

1. In order to be eligible to renew a current certification, the medication aide shall have completed at least 10 hours of continuing education, seminars, or in-service training every two year certification period.

i. The continuing education requirement shall include five hours for review of the fundamental principles of medication administration and the skills and knowledge necessary for the task of medication administration and five hours of continuing education and in-service training on topics of current drug use relevant to the elderly.

ii. The continuing education requirement shall be in addition to the continuing education requirement in (f) above.

2. The facility shall maintain records sufficient to verify the continuing education record of present and previous employees for at least one renewal period.

(u) An individual whose name has been removed from the New Jersey medication aide registry for a period of more than one year shall be required to retrain and retest in accordance with the rules in effect at the time of retraining and retesting in order to be reentered on said registry.

(v) Registry confirmation of a medication aide certification shall not be sufficient to satisfy the requirement for reference checks identified at N.J.A.C. 8:36-4.5(f).

(w) A certificate issued to a medication aide in accordance with this section shall be sanctioned, suspended, denied, or revoked in the following cases:

1. Conviction for resident abuse or neglect or misappropriation of resident property;

2. Conviction or guilty plea as specified at N.J.A.C. 8:36-4.5(f);

3. Sale, purchase, or alteration of a certificate; use of fraudulent means to secure the certificate, including filing false information on the application; or forgery, imposture, dishonesty, or cheating on an examination; or

4. Documented and verified incompetence and/or negligence in the performance of duties which fall within the scope of practice of the certified medication aide as delegated by the registered professional nurse.

(x) If the Department proposes to sanction, suspend, deny or revoke the certification of a certified medication aide in an assisted living facility, comprehensive personal care home, or assisted living program, the aggrieved person 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.

(y) Upon receipt of a finding that a certified medication aide has abused, neglected, or misappropriated the property

of a resident, or was negligent or incompetent in the performance of the individual's duties, resulting from an investigation by the Office of the Ombudsman for the Institutionalized Elderly, the Department, or other State or local governmental agency, including criminal justice authorities, the Department shall determine whether the finding is valid and is to be entered onto the personal care assistant abuse registry at which time a disciplinary hearing process shall be initiated.

(z) Prior to entering the finding on the certified medication aide registry, the Department shall provide a notice to the certified medication aide, identifying the intended action, the factual basis and source of the finding, and the individual's right to a hearing.

1. The notice in (z) above shall be transmitted to the individual so as to provide at least 30 days for the individual to request a hearing prior to abuse registry placement. If a hearing is requested, it shall be conducted by the Office of Administrative Law or by a Departmental hearing office in accordance with the hearing procedures established by 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.

2. No further right to an administrative hearing shall be offered to individuals who have been afforded a hearing before a State or local administrative agency or other neutral party, or in a court of law, at which time the certified medication aide received adequate notice and an opportunity to testify and to confront witnesses, and where there was an impartial hearing officer who issued a written decision verifying the findings of abuse, neglect, or misappropriation of resident property. The individual shall have the right to enter a statement to be included in the abuse registry contesting such findings.

(aa) An order of sanction, suspension, denial, or revocation may contain such provisions regarding reinstatement of the certification as the Department shall recommend. In the absence of any such provisions regarding reinstatement in the order of a denial, suspension, or revocation, the action shall be deemed to be permanent.

#### 8:36-1.9 Qualifications of pharmacists

Each pharmacist shall be so registered by the New Jersey State Board of Pharmacy, in accordance with N.J.A.C. 13:39.

#### 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, in accordance with N.J.A.C. 13:35.

**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, in accordance with N.J.A.C. 13:37.

**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, in accordance with N.J.A.C. 13:44G.

**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, in accordance with N.J.A.C. 8:33.

(b) In accordance with N.J.A.C. 8:33, application forms for certificate of need and instructions for completion may be obtained from:

Certificate of Need and Acute Care Licensure Program  
New Jersey State Department of Health and Senior Services  
PO Box 360, Room 604  
Trenton, New Jersey 08625-0360  
609-292-6552

(c) The facility or program 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, comprehensive personal care home or assisted living program shall make application to the Commissioner for a license on forms prescribed by the Department. Such forms may be obtained from:

Director  
Long Term Care Licensing and Certification  
Division of Long Term Care Systems Development and Quality  
New Jersey State Department of Health and Senior Services  
PO Box 367  
Trenton, New Jersey 08625-0367  
(609) 633-9034

(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, Long Term Care Licensing and Certification (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 shall 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. The admission agreement shall include but not be limited to, the following:

1. Proposed charges for room, board and all levels of service and care and for all additional services and care not included in the standard package of rates;
2. Specification of how and when the resident will be notified of any change in charges;
3. A statement that each resident has the right to appeal an involuntary discharge as specified at N.J.A.C. 8:36-4.13(b); and
4. Specification of the criteria identified at N.J.A.C. 8:36-4.1(d) which will be used to discharge residents and an explanation of how the discharge process will be implemented, including which facility staff will participate and the extent of resident participation.

(d) The Department shall charge a nonrefundable fee of \$1,000 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 set forth at N.J.S.A. 26:2H-12, as may be amended from time to time. The application shall include, but not be limited to, the following:

1. An evaluation of the previous licensing track record of the proposed licensed operator in New Jersey and other states, where applicable. This evaluation shall include assisted living and other licensed health care facilities owned, operated or managed by the prospective licensed operator and any such facilities owned, operated or managed by any entity affiliated with the proposed operator;

2. The proposed licensed operator's capacity to comply with licensing requirements;

3. A description of the physical plant, including the number and type of beds requested;

4. An evaluation of any requested waivers to licensing requirements that are sought in accordance with N.J.A.C. 8:36-2.7;

5. A description of the proposed physical plant, including the number of beds requested;

6. A description of how the architectural design will promote the essential values of assisted living, including privacy, choice, independence, dignity and a home-like environment;

7. A description of how the physical plant will facilitate the care of residents with common long term care problems, such as reduced mobility, incontinence and dementia; and

8. A statement of the proposed licensed operator's commitment to assuring access to assisted living for individuals with nursing home level of care needs, as defined in N.J.A.C. 8:36-1.3. This statement shall indicate that within 36 months after licensure, at least 20 percent of the facility's residents shall be individuals with nursing home level of care needs. This percentage shall be computed based on the number of resident days per calendar year and may include direct admissions as well as maintained residents with nursing home-level of care needs.

(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) The Department shall charge a nonrefundable fee of \$750.00 for the filing of an application for licensure and each annual renewal of an assisted living program. The application shall include, but not be limited, to the following:

1. A copy of the written contract between the program provider and the publicly subsidized housing unit in accordance with N.J.A.C. 8:36-18.2(c)1 through 6; and

2. A copy of the written agreement or contract between the program provider and residents that will be used at each program site, including clearly addressing N.J.A.C. 8:36-18.3(d); and

3. An evaluation of the requirements specified in (d)1 and 2 above.

(k) Each licensed assisted living program office site may provide services in an area that covers no more than two contiguous counties, although the facility may apply to establish and license sufficient sites to provide services fore multiple counties, up to and including a statewide service area.

(l) Each applicant for a license to operate a facility or program may make an appointment for a preliminary conference at the Department with the Long Term Care Licensing and Certification Program.

(m) Each assisted living residence and comprehensive personal care home shall be assessed a biennial inspection fee of \$1,000. This fee shall be assessed in the year the facility will be inspected, along with the annual licensure fee for that year. The fee shall be added to the initial licensure fee for new facilities. Failure to pay the inspection fee shall result in non-renewal of the license for existing facilities and the refusal to issue an initial license for new facilities. This fee shall be imposed only every other year even if inspections occur more frequently and only for the inspection required to either issue an initial license or to renew an existing license. It shall not be imposed for any other type of inspection.

(n) Each assisted living program shall be assessed a biennial inspection fee of \$500.00. This fee shall be assessed in the year the facility will be inspected, along with the annual licensure fee for that year. The fee shall be added to the initial licensure fee for new facilities. Failure to pay the

inspection fee shall result in non-renewal of the license for existing facilities and the refusal to issue an initial license for new facilities. This fee shall be imposed only every other year even if inspections occur more frequently and only for the inspection required to either issue an initial license or to renew an existing license. It shall not be imposed for any other type of inspection.

### 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 Care Plan Review Services, Division of Codes and Standards, Department of Community Affairs, PO Box 815, Trenton, NJ 08625-0815, 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 Care Plan Review Services  
Division of Codes and Standards  
Department of Community Affairs  
PO Box 815  
Trenton, NJ 08625-0815  
609-633-8151

(c) An on-site inspection of the construction of the physical plant shall be made by representatives of Health Care Plan Review Services to verify that the building has been constructed in accordance with the architectural plans approved by the Department. A certificate of occupancy issued by the local municipality may be submitted in lieu of an on-site inspection by Health Care Plan Review Services.

### 8:36-2.4 Surveys

(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 Long Term Care Assessment and Survey Program of the Department shall be conducted to determine if the facility adheres to this chapter.

1. The facility shall be notified in writing of the findings of the survey, including any deficiencies found.

2. The facility shall notify the Long Term Care Assessment and Survey Program of the Department when the deficiencies, if any, have been corrected, and the Long Term Care Assessment and Survey Program shall schedule one or more resurveys of the facility prior to occupancy.

(b) A license shall be issued to a facility when the following conditions are met:

1. A preliminary conference regarding the conditions for licensure (see N.J.A.C. 8:36-2.2(d) 1 through 8) for review of the conditions for licensure and operation has taken place between the Long Term Care Licensing and Certification Program and representatives of the facility, who will be advised that the purpose of the conference 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; and a copy of the certificate of occupancy or a certificate of continued occupancy that has been issued by the appropriate local authority has been submitted to the Department;

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; and

8. 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 Long Term Care 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.

### 8:36-2.5 License

(a) A license shall be issued 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.