

8. To retain the services of his or her own personal physician at his or her own expense or under a health care plan and to confidentiality and privacy concerning his or her medical condition and treatment;

9. To unrestricted communication, including personal visitation, with any person of his or her choice, at any reasonable hour;

10. To make contacts with the community and to achieve the highest level of independence, autonomy and interaction with the community of which he or she is capable;

11. To present grievances on behalf of himself or herself or others to the licensee, governmental agencies or other persons without reprisal or threat of reprisal in any form or manner whatsoever;

12. To a safe, healthful and decent living environment and considerate and respectful care that recognizes the dignity and individuality of the resident;

13. To refuse to perform services for the licensee except pursuant to a bona fide contract between resident and licensee, such contract, in the case of a resident who is at least 62 years of age or has any physical or mental disability, to be in writing and witnessed by a representative of the county welfare board or of any other social service agency having responsibility for such resident;

14. To practice the religion of his or her choice, including the right to have adequate substitutes provided for foods or combinations of foods which the resident's religious beliefs forbid him or her to eat, or to abstain from religious practice;

15. To not be deprived of any constitutional, civil or legal right solely by reason of residence in a rooming or boarding house.

Amended by R.1995 d.280, effective May 12, 1995.
See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Case Notes

Free exercise right did not support challenge to state statute that was not expressly directed to religion. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A. 3 (N.J.) 1990, 919 F.2d 183.

Religious group could claim violation of its right to associate for free speech purposes if it could demonstrate that statutory reporting requirements hindered its activity. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Group did not have viable establishment clause claim. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

5:27-3.2 House rules

(a) In order to better protect the health, safety, welfare and rights of all residents, the licensee shall establish reasonable rules governing the conduct of persons within the rooming or boarding house.

(b) Such rules shall include provisions to ensure that residents exercise their rights in such a way as not to infringe upon the rights of or endanger other residents.

(c) Copies of all rules shall be prominently posted in the building, shall be given to all residents at the commencement of residence and shall be provided to the Bureau upon request.

(d) Any rule determined by the Bureau to be unreasonable shall not be enforced and shall be deleted from the house rules.

Case Notes

Free exercise right did not support challenge to state statute that was not expressly directed to religion. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Religious group could make out prima facie claim of violation of its right to associate for free speech purposes if it could demonstrate that complying with statutory reporting requirements hindered program. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Group did not have viable establishment clause claim. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Statute neither unduly interfered with free exercise of religion nor created excessive state entanglement with religion. *Market Street Mission v. Bureau of Rooming and Boarding House Standards, Dept. of Community Affairs, State of N.J.*, 110 N.J. 335, 541 A.2d 668 (1988), appeal dismissed 109 S.Ct. 209, 488 U.S. 882, 102 L.Ed.2d 201.

5:27-3.3 Harassment; fraud; eviction without due cause

(a) No licensee or employee or agent of a licensee shall engage in any conduct or permit residents or others to engage in any conduct, which is unreasonable under the circumstances and which tends to cause annoyance to any resident.

(b) No licensee or employee or agent of a licensee shall, in the course of his dealings with residents or with their property, engage in any conduct evidencing a lack of probity, integrity or trustworthiness.

(c) Unless otherwise directed or authorized by the Bureau no licensee shall cause any resident to be evicted from any rooming or boarding house except for good cause, as defined in N.J.S.A. 2A:18-61.1 et seq., and except in accordance with the procedural requirements of N.J.S.A. 2A:18-61.1 et seq.

1. A licensee may bring to the attention of the Bureau any situation in which the licensee believes that a directive from the Bureau, pursuant to this subsection, is necessary in order to facilitate appropriate placement of a resident, in accordance with N.J.A.C. 5:27-3.5(b), and to protect the right of all residents to a safe, healthful and decent living environment, in accordance with N.J.A.C. 5:27-3.1(a)12.

Amended by R.1981 d.435, effective November 16, 1981.
See: 13 N.J.R. 562(b), 13 N.J.R. 842(e).

(c): "Unless otherwise directed by the Bureau" added.
Amended by R.1989 d.526, effective October 16, 1989.
See: 21 N.J.R. 93(a), 21 N.J.R. 3295(b).

At (c) language added regarding the "authorizing" of eviction there-by insuring licensees have ability to initiate emergency removals.

5:27-3.4 Access to agency representatives

(a) Licensees shall not in any manner obstruct, and shall affirmatively facilitate, access for employees of public agencies and private social service and health agencies seeking to visit any resident or to have contact with the residents generally.

(b) A licensee who has reason to believe a resident to be in need of health or social services shall forthwith refer such resident to an appropriate agency.

(c) A licensee shall give notice the the county welfare board at least three working days prior to instituting any action to evict any resident or to any transfer of a resident initiated by a licensee, unless the county welfare board allows shorter notice.

(d) Every licensee shall provide to each resident or pose, as the case may be, copies of such documents as the Bureau or any other public agency may prepare, for distribution to residents or posting.

5:27-3.5 Appropriate placement

(a) No licensee shall accept as a resident in a boarding house a person who is not capable of self-evacuation with or without assistive devices, who is not certified by a licensed physician, or by a licensed nurse practitioner or licensed clinical nurse specialist legally authorized to issue such certification, to be free of communicable diseases and not in need of nursing care or who requires services not available in such boarding house.

(b) In the event that a resident ceases to be capable of self-evacuation, acquires a communicable disease or requires nursing care, supervision of self-administration of medication or services not available in the rooming or boarding house, it shall be the responsibility of the licensee to so notify the county welfare board forthwith so that the resident may be transferred to a facility suitable to his or her needs.

Amended by R.1982 d.379, effective November 1, 1982.
See: 14 N.J.R. 499(a), 14 N.J.R. 1211(a).

Added last sentence in (a).

Amended by R.1993 d.104, effective March 1, 1993.
See: 24 N.J.R. 4310(a), 25 N.J.R. 920(c).

Deleted references to rooming house; changed "ambulatory" to "capable of self-evacuation"; deleted exception for users of assistive devices or wheelchairs.

Amended by R.1995 d.280, effective May 12, 1995.
See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Amended by R.1996 d.165, effective April 1, 1996.
See: 28 N.J.R. 23(a), 28 N.J.R. 1833(b).

In (a) inserted licensed nurse practitioner and clinical nurse specialist.

5:27-3.6 Independence and community interaction

A licensee shall take such affirmative action as may be necessary to assist each resident in living with as much independence and autonomy and with as high a degree of interaction with the community as may be reasonably possible.

5:27-3.7 Violation by licensee

No licensee shall violate or unreasonably restrict the rights of residents nor shall any licensee permit the violation of unreasonable restriction of residents' rights by any person employed by or otherwise under the control of the licensee or upon the premises with the knowledge of the licensee.

5:27-3.8 Employees

(a) No licensee shall employ or continue to employ any person known to the licensee to have engaged in conduct violative of the rights of residents or who the licensee has reason to believe would be likely to engage in such conduct.

(b) Every licensee shall have on duty at all times as many employees as may be needed to properly safeguard the health, safety and welfare of the residents, as required by these regulations. Such employees shall be adequately trained and supervised.

5:27-3.9 Disclosure of licensee identity

(a) A statement containing the following information shall be posted in a prominent place in every rooming and boarding house:

1. Name and address of the owner(s) of the property;
2. Name and address of any operator;
3. If the owner is a corporation, the name and address of each appropriate officer, of the registered agent and of the primary owner;
4. If the owner does not reside on the premises, a statement designating the operator as the owner's agent for purposes of accepting notices from residents, issuing receipts therefore and accepting service of process on behalf of the owner;
5. The name and address of any person other than the operator employed by the owner to provide regular maintenance service;
6. The name, address and telephone number of an individual authorized to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith;
7. The name and address of every holder of a recorded mortgage on the premises.

(b) Copies of the statement required pursuant to (a) above shall be given to each resident at the commencement of residence and provided to the Bureau, and to the county welfare board, marked with proof of filing in the office of the clerk of the municipality in which the rooming or boarding house is located.

(c) Revised statements shall be furnished within seven days of any change in the information required to be set forth.

(d) All statements and revised statements furnished pursuant hereto shall be signed by the owner or the duly authorized representative of the owner and shall stipulate the date of preparation.

5:27-3.10 Disclosure of rates and services

(a) Every licensee shall at all times maintain a schedule setting forth the rates charged for the rental of the various rooms in the rooming or boarding house and for each of the other services or combinations of services available.

(b) A copy of the schedule of rates shall be provided to, and shall be explained to, every present and prospective resident and at least one copy shall be prominently posted in the rooming or boarding house. Copies shall also be provided to the Bureau and to the county welfare board.

(c) In the event of any change in rates, a revised schedule shall be prepared indicating the change in rates. A copy thereof shall be prominently posted in the rooming and boarding house and copies shall be provided to all persons and agencies entitled to receive copies of the original schedule.

(d) No resident shall be charged for any services other than those which he or she has requested and which are actually provided to him or her.

Amended by R.1995 d.280, effective May 12, 1995.
See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

5:27-3.11 Security deposits

No security deposit, however designated, shall be required or accepted by any licensee from any resident or prospective resident, or shall be held by any licensee, unless there is full compliance with the requirements of N.J.S.A. 46:8-19 through 46:8-26.

5:27-3.12 Limited tenure hotel guests

In the event that a hotel, motel or established guest house is classified as a rooming or boarding house for purposes of the Act by reason of having fewer than 85 percent of the dwelling units offered for limited tenure only, a resident occupying a unit on a limited tenure basis shall have the legal rights of a hotel guest and the rights set forth in section 3 of P.L.1979, c.500 (N.J.S.A. 55:13B-19) but shall not have any of the additional rights of residents established by this subchapter.

R.1983 d.157, eff. May 16, 1983.
See: 15 N.J.R. 375(b), 15 N.J.R. 804(a).

SUBCHAPTER 4. GENERAL BUILDING REQUIREMENTS

5:27-4.1 Water supply

(a) Every rooming or boarding house shall be provided with a safe supply of potable water meeting the standards as set forth in the New Jersey Safe Drinking Water Act regulations (N.J.A.C. 7:10-1 et seq.) published by the New Jersey Department of Environmental Protection.