

**8:43A-1.10 Qualifications of the director of nursing services**

The director of nursing services shall be a registered professional nurse and shall have at least one year of full-time, or full-time equivalent, experience in nursing supervision and/or nursing administration in a licensed health care facility.

**8:43A-1.11 Qualifications of drug counselors**

(a) Each drug counselor shall:

1. Be certified by the Alcohol and Other Drugs of Abuse Counselor Certification Board of New Jersey, Inc. (90 Monmouth Street, Suite One, Red Bank, NJ 07701);

2. Be certified by the American Academy of Health Care Providers in the Addictive Disorders (260 Beacon Street, Somerville, MA 02143);

3. Be a social worker, in accordance with N.J.A.C. 8:43A-1.27;

4. Have a baccalaureate degree in a social science and one year of full-time equivalent experience in drug abuse counseling; or

5. Be currently enrolled in a program leading to one of the credentials required by (a)1 through 4 above and under the supervision of a person who has one of the credentials required by (a)1 through 4 above and at least three years of experience in drug counseling.

**8:43A-1.12. Qualifications of family practice physicians**

A family practice physician shall be a physician who has successfully completed a residency program in family practice accredited by the Accreditation Council for Graduate Medical Education or a residency program in general practice approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Family Practice or the American Osteopathic Board of General Practice.

**8:43A-1.13 Qualifications of licensed practical nurses**

Each licensed practical nurse shall be so licensed by the New Jersey State Board of Nursing.

**8:43A-1.14 Qualifications of the medical director**

The medical director shall be a physician who has successfully completed a residency program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association in a medical specialty related to services provided by the facility, or who is a diplomate of one of the certifying boards approved by the American Board of Medical Specialties or one of the certifying boards of the American Osteopathic Association in a medical specialty related to services provided by the facility. If the facility provides chronic dialysis services, the medical director shall be a nephrologist, in accordance with N.J.A.C. 8:43A-24.4(a).

**8:43A-1.15 Qualifications of nephrologists**

A nephrologist shall be a physician who has successfully completed a residency program in nephrology accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Internal Medicine or the American Osteopathic Board of Internal Medicine in the subspecialty of nephrology.

**8:43A-1.16 Qualifications of nurse practitioners**

Each nurse practitioner shall be so certified by the New Jersey State Board of Nursing.

**8:43A-1.17 Qualifications of obstetrician-gynecologists**

An obstetrician-gynecologist shall be a physician who has successfully completed a residency program in obstetrics/gynecology accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Obstetrics and Gynecology or the American Osteopathic Board of Obstetrics and Gynecology.

**8:43A-1.18 Qualifications of pediatricians**

A pediatrician shall be a physician who has successfully completed a residency program in pediatrics accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Pediatrics or the American Osteopathic Board of Pediatrics.

**8:43A-1.19 Qualifications of pharmacists**

Each pharmacist shall be so registered by the New Jersey State Board of Pharmacy.

**8:43A-1.20 Qualifications of physician assistants**

Each physician assistant shall be so licensed by the New Jersey State Board of Medical Examiners.

**8:43A-1.21 Qualifications of physicians**

(a) 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.

(b) For any of the rules in this chapter requiring a physician to be Board-certified within his or her medical specialty, it shall be deemed acceptable to possess Board-certification from a foreign Board within the specified medical specialty where the American Board offers reciprocity with or officially recognizes the foreign board-certification credential.

**8:43A-1.22 Qualifications of podiatrists**

Each podiatrist shall be so licensed by the New Jersey State Board of Medical Examiners.

**8:43A-1.23 Qualifications of radiation physicists/health physicists**

Each radiation physicist/health physicist shall meet the requirements for certification as a specialist in radiation safety by the American Board of Radiology or the American Association of Physicists in Medicine, or shall have a master's degree with a major in medical radiation physics, health physics or radiologic health.

**8:43A-1.24 Qualifications of radiologic technologists**

Each radiologic technologist shall be so licensed by the New Jersey State Department of Environmental Protection.

**8:43A-1.25 Qualifications of radiologists**

A radiologist shall be a physician who has successfully completed a residency program in radiology accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Radiology or the American Osteopathic Board of Radiology.

**8:43A-1.26 Qualifications of registered professional nurses**

Each registered professional nurse shall be so licensed by the New Jersey State Board of Nursing.

**8:43A-1.27 Qualifications of social workers**

Each social worker shall be certified or licensed by the New Jersey State Board of Social Work Examiners and shall comply with the Social Workers' Licensing Act of 1991 (N.J.S.A. 45:15BB-1 et seq.) and amendments thereto and with all rules of the New Jersey State Board of Social Work Examiners. Prior to the implementation by the Board of procedures for applying for certification or licensure, each social worker shall have a master's degree in social work from a graduate school of social work accredited by the Council on Social Work Education (1744 R Street NW, Washington, D.C. 20036).

**8:43A-1.28 Qualifications of urologists**

A urologist shall be a physician who has successfully completed a residency program in urology accredited by the Accreditation Council for Graduate Medical Education or a residency program in urological surgery approved by the American Osteopathic Association, or who is a diplomate of either the American Board of Urology or the American Osteopathic Board of Surgery in the subspecialty of urological surgery.

**SUBCHAPTER 2. LICENSURE PROCEDURES****8:43A-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, or licensed to operate 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  
PO Box 360  
Trenton, New Jersey 08625-0360

1. Application forms for a certificate of need in the case of transfer of ownership may be obtained from:

Division of Health Facilities Evaluation and Licensing  
New Jersey State Department of Health  
PO Box 367  
Trenton, New Jersey 08625-0367

(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.

**Case Notes**

Certificate of need requirement for ambulatory care facilities compared to certificate requirement for drug rehabilitation centers; zoning ordinance liberally construed. *L & L Clinics, Inc. v. Irvington*, 189 N.J.Super. 332, 460 A.2d 152 (App.Div.1983), certification denied 94 N.J. 540, 468 A.2d 191 (1983).

**8:43A-2.2 Application for licensure**

(a) Following receipt of a certificate of need or a determination that a certificate of need is not required, any person, organization, or corporation desiring to operate an ambulatory care facility shall make application to the Commissioner for a license on forms prescribed by the Department. Such forms may be obtained from:

Director  
Licensing, Certification and Standards  
Division of Health Facilities Evaluation and Licensing  
New Jersey State Department of Health  
PO Box 367  
Trenton, New Jersey 08625-0367

(b) The Department shall charge separate nonrefundable fees for the filing of an application for licensure, and for each annual renewal, of an ambulatory care facility in accordance with the following schedule:

Service	Application	Renewal
1. Chronic dialysis	\$2,000	\$1,000
2. Ambulatory surgery	\$2,000	\$1,000
3. Magnetic resonance imaging	\$2,000	\$1,000
4. Computerized tomography	\$2,000	\$1,000
5. Family planning (principal)	\$1,200	\$ 200

Service	Application	Renewal
6. Family planning (satellite)	\$ 600	\$ 100
7. Abortion	\$1,750	\$ 750
8. Birth	\$1,750	\$ 750
9. ESWL	\$1,750	\$ 750
10. Comprehensive rehabilitation	\$1,750	\$ 750
11. Drug abuse treatment	\$1,750	\$ 750
12. Primary care (principal)	\$1,750	\$ 750
13. Primary care (satellite)	\$ 875	\$ 375

(c) The total application fee shall be calculated by adding together the individual fees, as set forth in (b) above, for each service sought to be included on the facility's license. The total application fee shall not exceed the maximum cap set forth at N.J.S.A. 26:2H-12, as may be amended from time to time.

(d) The total annual renewal fee shall be calculated by adding together the individual fees, as set forth in (b) above, for each service included on the facility's license. The total annual renewal fee shall not exceed the maximum cap set forth at N.J.S.A. 26:2H-12, as may be amended from time to time.

(e) In the event that an ambulatory care facility is at any time approved by the Commissioner to provide a service other than those specifically listed in this section, the application and license renewal fees for such service shall be \$1,750 and \$750.00, respectively, unless the Commissioner, by regulation, specifically designates some other fee(s).

(f) Only those ambulatory care facilities which provide family planning or primary care services shall be eligible to file an application for licensure of a satellite facility.

1. Each satellite facility shall be separately licensed.
2. A satellite facility shall be licensed to provide only family planning and/or primary care services.

(g) The Department shall charge a nonrefundable fee for the filing of an application to add services to an existing ambulatory care or satellite facility. The application fee for each service to be added shall correspond with the fee for that service as set forth in (b) above. The total application fee for the addition of services shall not exceed the maximum cap set forth at N.J.S.A. 26:2H-12, as may be amended from time to time.

(h) The Department shall charge a nonrefundable fee of \$250.00 for the filing of an application to reduce services at an existing ambulatory care or satellite facility.

(i) The Department shall charge a nonrefundable fee of \$1,000 for the filing of an application for the transfer of ownership of an ambulatory care or satellite facility.

(j) The Department shall charge a nonrefundable fee of \$250.00 for the filing of an application for the relocation of an ambulatory care or satellite facility.

(k) Each applicant for a license to operate a facility shall complete all information requested on the licensure application. An appointment for a preliminary conference shall be requested with the Licensing, Certification and Standards Program to review the conditions for licensure and operation.

(l) All applicants must demonstrate that they have the capacity to operate an ambulatory care facility in accordance with the rules in this chapter. An application for a license may 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 may 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 a 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.

Amended by R.1996 d.340, effective July 15, 1996.  
See: 28 N.J.R. 2369(a), 28 N.J.R. 3559(a).

**8:43A-2.3 Types of services requiring a license**

(a) None of the following services or centers shall be provided by an ambulatory care facility unless the facility license indicates that the service is provided by the facility:

1. Ambulatory surgery facility;
2. Family planning services;
3. Birth center;
4. Chronic dialysis services;
5. Diagnostic radiological center and/or magnetic resonance imaging services;
6. Extracorporeal shock wave lithotripsy services;
7. Drug abuse treatment services;
8. Primary care services, including family practice, pediatric, and/or prenatal, postpartum, or gynecological services;
9. Comprehensive outpatient rehabilitation facility; and
10. Abortion facility.

(b) The license issued by the Department shall specify the services which the facility is licensed to provide. The facility shall obtain a determination of the applicability of Certificate of Need rules prior to requesting that any service be added to the license. The facility shall provide only those services for which it is licensed or authorized to provide by the Department.

(c) Any person, organization, or corporation applying for a license to operate an ambulatory care facility shall specify on the application the services to be provided.

(d) As of the effective date of this chapter, each facility shall specify, upon annual renewal of its license, the types of services to be provided, if the facility wishes to change the specification of services on the facility license.

(e) If a facility wishes to add any health care service during the annual licensure period, including any health care service not listed in (a) above, the facility shall obtain the authorization of the Licensing, Certification, and Standards Program of the Department prior to providing the additional service. Such authorization shall be based upon compliance with this chapter, and may be contingent upon an on-site inspection by representatives of the Department. This rule applies regardless of whether or not it is determined that a Certificate of Need is required.

Amended by R.1996 d.341, effective July 15, 1996.  
See: 28 N.J.R. 1364(a), 28 N.J.R. 3560(a).

#### 8:43A-2.4 Newly constructed or expanded facilities

(a) Any ambulatory care facility which intends to undertake any alteration, renovation, or new construction of the physical plant, 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 any work, in accordance with N.J.A.C. 8:43A-19.

(b) The licensure application for a newly constructed 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 Licensing  
New Jersey State Department of Health  
PO Box 367  
Trenton, New Jersey 08625-0367

(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.

#### 8:43A-2.5 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 complies with 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 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. 8:43A-2.2(c)) for review of the conditions for licensure and operation, unless determined by the Department to be unnecessary, has taken place between the Licensing, Certification and Standards 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 the rules pursuant thereto;

2. Written approvals are on file with the Department from the local zoning, fire, health and building authorities;

3. 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

4. Survey(s) by representatives of the Department indicate that the facility complies with the rules in this chapter.

(c) No facility shall admit patients to the facility until the facility has the written approval and/or license issued by the Licensing, Certification and Standards Program of the Department.

(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 patient records and conferences with patients.

(e) A temporary license may be issued to a facility for a period of six months and may be renewed as determined by the Department.

(f) The temporary license shall be conspicuously posted in the facility.

(g) The temporary license is not 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.

Amended by R.1996 d.340, effective July 15, 1996.  
See: 28 N.J.R. 2369(a), 28 N.J.R. 3559(a).