

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 thereby 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 physician 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).

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

Subchapter Historical Note

All provisions of this subchapter were filed and became effective August 28, 1980 as R.1980 d.376. See: 12 N.J.R. 452(a), 12 N.J.R. 569(b). This subchapter was readopted pursuant to Executive Order 66(1978) effective June 14, 1985 as R.1985 d.350. See: 17 N.J.R. 341(b), 17 N.J.R. 1759(a). See chapter and section levels for further amendments.

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.

(b) The source of such water supply shall be approved by the New Jersey Department of Environmental Protection and/or the local health agency.

5:27-7.4 Outdoor facilities and recreation

(a) In every boarding house having a lawn, deck or porch or other outdoor area suitable for use by residents, sufficient chairs shall be available to accommodate as many residents as can comfortably be seated there.

(b) Where feasible in boarding houses, recreational equipment suitable for use by the residents shall be provided.

(c) Every licensee shall take such action as may be reasonable to encourage the use by residents of recreational facilities available in the community.

As amended, R.1981 d.359, eff. October 8, 1981.

See: 13 N.J.R. 393(a), 13 N.J.R. 704(c).

(a): "rooming or" deleted.

(b): "in boarding houses" added.

SUBCHAPTER 8. MAINTENANCE OF RECORDS**Subchapter Historical Note**

All provisions of this subchapter were filed and became effective August 28, 1980 as R.1980 d.376. See: 12 N.J.R. 452(a), 12 N.J.R. 569(b). This subchapter was readopted pursuant to Executive Order 66(1978) effective June 14, 1985 as R.1985 d.350. See: 17 N.J.R. 341(b), 17 N.J.R. 1759(a). See chapter and section levels for further amendments.

5:27-8.1 Resident records

(a) It shall be the duty of each licensee to maintain an orderly file with respect to each resident containing at least the following information:

1. Full name of resident;
2. Date of birth;
3. Last previous address;
4. Name and address of the persons and/or agencies, if any, responsible for referring the resident to the rooming or boarding house and maintaining contact with him;
5. Name, address and telephone number of personal physician, if any;
6. Name, address and telephone number of next of kin or other person interested in the resident's well-being;
7. Date of commencement of occupancy;
8. Last date of occupancy and copy of death certificate if occupancy was terminated by the resident's death;
9. Any complaints made by or about the resident, the date of such complaint and action taken by the licensee.

(b) Each resident's file shall contain at least the following documents:

1. Physician's certification, as to general state of health and any illnesses or disabilities and medication required;

2. Copy of a lease or other occupancy agreement, signed by both the licensee and the resident, clearly stating the services to be provided by the licensee and the charge to the resident for such services, said agreement to be witnessed, in the case of a resident at least 62 years of age or having any mental or physical disability, by a representative of the county welfare board or of any other social service agency having responsibility for such resident;

3. Acknowledgement by the resident that he or she has received a copy of the rules and regulations of the rooming or boarding house and agrees to abide by them;

4. A record of all property of the resident entrusted to the licensee, including, in the case of any resident receiving financial services, a ledger as required pursuant to N.J.A.C. 5:27-8;

5. Any other written agreement between the licensee and the resident.

(c) No resident's file shall be made available without the resident's consent to any person other than the licensee, the resident, or a duly authorized representative of the Bureau, the county welfare board or other public agency having reasonable cause to have access to the file, all of whom shall have access to the file at any reasonable time.

(d) In a rooming house, a licensee need only maintain the items listed in (a)1 and 7 above for residents under 62 years of age and items listed in (a)1, 2, 5, 6, and 7, and (b)3 above for residents 62 years of age or over.

(e) An owner or operator of a boarding house owned and operated under a Class D or E license shall be permitted to develop and follow a method that will permit that the resident may remain anonymous when it is necessary to do so for rehabilitative purposes.

As amended, R.1981 d.359, eff. October 8, 1981.

See: 13 N.J.R. 393(a), 13 N.J.R. 704(c).

(d) added.

Amended by R.1990 d.274, effective June 4, 1990.

See: 22 N.J.R. 912(a), 22 N.J.R. 1720(b).

Anonymity provisions added at (e).

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.*

5:27-8.2 Financial records

(a) Every licensee shall keep orderly and complete records of the source and amount of all funds received in connection with the operation of each rooming and boarding house and the nature and amount of each expenditure made in connection therewith. Payments made to or profits retained by licensees shall be clearly stated.

(b) All financial records maintained by any licensee in connection with any rooming or boarding house shall be made available by the licensee to the Bureau upon request of any duly authorized representative of the Bureau.

5:27-8.3 Additional requirements

(a) The Bureau, upon determining that records maintained by a licensee are disorderly or inadequate in any way, or that violations of the act or of these regulations exist which have not been terminated within the period of time allowed by the Bureau for such termination, may order the licensee to maintain such additional records, or maintain the records in such manner, as the Bureau may prescribe.

(b) It shall be the duty of any licensee to whom an order is issued pursuant to (a) above to comply with such order forthwith.

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

5:27-8.4 Record retention

(a) All required financial records shall be retained for a period of at least five years from the date of the record.

(b) All required resident records shall be retained for a period of at least five years after the resident ceases to reside at the rooming or boarding house.

(c) The Bureau shall have discretion to allow earlier disposal, or require longer retention, of specific records or categories of records in specific cases.

SUBCHAPTER 9. FOOD AND LAUNDRY SERVICES

Subchapter Historical Note

All provisions of this subchapter were filed and became effective August 28, 1980 as R.1980 d.376. See: 12 N.J.R. 452(a), 12 N.J.R. 569(b). This subchapter was readopted pursuant to Executive Order 66(1978) effective June 14, 1985 as R.1985 d.350. See: 17 N.J.R. 341(b), 17 N.J.R. 1759(a). See chapter and section levels for further amendments.

5:27-9.1 Applicability

(a) The standards in this subchapter shall apply only to boarding houses operated under either a Class B or Class C license.

(b) Neither food services nor laundry services shall be provided or offered to be provided in any rooming house operated under a Class A license.

5:27-9.2 Diet and menu

(a) Every resident shall be provided with a nutritionally adequate diet that is of good quality food, correctly prepared, attractively and properly served in sufficient quantity and in a form and texture that will meet his or her nutritional needs, take into account his or her food preferences and be appetizing.

(b) The daily diet for each resident shall include servings from each of the following food groups in an amount that is nutritionally adequate in light of the resident's age, weight and physical condition:

1. Milk or milk products;
2. Vegetables and fruits, including at least one serving per day of citrus fruit or juice;
3. Whole grain, enriched, fortified or restored bread or cereal;
4. Meat, poultry, fish and eggs.

(c) Menus shall be prepared on a weekly basis. All menu items shall be specifically stated.

(d) All menu changes and substitutions shall be recorded. Records of foods served shall be retained for three weeks following the date of service.

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

5:27-9.3 Food service

(a) Each resident shall be served at least three well-balanced and appetizing meals per day on a regular schedule and at reasonable intervals.

(b) Food and beverages shall be available to residents in reasonable quantities for between-meal and evening snacks.

(c) Any modified diet prescribed by a physician shall be conscientiously followed.

(d) Adequate dishes, utensils and napkins shall be provided. Salt, pepper and sugar and other condiments shall be provided as appropriate and in suitable containers.

(e) A reasonable amount of time shall be allowed for each resident to eat his or her meal.

Amended by R.1995 d.280, effective May 12, 1995.