

**CHAPTER 43F**

**STANDARDS FOR LICENSURE OF ADULT AND PEDIATRIC DAY HEALTH SERVICES FACILITIES**

**Authority**

N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5; and Reorganization Plan No. 001-1996.

**Source and Effective Date**

R.2001 d.205, effective June 18, 2001.  
See: 32 N.J.R. 1920(a), 33 N.J.R. 2121(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 43F, Standards for Licensure of Adult and Pediatric Day Health Services Facilities, was extended by gubernatorial directive from December 15, 2006 to June 15, 2007. See: 39 N.J.R. 195(a).

**Chapter Historical Note**

Chapter 43F, Manual of Standards for Licensure of Non-Residential Medical Day Care Facilities, was adopted as R.1979 d.452, effective January 2, 1980. See: 11 N.J.R. 437(b), 11 N.J.R. 622(b).

Chapter 43F, Manual of Standards for Licensure of Non-Residential Medical Day Care Facilities, was repealed and Chapter 43F, Manual of Standards for Licensure of Adult Day Health Care Facilities, was adopted as new rules by R.1990 d.136, effective February 20, 1990. See: 21 N.J.R. 3385(a), 22 N.J.R. 635(a).

Subchapter 23, Physical Plant, and Subchapter 24, Functional Requirements, were adopted as R.1990 d.421, effective September 4, 1990. See: 21 N.J.R. 3403(a), 22 N.J.R. 2703(a).

Pursuant to Executive Order No. 66(1978), Chapter 43F, Manual of Standards for Licensure of Adult Day Health Care Facilities, was readopted as R.1995 d.128, effective February 7, 1995. See: 26 N.J.R. 4532(a), 27 N.J.R. 939(a). Pursuant to Executive Order No. 66(1978), Chapter 43F, Manual of Standards for Licensure of Adult Day Health Care Facilities, expired on February 7, 2000.

Chapter 43F, Standards for Services and Licensure of Adult and Pediatric Day Health Services Facilities, was adopted as new rules by R.2001 d.205, effective June 18, 2001. See: 32 N.J.R. 1920(a), 33 N.J.R. 2121(a).

Chapter 43F, Standards for Services and Licensure of Adult and Pediatric Day Health Services Facilities, was renamed Standards for Licensure of Adult and Pediatric Day Health Services Facilities; Subchapter 2, Medicaid Eligibility and Program Participation for Adult and Pediatric Day Health Services, was repealed and Subchapter 2, Licensure Procedures, was adopted as new rules; Subchapter 3, Administration and Organization, was renamed Administration; Subchapter 4, Assessment; Plan of Care; Participant's Rights, was renamed Participant Rights; Subchapter 5, Participant Assessment and Plan of Care, was adopted as new rules; Subchapter 5, Services, was recodified as Subchapter 6, General Services; Subchapter 6, Staff Requirements, was repealed; Subchapter 7, Facility, was repealed and Subchapter 7, Nursing Services, was adopted as new rules; Subchapter 8, Pediatric Day Health Services Facilities, was recodified as Subchapter 19; Subchapter 8, Medical Services; Subchapter 9, Pharmaceutical Services; Subchapter 10, Dietary Services; Subchapter 11, Rehabilitation Services; Subchapter 12, Social Work Services; Subchapter 13, Activities Services; Subchapter 14, Physical Plant Requirements; Subchapter 15, Medical Records; Subchapter 16, Infection Control, Sanitation, and House-keeping; Subchapter 17, Transportation Services; and Subchapter 18, Quality Improvement, were adopted as new rules; and Appendices A through F, were repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006). See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 43F, Standards for Licensure of Adult and Pediatric Day Health Services Facilities, expired on December 15, 2006. See: 38 N.J.R. 3115(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

**8:43F-1.1 Scope and purpose**

The rules in this chapter pertain to all facilities that provide adult or pediatric day health services, regardless of the source of payment. These rules constitute the basis for the licensure of adult and pediatric day health services facilities by the New Jersey Department of Health and Senior Services. The Medicaid rules for adult and pediatric day health services are contained in N.J.A.C. 8:86. Adult and pediatric day health services facilities provide specialized, integrated care to participants in order to assist them in reaching the functional levels of which they are capable, as well as to protect their health and safety. The purpose of this chapter is to establish minimum rules to which an adult or pediatric day health service facility must adhere to be licensed to operate in New Jersey. An adult day or pediatric day health services facility that is a Medicaid provider shall also comply with the regulations at N.J.A.C. 8:86.

Amended by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).  
See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).  
Rewrote the section.

**8:43F-1.2 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Administration-adult day health services facility” means an identifiable administrative unit within the adult day health services facility headed by a director/administrator, responsible for the overall conduct of all adult day health service program activities.

“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 dressing, bathing, toilet use, transfer, locomotion, bed mobility and eating. In pediatric day health care facilities, ADL may include developmental stimulation, diaper changing and toilet training.

“Prescriber” means an individual who is authorized to write prescriptions in accordance with Federal and State laws.

“Prior authorization” means the approval process of eligible Medicaid participants by the Department prior to the provision of adult or pediatric day health services in accordance with N.J.A.C. 8:86-1.5 and N.J.A.C. 8:43F-2.8.

“Progress note” means a written, signed, and dated notation or, if a computerized medical records system is used, an authenticated electronic notation, summarizing information about care provided and the participant’s response to it.

“Registered professional nurse” (RN) means a person who is so licensed by the New Jersey State Board of Nursing, pursuant to N.J.S.A. 45:11-26.

“Respite” or “respite care” means the provision of temporary, short-term care for, or the supervision of, an eligible person on behalf of the caregiver in emergencies or on an intermittent basis to relieve the daily stress and demands of caring for a functionally impaired adult. Respite may be provided hourly, daily, overnight, or on weekends and may be provided by paid or volunteer staff. The term includes, but is not limited to, companion or sitter services, homemaker and personal care services, assisted living services, adult day health services, short-term inpatient care in a licensed nursing facility, residential health care facility or overnight camp program, private duty nursing and peer support and training for care givers.

“Restraint” means a physical device or chemical (drug) used to limit, restrict, or control participants’ movements.

“Self administration” means a procedure in which any medication is taken orally, injected, inserted, or topically or otherwise administered by a participant to himself or herself.

“Signature” means, at a minimum, the first initial and full surname and title (for example, R.N., A.P.N., P.A., 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.

“Social worker” means an individual who is certified or licensed by the New Jersey State Board of Social Work Examiners, pursuant to N.J.S.A. 45:15BB-1 et seq.

“Speech-language pathologist” means an individual who holds a current New Jersey license issued by the Audiology and Speech-Language Pathology Advisory Committee, Division of Consumer Affairs of the New Jersey Department of Law and Public Safety.

“Staff education plan” means a written plan that describes a coordinated program for staff education for each service, including in-service 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 the employee has been assigned, as well as to the personnel policies of the facility.

“Sterilization” means a process of destroying all microorganisms, including those bearing spores, in, on, and around an object.

“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.

“Transportation services” means the conveying of participants who require transportation between the facility and the participant’s home, and between the facility and off-site physical or occupational therapy or speech-language pathology services, either directly or through contractual arrangements, in accordance with N.J.A.C. 8:43F-17 and 8:86-1.4.

“Unlicensed assistive personnel” means unlicensed individuals (formerly known as “ancillary nursing personnel”) to whom selective nursing tasks are delegated.

“Volunteer” means a person who gives his or her time and services regularly without remuneration.

Amended by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).

See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).

Rewrote definitions “Activities of daily living (ADL),” “Adult day health services facility,” “Daily census,” “Drug,” “Family,” “Interdisciplinary team,” “Legally authorized representative,” “License holder,” “Licensed practical nurse,” “Medical consultant,” “Medical record,” “Medical record practitioner,” “Occupational therapist,” “Pediatric day health services facility,” “Pediatric day health services participant,” “Pharmacist,” “Physical therapist,” “Physician,” “Physician assistant,” “Prescriber,” “Prior authorization,” “Progress note,” “Registered professional nurse,” “Respite,” “Signature,” “Social worker,” “Speech-language pathologist” and “Transportation services”; added definitions “Acuity,” “Advanced practice nurse,” “Full-time equivalent,” “Medication,” “Medication administration,” “Participant equivalent” and “Unlicensed assistive personnel”; deleted definitions “Adult day health services beneficiary,” “Ancillary nurse personnel,” “Beneficiary or eligible beneficiary,” “Drug administration,” “HIV medical day care center (HIVMDC),” “HIV medical day care participant,” “Nurse practitioner/clinical nurse specialist,” “Pediatric day health services beneficiary” and “Recipient”; rewrote term and definition “Adult Day Care Program for Victims of Alzheimer’s Disease and Related Disorders” as “Adult Day Health Services Program for Victims of Alzheimer’s Disease and Related Disorders.”

### 8:43F-1.3 (Reserved)

Repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).

See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).

Section was “Licensure application procedures and requirements”.

### 8:43F-1.4 (Reserved)

Repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).

See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).

Section was “Waiver”.

**8:43F-1.5 (Reserved)**

Repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).  
See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).  
Section was "Newly constructed or expanded facilities".

**8:43F-1.6 (Reserved)**

Repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).  
See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).  
Section was "Preliminary conference".

**8:43F-1.7 (Reserved)**

Repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).  
See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).  
Section was "Surveys".

**8:43F-1.8 (Reserved)**

Repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).  
See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).  
Section was "License".

**8:43F-1.9 (Reserved)**

Repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).  
See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).  
Section was "Surrender of license".

**8:43F-1.10 (Reserved)**

Repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).  
See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).  
Section was "Action against a license".

**8:43F-1.11 (Reserved)**

Repealed by R.2005 d.388, effective December 19, 2005 (operative February 1, 2006).  
See: 36 N.J.R. 5240(a), 37 N.J.R. 385(a), 4931(a).  
Section was "Hearings".

## SUBCHAPTER 2. LICENSURE PROCEDURES

**8:43F-2.1 Licensure application procedures and requirements**

(a) A person, organization, or corporation desiring to operate an adult or pediatric day health services facility, or to expand or relocate an existing facility, shall submit an application 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  
New Jersey Department of Health and Senior  
Services  
PO Box 367

Trenton, NJ 08625-0367

1. The Department shall charge a nonrefundable fee of \$1,500 plus \$10.00 per slot for the filing of an application for licensure and \$1,500 plus \$10.00 per slot for each annual renewal thereof.

2. The Department shall charge a nonrefundable fee of \$1,500 plus \$10.00 per slot for the filing of an application to add services or program slots to an existing adult or pediatric day health services facility.

3. The Department shall charge a nonrefundable fee of \$375.00 for the filing of an application to reduce services at an existing adult or pediatric day health services facility.

4. The Department shall charge a nonrefundable fee of \$375.00 for the filing of an application for the relocation of an adult or pediatric day health services facility.

5. The Department shall charge a nonrefundable fee of \$1,500 for the filing of an application for the transfer of ownership of an adult or pediatric day health services facility.

6. Each adult and pediatric day services facility shall be assessed a biennial inspection fee of \$450.00. 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 nonrenewal 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.

7. Approval of a project proposal shall be contingent upon a review of the applicant's track record, in accordance with N.J.A.C. 8:43E-5.1(b), and compliance with this chapter. All applicants shall demonstrate that they have the capacity to operate an adult or pediatric day health services facility in accordance with the rules in this chapter. An application for a license or change in service shall be denied if that 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 the health care facility will be operated in accordance with the standards required by these rules.

8. The Department shall not issue or continue licensure for the operation of a pediatric day health services facility unless, in accordance with N.J.S.A. 30:5B-6.10 et seq., any current or prospective staff member, administrator, or individual seeking employment at or ownership of a pediatric day health services facility, including volunteer staff, shall have obtained clearance from the Department's Criminal Background Investigation Unit, prior to owning, operating, administering, volunteering or working for a pediatric day health services facility.

i. In accordance with the provisions of N.J.S.A. 30:5B-6.14, no person shall be issued clearance to own, operate, administer, volunteer or work for a pediatric day health services facility who has been convicted of any of the following crimes and offenses:

- (1) A crime against a child, including endangering the welfare of a child and child pornography, pursuant to N.J.S.A. 2C:24-4;
- (2) Child molestation as set forth in N.J.S.A. 2C:14-1 et seq.;
- (3) Abuse, abandonment or neglect of a child, pursuant to N.J.S.A. 9:6-3;
- (4) Endangering the welfare of an incompetent person, pursuant to N.J.S.A. 2C:24-7;
- (5) Sexual assault, criminal sexual contact or lewdness, pursuant to N.J.S.A. 2C:14-2 through 2C:14-4, inclusive;
- (6) Murder pursuant to N.J.S.A. 2C:11-3 or manslaughter, pursuant to N.J.S.A. 2C:11-4;
- (7) Stalking, pursuant to N.J.S.A. 2C:12-10;
- (8) Kidnapping and related offenses, including criminal restraint, false imprisonment, interference with custody, criminal coercion or enticing a child into a motor vehicle, structure or isolated area, in violation of any crime enumerated in Chapter 13 of Title 2C of the Revised Statutes of New Jersey (N.J.S.A. 2C:13-1 et seq.);
- (9) Arson, pursuant to N.J.S.A. 2C:17-1, or causing or risking widespread injury or damage which would constitute a crime of the second degree or higher, pursuant to N.J.S.A. 2C:17-2;
- (10) Terroristic threats, pursuant to N.J.S.A. 2C:12-3; and
- (11) An attempt or conspiracy to commit any of the crimes or offenses listed in (a)8i(1) through (10) above.

ii. For convictions of crimes and offenses other than those listed in (a)8i(1) through (11) above, an applicant to own, operate, administer, work or volunteer to work for a pediatric day health services facility shall be eligible for employment if the Department determines that the applicant has demonstrated clear and convincing evidence of the applicant's rehabilitation. In determining whether an applicant has demonstrated rehabilitation, the Department shall consider:

- (1) The nature and responsibility of the position that the applicant would hold or currently holds at the facility, as the case may be;
- (2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the person when the offense was committed;

(6) Whether the offense was an isolated or repeat incident;

(7) Any social conditions which may have contributed to the offense; and

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

iii. For convictions occurring in any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or offenses described in (a)8i(1) through (11), above.

iv. In accordance with the provisions of the Administrative Procedures 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, any individual disqualified from owning, operating, administering, volunteering or working for a pediatric day health services facility pursuant to (a)8i above shall be given an opportunity to challenge the accuracy of the disqualifying criminal history record prior to being permanently disqualified from participation.

v. An individual disqualified from owning, operating, administering, volunteering or working for a pediatric day health services facility pursuant to (a)8ii above shall be given the opportunity to challenge the accuracy of the disqualifying criminal history record or the denial of a determination of rehabilitation pursuant to (a)8ii(1) through (8) above prior to being permanently disqualified from participation.

9. The Department shall not issue or continue licensure for the operation of an adult day health services facility unless the current or prospective owner(s) and administrator(s) have obtained prior clearance from the Department's Criminal Background Investigation Unit. The Department shall not issue clearance to any current or prospective owner or administrator who has been convicted of a crime or offense relating adversely to the person's ability to provide care, including, but not limited to, homicide, assault kidnapping, sexual offenses, robbery, crimes against the family, children or incompetents, and financial crimes, except when the current or prospective owner or administrator with a criminal history has demonstrated his or her rehabilitation in order to qualify as

an owner or administrator in accordance with the standards set forth in the Rehabilitated Convicted Offender Act, N.J.S.A. 2A:168A-1 et seq.

i. In accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedures Rules, N.J.A.C. 1:1, any individual disqualified from owning, operating, or administering an adult day health services facility shall be given an opportunity to challenge the accuracy of the disqualifying criminal history record prior to being permanently disqualified from participation.

#### 8:43F-2.2 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 the rules in this chapter, waive provisions of these rules if, in his or her opinion, such waiver would not render the premises, equipment, personnel, finances, rules and bylaws, and standards of health care at a facility unfit or inadequate.

1. A facility seeking a waiver of these rules shall apply in writing to the Director of the Licensing and Certification Program of the Department.

2. A written request for a waiver shall include the following:

i. The specific rule or part of the rule for which a waiver is requested;

ii. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon adherence;

iii. An alternative proposal which would ensure the care and safety of participants; and

iv. Documentation to support the request for a waiver.

3. The Department reserves the right to request additional information before processing a request for waiver.

#### 8:43F-2.3 Newly constructed or expanded facilities

(a) 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 Unit  
Division of Codes and Standards  
New Jersey Department of Community Affairs  
PO Box 815  
Trenton, NJ 08625-0815  
609-633-8151

1. Any existing or proposed adult or pediatric day health services facility with a construction program shall submit plans to the Health Care Plan Review Unit, Division of Codes and Standards, New Jersey Department of Community Affairs, PO Box 815, Trenton, NJ 08625-0815, for review and approval prior to the initiation of construction.

2. A newly constructed, renovated or expanded facility may not be occupied without a final approval letter from the Health Care Plan Review Unit of the New Jersey Department of Community Affairs.

#### 8:43F-2.4 Preliminary conference

When a newly constructed facility is approximately 80 percent complete or when an applicant's estimated date of opening is within 30 days, the applicant shall schedule a preliminary conference with the Long Term Care Licensing Program for review of the conditions for licensure and operation.

#### 8:43F-2.5 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 Department shall be conducted at the Department's discretion to determine if the facility adheres to the rules in 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 Division of Long Term Care Systems of the Department when the deficiencies, if any, have been corrected, and the Assessment and Survey Program shall schedule one or more resurveys of the facility prior to occupancy.

3. Professional personnel shall be employed in accordance with the staffing requirements in this chapter.

(b) No facility shall admit participants to the facility until the Long Term Care Licensing Program of the Department issues a license to operate the facility.

(c) Survey visits may be made to a facility at any time by authorized representatives of the Department. Such visits may include, but not be limited to, the review of all facility documents and participants' records and conferences with participants and staff.

(d) The Department shall conduct an on-going evaluation of the day health services facility by on-site visits. The Department shall inform the facility, in writing, of the results of the on-site evaluation.

(e) Department staff may request a plan of correction if the facility is evaluated as providing sub-standard services and/or inadequate documentation of these services. The plan of correction shall address deficiencies noted by the Department