

CHAPTER 42**LICENSING STANDARDS FOR HOME HEALTH AGENCIES****Authority**

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

Source and Effective Date

R.2003 d.307, effective July 1, 2003.
See: 35 N.J.R. 65(a), 35 N.J.R. 3556(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 42, Licensing Standards for Home Health Agencies, expires on December 28, 2008. See: 40 N.J.R. 4273(a).

Chapter Historical Note

Chapter 42, Home Health Agencies, was adopted as R.1976 d.164, effective May 26, 1976. See: 8 N.J.R. 182(c), 8 N.J.R. 282(a).

Subchapter 2, Standards for Licensure of Residential and Inpatient Drug Treatment Facilities, was adopted as R.1976 d.356, effective December 9, 1976. See: 8 N.J.R. 462(a), 8 N.J.R. 550(b). Subchapter 2 was amended by R.1978 d.373, effective November 9, 1978. See: 10 N.J.R. 330(c), 10 N.J.R. 484(b).

Subchapter 3, Alcohol Abuse Treatment Facilities, was adopted as R.1979 d.240, effective July 5, 1979. See: 11 N.J.R. 233(c), 11 N.J.R. 331(c). The expiration date of Subchapter 3 was extended by R.1979 d.486, effective December 31, 1979. See: 11 N.J.R. 546(a), 12 N.J.R. 15(d). The expiration date of Subchapter 3 was further extended effective June 19, 1980. See: 12 N.J.R. 407(b).

Chapter 42, Home Health Agencies, was amended by R.1979 d.485, effective February 1, 1980. See: 11 N.J.R. 545(d), 12 N.J.R. 15(c); R.1980 d.399, effective October 9. See: 12 N.J.R. 463(b), 12 N.J.R. 578(c); R.1981 d.157, effective June 4, 1981. See: 13 N.J.R. 12(a), 13 N.J.R. 342(b).

Pursuant to Executive Order No. 66(1978) Subchapter 3, Alcohol Abuse Treatment Facilities, expired on June 30, 1981.

Pursuant to Executive Order No. 66(1978), Subchapter 2, Standards for Licensure of Residential and Inpatient Drug Treatment Facilities, was readopted as R.1982 d.391, effective November 1, 1982 (operative November 9, 1982). See: 14 N.J.R. 812(a), 14 N.J.R. 1214(a).

Chapter 42, Home Health Agencies, was amended by R.1983 d.66, effective March 7, 1983. See: 14 N.J.R. 1273(a), 15 N.J.R. 336(a).

Subchapter 2, Standards for Licensure of Residential and Inpatient Drug Treatment Facilities, was repealed by R.1983 d.309, effective August 1, 1983. See: 15 N.J.R. 397(a), 15 N.J.R. 1248(a).

Chapter 42, Home Health Agencies, was amended by R.1985 d.26, effective February 4, 1985. See: 16 N.J.R. 3125(a), 17 N.J.R. 285(a).

Pursuant to Executive Order No. 66(1978), Chapter 42, Home Health Agencies, was readopted as R.1985 d.117, effective March 18, 1985. See: 16 N.J.R. 3250(a), 17 N.J.R. 704(b).

Petition for rulemaking on the testing and certification of homemaker/home health aides. See: 21 N.J.R. 578(a).

Pursuant to Executive Order No. 66(1978), Chapter 42, Home Health Agencies, was readopted as R.1987 d.333, effective August 17, 1987 (operative October 17, 1987). See: 19 N.J.R. 2287(a), 19 N.J.R. 1547(a).

Chapter 42, Home Health Agencies, was repealed and a new Chapter 42, Standards for Licensure of Home Health Agencies, was adopted as R.1992 d.322, effective August 17, 1992. See: 24 N.J.R. 2031(a), 24

N.J.R. 2941(a). Pursuant to Executive Order No. 66(1978), Chapter 42, Standards for Licensure of Home Health Agencies, expired on August 17, 1997.

Chapter 42, Licensing Standards for Home Health Agencies, was adopted as R.1998 d.68, effective January 20, 1998. See: 29 N.J.R. 3802(a), 30 N.J.R. 345(a).

Chapter 42, Licensing Standards for Home Health Agencies, was readopted as R.2003 d.307, effective July 1, 2003. See: Source and Effective Date.

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SUBCHAPTER 1. DEFINITIONS

8:42-1.1 Scope; purpose

(a) The rules in this chapter pertain to all home health agencies in the State of New Jersey.

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

8:42-1.2 Definitions

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

“Activities of daily living (ADL)” means the functions or tasks for self-care which are performed either independently or with supervision or assistance. Activities of daily living include at least mobility, transferring, walking, grooming, bathing, dressing and undressing, eating, and toileting.

“Administrator” means a person who is administratively responsible and available for all aspects of facility operations, and:

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

2. Has a baccalaureate degree in administration or a health related field and four years of supervisory or administrative experience in home health care or in a health care setting.

“Advance directive” means a written statement of the patient's instructions and directions for health care in the event of future decisionmaking incapacity in accordance with the New Jersey Advance Directives for Health Care Act, P.L. 1991, c.201. It may include a proxy directive, an instruction directive, or both.

“Available” means ready for immediate use (pertaining to equipment); capable of being reached (pertaining to personnel).

“Branch office” means a facility site from which services are provided to patients in their homes or place of residence; which is physically separate from the home health agency but shares administrative oversight and services; which meets all requirements for licensure; and which has available a nursing supervisor or alternate coverage by a registered professional nurse. When the nursing supervisor or alternate is not on the premises, then there must be a licensed nurse on the premises when the facility is open to the public.

“Bylaws” means a set of rules adopted by the facility for governing its operation. (A charter, articles of incorporation, and/or a statement of policies and objectives is an acceptable equivalent.)

“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.

“Clinical note” means a signed and dated notation made at each patient visit by each health care professional who renders a service to the patient. The clinical note shall include a written description of signs and symptoms, treatment and/or medication(s) administered, the patient's response, and any changes in physical or emotional condition, and may be documented in a flow sheet format. The flow sheet shall be supplemented by a narrative clinical note at least once a week and whenever there is a change in the patient's condition or care which cannot be clearly documented on a flow sheet. The clinical note shall be written or dictated on the day service is rendered and shall be incorporated into the patient's medical/health record according to the facility's policies and procedures.

“Commissioner” means the New Jersey State Commissioner of Health and Senior Services.

"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 nurse" means a registered professional nurse whose practice emphasizes health promotion, health maintenance, primary prevention, health education and management, coordination of health care services, and continuity of care for individuals, families, and groups in the community. The community health nurse's practice includes, but is not limited to, home visits to assess, plan for, and provide nursing services; health guidance and direct care; and coordination of services with community resources, families and other health professionals and paraprofessionals.

"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.

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

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

"Dietitian" means a person who:

1. Is registered or eligible for registration by the Commission on Dietetic Registration of the American Dietetic Association; or
2. Has a bachelor's degree from a college or university with a major in foods, nutrition, food service or institution management, or the equivalent course work for a major in the subject area; and has completed a dietetic internship accredited by the American Dietetic Association or a dietetic traineeship approved by the American Dietetic Association or has one year of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting; or
3. Has a master's degree plus six months of full-time, or full-time equivalent, experience in nutrition and/or food service management in a health care setting.

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

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

1. "Concurrent disinfection" means 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.

2. "Terminal disinfection" means the application of measures of disinfection after the patient has ceased to be a source of infection, or after the facility's isolation practices have been discontinued. (Terminal disinfection is rarely practiced; terminal cleaning generally suffices (see definition of "cleaning"), along with airing and sunning of rooms, furniture, and bedding. Terminal disinfection is necessary only for diseases spread by indirect contact.)

"Documented" means written, signed, and dated or computer generated, and authenticated if an electronic system is used.

"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. 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 patient, seeing that the patient takes it (if oral), and recording the required information, including the method of administration.

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

"Governing authority" means the organization, person, or persons designated to assume legal responsibility for the determination and implementation of policy and for the management, operation, and financial viability of the facility.

"Home health agency" means a facility which is licensed by the New Jersey State Department of Health and Senior Services to provide preventive, rehabilitative, and therapeutic services to patients in the patient's home or place of residence. All home health agencies shall provide nursing, homemaker-home health aide, and physical therapy 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.

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

"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 Board of Nursing.

"Licensed practical nurse" means a person who is so licensed by the New Jersey Board of Nursing.

"Medication" means a drug or medicine as defined by the New Jersey 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 community health nursing and progressive professional responsibilities in community health nursing; or
2. Three years combined community health nursing and progressive professional responsibilities in community health nursing.

"Occupational therapist" means a person who is certified as an occupational therapist, and is registered by the National Board for Certification in Occupational Therapy and has at least one year of experience as an occupational therapist and complies with all New Jersey licensure requirements.

"Physical therapist" means a person who is so licensed by the New Jersey State Board of Physical Therapy.

"Physician" means a person who is licensed or authorized by the New Jersey State Board of Medical Examiners to practice medicine or podiatry in the State of New Jersey.

"Plan of care" (nursing, rehabilitation, social work, dietary counseling) means a written plan based on an assessment of the patient and the care and treatment to be provided by each discipline. Each discipline that provides service shall initiate the development and implementation of its own service plan, including measurable goals with timeframes, at the time of the patient's admission to that service. If the patient does not need a specific service, a plan is not needed for that service.

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

1. Initiated and implemented when the patient is admitted;
2. Coordinated and maintained by the nursing service or the physical therapy service, if physical therapy is the sole service;
3. Inclusive of, but not limited to, the patient's diagnosis, patient goals, means of achieving goals, and care and treatment to be provided;

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

5. Included in the patient's medical/health record.

"Progress note" means a written, signed, and dated notation by the practitioner providing care, periodically summarizing information about the care provided and the patient's response to it.

"Registered professional nurse" means a person who is so licensed by the New Jersey Board of Nursing.

"Restraint" means devices, materials, or equipment that are attached or adjacent to a person and that prevent free bodily movement to a position of choice.

"Self administration" means a procedure in which any medication is taken orally, injected, inserted, or topically or otherwise administered by a patient to himself or herself. The complete procedure of self-administration includes removing an individual dose from a previously dispensed (in accordance with the New Jersey State Board of Pharmacy Rules, N.J.A.C. 13:39), labeled container (including a unit dose container), verifying it with the directions on the label, and taking orally, injecting, inserting, or topically or otherwise administering the medication.

"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 New Jersey State Board of Social Work Examiners and 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 as per N.J.S.A. 45:15BB-1 et seq.

"Speech-language pathologist" means a person who is so licensed by the Audiology and Speech Language Pathology Advisory Committee of the Division of Consumer Affairs of the New Jersey Department of Law and Public Safety.

"Staff education plan" means a written plan developed at least annually 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.

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

Rewrote the section.

SUBCHAPTER 2. LICENSURE PROCEDURE

8:42-2.1 Certificate of Need

(a) According to N.J.S.A. 26:2H-1 et seq., and amendments thereto, a health care facility shall not be instituted, constructed, expanded, licensed to operate, or closed except upon application for and receipt of a Certificate of Need issued by the Commissioner.

(b) Applications shall provide the information required by N.J.A.C. 8:33 and N.J.A.C. 8:33L. Application forms for a Certificate of Need and instructions for completion may be obtained from:

Director
Certificate of Need and Acute Care Licensure Program
New Jersey Department of Health and Senior Services
PO Box 360
Trenton, NJ 08625-0360

(c) The facility shall implement all conditions imposed by the Commissioner as specified in the Certificate of Need approval letter. Failure to implement the conditions may result in the imposition of sanctions in accordance with N.J.S.A. 26:2H-1 et seq., and amendments thereto.

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (b), changed addressee.

8:42-2.2 Application for licensure

(a) Following acquisition of a Certificate of Need, any person, organization, or corporation desiring to operate a facility shall make application to the Commissioner for a license on forms prescribed by the Department in accordance with the requirements of this chapter. Such forms may be obtained from:

Director
Certificate of Need and Acute Care Licensure Program
New Jersey Department of Health and Senior Services
PO Box 360
Trenton, NJ 08625-0360

(b) The Department shall charge a nonrefundable fee of \$2,000 for the filing of an application for licensure and each annual renewal of a home health agency.

(c) The Department shall charge a nonrefundable fee of \$1,000 for the filing of an application for the transfer of ownership of a home health agency.

(d) The Department shall charge a nonrefundable fee of \$250.00 for the filing of an application for the relocation of a home health agency.

(e) Any person, organization, or corporation considering application for license to operate a facility shall make an appointment for a preliminary conference at the Department with the Certificate of Need and Acute Care Licensure Program.

(f) Each home health agency shall be assessed a biennial inspection fee of \$500.00. This fee shall be assessed in the year the facility will be inspected, along with the annual licensure fee for that year. The fee shall be added to the initial licensure 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. This fee shall not be imposed for any other type of inspection.

Amended by R.1996 d.339, effective July 15, 1996.

See: 28 N.J.R. 2365(a), 28 N.J.R. 3556(a).

Amended by R.1998 d.579, effective December 7, 1998.

See: 30 N.J.R. 3633(a), 30 N.J.R. 4221(b).

Added (f).

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (a), changed addressee and address.

8:42-2.3 Surveys

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the Certificate of Need and Acute Care Licensure Program of the Department shall be conducted to determine if the facility adheres to the rules in this chapter.

1. The facility shall be notified in writing of the findings of the survey, including any deficiencies found.

2. The facility shall notify the Certificate of Need and Acute Care Licensure Program of the Department when

the deficiencies, if any, have been corrected, and the Certificate of Need and Acute Care Licensure Program will schedule one or more resurveys of the facility prior to issue of license.

(b) No health care facility shall accept patients until the facility has the written approval and/or license issued by the Certificate of Need and Acute Care Licensure Program of the Department.

(c) Survey visits may be made to a facility at any time, or to a patient's home, 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.

Amended by R.2000 d.340, effective August 21, 2000.
See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (a), substituted "Certificate of Need and Acute Care Licensure" for "Health Facilities Inspection" throughout; deleted former (b); recodified former (c) and (d) as (b) and (c); in the new (b), substituted "Certificate of Need and Acute Care Licensure" for "Licensing, Certification and Standards"; and deleted former (e) through (g).

8:42-2.4 Licensure

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

(b) A license shall be granted for a period of one year or less as determined by the Department. (See N.J.S.A. 26:2H-12.)

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

(d) The license is not assignable or transferable and it shall be immediately void if the facility ceases to operate or if its ownership changes.

(e) The license, unless sooner 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 facility will 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.

(f) The license may not be renewed if local rules, regulations, and/or requirements are not met.

Amended by R.2000 d.340, effective August 21, 2000.
See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (a), deleted "full" preceding "license", and deleted "on expiration of the temporary license" following "issued".

8:42-2.5 Surrender of license

The facility shall directly notify each patient, the patient's physician, and any guarantors of payment concerned 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. In such cases, the license shall be returned to the Certificate of Need and Acute Care Licensure Program of the Department within seven working days after the revocation, non-renewal, or suspension of license.

Amended by R.2000 d.340, effective August 21, 2000.
See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

Substituted "Certificate of Need and Acute Care Licensure" for "Licensing, Certification and Standards".

8:42-2.6 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 facility seeking a waiver of these rules shall apply in writing to the Director of the Certificate of Need and Acute Care Licensure Program of the Department.

(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.2000 d.340, effective August 21, 2000.
See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (b), substituted "Certificate of Need and Acute Care Licensure" for "Licensing, Certification and Standards".

8:42-2.7 Action against a license

Action against a license shall be conducted in accordance with the General Licensure Procedures and Enforcement of Licensure Regulations as set forth in N.J.A.C. 8:43E.

Amended by R.2000 d.340, effective August 21, 2000.
See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).
Rewrote the section.

8:42-2.8 (Reserved)

Repealed by R.2000 d.340, effective August 21, 2000.
See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

Section was "Hearings".

SUBCHAPTER 3. GENERAL REQUIREMENTS

8:42-3.1 Compliance with rules and laws

(a) The facility shall provide preventive, rehabilitative, and therapeutic services to patients. This shall include, but not be limited to, nursing, homemaker-home health aide, and physical therapy services. Nursing services shall be available 24 hours a day, seven days a week.

(b) The facility shall routinely provide nursing services through its own staff. Nursing services provided under contract shall be rendered only if the following conditions pertain:

1. During temporary periods when all available full and part-time employees have achieved maximum case-loads, or;
2. To provide specialized care which is not available through existing staff;
3. Contracted nursing personnel are oriented to the policies and procedures of the facility and receive supervision from supervisory staff employed by the facility; and
4. Provisions are made for continuity of patient care by the same contracted nursing personnel whenever possible.

(c) Other services such as physical therapy, occupational therapy, speech-language pathology, dietary counseling, homemaker-home health aide and social work services shall be available directly or through written agreement.

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

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

(f) Each home health agency licensed pursuant to N.J.S.A. 26:2H-1 et seq. shall provide the following information to each patient receiving home-based services from that agency, or to a person designated by the patient:

1. The name and certification or licensure title, as applicable, of the homemaker home health aide or other health care professional whose practice is regulated pursuant to Title 45 of the Revised Statutes.
 - i. Agencies shall issue an identification tag to each homemaker-home health aide, and other health care professional in their employ.
 - ii. Agencies shall develop policies and procedures that require homemaker-home health aides, and other health care professionals, in their employ to wear iden-

tification tags in an easily visible place upon their person at all times while examining, observing, or caring for the patient;

2. A photograph of the homemaker-home health aide or other health care professional that shall be included on the identification tag required pursuant to (f)1 above; and

3. A copy of the most current edition of the consumer guide to homemaker-home health aides published by the New Jersey Board of Nursing.

(g) The consumer guide required pursuant to (f)3 above shall be provided:

1. In advance of the provision of services to the patient, whenever possible; and
2. Otherwise upon the homemaker-home health aide's initial visit to the patient's home.

Amended by R.2000 d.340, effective August 21, 2000.

See: N.J.R. 627(a), 32 N.J.R. 3064(a).

In (b), deleted "in order to provide specialized care which is unavailable through existing staff" at the end of 1, inserted a new 2, and recodified former 2 and 3 as 3 and 4; and in (c), deleted "audiology" following "pathology," and inserted "homemaker-home health aide" following "counseling."

Amended by R.2005 d.72, effective February 22, 2005.

See: 36 N.J.R. 3239(a), 37 N.J.R. 591(a).

Added (f) and (g).

8:42-3.2 Ownership

(a) The ownership of the facility shall be disclosed to the Department. Proof of this ownership shall be available in the facility. Any proposed change in ownership shall be reported to the Director of the Certificate of Need and Acute Care Licensure Program of the Department in writing at least 30 days prior to the change and in conformance with the requirements for Certificate of Need applications.

(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.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (a), substituted "Certificate of Need and Acute Care Licensure" for "Licensing, Certification and Standards".

8:42-3.3 Submission of documents

The facility shall, upon request, submit any documents which are required by these rules to the Director of the Certificate of Need and Acute Care Licensure Program of the Department.

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

Substituted "Certificate of Need and Acute Care Licensure" for "Licensing, Certification and Standards".

8:42-3.4 Personnel

(a) The facility 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 who require licensure, certification, or authorization to provide patients care 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 facility 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, 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, shall receive an initial health evaluation which includes at least a documented history.

(f) Employee health records shall be maintained for each employee. Employee health records shall be confidential and kept separate from personnel records.

(g) The employee health record 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, shall receive a Mantoux tuberculin skin test with five tuberculin units of purified protein derivative. 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. Results of the Mantoux tuberculin skin tests shall be acted upon as follows:

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

2. If 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.

(i) The Mantoux tuberculin skin test shall be administered to all agency personnel, both directly employed and under contract at the time of employment. To the extent, if any, that currently employed personnel have not been tested, they shall be tested immediately. The 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.

(j) All personnel, both directly employed and under contract to provide direct care to patients, 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.

(k) The facility shall inform each person in writing of the results of his or her rubella screening test.

(l) The facility shall maintain a list identifying the name of each person who is seronegative and unvaccinated.

(m) All personnel, both directly employed and under contract to provide direct care to patients, 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.

(n) The facility shall ensure that all personnel, both directly employed and under contract to provide direct care to patients, who cannot provide serologic evidence of immunity are offered rubella and rubeola vaccination.

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (i) deleted "by December 1, 1992" following "administered", and deleted "and thereafter to all new personnel" following "contract" in the first sentence, and inserted a new second sentence; deleted former (j); and recodified former (k) through (v) as (j) through (n).

8:42-3.5 Policy and procedure manual

(a) A policy and procedure manual(s) for the organization and operation of the facility shall be established, implemented, and reviewed at least annually. Each review of the manual(s) shall be documented, and the manual(s) shall be available in the facility at all times. The manual(s) shall include at least the following:

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

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

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

4. Definition and specification of full-time employment;

5. 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. These policies and procedures shall include, but not be limited to, the following:

i. The development of written protocols for the identification and reporting of children and elderly or disabled adults who are abused and/or neglected;

ii. 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 on the medical/health record, and serving as a liaison between the facility and the Division of Youth and Family Services; and

iii. 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.

NOTE: Copies of the law may be obtained from the local district office of the Division of Youth and Family Services (DYFS) or from the Office of Community Education, Division of Youth and Family Services, New Jersey State Department of Human Services, PO Box 717, Trenton, NJ 08625.

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

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In the note that follows (a)5, substituted "Community Education" for "Program Support" following "Office of".

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

8:42-7.3 Nursing staff qualifications and responsibilities

(a) The governing authority shall appoint a full-time director of nursing who shall be available at all times. An alternate or alternates shall be designated in writing to act in the absence of the director. The alternate or alternates shall be registered professional nurses.

(b) The director of nursing shall be responsible for the direction, provision, and quality of nursing services. He or she shall be responsible for, but not limited to, the following:

1. Overall planning, supervision, and administration of nursing services;
2. The coordination and integration of nursing services with other home health services to provide a continuum of care for the patient;
3. Development of protocols for regular communication, including case conferencing, between the nursing service and other disciplines based on the needs of each patient;
4. Development of written job descriptions and performance criteria for nursing personnel, and assigning duties based upon education, training, competencies, and job descriptions;
5. Ensuring that nursing services are provided to the patient as specified in the nursing plan of care; and
6. Ensuring community health nursing supervision to nursing personnel.

(c) A full-time nursing supervisor or alternate coverage by a registered professional nurse shall be available at each facility branch office during its hours of operation to provide clinical supervision.

(d) 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. Nursing care shall include, but not be limited to, the following:

1. The promotion, maintenance, and restoration of health;
2. Ensuring the prevention of infection, accident, and injury;
3. Performing an initial assessment and identifying problems for each patient upon admission to the nursing service. For those clients requiring nursing services, the initial assessment shall be performed by a registered professional nurse;

4. Reassessing 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. Only a registered professional nurse shall initiate these functions, which may be reinforced by licensed nursing personnel.

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

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (a), substituted "at all times" for "in the facility" at the end of the first sentence, and added a third sentence; in (b), deleted "verbal" following "regular" in 3, and substituted "community" for "public" in 6; in (c), substituted "at" for "on the premises of" following "available"; and in (d)3, inserted "For those clients requiring nursing services," at the beginning of the second sentence.

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

(a) In accordance with written job descriptions and with these rules, 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; and
3. A record of medications administered. After each administration of medication, the following shall be documented by the nurse who administered the drug: name and strength of the drug, data and time of administration, dosage administered, method of administration, and signatures of the licensed nurse who administered the drug.

8:42-7.5 Homemaker-home health aide services

(a) The facility shall provide homemaker-home health aide services in accordance with the following:

1. The homemaker-home health aide shall have completed a training program approved by the New Jersey Board of Nursing, shall be certified by the Board of Nursing, and shall provide verification of current certification for inclusion in the agency personnel record;
2. The homemaker-home health aide shall provide personal care and/or homemaking services under the supervision of a registered professional nurse;
 - i. The registered professional nurse shall orient the homemaker-home health aide to a patient and shall give written instructions to the homemaker-home health aide regarding the home health services to be provided. The homemaker-home health aide shall document the home health 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;

ii. 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 has demonstrated the knowledge, skill, and competency to perform the delegated tasks; and

iii. 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; and

3. The homemaker-home health aide shall be responsible for, but not limited to, providing 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, assisting with prescribed exercises and the use of special equipment, and assisting with patient self-administration of medications.

Amended by R.2000 d.340, effective August 21, 2000.
See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (a)2, deleted "direction and" following "under the" in the introductory paragraph, substituted "orient" for "assign" in i, and deleted "who meets the requirements specified in (a)1 above and" in the last sentence on ii; and in (a)3, added ", and assisting with patient self-administration of medications" at the end.

SUBCHAPTER 8. REHABILITATION SERVICES (PHYSICAL THERAPY, OCCUPATIONAL THERAPY, SPEECH-LANGUAGE PATHOLOGY, AND AUDIOLOGY)

8:42-8.1 Services

The facility shall provide physical therapy and may provide occupational therapy and speech-language pathology services, directly or through written agreement, to patients who need these services.

Amended by R.2000 d.340, effective August 21, 2000.
See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

Rewrote the section.

8:42-8.2 Responsibilities of rehabilitation personnel

(a) In accordance with written job descriptions (and for physical therapy personnel, in accordance also with the State of New Jersey Physical Therapy Practice Act, N.J.S.A. 45:9-37.11 et seq.; and for speech-language pathology in accordance also with the State of New Jersey Audiology and Speech Language Pathology Practice Act, N.J.S.A. 45:3B-1), each physical therapist, occupational therapist and speech-language pathologist shall be responsible for, but not limited to, the following:

1. Assessing the physical therapy, occupational therapy or speech-language pathology needs of the patient, preparing the rehabilitation plan of care based on the assessment, providing rehabilitation services to the patient as specified in the rehabilitation plan of care, reassessing the patient's response to services provided, and revising the rehabilitation plan of care as needed. Each of these activities shall be documented in the patient's medical/health record;

2. Participating in staff education activities and providing consultation to facility personnel; and

3. Communicating and documenting the communication with other disciplines and services to provide continuity and coordination of patient care.

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (a), deleted a reference to auditory personnel and a reference to audiologists in the introductory paragraph, deleted a reference to audiology in 1, deleted a former 2, and recodified former 3 and 4 as 2 and 3.

8:42-8.3 Rehabilitation entries in the medical/health record

(a) Each physical therapist, occupational therapist or speech-language pathologist shall document in the patient's medical/health record:

1. The rehabilitation plan of care, which may be the rehabilitation portion of the patient's plan of care. The plan of care shall be reviewed and revised by the therapist, or speech-language pathologist; and

2. Clinical notes and progress notes.

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (a), deleted references to audiologists throughout.

SUBCHAPTER 9. SOCIAL WORK SERVICES

8:42-9.1 Services

Social work services may be provided directly or through written agreement to patients who need these services.

Amended by R.2000 d.340, effective August 21, 2000.

See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

Deleted (a) designation; and deleted former (b).

8:42-9.2 Social worker's responsibilities

(a) For those patients requiring social work services, each social worker shall be responsible for, but not limited to, the following:

(b) The designated committee shall coordinate educational programs to address specific problems at least annually for staff in all disciplines and patient care services.

SUBCHAPTER 13. PATIENT RIGHTS

8:42-13.1 Policies and procedures

(a) The facility shall establish and implement written policies and procedures regarding the rights of patients and the implementation of these rights. A complete statement of these rights, including the right to file a complaint with the New Jersey Department of Health and Senior Services, 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 agency's service area.

(b) Each patient shall be entitled to the following rights, none of which shall be abridged or violated by the facility 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 written notice, 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 other responsible individual;

3. To be informed in writing of the following:

i. Services available from the facility;

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 agency'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:

Division of Health Care System Analysis
New Jersey Department of Health and Senior Services
PO Box 360
Trenton, New Jersey 08625-0360

4. 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 guardian and documented in the patient's medical record;

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

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

7. To participate in the planning of his or her home health care and treatment;

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

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

10. 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.

11. To express grievances regarding care and services to the facility's staff and governing authority without fear of reprisal, and to receive an answer to those grievances within a reasonable period of time. The facility is required to provide each patient or guardian with the names, addresses, and telephone numbers of the government agencies to which the patient can complain and ask questions, including the New Jersey Department of Health and Senior Services Complaint Hotline at 1-800-792-9770;

12. To freedom from mental and physical abuse and from exploitation;

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

14. 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 facility, except as required by law or third-party payment contract;

15. 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;

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

17. To join with other patients or individuals to work for improvements in patient care;

18. 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 decisionmaking incapacity in accordance with the New Jersey Advance Directives for Health Care Act, P.L. 1991, c.201, and with N.J.A.C. 8:42-6.3;

19. To be transferred to another facility only for one of the reasons delineated at N.J.A.C. 8:42-6.3(e); and

20. To discharge himself or herself from treatment by the facility.

Amended by R.2000 d.340, effective August 21, 2000.
See: 32 N.J.R. 627(a), 32 N.J.R. 3064(a).

In (a), deleted a requirement that the statement of rights be conspicuously posted in facilities; in (b), changed addressee and address in 3v, and changed N.J.A.C. reference in 19.

SUBCHAPTER 14. QUALITY ASSURANCE

8:42-14.1 Quality assurance organization

(a) The governing authority of the facility shall have ultimate responsibility for the quality assurance program.

(b) The facility shall establish and implement a written plan for a quality assurance program for patient care. The plan shall include a mechanism to ensure participation of all disciplines in quality assurance activities and monitoring, and shall specify staff responsibilities for the quality assurance program.

8:42-14.2 Quality assurance policies and procedures

(a) The quality assurance plan shall be reviewed at least annually and revised as necessary. Responsibility for reviewing and revising the plan shall be designated in the plan itself.

(b) The quality assurance program shall include regularly collecting and analyzing data to help identify health-service problems and their extent, and recommending, implementing and monitoring corrective actions on the basis of these data.

(c) The quality assurance plan shall designate the frequency of data collection to ensure regular monitoring of patient care activities.

(d) The ongoing quality assurance activities shall include, but not be limited to:

1. Incident review;
2. Evaluation of patient care services and statistics;
3. Monitoring of infection prevention and control;
4. Evaluation of staffing patterns and staff qualifications and credentials;
5. Evaluation of clinical competence of all clinical practitioners;
6. Evaluation of staff orientation and staff education;
7. Evaluation by patients and their families of care and services provided by the facility; and
8. Audit, at least quarterly, of patient medical/health records (including those of both active and discharged patients) to determine if care has conformed to criteria established by each patient care service for the maintenance of quality of care.

(e) Reports of the activities of all facility committees or their equivalents shall be made available to the advisory group specified in N.J.A.C. 8:42-6.1(a).

(f) The results of the quality assurance program shall be submitted to the governing authority at least annually, and shall include at least deficiencies found and recommendations for corrections or improvements. The administrator shall, with the approval of the governing authority, implement measures to ensure that corrections or improvements are made.