serve as the administrator.

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 Licensing
 New Jersey State Department of Health
 CN 367
 Trenton, New Jersey 08625
 609-588-7726

(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 and each annual renewal of an assisted living residence or comprehensive personal care home. The facility shall apply for a license for the maximum number of beds available in its residential units. These fees shall not exceed the maximum caps as set forth at N.J.S.A. 26:2H-12, as may be amended from time to time.

(e) The Department shall charge a nonrefundable fee of \$500.00 for the filing of an application to add bed or non-bed related services to an existing assisted living residence or comprehensive personal care home.

(f) The Department shall charge a nonrefundable fee of \$250.00 for the filing of an application to reduce bed or non-bed related services at an existing assisted living residence or comprehensive personal care home.

(g) The Department shall charge a nonrefundable fee of \$250.00 for the filing of an application for the relocation of an assisted living residence or comprehensive personal care home.

(h) The Department shall charge a nonrefundable fee of \$1,000 for the filing of an application for the transfer of ownership of an assisted living residence or comprehensive personal care home.

(i) All applicants shall demonstrate that they have the capacity to operate an assisted living residence or program or a comprehensive personal care home in accordance with the rules in this chapter. An application for a license or change in service shall be denied if the applicant cannot demonstrate that the premises, equipment, personnel, including principals and management, finances, rules and bylaws, and standards of health care are fit and adequate and that there is reasonable assurance that the health care facility will be operated in accordance with the standards required by these rules. The Department shall consider an applicant's prior history in operating a health care facility either in New Jersey or in other states in making this determination. Any evidence of licensure violations representing serious risk of harm to patients may be considered by the Department, as well as any record of criminal convictions representing a risk of harm to the safety or welfare of patients.

(j) 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.

Amended by R.1996 d.339, effective July 15, 1996.
 See: 28 N.J.R. 2365(a), 28 N.J.R. 3556(a).

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 Licensure
 New Jersey State Department of Health
 CN 367
 Trenton, New Jersey 08625-0367
 609-588-7731

(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, if the facility's ownership changes, or if the facility is relocated to a different site.

Amended by R.1996 d.339, effective July 15, 1996.
See: 28 N.J.R. 2365(a), 28 N.J.R. 3556(a).

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 ceases to operate, if the facility's ownership changes, or if the facility is relocated to a different site.

(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.

Amended by R.1996 d.339, effective July 15, 1996.
See: 28 N.J.R. 2365(a), 28 N.J.R. 3556(a).

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.

8:36-3.9 Toilets, baths and handwashing sinks

(a) A bathroom with a toilet, bathtub and/or shower, and handwashing sink shall be located in each residential unit.

(b) Additional toilet facilities shall be provided to meet the needs of residents, staff and visitors to the facility and shall be located in areas other than the residential units.

8:36-3.10 Kitchenettes

(a) Each residential unit shall contain, at a minimum, a small refrigerator, a cabinet for food storage, a small bar-type sink, and space with electrical outlets suitable for small cooking appliances, for example, a microwave, a two-burner cooktop, or a toaster-oven.

1. Upon entering the assisted living facility, the resident and the resident's family or representative shall be asked if they wish to have a cooking appliance. If so, the appliance shall be provided by the facility, in accordance with facility policies. If the resident and resident's family or representative wish to provide their own cooking appliance, it shall meet the facility's safety standards.

2. If the resident and resident's family or representative do not want a cooking appliance or if resident assessments indicate that having a cooking appliance in the living unit endangers the resident, no cooking appliance shall be provided or allowed in the living unit.

8:36-3.11 Community space

The facility shall provide a minimum of 30 square feet per resident of community spaces for dining and for active and passive recreation.

8:36-3.12 Laundry equipment

(a) Each assisted living facility shall provide at least one non-commercial washer and dryer for residents' personal items.

(b) Where laundry equipment is limited to non-commercial type (ordinary household or residential types), no special fire protective measures shall be required.

(c) When commercial type laundry equipment is utilized, it shall be installed in a separate laundry room. The remainder of the home shall be protected from the laundry room by fire separation assemblies of at least one-hour rated construction. Openings in all fire separation assemblies shall be protected in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

(d) All dryers shall be vented to the outside of the building.

8:36-3.13 Dietary department

(a) Construction, equipment, and installation of food service facilities shall meet the requirements of the dietary programs.

(b) The following facilities shall be provided, at a minimum:

1. A control station for receiving food supplies;
2. Minimum storage facilities for four days' food supply, including refrigeration and freezer for cold storage items;
3. Food preparation facilities;
4. Handwashing facilities located in the food preparation area;
5. Facilities for food distribution to residents;
6. Warewashing space;
7. Potwashing facilities and facilities for cart washing;
8. Storage areas for cans and carts;
9. Waste storage facilities;
10. Offices or desk space for dietitian(s) and the dietary service manager;
11. Janitor's closet; and
12. Self-dispensing icemaking facilities.

8:36-3.14 Administration and public areas

(a) A grade level entrance, sheltered from the weather and able to accommodate wheelchairs shall be provided, and shall include a reception and information counter or desk and waiting space.

(b) Space for private interviews shall be provided.

(c) An individual mailbox for each resident shall be provided.

(d) General or individual offices for records, administrative and professional staffs shall be provided.

(e) Space shall be provided for storing employee's personal possessions.

(f) Separate space shall be provided for storage of office supplies, sterile or pharmaceutical supplies, and housekeeping supplies.

(g) A room(s) for examination and treatment of residents, which is adequate for an overnight stay and includes toilet facilities, may be provided. It shall have a minimum floor area of 100 square feet, excluding space for vestibule, toilet and closet. It shall contain a lavatory or sink equipped for handwashing, a work counter, storage facilities, and a desk, counter or shelf for writing.

(h) An infirmary may be provided for residents who may need 24-hour observation on a temporary basis. Clear space of at least three feet shall be provided at each side

and at the foot of each bed in the infirmary. Toilet facilities shall be provided in the infirmary.

8:36-3.15 Fire extinguisher specifications

(a) There shall be a minimum of two fire extinguishers in the basement, at least one on each floor of the building and as required in kitchen areas, all of which shall bear the seal of the Underwriters Laboratories.

(b) The following types of extinguishers shall be provided:

1. In kitchen areas, because of danger of grease fires, extinguishers shall be of the Class B dry chemical type 2-B and a minimum of five pounds. The maximum travel distance to an extinguisher shall be 50 feet.

2. In the basement area, an extinguisher shall be Class B dry chemical type 2-B and a minimum of five pounds if oil or gas is used as fuel. The maximum travel distance to an extinguisher shall be 50 feet.

3. In all other areas a Class A air-pressurized 2½ gallon water type 2-A extinguisher shall be provided. The maximum travel distance to an extinguisher shall be 75 feet.

8:36-3.16 Sound devices

If self-locking doors are used at the main entrance and other entrances which open onto a roof or balconies, they shall be equipped with a sounding device, such as a bell, buzzer or chime, which is in operating condition. The sounding device shall be affixed to the outside of the door or to the adjacent exterior wall for use in the event that a person is unable to enter the building and shall ring at an area staffed 24 hours a day.

8:36-3.17 Telecommunications

Each residential unit shall be pre-wired for telephone and television reception.

SUBCHAPTER 4. GENERAL REQUIREMENTS

8:36-4.1 Types of services provided to residents

(a) The assisted living residence or comprehensive personal care home shall provide and/or coordinate personal care and services to residents, based on assessment by qualified persons, in accordance with the New Jersey Nursing Practice Act, the rules in this manual, and the individual needs of each resident.

(b) The assisted living residence or comprehensive personal care home shall be capable of providing at least the following services: assistance with personal care, nursing, pharmacy, dining, activities, recreational, and social work services to meet the individual needs of each resident.

(c) The assisted living residence or comprehensive personal care home shall provide supervision of and assistance with self-administration of medications, and administration of medications by trained and supervised personnel, as needed by residents.

(d) The assisted living residence or comprehensive personal care home shall be capable of providing nursing services to maintain residents, including residents who require formal long-term care. However, the resident may be, but is not required to be, moved from the facility if it is documented in the health care plan that a higher level of care is required as demonstrated by one or more of the following characteristics:

1. The resident requires 24 hour, seven day a week nursing supervision.

2. The resident is bedridden for more than 14 consecutive days.

3. The resident is consistently and totally dependent in four or more of the following activities of daily living: eating, bathing, dressing, grooming, and toileting.

4. The resident has a cognitive decline severe enough to prevent the making of simple decisions regarding activities such as bathing, dressing and eating and cannot respond appropriately to cuing and simple directions.

5. The resident requires treatment of a stage three or four pressure sore or multiple stage two pressure sores. However, a resident who requires treatment of a single stage two pressure sore shall be retained and a plan of care developed and implemented to stabilize the sore and the condition which caused it.

6. The resident requires more than assistance with transfer as defined at N.J.A.C. 8:36-1.3.

7. The resident is a danger to self or others.

8. The resident has a medically unstable condition and/or has special health problems, and a regimen of therapy cannot be appropriately developed and implemented in the assisted living environment.

(e) The facility's admission agreement with each resident must clearly specify if the facility will or will not retain residents with one or more characteristics described in (d)1 through 8 above, to what extent, and, if applicable, at what additional cost. 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.

(f) Residents who require specialized long-term care, as defined at N.J.A.C. 8:36-1.3, may not remain in the assisted living residence or assisted living program and shall be transferred to a long-term care facility that provides the applicable form of specialized care.

(g) The assisted living residence or comprehensive personal care home shall adhere to applicable Federal, State, and local laws, rules, regulations, and requirements.

8:36-4.2 Ownership

(a) The ownership of the facility and the property on which it is located shall be disclosed to the Department. Any proposed change in ownership shall be reported to the Director of the Licensing and Certification Program of the Department in writing and in conformance with licensing requirements.

(b) No facility shall be owned or operated by any person convicted of a crime relating adversely to the person's capability of owning or operating the facility.

(c) The owner or governing authority of the facility shall assume legal responsibility for the management, operation, and financial viability of the facility.

8:36-4.3 Submission and availability of documents

The facility shall, upon request, submit in writing any documents which are required by the rules in this chapter to the Director of the Licensing and Certification Program of the Department. Additionally, upon request of the Department, the facility shall submit in writing data related to utilization, demographics, costs, charges, staffing, and other planning and financial data necessary to evaluate the services provided.

8:36-4.4 Personnel

(a) The facility shall develop written job descriptions and ensure that personnel are assigned duties based upon their education, training, and competencies and in accordance with their job descriptions.

(b) All personnel who require licensure, certification, or authorization to provide resident care shall be licensed, certified, or authorized under the appropriate laws or rules of the State of New Jersey.

8:36-4.5 Staffing requirements

(a) The facility shall maintain and implement written staffing schedules. Actual hours worked by each employee shall be documented.

(b) The facility shall provide on the premises at all times the following minimum numbers of employees:

1. At least one awake personal care assistant; and
2. At least one additional employee.

(c) The facility shall develop and implement a staff orientation and a staff education plan, including plans for each service and designation of person(s) responsible for training. All personnel providing personal care or health services shall receive orientation at the time of employment and at least annual in-service education regarding, at a minimum, the following:

1. The provision of services and assistance in accordance with the concepts of assisted living;
2. Emergency plans and procedures; and
3. The infection prevention and control program.

(d) The staffing level in this chapter is minimum only and the assisted living residence and comprehensive personal care home shall employ staff in sufficient number and with sufficient ability and training to provide the basic care and resident assistance and supervision required, based on assessment of the acuity of resident's needs.

(e) Personnel, including staff under contract, with a reportable communicable disease or infection shall be excluded from the assisted living residence and comprehensive personal care home until examined by a physician who shall certify to the administrator that the condition will not endanger the health of residents or other employees.

(f) The facility shall exercise good faith and employ reasonable efforts to ensure that staff providing personal care and services to residents have not been convicted of a crime relating adversely to the person's ability to provide resident care, such as homicide, assault, kidnapping, sexual offenses, robbery, and crimes against the family, children or incompetents, except where the applicant or employee with a criminal history has demonstrated his rehabilitation in order to qualify for employment at the facility.

8:36-4.6 Policy and procedure manual

(a) A policy and procedure manual(s) for the organization and operation of the facility 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 in the facility to representatives of the Department at all times. The manual(s) shall include at least the following:

1. An organizational chart delineating the lines of authority, responsibility, and accountability for the administration and resident care services of the facility;
2. A description of the services which the assisted living residence or comprehensive personal care home is capable of providing;
3. Policies and procedures for maintaining security;
4. Policies and procedures for reporting all diagnosed and/or suspected cases of resident abuse or exploitation. If the resident is 60 years of age or older, the State of New Jersey Office of the Ombudsman for the Institution-

alized Elderly shall be notified, in compliance with N.J.S.A. 52:27G-7.1 et seq.;

5. Policies and procedures for maintaining confidentiality of resident records, including policies and procedures for examination of resident records by the resident and other authorized persons and for release of the resident's records to any individual outside the facility, as consented to by the resident or as required by law or third party payor;

6. Policies and procedures for the maintenance of personnel records for each employee, including at least his or her name, previous employment, educational background, credentials, license number with effective date and date of expiration (if applicable), certification (if applicable), verification of credentials, prior criminal records, records of physical examinations, job description, records of orientation and inservice education, and evaluations of job performance; and

7. Policies and procedures, including content and frequency, for physical examinations and immunizations and tuberculin testing upon employment and subsequently for employees and persons providing direct resident care services in the facility through contractual arrangements or written agreement.

(b) The facility shall make all policy and procedure manuals available to residents, guardians, designated responsible persons, prospective applicants, and referring agencies during normal business hours or by prior arrangement.

8:36-4.7 Resident transportation

(a) The facility shall be capable of providing resident transportation, either directly or by arrangement, to and from health care services provided outside the facility, and shall promote reasonable plans for security and accountability for the resident and his or her personal possessions, as well as transfer of resident information to and from the provider of the service, as required by individual residents and specified in resident's service plans.

(b) The facility shall assist residents, if needed, in arranging for transportation to activities of social, religious, and community groups in which the resident chooses to participate.

8:36-4.8 Written agreements

The facility shall have a written agreement or its equivalent, or a linkage for services not provided directly by the facility. If the facility provides care to residents with psychiatric disorders, the facility shall also have a written agreement with one or more community mental health centers specifying which services will be provided by the mental health center. The written agreements shall require that services be provided in accordance with the rules in this chapter.

8:36-4.9 Reportable events

(a) The facility shall notify the Department immediately by telephone at 609-588-7725 (609-392-2020 after business hours), followed within 72 hours by written confirmation, of the following:

1. Interruption for three or more hours of basic physical plant services, such as heat, light, power, water, food, or staff;
2. Termination of employment of the administrator, and the name and qualifications of his or her replacement;
3. Occurrence of epidemic disease in the facility;
4. All fires, all disasters, all residents who are missing for 24 hours, and all deaths resulting from accidents or incidents in the facility or related to facility services. The written confirmation shall contain information about injuries to residents and/or personnel, disruption of services, and extent of damages;
5. Any major occurrence or incident of an unusual nature shall be reported immediately to the Department by telephone, and shall be confirmed in writing to the Department as soon as possible thereafter;
6. All alleged or suspected crimes which are serious crimes committed by or against residents, which have also been reported at the time of occurrence to the local police department; and
7. All suspected cases of resident abuse or exploitation which have been reported to the State of New Jersey Office of the Ombudsman for the Institutionalized Elderly.

8:36-4.10 Notices

(a) The facility shall conspicuously post a notice that the following information is available in the facility during normal business hours, to residents and the public:

1. All waivers granted by the Department;
2. A copy of the last annual licensure inspection survey report and the list of deficiencies from any valid complaint investigation during the past 12 months;
3. Policies and procedures regarding resident rights;
4. Business hours of the facility;
5. Policies and procedures for maintaining security of the assisted living residence and comprehensive personal care home;
6. The toll-free hot line number of the Department; telephone numbers of county agencies and of the State of New Jersey Office of the Ombudsman; and
7. The names of, and a means to formally contact, the owner and/or members of the governing authority.

8:36-4.11 Maintenance of records

(a) The facility shall maintain an annual chronological listing of residents admitted and discharged, including the destination of residents who are discharged.

(b) Statistical data, such as resident census and facility characteristics, shall be forwarded on request, in a format provided by the Department.

8:36-4.12 Admission and retention of residents

(a) The administrator of the assisted living residence or the administrator's designee shall conduct an interview with the resident and, if the resident agrees, the resident's family, guardian, or interested agency, prior to or at the time of the resident's admission. The interview shall include at least orientation to the facility's policies, business hours, fee schedule, services provided, resident rights, and criteria for admission and discharge. Documentation of the resident interview shall be included in the resident's record.

(b) At the initial interview prior to, or at the time of, admission of each resident, the administrator or the administrator's designee shall be provided with the name, address, and telephone number of a family member, guardian, responsible person or designated community agency who can be notified in the event of the resident's illness, incident, or other emergency.

(c) If a facility has reason to believe, based on a resident's behavior, that the resident poses a danger to himself or herself or others, and that the facility is not capable of providing proper care to the resident, then the attending physician or the physician on call, in consultation with facility staff and a resident representative, shall determine whether the resident is appropriately placed in that facility. The facility or resident representative shall initiate the mental health screening process in accordance with N.J.S.A. 30 and, based on the results and recommendations of that screening process, shall attempt to locate a new placement if necessary.

(d) If an applicant, after applying in writing, is denied admission to the assisted living residence or program, the applicant and/or his or her family, guardian, or designated community agency shall, upon written request, be given the reason for such denial in writing, signed by the administrator, within 15 days of the receipt of the written request.

(e) If there is an infirmary in the facility, residents shall be transferred to the infirmary only if they have consented to such transfer and shall remain in the infirmary for a limited time only, generally not to exceed one week.

8:36-4.13 Involuntary discharge

(a) Written notification by the administrator shall be provided to a resident and/or his or her family, guardian, or designated responsible person, of a decision to involuntarily discharge the resident from the facility. Such involuntary discharge shall only be upon grounds contained in the facility's policies and procedures and shall occur only if the resident has been notified and informed of such policies in advance. The notice of discharge shall be given at least 30 days in advance and shall include the reason for discharge and the resident's right to appeal. This 30 day advance notice shall not apply if the discharge is for reasons in accordance with the criteria specified at N.J.A.C. 8:36-4.1(d)1 through 8. A copy of the notice shall be entered in the resident's record.

(b) The resident shall have the right to appeal to the administrator any involuntary discharge from the facility. The appeal shall be in writing and a copy shall be included in the resident's record with the disposition or resolution of the appeal. The resident shall have the right to retain legal counsel to appeal.

(c) In an emergency situation, as stated in N.J.A.C. 8:36-4.12(d), for the protection of the life and safety of the resident or others, the facility may transfer the resident without 30 days notice. The Department shall be notified in the event of such discharge.

8:36-4.14 Notification requirements

(a) The resident's family, guardian, and/or designated responsible person or community agency shall be notified, immediately after the occurrence, in the event of the following:

1. The resident acquires an acute illness requiring medical care;
2. Any serious accident, criminal act or incident occurs which involves the resident and results in serious harm or injury or results in the resident's arrest or detention. The Department of Health shall also be notified of these events;
3. The resident is transferred from the facility; or
4. The resident expires.

(b) Such notification shall be given at the time of occurrence, and then documented in the resident's record.

8:36-4.15 Interpretation services

The facility shall demonstrate the ability to provide a means to communicate with any resident admitted who is non-English-speaking and/or has a communication disability, using available community or on-site resources.

8:36-4.16 Referral and transfer agreements

Each licensed assisted living residence and comprehensive personal care home shall maintain written referral and/or transfer agreements with at least one licensed acute care hospital in New Jersey, at least one licensed State, county, or private psychiatric hospital in New Jersey, and with at least one licensed New Jersey long term care facility.

SUBCHAPTER 5. ADMINISTRATION

8:36-5.1 Appointment of administrator

An administrator shall be appointed and an alternate shall be designated in writing to act in the absence of the administrator. The administrator or a designated alternate shall be available at all times.

8:36-5.2 Administrator's responsibilities

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

1. Ensuring the development, implementation, and enforcement of all policies and procedures, including resident rights;
2. Planning for, and administration of, the managerial, operational, fiscal, and reporting components of the facility;
3. Ensuring that all personnel are assigned duties based upon their ability and competency to perform the job and in accordance with written job descriptions;
4. Ensuring the provision of staff orientation and staff education;
5. Establishing and maintaining liaison relationships and communication with facility staff and services and with residents and their families; and
6. Establishing and maintaining liaison relationships and communications with community hospitals, social, and mental health service agencies.

(b) The administrator shall be qualified in accordance with N.J.A.C. 8:36-1.5.

SUBCHAPTER 6. RESIDENT CARE POLICIES

8:36-6.1 Resident care policies and procedures

(a) Written resident care policies and procedures shall be established, implemented, and reviewed at intervals specified in the policies and procedures. Each review of the policies and procedures shall be documented. Policies and procedures shall include, but not be limited to, the following:

1. Resident rights;
2. Advance directives, including but not limited to, the following:

i. The circumstances under which an inquiry will be made of individuals regarding the existence and location of an advance directive;

ii. Requirements for provision of a written statement of resident rights regarding advance directives, approved by the Commissioner or his or her designee, to residents upon admission; and

iii. Requirements for documentation in the resident record;

3. The determination of staffing levels to ensure delivery of services and assistance as needed for each resident of the facility during each 24-hour period. Services may be provided directly by staff employed by the facility or in accordance with a written contract;

4. The delivery of personal care and assistance to residents in accordance with assisted living concepts which specify that each resident will be encouraged to maintain his or her independence and personal decision making abilities;

5. The referral of residents to health care providers in accordance with individual needs and resident service plans;

6. Emergency medical and dental care of residents, including notification of the resident's family, guardian, or designated community agency, and care of residents during periods of acute illness;

7. Resident instruction and health education;

8. The control of smoking in the facility in accordance with N.J.S.A. 26:3D-1 et seq.

i. Residents, staff and visitors shall be permitted to smoke only in designated smoking areas having adequate outside ventilation;

ii. Nonflammable ashtrays in sufficient numbers shall be provided in designated smoking areas;

iii. Any room designated for smoking shall meet the following ventilation requirements for acceptable indoor air quality:

(1) A ventilation system which prevents contaminated air from recirculating through the facility;

(2) The number of air changes per hour within the designated smoking room shall be equivalent to the number necessary to achieve 60 cubic feet per minute per smoker, based on occupancy of no greater than five smokers per 100 square feet; and

(3) Negatively pressurized air to prevent back-streaming of smoke into nonsmoking areas of the facility;

iv. At the facility's option, a smoke-free policy may be developed, which shall include adequate notice to all applicants prior to admission to the facility;

9. Discharge, termination by the facility, transfer, and readmission of residents, including criteria for each;

10. The care and control of pets, if the facility permits pets in the facility or on its premises; and

11. A policy to determine those circumstances where the resident's absence should be investigated.

8:36-6.2 Financial arrangements

(a) The facility shall:

1. Inform residents of any and all fees for services provided and charges for supplies routinely provided by the facility. Upon admission and at the time of any price change the resident shall also be informed of the costs of supplies which are specially ordered. At the resident's request, this information may be provided instead to the resident's family, guardian, or designated community agency;

2. Maintain a written record of all financial arrangements with the resident and/or his or her family, guardian, or designated community agency with copies furnished to the resident;

3. Assess no additional charges, expenses, or other financial liabilities in excess of the daily, weekly, or monthly rate included in the admission agreement, except:

i. Upon written agreement of the resident and/or his or her family, guardian, or designated community agency, who shall be given a copy of the written approval;

ii. Upon written orders of the resident's physician, stipulating specific services not included in the admission agreement;

iii. Upon 30 days' prior written notice to the resident and/or his or her family of any change in charges, expenses, or other financial liabilities that are in addition to the agreed daily, weekly, or monthly rate; or

iv. Where there is written documentation of the resident's agreement to the purchase and cost of supplies which are purchased through the facility.

4. Provide the resident with information regarding financial assistance available from third-party payors and/or other payors and referral systems for residents' financial assistance.

5. All residents who have advanced a security deposit to a facility prior to or upon their admission shall be entitled to receive interest earnings which have accumulated on such funds or property.

i. The facility shall hold such funds or property in trust for the resident and they shall remain the property of the resident. All such funds shall be held in an interest-bearing account as established under requirements of N.J.S.A. 30:13-1 et seq.

ii. The facility may deduct an amount not to exceed one percent per annum of the amount so invested or deposited for costs of servicing and processing the accounts.

iii. The facility within 60 days of establishing an account shall notify the resident, in writing, of the name of the bank or investment company holding the funds and the account number. The facility shall thereafter provide a quarterly statement to each resident it holds security funds in trust for identifying the balance, interest earned, and any deductions for charges or expenses incurred in accordance with the terms of the contract or agreement of admission.

8:36-6.3 Personal needs allowance

(a) The administrator or his or her representative shall develop a policy and procedure for handling the monthly personal needs allowance for each resident who receives Supplemental Security Income (SSI) or General Public Assistance. The personal needs allowance shall be at least the amount specified by the New Jersey State Department of Human Services pursuant to N.J.S.A. 44:7-87(h).

(b) Every administrator to whom resident's personal funds are entrusted shall maintain written records, such as a ledger, including the date each payment was received, the amount of payment, the date of each disbursement, the amount of each disbursement, the reason for each disbursement and to whom each disbursement was made. The personal needs allowance shall not be commingled with any other facility operating account and shall be deposited into an interest bearing account. Each resident shall receive his or her personal needs allowance within 72 hours of the receipt of the check by the administrator.

(c) The resident shall sign to acknowledge receipt of funds, or goods or services purchased with such funds, at the time of disbursement.

SUBCHAPTER 7. RESIDENT ASSESSMENTS, RESIDENT SERVICE PLANS, HEALTH CARE PLANS AND HEALTH CARE SERVICES

8:36-7.1 Initial assessments, resident service plans, health care assessments and health care plans

(a) Each resident shall receive an initial assessment by a registered professional nurse to determine if the resident needs 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 admission, that the resident has no health care service needs and is appropriate for an assisted living residence or a comprehensive personal care home.

(b) If the assessment indicates that the resident has general service needs, a resident service plan shall be developed within 14 days of the resident's admission. The resident service plan shall include, but not be limited to, the following:

1. The resident's requirements for assistance in activities of daily living (ADL), if needed;
2. The resident's needs, if any, for assistance with transportation; and
3. Requirements for assistance with recreational and other activities, if needed;
4. In lieu of the required resident service plan, the facility may substitute the admission agreement (or other document presented to the resident) provided it explains the circumstances under which the resident will receive assistance with ADLs, transportation, recreational and other activities.

(c) If the resident does not have any general service needs, a resident service plan is not needed.

(d) If the resident assessment indicates that the resident requires health care services, a health care assessment shall be completed within 14 days of admission by a registered professional nurse using the Minimum Data Set (MDS) form (available from the Department) or an assessment instrument which has been adopted by the facility that meets the requirements of (e) below. Based on the health care assessment a written health care plan shall be developed. The health care plan shall include, but not be limited to the following:

1. Orders for treatment or services, medications, and diet, if needed;
2. The resident's needs and preferences for himself or herself;
3. The specific goals of treatment or services, if appropriate;
4. The time intervals at which the resident's response to treatment will be reviewed; and
5. The measures to be used to assess the effects of treatment.

(e) Each health care assessment by the registered professional nurse 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.

(f) If the resident does not need a health care service, a health care plan is not needed.

(g) The resident shall participate and, if the resident agrees, family members shall be invited to participate in the development of the resident service plan and health care plan, if plans are needed. Participation shall be documented in the resident's record.

8:36-7.2 Implementation of plans

The resident service plan shall be reviewed and, if necessary, revised semiannually, based upon the resident's response to the care provided. The health care plan shall be reviewed, and if necessary, revised quarterly, based upon the resident's response to the care provided. Documentation in the resident's record shall indicate review and any necessary revision of the resident service plan and/or health care plan.

8:36-7.3 Health care services

(a) The assisted living residence and comprehensive personal care home shall assure that the resident receives health care services, as defined at N.J.A.C. 8:36-1.3, under the direction of a registered professional nurse, in accordance with the health care plan.

(b) The facility shall have at least one registered professional nurse available at all times. Available, in this instance, shall mean on call and capable of being reached by telephone.

(c) A registered professional nurse shall be responsible for developing nursing practice policies and procedures and the coordination of all health care services required in the resident's health care plan.

(d) Written policies and procedures shall insure, but not be limited to the following:

1. Assessment of the health care service needs of all residents in the facility at least semiannually, except that those residents who have a health care plan shall be reassessed quarterly;
2. Monitoring of the conditions of the residents on a periodic basis;

3. Notification of the registered nurse if there are significant changes in a resident's condition;
4. Assessment of the resident's need for referral to a physician or community agencies as appropriate; and
5. Maintenance of records as required.

8:36-7.4 Provision of health care services

(a) The facility shall arrange for health care services to be provided to residents as needed, in accordance with assessments and with health care plans. The administrator shall develop a system to identify the residents receiving a health care service.

(b) At the time of admission, arrangements shall be made between the administrator and the resident, guardian, or designated community agency regarding the physician and dentist to be called in case of illness, or the person to be called for a resident who, because of religious affiliation, is opposed to medical treatment.

(c) The initial health care *[service]* assessment shall be documented by the health care professional providing the service and shall be updated as required, in accordance with professional standards of practice, at least quarterly.

(d) The resident's physician or the physician's designee shall be notified of any significant change in the resident's physical or psychological condition and any intervention by the physician shall be recorded.

(e) If a resident who has not been receiving a health care service requires a health care service on a temporary basis (meaning a period of time reasonably expected to be 14 days or less and not involving a significant change in condition or a life threatening illness), neither a health care assessment nor a health care plan need be done. The administrator shall develop a system to identify the residents receiving a health care service on a temporary basis.

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

(g) Each resident shall have an annual physical examination by a physician or by a nurse practitioner/clinical nurse specialist, which shall be documented in the resident's record. The physician or nurse practitioner/clinical nurse specialist shall certify annually that the resident does not have needs which exceed the care which the assisted living residence or comprehensive personal care home is capable of providing.

(h) Residents shall be permitted free choice of a physician.

(i) If it is determined that there is a medical need for a transfer to another health care facility because the assisted living residence or comprehensive personal care homes cannot meet the resident's needs such transfers shall be initiated promptly, in accordance with N.J.A.C. 8:36-4.1(d)1. The registered professional nurse shall be notified to ensure that the resident is receiving appropriate care during the transfer period. If the resident is not transferred within seven days, the Department shall be notified and assistance shall be requested from the Department to arrange for transfer of the resident.

8:36-7.5 Quality assurance

The facility shall develop written policies and procedures for monitoring the quality of health care services provided to residents.

SUBCHAPTER 8. DINING SERVICES

8:36-8.1 Provision of meals

The assisted living residence or comprehensive personal care home shall provide dining services to meet the daily nutritional needs of residents, directly in the facility.

8:36-8.2 Designation of a food service coordinator

(a) The facility shall designate a food service coordinator who, if not a dietitian, functions with scheduled consultation from a dietitian. When meals are prepared in the facility, the food service coordinator or designee shall be present in the facility. The food service coordinator shall ensure that dining services are provided as specified in the dining portion of the health care plan.

8:36-8.3 Responsibilities of dietitians

(a) If indicated, according to residents' needs, a dietitian shall be responsible for providing resident care, including, but not limited to, the following:

1. Assessing the nutritional needs of the resident. If indicated, preparing the dietary portion of the health care plan on the basis of the assessment, providing dietary services to the resident as specified in the dietary portion of the health plan, reassessing the resident, and revising the dietary portion of the health care plan. Each of these activities shall be documented in the resident's record; and
2. Providing nutritional counseling and education to residents.

8:36-8.4 Requirements for dining services

(a) The facility and personnel shall comply with the provisions of Chapter XII of the New Jersey Sanitary Code, N.J.A.C. 8:24.

(b) A current diet manual shall be available to the dining service personnel and to the nursing service personnel.

(c) Meals shall be planned, prepared, and served in accordance with, but not limited to, the following:

1. At least three meals shall be prepared and served daily to residents;

2. The facility shall select foods and beverages, which include fresh and seasonal foods, and shall prepare menus with regard to the nutritional and therapeutic needs, cultural backgrounds, food habits, and personal preference of residents;

3. Written, dated menus shall be planned at least 14 days in advance for all diets. The same menu shall not be used more than once in any continuous seven day period;

4. Current menus with portion sizes and any changes in menus shall be posted in the food preparation area. Menus shall be posted in a conspicuous place in residents' area, and/or a copy of the menu shall be provided to each resident. Any changes or substitutes in menus shall be posted or provided in writing to each resident. Menus, with changes or substitutes, shall be kept on file in the facility for at least 30 days;

5. Diets served shall be consistent with the diet manual, the dietitian's instructions, and, if applicable for special diets, shall be served in accordance with physicians' orders;

6. Nutrients and calories shall be provided for each resident, based upon current recommended dining allowances of the Food and Nutrition Board of the National Academy of Sciences, National Research Council, adjusted for age, sex, weight, physical activity, and therapeutic needs of the resident, if applicable;

7. Between-meal snacks and beverages shall be available at all times for each resident, unless medically contraindicated as documented by a physician in the resident's health care plan;

8. Substitute foods and beverages of equivalent nutritional value shall be available to all residents;

9. In the case of a resident who has a health care plan in which diet is identified as a service, the staff shall observe whether meals are refused or missed and shall document this information;

10. All meals shall be served at the proper temperature and shall be attractive when served to residents. Place settings and condiments shall be appropriate to the meal;

11. Seatings shall be arranged for each meal in order to accommodate individual resident's meal-time preferences, in accordance with facility policies;

12. In the case of a resident who has a health care plan in which diet is identified as a service, a record shall be maintained for such resident, identifying the resident by name, diet order, if applicable, and other information, such as meal patterns, when on a calculated diet and allergies; and

13. If the resident is ill, meals shall be served in his or her apartment, as indicated in the resident service plan and in accordance with facility policy.

8:36-8.5 Commercial food management services

If a commercial food management firm provides dining services, the firm shall be required to conform to the standards of this subchapter.

SUBCHAPTER 9. PHARMACEUTICAL SERVICES

8:36-9.1 Provision of pharmaceutical services

The assisted living residence and comprehensive personal care home shall be capable of ensuring that pharmaceutical services are provided to residents in accordance with physician's orders and with each resident's health care plan.

8:36-9.2 Self-administration of medications

(a) If indicated in the resident's health care plan or resident's service plan, a designated employee shall provide resident supervision and/or assistance during self-administration of medications in accordance with physicians' orders. Any employee who has been designated to provide resident supervision or assistance during self-administration of medications shall have received training from the licensed professional nurse or the licensed pharmacist, and such training shall be documented.

1. The facility shall document the provision of training to each employee who has been designated to provide resident supervision and/or assistance with self-administration of medications; and

2. The facility shall document any observed instance where medications are not taken in accordance with physician's orders.

8:36-9.3 Administration of medications

(a) Notwithstanding the definition of "health care service" at N.J.A.C. 8:36-1.3, the administration of medication in accordance with N.J.A.C. 8:36-9.2 and 9.3, in and of itself, shall not be considered a health care service.

(b) All medications administered by qualified personnel shall be administered in accordance with prescriber orders, facility policy, and all Federal and State laws and regulations.

(c) The administration of medications is within the scope of practice and remains the responsibility of the registered professional nurse. The registered professional nurse may choose to delegate the task of administering medications in accordance with N.J.A.C. 13:37-6.2 to personal care assistants who have completed a medication administration course approved by the State Board of Nursing and the Department. When the registered nurse delegates the task of administering medications to personal care assistants this delegation is based upon individual residents' needs and circumstances, within specific limits. These limits shall include, but not be limited to, the following:

1. The administration of oral, ophthalmic, otic, inhaled, nasal, rectal, vaginal, and topical medications and predrawn insulin injections may be delegated. Medications requiring any other route of administration and injections other than predrawn insulin shall not be delegated. The administration of Schedule II medications shall not be delegated, except when they are ordered on a regular timetable (that is, for continuous pain control or certain neurologic conditions in accordance with N.J.A.C. 13:35-6.7(a)); in these cases, the registered nurse shall reassess the resident at least every 72 hours. The administration of Schedule II medications on a "PRN" or "as needed" basis shall not be delegated;

2. A Department of Health and Board of Nursing approved training program regarding medication administration shall be completed by each personal care assistant who will administer medications;

3. The delegating nurse shall review with the personal care assistant medication actions and untoward effects for each drug to be administered. Pertinent information about medications' potentially significant adverse drug reactions, and potential interactions shall be incorporated into the care plan for each resident, with interventions to be implemented by the personal care assistant and other caregiving staff;

4. A unit of use drug distribution system shall be developed and implemented; and

5. At least weekly, a registered nurse shall review and sign off on any modifications or additions to the medication administration record which were made by the personal care assistant under the nurse's delegation.

(d) Each resident shall be identified prior to drug administration.

(e) Drugs prescribed for one resident shall not be administered to another resident.

(f) Personnel shall report drug errors and adverse drug reactions immediately to the director of health services, to the prescriber, and to the pharmacist, and shall document the incident in the resident's record.

Amended by R.1994 d.496, effective October 3, 1994.

See: 26 N.J.R. 2187(a), 26 N.J.R. 4046(a).

8:36-9.4 Designation of a pharmacist

(a) The facility shall designate a pharmacist who shall direct pharmaceutical services and provide consultation to the physician, facility staff, and residents, as needed. The pharmacist shall assist the facility with, at a minimum, the following:

1. Training of employees;
2. Educating residents regarding medications;
3. Establishing policies and procedures which ensure safe and appropriate self-administration of medications;
4. Reviewing medication records; and
5. Inspecting all common areas that the facility has designated for storage of medications and maintaining records of such inspections.

8:36-9.5 Storage of medications

(a) For those residents who do not self-administer medications, the administrator shall provide an appropriate and safe medication storage area, either in a common area or in the resident's unit, for the storage of medications. The storage area requirement may be satisfied through the use of a locked medication cart.

1. The storage area shall be kept locked when not in use.
2. The storage area shall be used only for storage of medications and medical supplies.
3. The key to the storage area shall be kept on the person of the employee on duty who is responsible for resident supervision.
4. Each resident's medications shall be kept separated within the storage area, with the exception of large volume medications which may be labeled and stored together in the storage area.
5. Medications shall be stored in accordance with manufacturer's instructions and with U.S.P. (United States Pharmacopoeia) regulations.

(b) All medications shall be kept in their original containers and shall be properly labeled and identified.

1. The label of each resident's prescription medication container shall be permanently affixed and contain the resident's full name, physician's name, prescription number, name and strength of drug, lot number, quantity, date of issue, expiration date, manufacturer's name if generic, directions for use, and cautionary and/or accessory labels. If a generic substitute is used, the drug shall be labeled according to the Drug Utilization Review Council Formulary, N.J.S.A. 24:6E-1 et seq. Required information appearing on individually packaged drugs or within an alter-

nate medication delivery system need not be repeated on the label.

2. All over-the-counter (OTC) medications repackaged by the pharmacy shall be labeled with an expiration date, name and strength of the drug, lot number, date of issue, manufacturer's name if generic, and cautionary and/or accessory labels, in accordance with U.S.P. regulations. Original manufacturer's containers shall be labeled with at least the resident's name, and the name label shall not obstruct any of the aforementioned information.

3. If a unit of use drug distribution system is used, each dose of medication shall be individually packaged in a hermetically sealed, tamper-proof container, and shall carry full manufacturer's disclosure information on each discrete dose. Disclosure information shall include, but not be limited to, the following: product name and strength, lot number, expiration date, and manufacturer's or distributor's name.

(c) Single use and disposable items shall not be reused.

(d) No stock supply of prescription medications shall be maintained, unless prior approval is obtained from the Department.

(e) Discontinued or expired medications shall be destroyed within 30 days in the facility, or, if unopened and properly labeled, returned to the pharmacy. All medication destruction in the facility shall be witnessed and documented by two persons, each of whom shall be either the administrator, the licensed nurse or the pharmacist.

SUBCHAPTER 10. RESIDENT ACTIVITIES

8:36-10.1 Provision of resident activities

(a) A planned, diversified program of resident activities shall be offered daily for residents, including individual and/or group activities, on-site or off-site, to meet the individual needs of residents.

(b) Residents shall have the opportunity to organize and participate in a Resident Council that presents the resident's concerns to the administrator of the facility.

SUBCHAPTER 11. SOCIAL WORK SERVICES

8:36-11.1 Provision of social work services

The facility shall arrange for the provision of social work services to residents who require them, in accordance with N.J.S.A. 45:15BB.

SUBCHAPTER 12. EMERGENCY SERVICES AND PROCEDURES

8:36-12.1 Emergency medical services

(a) Emergency medical services shall be available to or arranged for residents requiring these services.

(b) The facility shall develop a written plan for arranging for emergency transportation of residents for medical care and returning them to the assisted living residence.

8:36-12.2 Emergency plans and procedures

(a) The facility shall develop written emergency plans, policies, and procedures which shall include plans and procedures to be followed in case of medical emergencies, power failures, fire, or natural disasters. The emergency plans shall be filed with the Department of Health and the Department shall be notified when the plans are changed. Copies of emergency plans shall also be forwarded to other agencies in accordance with State and municipal laws.

(b) The emergency plans, including a written evacuation diagram specific to the unit that includes evacuation procedure, location of fire exits; alarm boxes, and fire extinguishers, and all emergency procedures, shall be conspicuously posted throughout the facility. All employees shall be trained in procedures to be followed in the event of a fire and instructed in the use of fire-fighting equipment and resident evacuation as part of their initial orientation and at least annually thereafter. All residents shall be instructed in emergency evacuation procedures.

(c) Procedures for emergencies shall specify persons to be notified, process of notification and verification of notification, locations of emergency equipment and alarm signals, evacuation routes, procedures for evacuating residents, procedures for reentry and recovery, frequency of fire drills, tasks and responsibilities assigned to all personnel, and shall specify medications and records to be taken from the facility upon evacuation and to be returned following the emergency.

8:36-12.3 Drills and tests

(a) The facility shall conduct at least one drill of the emergency plans every month, of which at least one annually shall take place during every working shift. The facility shall maintain documentation of all drills, including the date, hour, description of the drill, participating staff, and signature of the person in charge. In addition to drills for emergencies due to fire, the facility shall conduct at least one drill per year for emergencies due to a disaster other than fire, such as storm, flood, other natural disaster, bomb threat, or nuclear accident (a total of 12 drills). All staff shall participate in at least one drill annually, and selected residents may participate in drills.

(b) At least one joint fire drill shall be conducted annually, involving the local fire department. The facility shall notify first aid and civil defense agencies of this drill and shall participate in community-wide disaster drills.

(c) The facility shall test at least one manual pull alarm each month of the year and maintain documentation of test dates, location of each manual pull alarm tested, persons testing the alarm, and its condition.

(d) Fire extinguishers shall be conspicuously hung, kept easily accessible, shall be visually examined monthly and the examination shall be recorded on a tag which is attached to the fire extinguisher. Fire extinguishers shall also be inspected and maintained in accordance with manufacturers' and applicable National Fire Protection Association (NFPA) requirements. Each fire extinguisher shall be labeled to show the date of such inspection and maintenance.

SUBCHAPTER 13. RESIDENT RECORDS

8:36-13.1 Health record

A current, complete health record shall be maintained for each resident who is receiving health care services.

8:36-13.2 Confidentiality

Records and information regarding the individual resident shall be considered confidential and the resident shall have the opportunity to examine such records, in accordance with facility policies. The written consent of the resident shall be obtained for release of his or her records to any individual outside the facility, except in the case of the resident's transfer to another health care facility, or as required by law, third-party payor, or authorized government agencies.

8:36-13.3 Record retention

All records shall be maintained for a period of 10 years after the discharge of a resident from the assisted living facility.

8:36-13.4 Record availability

The records required in this subchapter shall be maintained for all residents and shall be kept available on the premises for review at any time by representatives of the Department of Health.

8:36-13.5 Register

(a) A register which contains a current census of all residents along with other pertinent information, shall be maintained by each assisted living residence. The following standards for maintaining the register shall apply:

1. The administrator or the administrator's designee shall make all entries in the register and shall be responsible for its maintenance and safe-keeping;

2. The register shall be kept up-to-date at all times. Admissions, discharges and discharge destination, and other changes shall be recorded within 48 hours;

3. The register, which is a permanent record, shall be kept in a safe place; and

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

8:36-13.6 Residents' individual records

(a) Each resident's record shall include at least the following:

1. The resident's completed admission application and all records forwarded to the facility;

2. The resident's name, last address, date of birth, name and address of sponsor or interested agency, date of admission, date of discharge (and discharge destination) or death, the name, address and telephone number of physician to be called, and the name and address of nearest relative, guardian, responsible person, or interested agency, together with any other information the resident wishes to have recorded;

3. A copy of the resident's service plan and/or health care plan, if applicable; and

4. All assessments and treatments by health care and service providers, entered at least annually. Documentation and/or notes from all health care and service providers shall be entered at least quarterly, or more frequently based on individual resident's needs.

8:36-13.7 Record of death

Whenever a resident dies in the assisted living residence, the administrator or the administrator's designee shall include written documentation from the physician of the date and time of death, the name of the person who pronounced the death, disposition of the body, and a record of notification of the family.

SUBCHAPTER 14. RESIDENT RIGHTS

8:36-14.1 Posting and distribution of statement of resident rights

(a) To assure the highest quality of services, each Assisted Living provider will post and distribute a statement of resident rights, as approved and issued by the Department in accordance with N.J.S.A. 30:13, the Nursing Home Patients Bill of Rights, and consistent with the following principles of assisted living:

1. Provide personalized services and care to meet each resident's needs;
2. Foster the independence and individuality of each resident;
3. Treat each resident with respect, courtesy, consideration and dignity;
4. Assure each resident the right to make choices with respect to services and lifestyle;
5. Assure each resident's right to privacy;
6. Nurture the spirit and uniqueness of each resident;
7. Encourage families and friends participation in resident service planning and implementation; and
8. Provide opportunities for the Assisted Living Facilities to become a valuable community resource.

2. All rooms shall be ventilated to help prevent condensation, mold growth, and noxious odors;
3. All resident areas shall be free of noxious odors;
4. All furnishings shall be clean and in good repair, and mechanical equipment shall be in working order. Items which are broken or worn to the extent that they may cause discomfort or present danger to residents shall be repaired, replaced, or removed promptly;
5. All equipment and materials necessary for cleaning, disinfecting, sanitizing, and sterilizing (if applicable) shall be provided;
6. For central kitchens, thermometers which are accurate to within three degrees Fahrenheit shall be kept in a visible location within refrigerators, freezers, and store-rooms used for perishable and other items subject to deterioration. Temperatures shall be maintained in accordance with Chapter 12 of the New Jersey Sanitary Code, N.J.A.C. 8:24;

SUBCHAPTER 15. HOUSEKEEPING, SANITATION, SAFETY AND MAINTENANCE

8:36-15.1 Provision of services

- (a) The facility shall provide and maintain a sanitary and safe environment for residents, in accordance with Chapter 12, New Jersey Sanitary Code, N.J.A.C. 8:24.
- (b) The facility shall provide housekeeping, laundry, pest control, and maintenance services, and shall provide assistance to residents who require assistance with these services in their residential units.

8:36-15.2 Housekeeping

(a) A written work plan for housekeeping operations shall be established and implemented, with categorization of cleaning assignments as daily, weekly, monthly, or annually within each area of the facility. The facility shall have a written schedule that determines the frequency of cleaning and maintenance of all equipment, structures, areas, and systems.

(b) Housekeeping personnel shall be trained in cleaning procedures, including the use and care of equipment.

8:36-15.3 Resident environment

(a) The following housekeeping and sanitation conditions shall be met (application of this requirement with respect to the individual living environment shall take into consideration residents' personal preferences for style of living):

1. The facility and its contents, including all surfaces such as tables, floors, walls, beds and dressers, shall be clean to sight and touch and free of dirt and debris;

7. Lighted and ventilated storage spaces shall be provided in the facility for the proper storage of residents' clothing, linens, drugs, food, cleaning and other supplies;

8. Articles in storage shall be elevated from the floor and away from walls (if moisture is present), ceilings, and air vents;

9. Unobstructed aisles shall be provided in storage areas;

10. Effective and safe controls shall be used to minimize and eliminate the presence of rodents, flies, roaches and other vermin in the facility;

11. When facility housekeeping services are provided, items such as bedpans, toilets and sinks shall be disinfected, using a process for disinfection established by the facility; and

12. Toilet tissue, soap, paper towels or air dryers, and waste receptacles shall be provided in each common area toilet facility at all times. A self-draining dish or device shall be provided for storage of bar soap, if bar soap is used. Resident's personal cloth towels may be used in residential units.

(b) The following safety conditions shall be met:

1. Non-carpeted floors in public areas shall be coated with slip-resistant floor finish, and any carpeting in public areas shall be kept clean and odor free and shall not be frayed, worn, torn, or buckled;

2. All equipment shall have unobstructed space provided for operation;

3. Pesticides shall be applied in accordance with N.J.A.C. 7:30;

4. All household and cleaning products used by facility staff shall be identified, labeled, and secured. All poisonous and toxic materials shall be identified, labeled, and stored in a locked cabinet or room. The telephone number of the poison control center shall be conspicuously posted in the facility;

5. Combustible materials shall not be stored in heater rooms or within 18 feet of any heater;

6. Paints, varnishes, lacquers, thinners, and all other flammable materials shall be stored in accordance with fire safety requirements specified in the Uniform Construction Code, N.J.A.C. 5:23;

7. If pets are allowed in the facility, the facility shall provide safeguards to prevent interference in the lives of residents, and the facility should comply with guidelines for pet facilitated therapy issued by the New Jersey State Department of Health;

8. A licensed electrician or an independent inspection agency approved by the State of New Jersey shall annually inspect and provide a written statement that the electrical circuits and wiring in the facility are satisfactory and in safe condition;

i. The written statement shall include the date of inspection, and shall indicate that circuits are not overloaded, that all wiring and permanent fixtures are in safe condition, and that all portable electrical appliances, including lamps, are U.L. approved; and

ii. The written statement shall be forwarded annually to the New Jersey Department of Health, Division of Health Facilities Evaluation.

8:36-15.4 Waste removal

(a) All solid or liquid waste, garbage, and trash shall be collected, stored, and disposed of in accordance with the rules of the New Jersey State Department of Environmental Protection and the New Jersey State Department of Health. Solid waste which is stored within the building shall be stored in insectproof, rodentproof, fireproof, nonabsorbent, watertight containers with tightfitting covers and collected from storage areas regularly so as to prevent nuisances such as odors. Procedures and schedules shall be established and implemented for the cleaning of storage areas and containers for solid or liquid waste, garbage, and trash, in accordance with N.J.A.C. 8:24.

(b) If garbage compactors are used, they shall comply with all State and local codes.

8:36-15.5 Heating and air conditioning

(a) The heating and air conditioning system shall be adequate to maintain the required temperature in all areas used by residents. Residents may have individually controlled thermostats in residential units in order to maintain temperatures at their own comfort level.

1. During the heating season, the temperature in the facility shall be kept at a minimum of 72 degrees Fahrenheit (22 degrees Celsius) during the day ("day" means the time between sunrise and sunset) and 68 degrees Fahrenheit (20 degrees Celsius) at night, when residents are in the facility.

2. The facility or residents may not utilize portable heaters.

3. During warm weather conditions, the temperature within the facility shall not exceed 82 degrees Fahrenheit, in accordance with Chapter 173, Laws of New Jersey, 1989.

i. The facility shall provide for and operate adequate ventilation in all areas used by residents.

ii. All areas of the facility used by residents shall be equipped with air conditioning and the air conditioning shall be operated so that the temperature in these areas does not exceed 82 degrees Fahrenheit.

4. Residents may regulate temperature controls in residential units, and may, by choice, exceed 82 degrees Fahrenheit.

(b) Filters for heaters and air conditioners shall be provided as needed and shall be maintained in accordance with manufacturer's specifications.

8:36-15.6 Water supply

(a) The water supply used for drinking or culinary purposes shall be adequate in quantity, of a safe and sanitary quality, and from a water system which shall be constructed, protected, operated, and maintained in conformance with the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., N.J.A.C. 7:10 et seq. and local laws, ordinances, and regulations. Copies of the Safe Drinking Water Act can be obtained from the Department of Environmental Protection, Bureau of Potable Water, CN 209, Trenton, New Jersey 08625.

(b) The temperature of the hot water used for bathing and handwashing shall be at least 95 degrees and shall not exceed 110 degrees Fahrenheit (35-43 degrees Celsius).

(c) Equipment requiring drainage, such as ice machines, shall be drained to a sanitary connection, in accordance with State and local codes.

(d) The sewage disposal system shall be maintained in good repair and operated in compliance with State and local laws, rules, and ordinances.

8:36-15.7 Building and grounds maintenance

The building and grounds shall be well maintained at all times. The interior and exterior of the building shall be kept in good condition to ensure an attractive appearance, provide a pleasant atmosphere, and safeguard against dete-

rioration. The building and grounds shall be kept free from fire hazards and other hazards to resident's health and safety.

8:36-15.8 Laundry services

(a) Written policies and procedures shall be established and implemented for the facility's laundry services, including, but not limited to, policies and procedures regarding the following:

1. Storage and transportation of laundry;
2. Collection and storage of soiled laundry in a ventilated area;
3. Protection of clean laundry from contamination during processing, transporting, and storage; and
4. Handling and laundering of resident's clothing and personal items separately from other laundry.

(b) Soiled laundry shall be stored in a ventilated, vermin-proof area, separate from other supplies, and shall be stored, sorted, rinsed, and laundered only in areas specifically designated for those purposes.

(c) All soiled laundry from resident rooms and other service areas shall be stored, transported, collected, and delivered in a covered laundry bag or cart. Laundry carts shall be in good repair, kept clean, and identified for use with either clean or soiled laundry.

(d) Clean laundry shall be protected from contamination during processing, storage, and transportation within the facility.

(e) Soiled and clean laundry shall be kept separate. An established procedure shall be followed to reduce the number of bacteria in the fabrics. Equipment surfaces that come into contact with laundry shall be sanitized.

(f) Residents who choose to launder their personal items shall be provided with in-house assistance in accordance with facility policy.

(g) If the facility provides a laundry service on site in lieu of using a commercial laundry service, it shall provide a receiving, holding, and sorting area with hand-washing facilities. The walls, floors, and ceilings of the area shall be clean and in good repair. The flow of ventilating air shall be from clean to soiled areas, and ventilation shall be adequate to prevent heat and odor build-up.

SUBCHAPTER 16. INFECTION PREVENTION AND CONTROL SERVICES

8:36-16.1 Infection control program

(a) The facility shall develop and implement an infection prevention and control program.

(b) The licensed professional nurse, in coordination with the administrator, shall be responsible for the direction, provision, and quality of infection prevention and control services. The health care services director, in coordination with the administrator, shall be responsible for, but not limited to, developing and maintaining written objectives, a policy and procedure manual, and an organizational plan for the infection prevention and control service.

8:36-16.2 Development of infection control policies and procedures

(a) The facility shall develop, implement, and review, at least annually, written policies and procedures regarding infection prevention and control. Written policies and procedures shall be consistent with the following Centers for Disease Control publications:

1. Guideline for Handwashing and Hospital Environmental Control; and
2. Enforcement Procedures for Occupational Exposure to Hepatitis B Virus (HVB) and Human Immunodeficiency Virus (HIV), OSHA Instruction CPL 2-2.44A, August 15, 1988 (or current edition).

NOTE: Centers for Disease Control publications can be obtained from:

National Technical Information Service
U.S. Department of Commerce
5285 Port Royal Road
Springfield, VA 22161

or

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

8:36-16.3 General infection control policies and procedures

(a) Written policies and procedures shall be established and implemented regarding infection prevention and control, including, but not limited to, policies and procedures for the following:

1. In accordance with Chapter II, New Jersey State Sanitary Code, N.J.A.C. 8:57, a system for investigating, reporting, and evaluating the occurrence of all infections or diseases which are reportable or conditions which may be related to activities and procedures of the facility, and maintaining records for all residents or personnel having these infections, diseases, or conditions;
2. Infection control and isolation, in accordance with the Centers for Disease Control and Occupational Safety and Health Administration publication, "Enforcement Procedures for Occupational Exposure to Hepatitis B Virus (HVB) and Human Immunodeficiency Virus (HIV)," OSHA Instruction CPL 2-2.44A, August 15, 1988 (or current edition);

3. Exclusion from work, and authorization to return to work, for personnel with communicable diseases;
4. Surveillance techniques to minimize sources and transmission of infection;
5. Techniques to be used during each resident contact, including handwashing before and after caring for a resident;
6. Protocols for identification of residents with communicable diseases and education of residents regarding prevention and spread of communicable diseases;
7. Sterilization, disinfection, and cleaning practices and techniques used in the facility, including, but not limited to, the following:
 - i. Care of utensils, instruments, solutions, dressings, articles, and surfaces;
 - ii. Selection, storage, use, and disposition of disposable and nondisposable resident care items. Disposable items shall not be reused;
 - iii. Methods to ensure that sterilized materials are packaged, labeled, processed, transported, and stored to maintain sterility and to permit identification of expiration dates; and
 - iv. Care of urinary catheters, intravenous catheters, respiratory therapy equipment, and other devices and equipment that provide a portal of entry for pathogenic microorganisms; and
8. Needles and syringes used by residents as part of home self-care shall be destroyed in accordance with N.J.S.A. 2A:170-25.17, and amendments thereto, and shall then be placed in a puncture-resistive container prior to disposal.

8:36-16.4 Employee health and resident policies and procedures for infection prevention and control

- (a) Each new employee upon employment shall receive a two-step Mantoux tuberculin skin test with five tuberculin units of purified protein derivative. The only exceptions shall be employees with documented negative two-step Mantoux skin test results (zero to nine millimeters of induration) within the last six months, employees with a documented positive Mantoux skin test result (10 or more millimeters of induration), employees who have received appropriate medical treatment for tuberculosis, or when medically contraindicated. Results of the Mantoux tuberculin skin tests administered to new employees shall be acted upon as follows:
1. If the Mantoux test is significant (10 millimeters or more of induration), a chest x-ray shall be performed and, if necessary, followed by chemoprophylaxis or therapy.
 2. Any employee with positive results shall be referred to the employee's personal physician and shall be excluded from work until the physician provides written approval to return.

(b) The facility shall have written policies and procedures establishing timeframes, requiring annual Mantoux tuberculin skin tests for all employees except those exempted under (a) above.

(c) The facility shall assure that all current employees who have not received the Mantoux test upon employment, except those exempted by (a) above, shall receive a test within 3 months of the effective date of this rule. The facility shall act on the results of tests of current employees in the same manner as prescribed in (a) above.

(d) Employees who have signs or symptoms of a communicable disease shall not be permitted to perform functions that expose residents to risk of transmission of the disease.

(e) If a communicable disease prevents the employee from working for a period of more than three days, a physician's statement approving the employee's return shall be required prior to the employee's return to work.

(f) The facility shall develop and implement procedures for the care of employees who become ill while at work or who have a work-related accident.

(g) The facility shall maintain listings of all residents and personnel who have reportable infections, diseases, or conditions.

(h) High-level disinfection techniques approved by the New Jersey State Department of Health shall be used for all reusable respiratory therapy equipment and instruments that touch mucous membranes.

(i) Disinfection procedures for items that come in contact with bed pans, sinks, and toilets shall conform with established protocols for cleaning and disinfection.

(j) All residents shall be provided with an opportunity to wash their hands before each meal and shall be encouraged to do so. Staff shall wash their hands before each meal and before assisting residents in eating.

(k) Personnel who have had contact with resident excretions, secretions, or blood, whether directly or indirectly, in activities such as performing a physical examination, providing catheter care, and emptying bedpans, shall wash their hands with soap and warm water for between 10 and 30 seconds or use other effective hand sanitation techniques immediately after such contact.

(l) Equipment and supplies used for sterilization, disinfection, and decontamination purposes shall be maintained according to manufacturers' specifications.

(m) The facility shall maintain records documenting contagious diseases contracted by employees during employment, as specified at N.J.A.C. 8:57-1.3(a) and (b).

8:36-16.5 Staff education and training for infection prevention and control

All staff members shall be informed about the facility's infection control procedures, including personal hygiene requirements.

8:36-16.6 Regulated medical waste

(a) The facility shall develop policies and procedures for the collection, storage, and handling of regulated medical waste.

(b) The facility shall comply with the provisions of N.J.S.A. 13:1E-48.1 et seq., the Comprehensive Regulated Medical Waste Management Act, and all rules and regulations promulgated pursuant to the aforementioned Acts.

SUBCHAPTER 17. COMPREHENSIVE PERSONAL CARE HOMES
8:36-17.1 Eligibility

(a) Eligibility for conversion to a comprehensive personal care home shall be open exclusively to those entities identified at N.J.A.C. 8:33H-1.10(c) and (d), whichever is applicable.

8:36-17.2 Services provided to residents

Each comprehensive personal care home shall comply with the following subchapters and sections of N.J.A.C. 8:36:1, 2, 3.8(c), 3.15, 3.16, and 4-16, (except 15.5(a)4).

8:36-17.3 Physical plant

(a) Each comprehensive personal care home shall, at a minimum:

1. Maintain substantial compliance with the 1977 Uniform Construction Code;
2. Maintain a comprehensive automatic fire-suppression system throughout the facility. Buildings presently in Use Group I-2 or buildings which comply with the construction requirements for an I-2 use may apply to the Department for an exemption to this requirement, provided they can document compliance with the New Jersey Uniform Fire Code, N.J.A.C. 5:18, with regard to construction type;
3. Maintain compliance with N.J.A.C. 5:23-7.
4. Provide smoke detectors in all resident bedrooms, living rooms, and public areas; and
5. Provide corridor widths of at least 36 inches of clear space.

(b) Ventilation requirements for comprehensive personal care homes are as follows:

1. Means of ventilation shall be provided either by a window with an openable area or by mechanical ventilation for every habitable room. If mechanical ventilation is used, there shall be at least two air changes per hour.

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

3. All hallway corridors and passageways shall have a minimum of two outside air changes per hour.

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

(d) Residential units occupied by one person shall have a minimum of 80 square feet of clear and useable floor area. ("Clear and useable floor area" means space exclusive of closets, bathroom and, if provided, kitchenette.)

(e) In units occupied by more than one resident, there shall be a minimum of 50 additional square feet of clear floor area.

(f) No residential unit in a comprehensive personal care home may be occupied by more than two individuals. An exception may be considered in those instances where an eligible facility at the time of conversion to a comprehensive personal care home has more than two individuals in a unit. However, as attrition occurs, the number of individuals per residential unit shall be reduced to no more than two.

8:36-17.4 Information provided to residents

Each comprehensive personal care home administrator, manager, or their designee shall explain to all residents assisted living concepts, services to be provided based on these concepts, and shall explain all charges for these services.

8:36-17.5 Prohibition of resident discharge on conversion of facility

An eligible existing facility converting to a comprehensive personal care home shall not discharge any current resident solely because of the conversion. If compliance with this rule results in more than two individuals per residential unit, the facility shall apply for the exception noted at N.J.A.C. 8:36-17.3(f).

8:36-17.6 Combination of license categories

Another licensed bed category may be located within a distinct and separate section of the comprehensive personal care home. The comprehensive personal care home shall comply fully with all licensure requirements applicable to each licensed component.