CHAPTER 42C

HOSPICE LICENSING STANDARDS

Authority

N.J.S.A. 26:2H-12, 79, 80 and 81.

Source and Effective Date

R.2010 d.106, effective May 20, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 42C, Hospice Licensing Standards, expires on May 20, 2017. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 42C, Hospice Licensing Standards, was adopted as R.1999 d.192, effective June 21, 1999. See: 31 N.J.R. 321(a), 31 N.J.R. 1620(a).

Chapter 42C, Hospice Licensing Standards, was readopted as R.2004 d.469, effective November 22, 2004. See: 36 N.J.R. 2599(a), 36 N.J.R. 5677(a).

Chapter 42C, Hospice Licensing Standards, was readopted as R.2010 d.106, effective May 20, 2010. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. GENERAL PROVISIONS

8:42C-1.1 Scope; purpose

(a) The rules in this chapter pertain to all hospice care programs in the State of New Jersey.

(b) The purpose of this chapter is to assure the provision of high quality hospice services to the residents of New Jersey in a coordinated and cost-effective manner.

8:42C-1.2 Definitions

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

"Advanced Practice Nurse" or "APN" means an individual who is certified as an advanced practice nurse by the New Jersey Board of Nursing as established at N.J.S.A. 45:11-23.

"Available" means:

1. Pertaining to equipment, ready for immediate use; and

2. Pertaining to personnel, capable of being reached.

"Bereavement services" means counseling services provided before and after the patient's death.

"Cleaning" means the removal by scrubbing and washing, as with hot water, soap or detergent, and vacuuming, of

infectious agents and/or organic matter from surfaces on which and in which infectious agents may find conditions for surviving or multiplying.

"Commissioner" means the New Jersey State Commissioner of the Department of Health and Senior Services, or his or her designee.

"Communicable disease" means an illness due to a specific infectious agent or its toxic products, which occurs through transmission of that agent or its products from a reservoir to a susceptible host.

"Community health nursing" means a synthesis of nursing practice and public health practice applied to promoting and preserving the health of populations.

"Conspicuously posted" means placed at a location within the facility accessible to and seen by patients and the public.

"Contamination" means the presence of an infectious or toxic agent in the air, on a body surface, or on or in clothes, bedding, instruments, dressings, or other inanimate articles or substances, including water, milk, and food.

"Core services" means nursing services, medical social services and counseling services routinely provided directly by hospice employees.

"Current" means up-to-date.

"Department" means the New Jersey State Department of Health and Senior Services.

"Director of Nursing" means a registered professional nurse who has at least one of the following qualifications:

1. A master's degree in nursing or a health related field and two years combined public/community health nursing and progressive management experience in public health nursing; or

2. A bachelor of science degree in nursing or a health related field and three years combined public/community health nursing and progressive management experience in public health nursing.

"Disinfection" means the killing of infectious agents outside the body, or organisms transmitting such agents, by chemical and physical means, directly applied. The term "disinfection" includes concurrent disinfection; that is, the application of measures of disinfection as soon as possible after the discharge of infectious material from the body of an infected person, or after the soiling of articles with such infectious discharges, all personal contact with such discharges or articles being minimized prior to such disinfection.

The term "disinfection" also includes post disinfection, which is the application of measures of disinfection after the patient has ceased to be a source of infection.

"Documented" means written, signed, and dated.

"Drug administration" means a procedure in which a prescribed drug or biological is given to a patient by an authorized person in accordance with all laws and rules governing such procedures including all of the following: removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container); verifying it with the prescriber's orders; giving the individual dose to the patient; seeing that the patient takes it (if oral); and recording the name and strength of the drug, date and time of administration, dosage administered, method of administration, and signature of the person administering the drug.

"Full-time" means a time period established by the facility as a full working week, which is defined and specified within the facility's policies and procedures.

"Hospice" means a program which is licensed by the New Jersey State Department of Health and Senior Services to provide palliative services to terminally ill patients in the patient's home or place of residence, including medical, nursing, social work, volunteer and counseling services.

"Homemaker-home health aide" means a person who has completed a training program approved by the New Jersey Board of Nursing and who is so certified by that Board in accordance with N.J.S.A. 45:11-23 et seq. and N.J.A.C. 13:37.

"Hours of operation" means normal business hours, during which the agency is open for business.

"Interdisciplinary plan of care" means a written plan of care established for each individual admitted to a hospice program by the attending physician, the medical director or physician designee or APN and interdisciplinary team prior to providing care, including reviews and updates, at intervals specified in the plan.

"Job description" means written specifications developed for each position in the facility, containing the qualifications, duties, competencies, responsibilities, and accountability required of employees in that position.

"Licensed nursing personnel" (licensed nurse) means registered professional nurses and practical (vocational) nurses licensed by the New Jersey State Board of Nursing in accordance with N.J.S.A. 45:11-23 et seq. and N.J.A.C. 13:37.

"Licensed practical nurse" means a person who is so licensed by the New Jersey State Board of Nursing in accordance with N.J.S.A. 45:11-23 et seq. and N.J.A.C. 13:37.

"Medical director" means a licensed doctor of medicine or osteopathy who is designated by the hospice as having overall responsibility for the medical component of the hospice program of care.

"Medication" means a drug or medicine as defined by the New Jersey State Board of Pharmacy.

"Monitor" means to observe, watch, or check.

"Nursing supervisor" means a registered professional nurse who has at least one of the following qualifications:

1. A bachelor of science degree in nursing and two years combined public health nursing and progressive professional responsibilities in public health nursing; or

2. Three years combined public health nursing and progressive professional responsibilities in public health nursing.

"Occupational therapist" means a person who is certified or eligible for certification as an "Occupational Therapist, Registered" (OTR) by the American Occupational Therapy Association, and has at least one year of experience as an occupational therapist.

"Office of Certificate of Need and Healthcare Facility Licensure" means the health care facility licensing unit within the Division of Health Facilities Evaluation and Licensing of the Senior Services and Health Systems Branch of the Department.

1. The contact information is as follows:

i. Mailing address: Office of Certificate of Need and Healthcare Facility Licensure, Division of Health Facilities Evaluation and Licensing, Department of Health and Senior Services, PO Box 358, Trenton, NJ 08625-0358; and

ii. Telephone number: (609) 292-5960.

"Office of Health Facilities Assessment and Survey" means the survey and inspections unit for acute care services within the Division of Health Facilities Evaluation and Licensing of the Senior Services and Health Systems Branch of the Department.

1. The contact information is as follows:

i. Mailing address: Office of Health Facilities Assessment and Survey, Division of Health Facilities Evaluation and Licensing, Department of Health and Senior Services, PO Box 367, Trenton, NJ 08625-0367; and

ii. Telephone number: (609) 292-9900.

"Palliative care" means treatment that enhances comfort and improves the quality of the patient's life.

"Patient and family" means the unit of care for hospice and for care provided through the Medicare Hospice Benefit.

"Physical therapist" means a person who is so licensed by the New Jersey State Board of Physical Therapy in accordance with N.J.S.A. 45:9-37.11 et seq. and N.J.A.C. 13:39A.

"Physician" means a person who is 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.S.A. 45:9-1 et seq. and N.J.A.C. 13:35.

"Plan of care" means a written plan established and authorized in writing by the physician or advanced practice nurse based on an evaluation of the patient's immediate and long-term needs.

"Progress note" means a written, signed, and dated notation in the medical record by the practitioner providing care and the patient's response to it, within 48 hours of care provision.

"Public health nursing" means a branch of nursing practice which has as its goals health promotion, health maintenance, primary prevention, health education and management, coordination of health care services, and continuity of care through the provision of health care to individuals, families, and groups in the community, as accomplished through activities which include, but are not limited to: making home visits to assess, plan for, and provide nursing services; providing instruction and direct nursing services in community health agencies; teaching subjects related to individual and community welfare; and coordinating services with other community agencies.

"Registered professional nurse" means a person who is so licensed by the New Jersey State Board of Nursing in accordance with N.J.S.A. 45:11-23 et seq. and N.J.A.C. 13:37.

"Restraint" means:

1. Devices, materials or equipment that are attached or adjacent to a person and that prevent free bodily movement to a position of choice; and/or

2. A drug or medication when it is used as a restriction to manage a patient's behavior or restrict a patient's freedom of movement and when it is not a standard treatment or dosage for the patient's condition.

"Signature" means at least the first initial and full surname and title (for example, R.N., L.P.N., D.D.S., M.D.) of a person, legibly written either with his or her own hand, generated by computer with authorization safeguards, or communicated by a facsimile communications system (Fax).

"Social worker" means a person who is licensed by the State Board of Social Work Examiners, has a master's degree in social work from a graduate school of social work accredited by the Council on Social Work Education, and at least one year of post-master's social work experience in a health care setting in accordance with N.J.S.A. 45:15BB-1 et seq. and N.J.A.C. 13:44G.

"Speech-language pathologist" means a person who is so licensed by the Director of the Division of Consumer Affairs of the New Jersey State Department of Law and Public Safety

in accordance with N.J.S.A. 45:3B-1 et seq. and N.J.A.C. 13:44C.

"Spiritual care" means spiritual counseling in keeping with the belief system of the patient and family.

"Staff education plan" means a written plan developed annually, or more frequently and implemented throughout the year which 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 he or she 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.

"Volunteer" means a person trained by hospice who serves a hospice program without monetary compensation.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Added definitions "Advanced Practice Nurse", "Core services", "Office of Certificate of Need and Healthcare Facility Licensure" and "Office of Health Facilities Assessment and Survey"; rewrote definitions "Available" and "Restraint"; in definition "Bereavement services", substituted "before and after the" for "to a family of a hospice care patient after the hospice care"; in definition "Commissioner", inserted "of the Department of" and ", or his or her designee"; deleted definition "Dietitian"; in definition "Interdisciplinary plan of care", inserted "or APN"; and in definition "Plan of care", inserted "or advanced practice nurse".

SUBCHAPTER 2. LICENSURE AND LICENSURE PROCEDURES

8:42C-2.1 Functional review applicability

(a) An applicant for hospice care licensure may voluntarily seek guidance and consultation from the Department concerning proper implementation of licensure requirements and/or a preliminary determination of whether a proposed facility or service complies with applicable licensure standards, including, but not limited to, the provisions contained in this chapter.

(b) Requests for a functional review shall be in writing, specifying the type of facility and/or service proposed, and shall be forwarded to:

Director
Office of Certificate of Need and Healthcare Facility Licensure
NJ Department of Health and Senior Services
PO Box 358
Trenton, New Jersey 08611-0358

(c) There shall be no fee charged for functional review.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Section was "Suitability review applicability". In the introductory paragraph of (b) and in (c), substituted "functional" for "suitability"; and updated the address in (b).

8:42C-2.2 Functional review procedure

(a) Applications for functional review shall include the following, as applicable:

1. A description of the project, including location and time frame for implementation;

2. Projected staffing levels and staff qualifications;

3. A physical plant description and floor plans with dimensions;

4. A statement that the applicant understands and will comply with all operational licensing and physical plant requirements;

5. Requests for waivers to operational licensing and physical plant requirements as permitted, including all arguments that would support approval of the request at N.J.A.C. 8:42C-2.5;

6. A list of the name, location, type and Medicare provider number, where applicable, of all licensed health care facilities operated or managed by the applicant or any principals, both in New Jersey and for new licensees in all other states;

7. The licensure application information required at N.J.A.C. 8:42C-2.4, where applicable; and

8. Other information determined by the applicant to be necessary and appropriate for the Department's consideration.

(b) The Department shall complete the functional review within 60 days of the request following receipt of a complete application.

1. If an application is incomplete, the Department shall provide notice to the applicant of any deficiencies in the application.

i. The applicant may resubmit the application or corrections to the application at any time.

2. Following review of a complete application, the Department shall provide to the applicant a written determination either approving or denying the functionality of the proposed project, together with the reasons therefore

and any limitations or conditions of future licensure approval, where applicable.

i. In cases where the applicant has so requested, the determination shall also contain the Department's determination of waiverability of any otherwise applicable licensure standard.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Section was "Suitability review procedure". Substituted "functional" for "suitability" throughout; recodified the last sentence of (b)1 as (b)1i and the last sentence of (b)2 as (b)2i.

8:42C-2.3 Effect of functional review approval

(a) Functional review approval shall remain in effect for a period of two years from the date of approval.

(b) Notwithstanding any of the provisions as set forth in this chapter, functional review approval is advisory only and shall not be construed as a guarantee of eventual licensure approval in any case.

(c) Notwithstanding any of the provisions as set forth in this chapter, in order to obtain a license, every facility and/or service must comply with applicable licensure standards in effect at the time of the licensure application evaluation, including N.J.A.C. 8:42C-2.2(a)1 through 8, and at all times thereafter.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Section was "Effect of suitability review approval". In (a), substituted "Functional" for "Suitability"; in (b), substituted "functional" for "suitability"; and in (c), updated the N.J.A.C. reference.

8:42C-2.4 Licensure application

(a) The applicant shall submit to the Department a nonrefundable fee of $2,000 for the filing of an application for licensure of a hospice and $2,000 for the annual renewal of the license.

1. An additional $150.00 shall be submitted for the filing of an application for each branch office of the facility, and $150.00 for its annual renewal.

(b) All applicants must demonstrate character and competence, the ability to provide quality of care commensurate with applicable licensure standards and an acceptable track record of past and current compliance with in- and out-of-State licensure requirements for new licenses, as applicable, and Federal requirements, as applicable, including, but not limited to, the following:

1. The performance of the applicant in meeting its obligations under any previously approved New Jersey certificate of need, where applicable, including full compliance with all conditions of approval, if applicable; and

2. The capacity to provide quality of care, which meets or surpasses the requirements contained in applicable licensure standards pertinent to the proposed facility and/or service, as set forth below:

i. Applicants shall demonstrate a satisfactory record of compliance in accordance with this section with licensure standards in existing health care facilities, which are owned, operated or managed, in whole or in part, by the applicant, according to the provisions in (i) below. In addition to demonstrating compliance with in-State licensure provisions, applicants shall also include reports issued by licensing agencies in other states, where applicable;

ii. Applicants shall include narrative descriptions of staffing patterns, policies and protocols addressing delivery of nursing, medical, pharmacy, dietary, and other services affecting quality of care to patients; and

iii. Applicants shall include documentation of compliance with the standards of accreditation of nationally-recognized professional bodies.

(c) The Department shall examine and evaluate the licensure track record of each applicant for the period beginning 12 months preceding the submission of the application and extending to the date on which a determination is made to either approve or deny the license, for the purpose of determining the capacity of an applicant to operate a health care facility in a safe and effective manner, in accordance with State and Federal requirements. An application for a license shall be denied where an applicant has not demonstrated such capacity, as evidenced by continuing violations or a pattern of violations of State licensure standards or Federal conditions of participation standards or by existence of a criminal conviction or a plea of guilty to a charge of fraud, patient or resident abuse or neglect, or crime of violence or moral turpitude. An application may also be denied where an applicant has violated any State licensing or Federal certification standards in connection with an inappropriate discharge or denial of admission of a patient. An applicant, for purposes of this section, includes any person who was or is an owner or principal of a licensed health care facility, excluding individuals or entities who are limited partners with no managerial control or authority over the operation of the facility and who have an ownership interest of 10 percent or less in a corporation which is the applicant and who also do not serve as officers or directors of the applicant corporation.

(d) An applicant for a new license, which operates or manages licensed or Federally certified health care facilities in other states shall have performed an evaluation of each facility's compliance with State and Federal licensing and certification requirements during the 12 months preceding application submission, and extending to the date on which a determination is made to either approve or deny the license.

1. This information shall be submitted on the letterhead of the state agency responsible for health facility inspection, monitoring and enforcement of State and Federal requirements.

2. The following information shall be included:

i. Written notice that the subject facilities have been in substantial compliance with licensing and/or certification requirements during the 12 months immediately preceding application submission; and

ii. In instances in which substantial compliance has not been achieved, a description of the deficiency or deficiencies and a description of penalties and other enforcement action imposed by the state agency and/or imposed by, or recommended to the Centers for Medicare and Medicaid Services.

(e) An applicant for a license who was cited for any State licensure or Federal certification deficiency during the period identified in (c) and (d) above, which presented a serious risk to the life, safety or quality of care of the facility's patients or residents, shall be denied, except in cases where the applicant has owned/operated the facility for less than 12 months and the deficiencies occurred during the tenure of the previous owner/operator.

1. A serious risk to life, safety or quality of care of patients or residents includes, but is not limited to, any deficiency in State licensure or Federal conditions of participation requirements (42 CFR 488.400) resulting in:

i. An action by a State or Federal agency to ban, curtail or temporarily suspend admissions to a facility or to suspend or revoke a facility's license; or

ii. A termination, or exclusion from Medicaid or Medicare participation, including denial of payment for new admissions, imposed by the Department or by the Centers for Medicare and Medicaid Services, as a result of noncompliance with Medicaid or Medicare conditions of participation.

(f) In any facility, the existence of a track record violation during the period identified in (c) and (d) above shall create a rebuttable presumption, which may be overcome as set forth below, that the applicant is unable to meet or surpass licensure standards of the State of New Jersey.

1. Those applicants with track record violations, which would result in denial of the application shall submit with their application any evidence tending to show that the track record violations do not presage operational difficulties and quality of care violations at the facility, which is the subject of the application or in any other licensed facility in New Jersey, which is operated or managed by the applicant.

2. If after review of the application and the evidence submitted to rebut a negative track record, the Commissioner denies the application, the applicant may request a hearing, which will be held in accordance with 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.

i. At the Commissioner's discretion, the hearing shall be conducted by the Commissioner or transferred to the Office of Administrative Law.

ii. The purpose of the hearing is to provide the applicant with the opportunity to present additional evidence in conjunction with evidence already included with the initial application, for the purpose of demonstrating the applicant's operational history and capacity to deliver quality of care to patients or residents, which meets or surpasses licensure standards of the State of New Jersey to the satisfaction of the Commissioner.

iii. The conclusion of that process with either a decision by the Commissioner or the Commissioner's acceptance or denial of an initial decision by an administrative law judge shall constitute a final agency decision.

(g) The criteria for denial of an application specified in (c) through (e) above shall also result in denial of a new license if the criteria are found to have been true of the lower number of five facilities or five percent of out-of-State facilities operated or managed by the applicant, within the 12 months preceding submission of the application and extending to the date on which a determination is made to either approve or deny the license and with respect to any service which is similar or related to the proposed service.

(h) In addition to the provisions of (c) through (e) above, and notwithstanding any express or implied limitations contained therein, the Commissioner may deny any application where he or she determines that the actions of the applicant at any facility operated or managed by the applicant constitute a threat to the life, safety, or quality of care of the patients or residents. In exercising his or her discretion under this subsection, the Commissioner shall consider the following:

i. The scope and severity of the threat;

ii. The frequency of occurrence;

iii. The presence or absence of attempts at remedial action by the applicant;

iv. The existence of any citations, penalties, warnings, or other enforcement actions by any governmental entity pertinent to the condition giving rise to the threat;

v. The similarity between the service within which the threat arose and the service which is the subject of the application; and

vi. Any other factor which the Commissioner deems to be relevant to assessment of risk presented to patients or residents.

(i) For the purposes of this section, hospice care shall be considered similar or related to the ambulatory care and other category, which includes primary care, home health care, family planning, drug counseling, abortion, ambulatory surgery, and outpatient rehabilitation.

(j) Each hospice shall be assessed a biennial inspection fee of $1,000. For existing facilities, 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 licensing 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.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Rewrote the section.

8:42C-2.5 Licensure

(a) A license shall be issued if surveys by the Department have determined that the hospice is being operated as required by N.J.S.A. 26:2H-1 et seq. and amendments thereto, and by the rules in this chapter.

(b) At the request of the applicant, an office conference for review of the conditions for licensure and operation may take place between the Certificate of Need and Acute Care Licensing Program within the Department and the applicant, who shall be advised that the purpose of the license is to allow the Department to determine whether the applicant complies with N.J.S.A. 26:2H-1 et seq., 26:2H-79 through 80 specifically, and any relevant rules promulgated pursuant thereto, including this chapter.

(c) When the written application for licensure is submitted and the building is ready for occupancy and/or use, a survey of the facility by representatives of the Department shall be conducted to determine if the facility complies with the pertinent licensure rules.

(d) Survey visits may be made to a hospice any time, or to a patient's home with the patient's consent, by authorized staff of the Department. Such visits may include, but not be limited to, a review of all facility documents and patient records, and conferences with patients and/or their families.

(e) Surveys shall be conducted, deficiencies reported, disputes resolved, and plans of correction submitted in accordance with N.J.A.C. 8:43E-2.

(f) A license shall be issued to a hospice for a period of one year when the following conditions are met:

1. Written approvals are on file with the Department from the local zoning, fire, health, and building authorities, or a certificate of occupancy or a certificate of continued occupancy has been issued by the local municipality; and

2. Survey(s) by representatives of the Department indicate that the hospice complies with the pertinent licensure rules.

(g) The license shall be conspicuously posted at the hospice.

(h) No hospice shall accept patients until the facility has the written approval and/or license issued by the Department. An exemption shall be granted to hospice care programs in operation as of June 21, 1999 awaiting licensure under this chapter.

(i) Except as set forth below, the license is not assignable or transferable, and it shall be immediately void if the hospice ceases to operate, if the hospice ownership changes, if the hospice is relocated to a different site, or if a part of a hospice ceases to operate.

1. If the hospice or a part thereof ceases to operate, the licensee may request that the Department maintain the license for a period of up to 24 months. The licensee shall make such a request at least 30 days prior to ceasing operations, and such request shall include the rationale for requesting the extension and the time frame of the extension. The Department shall maintain the license if the circumstances indicate that the licensee will again operate the hospice or part within the time frame of the extension requested, based on the specific circumstances of the case.

2. In the case of a transfer of ownership, new owners of a hospice shall make application for licensure with the Department, in accordance with the provisions as set forth in N.J.A.C. 8:42C-2.1 and this subchapter. In addition, the following information shall be submitted with the application:

i. A description of the proposed transfer of ownership, in detail, including total purchase cost;

ii. Identification of 100 percent of the current and prospective owners of both the physical assets of the hospice and the operation of the hospice;

iii. Where applicable, 100 percent of the ownership of leased buildings and property; and

iv. Copies of all legal documents pertinent to the transfer of ownership transaction which are signed by both the current licensed owners and the proposed licensed owners.

(j) The license, unless suspended or revoked, shall be renewed annually on the original licensure date, or within 30 days thereafter but dated as of the original licensure date. The hospice shall receive a request for renewal fee 30 days prior to the expiration of the license. A renewal license shall not be issued unless the licensure fee is received by the Department.

(k) The license shall not be renewed, if State licensing standards, local rules, regulations, and/or requirements are not met.

(*l*) Failure to renew a license shall constitute operation of a health care facility without a license and may result in issuance by the Department of a cease and desist order, in

accordance with N.J.A.C. 8:43E-3.11 and other penalties in accordance with N.J.A.C. 8:43E-3.4(a)1.

8:42C-2.6 Surrender of license

(a) A hospice which intends to voluntarily close and to cease delivery of services shall notify the Department a minimum of 30 days in advance. A plan for closure shall be developed which provides for the orderly transfer of patients to another hospice of their choice. Such plan shall be submitted to the Department a minimum of 30 days prior to closure or cessation of service delivery.

(b) The hospice shall notify each patient, resident or client, their physicians or advanced practice nurses, and any guarantors of payment at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license.

1. In such cases, the license shall be returned to the Department within seven working days after the voluntary surrender, non-renewal or suspension of license.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
In (b), deleted a comma following "resident" and inserted "or advanced practice nurses"; recodified the former last sentence of (b) as (b)1; and in (b)1, deleted a comma following "non-renewal".

8:42C-2.7 Waiver

(a) The Commissioner or his or her designee may, in accordance with the general purposes and intent of this chapter, waive sections of the rules if, in his or her opinion, such waiver would not endanger the life, safety, or health of patients or the public.

(b) A hospice seeking a waiver of these rules shall apply in writing to the Director of the Department's Office of Certificate of Need and Healthcare Facility Licensure.

(c) A written request for waiver shall include the following:

1. The specific rule(s) or part(s) of the rule(s) for which waiver is requested;

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

3. An alternative proposal which would ensure patient safety; and

4. Documentation to support the application for waiver.

(d) The Department reserves the right to request additional information before processing a request for waiver.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
In (b), inserted "Department's Office of" and substituted "Healthcare Facility Licensure" for "Acute Care Licensure Program of the Department".

8:42C-2.8 Action/hearing on a license

All procedures for the imposition of penalties and other enforcement actions/remedies as well as the rights and procedures available to facilities to request a hearing to contest survey finding or the imposition of penalties shall be in accordance with N.J.A.C. 8:43E-3 and 4.

SUBCHAPTER 3. GENERAL REQUIREMENTS

8:42C-3.1 Compliance with rules and laws

(a) The hospice shall comply with the rules of the United States Department of Health and Human Services at 42 CFR Part 418, incorporated herein by reference.

(b) In addition to a patient's private residence, hospice care may also be offered in the following types of licensed facilities, subject to the rules governing these facilities: assisted living residences, residential health care facilities, nursing homes, comprehensive personal care homes, or general or special hospitals, as well as facilities not subject to Department licensure but governed by other state, county or local agencies.

(c) The hospice shall provide palliative services to patients. This shall include, but not be limited to, nursing, homemaker-home health aide, social work and counseling services. Nursing services shall be available 24 hours a day, seven days a week.

(d) In order to be licensed to operate in this State, a hospice care program shall be certified for participation in the Federal Medicare program, in accordance with 42 U.S.C. §§ 1395 et seq. In order to permit time for a new hospice provider to meet the Medicare requirement that it provide services for a number of qualified patients prior to certification, the license to operate shall be revoked if Medicare certification is not obtained within 180 days of licensure issuance.

(e) The hospice shall routinely provide nursing services through its own staff.

1. Nursing services provided under contract shall be rendered only if:

i. All available full and part-time employees have achieved maximum caseloads, or specialized care which is unavailable through existing staff can be provided under contract;

ii. Contracted nursing personnel are oriented to the policies and procedures of the facility and receive supervision from supervisor staff employed by the facility; and

iii. Provisions are made for continuity of patient care by the same contracted nursing personnel whenever possible.

2. Notwithstanding (e)1 above, the hospice may use contracted staff, if necessary, to supplement hospice employees in order to meet the needs of patients under extraordinary or other non-routine circumstances, such as, but not limited to:

i. Unanticipated periods of high patient loads;

ii. Staffing shortages due to illness, or other short term temporary events; or

iii. Temporary travel of a patient outside the hospice's service area.

3. Notwithstanding (e)1i above, the hospice may enter into a written arrangement with another Medicare certified hospice program for the provision of core services to supplement hospice employee or staff to meet the needs of patients in circumstances, such as, but not limited to:

i. Unanticipated periods of high patient loads;

ii. Staffing shortages due to illness or other short-term temporary situations that threaten to interrupt patient care; or

iii. Temporary travel of a patient outside of the hospice's service area.

(f) A hospice shall have available at all times to all nursing personnel a written organizational chart and written plan that delineates lines of authority, accountability, and communication.

(g) The hospice shall make available other services such as physician services, physical therapy, occupational therapy, and speech-language pathology, as needed, either directly or through written agreement. Medical social services, and counseling (dietary and bereavement) shall be provided directly by hospice employees except under the circumstances noted in (e)1 above.

(h) The hospice shall adhere to applicable Federal, State, and local rules, regulations, and requirements.

(i) The hospice shall adhere to all applicable provisions of N.J.S.A. 26:2H-1 et seq., and amendments thereto.

(j) A hospice providing services at multiple locations shall operate in compliance with the rules of the United States Department of Health and Human Service hospice provider certification specified at 42 CFR Part 418, Subpart D, incorporated herein by reference.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Recodified the former last sentence of (e) as new (e)1; recodified former (e)1 through (e)3 as (e)1i through (e)1iii; added new (e)2 and (e)3; and in (j), deleted "Section 2081 of" preceding "42 CFR" and substituted "D" for "C".

8:42C-3.2 Ownership

(a) The hospice shall disclose the ownership of the hospice and the property on which it is located to the Department.

1. Proof of this ownership shall be available in the facility.

2. Any proposed change in ownership shall be reported to the Director of the Department's Office of Certificate of Need and Healthcare Facility Licensure in writing at least 30 days prior to the change and in conformance with the requirements for Certificate of Need applications at N.J.A.C. 8:33-3.3.

(b) No health care facility shall be owned or operated by any person convicted of a crime relating adversely to the person's capability of owning or operating the facility.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Recodified the former last two sentences of (a) as (a)1 and (a)2; and in (a)2, inserted "the Department's Office of" and substituted "Healthcare Facility Licensure" for "Acute Care Licensure Program of the Department".

8:42C-3.3 Submission of documents

The hospice shall, upon request, submit any documents which are required by these rules to the Department's Office of Certificate of Need and Healthcare Facility Licensure.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Inserted "Department's Office of" and substituted "Healthcare Facility Licensure" for "Acute Care Licensure Program of the Department".

8:42C-3.4 Personnel

(a) The hospice shall ensure that the duties and responsibilities of all personnel are described in job descriptions and in the policy and procedure manual for each service.

(b) All personnel of whom licensure, certification, or authorization to provide patient care is required shall be licensed, certified, or authorized under the appropriate laws or rules of the State of New Jersey.

(c) All personnel, both directly employed and under contract to provide direct care to patients, shall at all times wear or produce upon request employee identification.

(d) The hospice shall have policies and procedures for the maintenance of confidential personnel records for each employee, including at least his or her name, previous employment, educational background, license number with effective date and date of expiration (if applicable), certification (if applicable), verification of credentials and references, criminal background check, health evaluation records, job description and evaluations of job performance.

(e) All new personnel, both directly employed and under contract to provide direct patient care, as well as volunteers,

shall receive an initial health evaluation which includes at least a documented history.

(f) Health records shall be maintained for each employee and volunteer. Employee, as well as volunteer, health records shall be confidential, and kept separate from personnel records.

(g) Employee, as well as volunteer, health records shall include documentation of all medical screening tests performed and the results.

(h) All personnel, both directly employed and under contract to provide direct care to patients, as well as volunteers, shall receive a Mantoux tuberculin skin test with five tuberculin units of purified protein derivative or have blood drawn for an interferon gamma release assay (IGRA).

1. The only exceptions are personnel with documented negative Mantoux skin test results (zero to nine millimeters of induration) within the last year, personnel with documented positive Mantoux skin test results (10 or more millimeters of induration), personnel who received appropriate medical treatment for tuberculosis or when medically contraindicated.

2. Results of the IGRA or Mantoux tuberculin skin tests shall be acted upon as follows:

i. Employees with an IGRA result of "positive" have latent TB infection, a "negative" result indicates no latent TB infection and employees with an "indeterminate" result shall repeat the IGRA.

ii. If the initial Mantoux tuberculin skin test result is between zero and nine millimeters of induration, the test shall be repeated one to three weeks later.

iii. If the IGRA result is "positive" or the Mantoux test result is 10 millimeters or more of induration, a chest x-ray shall be performed and, if necessary, followed by chemoprophylaxis or therapy.

3. The IGRA or Mantoux tuberculin skin test shall be administered to all agency personnel, both directly employed and under contract, and thereafter to all new personnel at the time of employment, as well as volunteers.

i. The IGRA or Mantoux tuberculin skin test shall be repeated on an annual basis for all persons who provide direct patient care and every two years for all other employees.

4. The facility shall maintain records of the results of employee Mantoux and IGRA tuberculin testing.

(i) All personnel, both directly employed and under contract to provide direct care to patients, as well as volunteers, shall be given a rubella screening test using the rubella hemagglutination inhibition test or other rubella screening test. The only exceptions are personnel who can document seropositivity from a previous rubella screening test or who can document inoculation with rubella vaccine, or when medically contraindicated.

1. The hospice shall inform each person in writing of the results of his or her rubella screening test.

2. The hospice shall maintain a list identifying the name of each person who is seronegative and unvaccinated to rubella.

3. The hospice shall offer rubella vaccination to all employees, contract personnel and volunteers.

(j) All personnel, both directly employed and under contract to provide direct care to patients, as well as volunteers, who were born in 1957 or later shall be given a (measles) rubeola screening test using the hemagglutination inhibition test or other rubeola screening test. The only exceptions are personnel who can document receipt of live measles vaccine on or after their first birthday, physician-diagnosed measles, or serologic evidence of immunity.

1. The hospice shall ensure that all personnel, both directly employed and under contract to provide direct care to patients, as well as volunteers, who cannot provide serologic evidence of immunity are offered rubella and rubeola vaccination.

(k) The hospice shall have available and shall comply with the guidelines listed below, incorporated herein by reference, as amended and supplemented, to protect health care workers who may be exposed to infectious blood-borne diseases, such as AIDS and hepatitis-B:

1. The following CDC Guidelines published in the CDC Morbidity and Mortality Weekly Report (MMWR), which are available electronically at the CDC website, www.cdc.gov:

i. Guidelines for the Management of Occupational Exposures to Hepatitis B, Hepatitis C, and HIV and Recommendations for Postexposure Prophylaxis, CDC Morbidity and Mortality Weekly Report (MMWR), June 29, 2001, Volume 50 (RR11), 1-17;

ii. Updated U.S. Public Health Service Guidelines for the Management of Occupational Exposures HBV, HCV, and HIV and Recommendations for Postexposure Prophylaxis, CDC Morbidity and Mortality Weekly Report (MMWR), September 30, 2005, Volume 54 (RR09), 1-54;

iii. Immunization of Health-Care Workers, Recommendations of the Advisory Committee on Immunization Practices (ACIP) and the Hospital Infection Control Practices Advisory Committee (HICPAC), CDC Morbidity and Mortality Weekly Report (MMWR), December 26, 1997, Volume 46 (RR-18), 1-42; and

iv. Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health Care Settings, CDC Morbidity and Mortality Weekly Report

(MMWR); December 30, 2005, Volume 54 (RR-17); and

2. The Guideline for Infection Control in Health Care Personnel, American Journal of Infection Control, 1998, Volume 26, 289-354.

(*l*) The Department shall be prohibited from issuing or continuing a license for the operation of a hospice unless, the owners, any current or prospective employee in a position that involves direct patient contact, any current or prospective administrator or any current or prospective volunteer staff who would have direct patient contact, have obtained clearance from the Department's Criminal Background Investigation Unit, prior to owning, operating, administering, volunteering in a position that requires direct patient contact or being employed in a position that requires direct patient contact in a hospice.

1. The Department shall be prohibited from issuing clearance to any current or prospective owner, employee in a position that involves direct patient contact, administrator, contracted or volunteer staff who would have direct patient contact, 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, employee, administrator or volunteer 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 Offenders Act, N.J.S.A. 2A:168A-1 et seq.

2. In accordance with the provisions of 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, any individual disqualified from owning, operating, being employed in a position that requires direct patient contact, administering, contracting or volunteering for a position that would involve direct patient contact in a hospice shall be given an opportunity to challenge the accuracy of the disqualifying criminal history record prior to being permanently disqualified from participation.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
In (d), inserted "criminal background check," and deleted a comma following "description"; rewrote (h) and (k); and added (*l*).

8:42C-3.5 Policy and procedure manual

(a) The hospice shall establish, implement and review at least annually, a policy and procedure manual(s) for the organization and operation of the hospice.

1. Each review of the manual(s) shall be documented, and the manual(s) shall be available in the hospice at all times.

2. The manual(s) shall include at least the following:

i. A written narrative of the hospice describing its philosophy and objectives, and the services provided by the facility;

ii. An organizational chart delineating the lines of authority, responsibility, and accountability, so as to ensure continuity of care to patients;

iii. A description of the quality assurance program for patient care and staff performance;

iv. Definition and specification of full-time employment; and

v. Policies and procedures for complying with applicable statutes and protocols to report child abuse and/or neglect, sexual abuse and abuse of elderly or disabled adults, specified communicable disease, rabies, poisonings and unattended or suspicious deaths including, but not limited to, the following:

(1) The development of written protocols for the identification and treatment of children and elderly or disabled adults who are abused and/or neglected;

(2) The designation of a staff member(s) to be responsible for coordinating the reporting of child abuse and/or neglect in compliance with N.J.S.A. 9:6-1 et seq., recording notification of the Division of Youth and Family Services of the Department of Children and Families on the medical/health record, and serving as a liaison between the facility and the Division of Youth and Family Services; and

(3) The provision at least annually of education and/or training programs for all staff and subcontracted personnel who provide direct patient care regarding the identification and reporting of child abuse and/or neglect; sexual abuse; domestic violence; and abuse of the elderly or disabled adult.

(b) The hospice shall make the policy and procedure manual(s) available and accessible to all patients, staff, and the public.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Recodified the former last two sentences of (a) as (a)1 and (a)2; recodified former (a)1 through (a)5 as (a)2i through (a)2v; in (a)2v, deleted a comma following "sexual abuse" and "poisonings", substituted "including," for ". These policies and procedures shall include,", and deleted "be" following "not"; recodified former (a)5i through (a)5iii as (a)2v(1) through (a)2v(3); and in (a)2v(2), substituted "Children and Families" for "Human Services".

8:42C-3.6 Staffing

(a) The hospice shall make provision for staff with equivalent qualifications to provide services for absent staff members. Staffing schedules shall be implemented to facilitate continuity of care to patients. The hospice shall maintain staff attendance records.

(b) The hospice shall develop and implement a staff orientation and a staff education plan, including plans for each service and designation of the person(s) responsible for training.

8:42C-3.7 Written agreements

(a) The hospice shall have a written agreement, or its equivalent, for services provided by contract or subcontract. The written agreement or its equivalent shall:

1. Be dated and signed by a representative of the hospice and by the person or agency providing the service;

2. Specify each party's responsibilities, functions, and objectives, the time during which services are to be provided, the financial arrangements and charges, and the duration of the written agreement or its equivalent;

3. Specify that the hospice retain administrative responsibility for services rendered, including subcontracted services;

4. Require that services are provided in accordance with these rules and that personnel providing services meet training and experience requirements and are supervised in accordance with this chapter; and

5. Require the provision of written documentation of service provision to the facility within seven working days, including, but not limited to, documentation of services rendered by the person or agency providing the service.

8:42C-3.8 Reportable events

(a) The hospice shall notify the Department immediately by telephone at (609) 292-5960 followed within 72 hours by written confirmation of the termination of employment of the administrator and/or the Director of Nursing, and the name and qualifications of his or her replacement.

(b) The facility shall provide statistical data as required by the Department in (a) above, and shall not be deemed in violation of N.J.S.A. 26:1A-37.1 when such data is provided to the Department.

1. The Department shall maintain any personally identifiable information in confidence.

2. The hospice shall comply with patient confidentiality of N.J.A.C. 8:43G, Hospital Licensing Standards.

(c) The facility shall report to the Department every serious preventable adverse event that occurs in the facility, pursuant to N.J.A.C. 8:43E-10.

Amended by R.2008 d.52, effective March 3, 2008.
See: 39 N.J.R. 314(a), 40 N.J.R. 1094(a).
Rewrote (a).
Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Added (c).

8:42C-3.9 Notices

(a) The hospice shall conspicuously post a notice that the following information is available in the facility to patients and the public:

1. All waivers granted by the Department;

2. All documents required by this chapter;

3. A list of deficiencies from the last annual licensure inspection and certification survey report (if applicable), and the list of deficiencies from any valid complaint investigation during the past 12 months;

4. A list of the hospice's committees, or their equivalents, and the membership and reports of each;

5. The names and addresses of members of the governing authority;

6. Any changes of membership of the governing authority, within 30 days after the change; and

7. Policies and procedures regarding patient rights.

8:42C-3.10 Reporting to professional licensing boards

The hospice shall comply with all requirements of the professional licensing boards for reporting termination, suspension, revocation or reduction of privileges of any health professional licensed in the State of New Jersey, pursuant to N.J.S.A. 45:1-33.

Recodified from N.J.A.C. 8:42C-3.11 by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Deleted a comma following "revocation", and inserted ", pursuant to N.J.S.A. 45:1-33". Former N.J.A.C. 8:42C-3.10, Reporting Information to the State Board of Medical Examiners, repealed.

8:42C-3.11 (Reserved)

Recodified to N.J.A.C. 8:42C-3.10 by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Section was "Reporting to professional licensing boards ".

SUBCHAPTER 4. ADMINISTRATION

8:42C-4.1 Administration

The governing authority shall comply with Federal rules at 42 CFR 418.100, Conditions of Participation—Organization and administration of services, incorporated herein by reference.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Substituted "418.100" for "418.52" and "Organization and administration of services" for "Governing Body".

8:42C-4.2 Administrator's responsibilities

(a) The administrator shall be responsible for at least the following:

1. Ensuring the development, implementation, and enforcement of all policies and procedures, including patient rights;

2. Planning for and administering the managerial, operational, fiscal, and reporting components of the facility;

3. Participating in the quality assurance program for patient care;

4. Ensuring that all personnel are assigned duties based upon their education, training, competencies, and job descriptions;

5. Ensuring the provision of staff orientation and staff education; and

6. Establishing and maintaining liaison relationships, communication, and integration with facility staff and services and with patients and their families, in accordance with the philosophy and objectives of the facility.

8:42C-4.3 Qualifications of the administrator

(a) An individual employed in the capacity of an administrator as of June 21, 1999 shall not be subject to (a)1 and 2 below while he or she continues in that position with the hospice that employed him or her prior to June 21, 1999, but an individual who begins employment in the capacity of an administrator after that date shall:

1. Have a master's degree in administration or a health related field, and at least two years of supervisory or administrative experience in hospice care or in a health care setting; or

2. Have a baccalaureate degree in administration or a health related field and four years of supervisor or administrative experience in hospice care or in a health care setting.

SUBCHAPTER 5. PATIENT RIGHTS

8:42C-5.1 Policies and procedures

(a) The hospice shall establish and implement written policies and procedures regarding the rights of patients and the implementation of these rights as set forth in (b) below. A complete statement of these rights, including the right to file a complaint with the Department, shall be conspicuously posted in the facility and shall be distributed to all staff and contracted personnel. These patient rights shall be made available in any language which is spoken as the primary language by more than 10 percent of the population in the hospice program's service area.

(b) Each patient shall be entitled to the following rights, none of which shall be abridged or violated by the hospice or any of its staff:

1. To treatment and services without discrimination based on race, age, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay, or source of payment;

2. To be given a verbal and written notice in a language and manner that the patient understands, prior to the initiation of care, of these patient rights and any additional policies and procedures established by the agency involving patient rights and responsibilities. If the patient is unable to respond, the notice shall be given to a family member or an individual who is a legal representative of the patient.

i. The hospice shall obtain the patient's or representative's signature confirming that he or she has received a copy of the notice of rights and responsibilities.

ii. If a patient has been adjudged incompetent under State law by a court with jurisdiction, the rights of the patient are exercised by the person appointed pursuant to State law to act on the patient's behalf.

iii. If a State court has not adjudged a patient incompetent, any legal representative designated by the patient in accordance with State law may exercise the patient's rights to the extent allowed by State law;

3. To receive information about the services covered under the hospice benefit and to receive information about the scope of services that the hospice will provide and specific limitations on those services;

4. To be informed in writing of the following:

i. The services available from the hospice;

ii. The names and professional status of personnel providing and/or responsible for care;

iii. The frequency of home visits to be provided;

iv. The hospice's daytime and emergency telephone numbers; and

v. Notification regarding the filing of complaints with the New Jersey Department of Health and Senior Services' 24-hour Complaint Hotline at 1-800-792-9770, or in writing to:

New Jersey State Department of Health and
Senior Services
Office of Health Facilities Assessment and Survey
PO Box 367
Trenton, New Jersey 08625-0367

5. To receive, in terms that the patient understands, an explanation of his or her plan of care, expected results, and reasonable alternatives. if this information would be detrimental to the patient's health, or if the patient is not able

to understand the information, the explanation shall be provided to a family member or an individual who is a legal representative of the patient and documented in the patient's medical record;

6. To receive, as soon as possible, the services of a translator or interpreter to facilitate communication between the patient and health care personnel.

i. Hospices shall make efforts to secure a professional, objective interpreter for hospice-patient communications, including those involving the notice of patient rights;

7. To receive the care and health services that have been ordered;

8. To receive effective pain management and symptom control from the hospice for conditions related to the terminal illness, in accordance with N.J.A.C. 8:43E-6;

9. To choose his or her attending physician or APN;

10. To be involved in the planning of his or her hospice care and treatment;

11. To refuse services, including medication and treatment, provided by the facility and to be informed of available hospice treatment options, including the option of no treatment, and of the possible benefits and risks of each option;

12. To refuse to participate in experimental research. If he or she chooses to participate, his or her written informed consent shall be obtained;

13. To receive full information about financial arrangements, including, but not limited to:

i. Fees and charges, including any fees and charges for services not covered by sources of third party payment;

ii. Copies of written records of financial arrangements;

iii. Notification of any additional charges, expenses, or other financial liabilities in excess of the predetermined fee; and

iv. Description of agreements with third-party payors and/or other payors and referral systems for patients' financial assistance;

14. To express grievances regarding care and services by anyone who is furnishing services on behalf of the hospice to the hospice's staff and governing authority without fear of reprisal, and to receive an answer to those grievances within a reasonable period of time;

15. To be free from mistreatment, neglect and mental, verbal, sexual and physical abuse and from exploitation, including corporal punishment, injuries of unknown source and misappropriation of patient property;

16. To be free from restraints, unless they are authorized by a physician for a limited period of time to protect the patient or others from injury;

17. To be free from seclusion, of any form, imposed as a means of coercion, discipline, convenience or retaliation by staff;

18. To be assured of confidential treatment of his or her medical health record, and to approve or refuse in writing its release to any individual outside the hospice, except as required by law or third party payment contract;

19. To be treated with courtesy, consideration, respect, and recognition of his or her dignity, individuality, and right to privacy, including, but not limited to, auditory and visual privacy and confidentiality concerning patient treatment and disclosures;

20. To be assured of respect for the patient's personal property;

21. To retain and exercise to the fullest extent possible all the constitutional, civil, and legal rights to which the patient is entitled by law, including religious liberties, the right to independent personal decisions, and the right to provide instructions and directions for health care in the event of future decision making incapacity in accordance with the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 et seq., and any rules which may be promulgated pursuant thereto;

22. To be informed by the hospice of and receive written information concerning the hospice's policies on advance directives, including a description of applicable State law;

23. To be transferred to another hospice provider only for one of the reasons delineated in the Standards for Licensure of Residential Health Care Facilities, N.J.A.C. 8:43-4.16(g); and

24. To discharge himself or herself from treatment by the hospice.

(c) The hospice shall ensure that all verified violations involving anyone furnishing services on behalf of the hospice are reported to State and local authorities having jurisdiction within five working days of becoming aware of the violation.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Rewrote (b); and added (c).

SUBCHAPTER 6. PATIENT CARE SERVICES

8:42C-6.1 Advisory group

(a) The governing authority shall appoint an advisory group which ensures participation by at least one physician, the hospice administrator, the director of nursing and/or nurs-

ing supervisor, a consumer, and at least one representative of the interdisciplinary team.

(b) At least one member of the advisory group shall be neither an owner nor an employee of the facility.

(c) The full advisory group shall meet at least annually.

8:42C-6.2 Role of interdisciplinary team

(a) The hospice shall designate an interdisciplinary team composed of individuals who provide or supervise the care and services offered by the hospice. The interdisciplinary team shall include at least the following individuals: a doctor of medicine or osteopathy, a registered nurse, a social worker, and a pastoral or other counselor.

(b) The interdisciplinary team shall be responsible for:

1. Participation in the plan of care, which shall be:

i. Initiated and implemented when the patient is admitted;

ii. Coordinated and maintained by the interdisciplinary team;

iii. Inclusive of, but not limited to, the patient's diagnosis, patient goals, means of achieving goals, and care and treatment to be provided;

iv. Current and available to all personnel providing patient care; and

v. Included in the patient's medical/health record;

2. Provision and supervision of all hospice care and services;

3. Periodic review and updating of the plan of care for each individual receiving hospice care; and

4. Establishment of policies governing the day-to-day provision of hospice care and services.

(c) The hospice shall ensure that each patient and the primary caregiver(s) receive education and training provided by the hospice as appropriate to their responsibilities for the care and services identified in the plan of care.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Added (c).

8:42C-6.3 Policies and procedures

(a) The hospice shall establish written policies and procedures governing patient care that are reviewed at least annually by the advisory group, revised as needed, and implemented. The written policies and procedures shall include at least the following:

1. Criteria for admission, discharge, and readmission of patients. Admissions criteria shall be based solely upon the patient's needs and the ability of the facility to meet safely the medical, nursing, and social needs of the patient. Discharge policies shall preclude punitive discharge;

2. Criteria for physicians orders for hospice, including time frames and other requirements for written, verbal, and renewal orders. Physician orders for physical therapy, occupational therapy, and speech therapy shall include the modality, frequency, and duration of treatment;

3. Protocols for initiation, implementation, review, and revision of plans of care and of the service plan;

4. Protocols for reassessment of patients, in accordance with time frames documented by each health care practitioner in the service plan;

5. Protocols for providing continuity of care by the same health care practitioner whenever possible;

6. Provision of care in accordance with the plan of care;

7. Provision of emergency care;

8. Policies and procedures for the use of restraints, including at least:

i. The need for written physician's orders;

ii. Indications and contraindications for use, including emergency use or use during medical procedures;

iii. Alternatives to physical restraints, such as environmental interventions or behavior management;

iv. The designation of staff who are authorized to use restraints according to scope of practice; and

v. Teaching the patient's family or primary caregiver the use of a progressive range of restraining procedures from the least restrictive to the most restrictive, the appropriate application and release of restraints, and observation of the patient; and

9. A requirement that progress notes be written, signed and dated by the practitioner providing care, within 48 hours of the provision of care, and that the patient's response to the care be included in the progress note; and

10. Policies and procedures for the pronouncement of death.

SUBCHAPTER 7. NURSING SERVICES

8:42C-7.1 Provision of nursing services

The hospice shall provide nursing services to patients who need these services, as delineated in the patient's plan of care.

8:42C-7.2 Nursing organization, policies, and procedures

(a) The hospice shall have written policies and procedures for the provision of nursing services that guide nursing

practices in the hospice. These policies shall be reviewed annually, revised as needed, and implemented. These policies and procedures shall conform with the Nurse Practice Act at N.J.S.A. 45:11-23 et seq.

(b) The hospice's current clinical and administrative nursing policies and procedures shall be available to all nursing personnel at all times.

8:42C-7.3 Nursing staff qualifications and responsibilities

(a) The governing authority shall appoint a full-time director of nursing or nursing supervisor who shall be available at the hospice. An alternate or alternates shall be designated in writing to act in the absence of the director. An individual employed in the capacity of a full-time director of nursing as of June 21, 1999 shall not be subject to the qualifications for that position under N.J.A.C. 8:42C-1.2 while he or she continues in that position with the hospice that employed him or her prior to June 21, 1999, but the individual who begins employment in the capacity of a full-time director after that date shall meet the qualifications for that position set forth at N.J.A.C. 8:42C-1.2.

(b) The director of nursing or nursing supervisor shall be responsible for the direction, provision, and quality of nursing services. He or she shall be responsible for at least the following:

1. The overall planning, supervision, and administration of nursing services;

2. The coordination and integration of nursing services with other hospice services to provide a continuum of care for the patient;

3. The development of protocols for regular verbal communication, including case conferencing, between the nursing service and other disciplines based on the needs of each patient;

4. The development of written job descriptions and performance criteria for nursing personnel, and assigning duties based upon education, training, competencies, and job descriptions; and

5. Ensuring that nursing services are provided to the patient as specified in the nursing plan of care.

(c) Registered professional nurses and licensed practical nurses shall provide nursing care to patients commensurate with their scope of practice, as delineated in the Nurse Practice Act, N.J.S.A. 45:11-23 et seq. Nursing care shall include, but not be limited to, the following:

1. The promotion, maintenance, and restoration of health;

2. The prevention of infection, accident, and injury;

3. Performance of an initial assessment by a registered professional nurse and identification of problems for each patient upon admission to the nursing service;

4. Reassessment of the patient's nursing care needs on an ongoing, patient-specific basis and providing care which is consistent with the medical plan of treatment;

5. Monitoring the patient's response to nursing care; and

6. Teaching, supervising, and counseling the patient, family members, and staff regarding nursing care and the patient's needs, including other related problems of the patient at home.

i. A registered professional nurse or a member of the interdisciplinary team shall initiate these functions, which may be reinforced by licensed nursing personnel.

(d) Nursing staff shall administer medications in accordance with all Federal and State laws and rules.

Administrative correction.
See: 31 N.J.R. 1954(a).

8:42C-7.4 Nursing entries in the medical/health record

(a) In accordance with written job descriptions and with this chapter, nursing personnel shall document in the patient's medical/health record:

1. The nursing plan of care in accordance with the facility's policies and procedures;

2. Clinical notes and progress notes;

3. A record of medications administered which shall include the following, documented by the nurse who administered the drug:

i. The name and strength of the drug;

ii. The date and time of administration;

iii. The dosage administered;

iv. The method of administration; and

v. The signature of the licensed nurse who administered the drug.

8:42C-7.5 Homemaker-home health aide services

(a) The hospice shall provide homemaker-home health aide services, which services shall be directed and supervised by a RN.

1. The registered professional nurse shall assign the homemaker-home health aide to a patient and shall give written instructions to the homemaker-home health aide regarding the hospice services to be provided. The homemaker-home health aide shall document the hospice services provided. Copies of the written instructions shall be kept in the patient's home and documentation of services

provided shall be kept in the patient's medical/health record.

2. If the registered professional nurse delegates selected tasks to the homemaker-home health aide, the registered professional nurse shall determine the degree of supervision to provide, based upon an evaluation of the patient's condition, the education, skill, and training of the homemaker-home health aide to whom the tasks are delegated, and the nature of the tasks and activities being delegated. The registered professional nurse shall delegate a task only to a homemaker-home health aide who meets the requirements specified and who has demonstrated the knowledge, skill, and competency to perform the delegated tasks.

3. The registered professional nurse shall make supervisory visits to the patient's home and document these visits in the patient's medical record, in accordance with the facility's policies and procedures.

(b) The hospice shall not employ an individual as a homemaker-home health aide unless the individual shall have completed a training program approved by the New Jersey Board of Nursing, shall be certified by the Board of Nursing in accordance with N.J.A.C. 13:37-4, and shall provide verification of current certification for inclusion in the hospice personnel record.

(c) The homemaker-home health aide shall be responsible for providing at least personal care and homemaking services essential to the patient's health care and comfort at home, including shopping, errands, laundry, meal planning and preparation (including therapeutic diets), serving of meals, child care, assisting the patient with activities of daily living, and assisting with prescribed exercises and the use of special equipment, as necessary.

SUBCHAPTER 8. PHARMACY SERVICES

8:42C-8.1 Pharmacy and supplies

(a) The hospice shall establish written policies and procedures governing pharmacy and supplies that are reviewed annually, revised as needed, and implemented. The written policies and procedures shall include at least the following:

1. Requirements for the purchase, storage, handling, safeguarding, accountability, use, and disposition of medications in accordance with the New Jersey State Board of Pharmacy rules (N.J.A.C. 13:39), the Federal Controlled Dangerous Substances Act of 1970 and amendments thereto, 21 U.S.C. §§ 801 et seq. and rules promulgated pursuant thereto, and the New Jersey Controlled Dangerous Substances Act of 1970 (N.J.S.A. 24:21-1 et seq.), as well as subsequent amendments and rules promulgated pursuant thereto; and

2. Reporting and documenting medication errors and adverse drug reactions.

(b) The hospice shall provide current pharmaceutical reference materials and sources of information to staff.

(c) The hospice shall establish written policies and procedures for the disposal of controlled drugs no longer needed by the patient.

SUBCHAPTER 9. MEDICAL/HEALTH RECORDS

8:42C-9.1 Maintenance of medical/health records

(a) At least 14 days before a hospice plans to cease operations, it shall notify the New Jersey Department of Health and Senior Services in writing of the location and method for retrieval of medical/health records.

(b) Medical records shall be retained and preserved in accordance with N.J.S.A. 26:8-5 et seq.

SUBCHAPTER 10. INFECTION PREVENTION AND CONTROL

8:42C-10.1 Infection prevention and control program

(a) The administrator shall ensure the development and implementation of an infection prevention and control program.

(b) The administrator shall designate a person who shall have education, training, completed course work, or experience in infection control or epidemiology, and who shall be responsible for the direction, provision, and quality of infection prevention and control services. The designated person shall be responsible for, at a minimum, developing and maintaining written objectives, a policy and procedure manual, a system for data collection, and a quality assurance program for the infection prevention and control service.

8:42C-10.2 Infection control policies and procedures

(a) The hospice shall have an interdisciplinary committee which establishes and implements an infection prevention and control program.

(b) The interdisciplinary Committee shall develop, implement and review, at least annually, written policies and procedures regarding infection prevention and control, including:

1. A method of complying with the Department's rules on reportable communicable diseases at N.J.A.C. 8:57;

2. A staff education program on infection prevention and control which shall be conducted on an annual basis;

3. Surveillance techniques to identify infections and develop systems to reduce risk using "APIC – HICPAC Surveillance Definitions for Home Health Care and Home Hospice Infections," February 2008, incorporated herein by reference, as amended and supplemented, available electronically at www.apic.org or at www.cdc.gov; and

4. Sterilization and high level of disinfection of reusable medical devices, following guidelines recommended by the Association for the Advancement of Medical Instrumentation (AAMI, Suite 220, 1110 North Glebe Road, Arlington, VA 22201-4795 or available at the AAMI website at www.aami.org), and any amendments thereto, which are incorporated herein by reference, including, at a minimum:

i. "Comprehensive Guide to Steam Sterilization and Sterility Assurance in Health Care Facilities," ANSI/AAMI ST 79 (2006) incorporated herein by reference, as amended and supplemented, available electronically at www.aami.org or by telephone at (877) 249-8226;

ii. "Chemical Sterilization and High-level Disinfection in Health Care Facilities," ANSI/AAMI ST 58 (2005) incorporated herein by reference, as amended and supplemented, available electronically at www.aami.org or by telephone at (877) 249-8226;

iii. Aseptic transfer of sterile supplies; and

iv. Chemicals used for cleaning general environmental surfaces.

(c) Any hospice that outsources the reprocessing of reusable medical devices to another health care facility or a commercial reprocessing firm shall conduct an annual audit to ensure conformance with the AAMI standards set forth at (b)4 above.

1. Documentation of such audits shall be maintained for a period of three years.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
In the introductory paragraph of (b), deleted a comma following "implement"; deleted former (b)1 through (b)3; recodified former (b)4 through (b)7 as (b)1 through (b)4; in (b)1, inserted "communicable"; rewrote (b)3; in (b)4, substituted "220" for "602", "1110 North Glebe Road" for "1901 North Fort Myer Drive" and "22201-4795 or available at the AAMI website at www.aami.org" for "22209"; rewrote (b)4i and (b)4ii; in (c), substituted "that outsources" for "which out-sources" and "(b)4" for "(b)7"; and recodified the former last sentence of (c) as (c)1.

8:42C-10.3 Infection control measures

(a) The hospice shall follow all recommendations in the following Centers for Disease Control publications, and any amendments or supplements thereto, incorporated herein by reference:

1. Guideline for Prevention of Catheter-Associated Urinary Tract Infections, PB84-923402, 1981;

2. Guideline for Prevention of Intravascular Catheter-Related Infections, CDC Morbidity and Mortality Weekly Report (MMWR) 2002, Volume 51(RR-10);

3. Guideline for Prevention of Surgical Site Infection, 1999;

4. Guideline for Hand Hygiene in Health Care Settings, CDC Morbidity and Mortality Weekly Report (MMWR) 2002, Volume 51 (RR16);

5. Guideline for Infection Control for Health Care Personnel, 1998;

6. Guidelines for Environmental Infection Control in Health-Care Facilities, CDC Morbidity and Mortality Weekly Report (MMWR), 2003, Volume 52 (RR10);

7. Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, 2007;

8. Management of Multidrug-Resistant Organisms in Healthcare Settings, 2006; and

9. Guidelines for Preventing Health-Care-Associated Pneumonia, CDC Morbidity and Mortality Weekly Report (MMWR), 2004, Volume 53 (RR03).

(b) Centers for Disease Control (CDC) publications are available as follows:

1. From the National Technical Information Service (NTIS), U.S. Department of Commerce, 5301 Shawnee Road, Alexandria, VA 22312;

2. Through verbal request at (800) 553-6847 or (703) 605-6000; or

3. Electronically at the NTIS website at www.ntis.gov or the CDC website at www.cdc.gov.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Rewrote the section.

8:42C-10.4 Use and sterilization of patient care items

Single use patient care items shall not be reused. Other patient care items which may be reused shall be reprocessed and reused only in accordance with manufacturers' recommendations.

8:42C-10.5 Regulated medical waste

(a) The hospice shall comply with provisions of the Comprehensive Regulated Medical Waste Management Act at N.J.S.A. 13:1E-48.1 et seq., and N.J.A.C. 7:26-3A.

(b) The hospice shall develop and implement policies and procedures for the collection, storage handling and disposal of all solid waste.

8:42C-10.6 Communicable diseases alert

The hospice shall develop protocols for identifying patients who have died with AIDS, or a contagious, infectious or communicable disease consistent with N.J.S.A. 26:6-8.2 and 8.3

8:42C-10.7 Orientation, in-service and education

(a) Orientation for all new personnel and staff, as well as volunteers, under contract to provide direct patient care shall include infection control practices for the employee's specific job duties and the rationale for those practices.

(b) The hospice shall provide infection control education to employees, contracted providers, patients and family members and other caregivers.

(c) The Interdisciplinary Committee shall coordinate educational programs to address specific problems at least annually for staff in all disciplines and patient care services which includes blood borne pathogens and tuberculosis (TB) exposure control.

Amended by R.2010 d.106, effective June 21, 2010.
See: 42 N.J.R. 25(a), 42 N.J.R. 1192(b).
Section was "Orientation and in-service education". Added new (b); and recodified former (b) as (c).