

CHAPTER 39
STANDARDS FOR LICENSURE OF LONG-TERM CARE FACILITIES

Authority

N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Source and Effective Date

R.1994 d.582, effective November 21, 1994 (operative January 1, 1995, except Subchapter 43, which was operative November 21, 1994). See: 26 N.J.R. 1772(c), 26 N.J.R. 4641(a).

Executive Order No. 66(1978) Expiration Date

Chapter 39, Standards for Licensure of Long-Term Care Facilities, expires on November 21, 1999.

Chapter Historical Note

Chapter 39, Standards for Licensure of Long-Term Care Facilities, was adopted as R.1977 d.222, effective January 1, 1978. See: 9 N.J.R. 171(c), 9 N.J.R. 322(c). The existing text of Chapter 39 was repealed and new rules regarding Long-Term Care Facilities were adopted as R.1983 d.236, effective June 20, 1983. See: 15 N.J.R. 279(a), 15 N.J.R. 1022(b). Chapter 39 was repealed and a new Chapter 39, Manual of Standards for Long-Term Care, was adopted as R.1988 d.280, effective June 20, 1988. See: 20 N.J.R. 469(a), 20 N.J.R. 1432(a). Pursuant to Executive Order No. 66(1978), Chapter 39 was readopted as R.1993 d.341, effective June 14, 1993. See: 25 N.J.R. 1474(a), 25 N.J.R. 2878(a).

Chapter 39 was repealed and a new Chapter 39, Standards for Licensure of Long-Term Care Facilities, was adopted as R.1994 d.582. See: Source and Effective Date.

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APPENDIX A GUIDELINES AND CONSIDERATIONS FOR PET FACILITATED THERAPY IN NEW JERSEY INSTITUTIONS**APPENDIX B GUIDELINES FOR THE MANAGEMENT OF INAPPROPRIATE BEHAVIOR AND RESIDENT TO RESIDENT ABUSE****APPENDIX C HOSPITAL AND NURSING HOME PATIENT TRANSFER FORM AND PLAN OF CARE****APPENDIX D MINIMUM DATA SET FOR NURSING HOME RESIDENT ASSESSMENT AND CARE SCREENING (MDS)****APPENDIX E GUIDELINES FOR THE USE OF RESTRAINTS****SUBCHAPTER 1. GENERAL PROVISIONS****8:39-1.1 Scope and purpose**

(a) This chapter contains rules and standards intended to assure the high quality of care delivered in long-term care facilities, commonly known as nursing homes, throughout New Jersey. Components of quality of care addressed by these rules and standards include access to care, continuity of care, comprehensiveness of care, coordination of services, humaneness of treatment, conservatism in intervention, safety of the environment, professionalism of caregivers, and participation in useful studies.

(b) These rules and standards apply to each licensed long-term care facility. They are intended for use in State surveys of the facilities and any ensuing enforcement actions. They are also designed to be useful to consumers and providers as a mechanism for privately assessing the quality of care provided in any long-term care facility.

Law Review and Journal Commentaries

Nursing Homes in the Garden State: A Legal Perspective. Janice Chapin, 141 N.J.Law. 38 (Mag.) (July/August 1991).

Case Notes

Nursing home was not exempt as "hospital" from local property tax. Intercare Health Systems, Inc. v. Cedar Grove Tp., 11 N.J.Tax 423 (1990), affirmed 12 N.J.Tax 273, certification denied 127 N.J. 558, 606 A.2d 369.

For nursing home to qualify as "hospital" exempt from property tax, home must be integral part of functioning hospital. *Intercare Health Systems, Inc. v. Cedar Grove Tp.*, 11 N.J.Tax 423 (1990), affirmed 12 N.J.Tax 273, certification denied 127 N.J. 558, 606 A.2d 369.

Former long-term care facility regulations at N.J.C.A. 8:30-14 are valid. In *Review of Health Care Administration Board v. Finley*, 168 N.J.Super. 152 (App.Div.1979), affirmed 83 N.J. 67 (1980), 449 U.S. 944, 402 A.2d 246 (1980).

Building owned by nonprofit corporation and used as long-term nursing care facility and residential unit was not entitled to "charitable purposes" exemption from property taxation. *Woodstown Borough v. Friends Home at Woodstown*, 12 N.J.Tax 197 (1992).

8:39-1.2 Definitions

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

"Advance directive" means a written statement of a resident's 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., P.L. 1991, c.201. An advance directive may include a proxy directive, an instruction directive, or both.

"Available" means ready for immediate use (pertaining to equipment) or capable of being reached (pertaining to personnel), unless otherwise defined in these rules.

"Bed" or "licensed bed" means, with reference to a resident, the item of furniture assigned to no more than one resident for sleeping, resting, relaxing, or otherwise used for the resident's personal comfort or convenience, and with reference to a facility, one of the total number of beds for which each licensed long-term care facility is approved for resident care by the Commissioner of the New Jersey State Department of Health.

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

"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.

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

"Controlled Dangerous Substances Acts" means the Controlled Substances Act of 1970 (Title II, Public Law 91-513) and the New Jersey Controlled Dangerous Substances Act of 1971, N.J.S.A. 24:21-1 et seq.

"Current" means up-to-date, extending to the present time.

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

"Disinfection" means the killing of infectious agents outside the body, or organisms transmitting such agents, by chemical and/or physical means, directly applied.

"Documented" means written, signed, and dated. If an identifier such as a master sign-in sheet is used, initials may be used for signing documentation, in accordance with applicable professional standards of practice.

"Drug administration" means a procedure in which a prescribed drug or biological is given to a resident by an authorized person in accordance with all laws and regulations governing such procedures. The complete procedure of administration includes 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 resident, seeing that the resident takes it (if oral), and recording the required information, including the method of administration.

"Drug dispensing" means a procedure entailing the interpretation of the original or direct copy of the prescriber's order for a drug or a biological and, pursuant to that order, the proper selection, measuring, labeling, packaging, and issuance of the drug or biological to a resident or a service unit of the facility, in conformance with all applicable Federal, State, and local rules and regulations.

"Epidemic" means the occurrence or outbreak in a facility of one or more cases of an illness in excess of normal expectancy for that illness, derived from a common or propagated source.

"Facility" means a facility or distinct part of a facility licensed by the New Jersey State Department of Health to provide health care under medical supervision and continuous nursing supervision for 24 or more consecutive hours to two or more residents who are not related to the members of the governing authority by marriage, blood, or adoption; who do not require the degree of care and treatment which a hospital provides; and who, because of their physical or mental condition, require continuous nursing care and services above the level of room and board.

(c) The facility shall choose whether to follow the resident care plan provided by the attending physician or to establish a plan in accordance with N.J.A.C. 8:39-11. The facility is exempt from compliance with N.J.A.C. 8:39-11, if it chooses to follow the care plan provided by the resident's attending physician.

(d) The facility shall obtain the following information from the resident's regular caregiver(s):

1. Nursing care needs, including personal hygiene and restorative maintenance care;
2. Dietary routine and preferences; and
3. Social and activity routine and preferences.

(e) The facility shall choose whether to follow the dietary, social, and resident activity plan provided by the caregiver(s) or to establish a plan in accordance with N.J.A.C. 8:39-7, 17 and 39. The facility is exempt from compliance with N.J.A.C. 8:39-7, 17 and 39, if it chooses to follow the plan provided by the caregiver(s).

(f) The pharmacy and therapeutics committee shall establish policies and procedures for providing pharmacy services for the respite care program according to the New Jersey State Board of Pharmacy and other applicable rules and regulations. These policies and procedures shall include the following:

1. Options, if any, for provision of resident medications by sources other than the facility's usual provider(s);
2. Labeling and packaging of medications;
3. Self-administration of medications, if applicable; and
4. Control measures.

(g) The facility shall apply to respite care residents all the standards contained in N.J.A.C. 8:39, except those exemptions cited in this rule, and in the following: N.J.A.C. 8:39-4.1(a)31, 4.1(b), 5.1(a)-(e), 11.3(a), 15.1(b), subchapter 29, 35.2(d)3 to 16, and 37.3.

8:39-44.3 Advisory staffing

A long-term care facility should assign specific staff members to an individual respite care resident to provide continuity of care during the resident's stay in the facility.

SUBCHAPTER 45. ALZHEIMER'S/DEMENTIA PROGRAMS—MANDATORY STANDARDS

8:39-45.1 Scope and purpose

Long-term care facilities may establish Department approved programs to meet the needs of residents with Al-

zheimer's disease or other dementias. In addition to meeting all mandatory requirements specified in subchapters 1 through 43 of the long-term care licensing standards, N.J.A.C. 8:39 and the rules in this subchapter, the program shall provide individualized care based upon assessment of the cognitive and functional abilities of Alzheimer's and dementia residents who have been admitted to the program. The standards in this subchapter shall apply only to those long-term care facilities that operate a Department approved Alzheimer's/dementia program, as defined at N.J.A.C. 8:39-2.9(f).

SUBCHAPTER 46. ALZHEIMER'S/DEMENTIA PROGRAMS—ADVISORY STANDARDS

8:39-46.1 Advisory Alzheimer's/dementia program policies and procedures

(a) The long-term care facility has written policies and procedures for the Alzheimer's/dementia program that are retained by the administrative staff and available to all staff and to members of the public, including those participating in the program.

(b) The facility has established criteria for admission to the program and criteria for discharge from the program when the resident's needs can no longer be met, based upon an interdisciplinary assessment of the resident's cognitive and functional status.

8:39-46.2 Advisory staffing

(a) Staffing levels are sufficient to provide care and programming, based upon resident census in the program and an interdisciplinary assessment of the cognitive and functional status of residents in the program.

(b) The facility has established criteria for the determination of each staff member's abilities and qualifications to provide care to residents in the program.

(c) The facility provides an initial and ongoing educational, training and support program for each staff member which includes at least the causes and progression of dementias, the care and management of residents with dementias, and communication with dementia residents.

(d) Each Alzheimer's/dementia program has a full-time employee, with specialized training and/or experience in the care of residents with dementia, who has been designated as coordinator/director and whose duties include responsibility for the operation of the program.

(e) A consultant gerontologist is available to residents and to the program, as needed, to address the medical needs of the resident. "Consultant gerontologist" means a physician, psychiatrist, or geriatric nurse practitioner who

has specialized training and/or experience in the care of residents with dementia.

8:39-46.3 Advisory environmental modification

(a) The program includes appropriate facility modifications to ensure a safe environment which allows each Alzheimer's/dementia resident to function with maximum independence and success.

(b) The facility has developed safety policies and procedures and a security monitoring system which are specific to the program, based upon the physical location of the program as well as the individual needs of the Alzheimer's/dementia residents.

(c) The facility provides indoor and outdoor arrangements which allow residents freedom to ambulate in a controlled setting.

(d) Doors are marked with items familiar to the individual resident which enhance the resident's ability to recognize his or her room, and bathrooms are specially marked and easily accessible.

8:39-46.4 Advisory activity programming

(a) The Alzheimer's/dementia program provides a daily schedule of special activities, seven days a week and at least two evenings per week, designed to maintain residents' dignity and personal identity, enhance socialization and success, and to accommodate the various cognitive and functional abilities of each resident.

8:39-46.5 Advisory nutrition

(a) The Alzheimer's/dementia program provides nutritional intervention as needed, based upon assessment of the eating behaviors and abilities of each resident. Interventions may include, but are not limited to, the following:

1. Verbal and non-verbal eating cues;
2. Modified cups, spoons, or other assistive devices; and
3. Simplified choices of foods or utensils.

(b) The Alzheimer's/dementia program provides a small dining room, separate room, or designated dining area furnished to meet the needs of the residents, with staff members or trained volunteers to assist.

8:39-46.6 Advisory social services

(a) The facility provides individual and group counseling to residents if appropriate, utilizing techniques designed to reach the dementia resident and to maintain the resident's maximum level of functioning.

(b) Families are encouraged and provided with opportunities to participate in planning and providing resident care.

(c) The facility provides individual and group counseling, support and education groups for families, and information and referral on bioethical and legal issues related to dementia, including competence, guardianship, conservatorship and advance directives.

(d) Family members are referred to community Alzheimer's Disease Support Groups or other family counseling agencies, as required.

(e) Discharge care plans, including preparation for discharge from the unit, are discussed with the legal next of kin, and, if possible, with the resident at the time of admission to the program.

APPENDIX A

GUIDELINES AND CONSIDERATIONS FOR PET FACILITATED THERAPY IN NEW JERSEY INSTITUTIONS

I. All Pets

- A. Companion pets should not pose a threat or nuisance to the patients, staff, or visitors because of size, odor, sound, disposition, or behavioral characteristics. Aggressive or unprovoked threatening behavior should mandate the pet's immediate removal.
- B. Animals which may be approved include: dogs, cats, birds (except carnivorous), fish, hamsters, gerbils, guinea pigs, and domestic rabbits. Wild animals such as turtles and other reptiles, ferrets, and carnivorous birds should not be permitted in the program.
- C. In order to participate, dogs or cats should be either altered or determined not to be in estrus ("heat").
- D. Sanitary constraints:
 1. Pets should be prohibited from the following areas:
 - a. food preparation, storage, and serving areas, with the exception of participating resident's bedroom;
 - b. areas used for the cleaning or storage of human food utensils and dishes;
 - c. vehicles used for the transportation of prepared food;
 - d. nursing stations, drug preparation areas, sterile and clean supply rooms;
 - e. linen storage areas; and
 - f. areas where soiled or contaminated materials are stored.
 2. Food handlers should not be involved in the cleanup of animal waste.
 3. The administrator is responsible for acceptable pet husbandry practices and may delegate specific duties to any other staff members except food handlers. The areas of responsibility include: feeding and watering, food cleanup/cage cleaning, exercising, and grooming.