

CHAPTER 27

REGULATIONS GOVERNING ROOMING AND BOARDING HOUSES

Authority

N.J.S.A. 55:13B-4.

Source and Effective Date

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

Executive Order 66(1978) Expiration Date

Chapter 27, Regulations Governing Room and Boarding Houses, expires on May 12, 2000.

Chapter Historical Note

Chapter 27, Regulations Governing Room and Boarding Houses, became effective August 28, 1980, as R.1980 d.376. See: 12 N.J.R. 452(a), 12 N.J.R. 569(b). The provisions of the chapter were readopted, effective June 14, 1985, as R.1985 d.350. See: 17 N.J.R. 341(b), 17 N.J.R. 1759(a). Chapter 27 was readopted by R.1990 d.275, eff. May 2, 1990. See: 21 N.J.R. 3871(a), 22 N.J.R. 1720(a). Chapter 27 expired May 2, 1995 and was subsequently readopted as new rules by R.1995 d. 280. See: Source and Effective Date.

See subchapter and section annotations for specific rulemaking activity.

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SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

5:27-1.1 Title

This chapter, promulgated pursuant to N.J.S.A. 55:13B-1 et seq., shall be known and may be cited as the "Regulations Governing Rooming and Boarding Houses".

Case Notes

Boarding house operator was ineligible for license due to history of failing to comply with licensing laws. *Johnson v. Bureau of Rooming and Boarding House Standards*, 96 N.J.A.R.2d (CAF) 66.

5:27-1.2 Purpose

(a) This chapter is promulgated for the purpose of establishing standards to ensure that every rooming and boarding house in the State of New Jersey is constructed, maintained and operated in such a manner as will protect the health, safety and welfare of its residents and at the same time preserve and promote a home-like atmosphere appropriate to such facilities.

(b) The Bureau shall have discretion not to enforce any standard hereby established if it determines that strict compliance with such standard is not necessary in a particular case in order to accomplish the purpose set forth in (a) above.

(c) In the event that the Bureau determines that any rooming or boarding house, or any part thereof, because of its partial use for other than single room occupancy should more appropriately be evaluated under applicable standards contained in the regulations for the Maintenance of Hotels and Multiple Dwellings (N.J.A.C. 5:10), the Bureau shall have discretion to enforce the standards contained in N.J.A.C. 5:10 in lieu of the standards contained in N.J.A.C. 5:27-4, 5, and 6.

Amended by R.1981 d.359, effective October 8, 1981.
See: 13 N.J.R. 393(a), 13 N.J.R. 704(c).
(c) added.

5:27-1.3 Administration and enforcement

(a) The Bureau shall administer and enforce this chapter.

(b) The Bureau may authorize any municipality or county, through its appropriate housing, health or social services agencies, to perform inspections for the Bureau. Any authorization to perform inspections given to any municipality or county shall contain such terms and conditions as the Bureau may deem necessary and proper.

(c) The local enforcing agency, as the term is defined in N.J.A.C. 5:18, authorized to enforce the Uniform Fire Code in each municipality is hereby designated as the agent of the Bureau for the purpose of inspecting existing buildings in order to enforce all provisions of the Uniform Fire Safety Act, N.J.S.A. 52:27D-192 et seq., and the Uniform Fire Code, N.J.A.C. 5:18, applicable to rooming and boarding houses.

1. If, in the course of inspecting any rooming or boarding house, any inspector performing inspections for the Bureau finds any condition which is, or appears to be, in violation of the Uniform Fire Code, the inspector shall promptly give notice of such condition to the Bureau, which shall notify the Division of Fire Safety.

2. The maintenance requirements set forth in the Uniform Fire Code, N.J.A.C. 5:18, shall supersede the standards for fire safety set forth in N.J.A.C. 5:27-5, with regard to all boarding houses as of December 19, 1988 and shall be the sole fire safety maintenance requirements applicable to all rooming and boarding houses on and after June 16, 1989.

3. Any retrofit work required to be done in any rooming or boarding house shall be done in accordance with the Uniform Fire Code, N.J.A.C. 5:18. All buildings in compliance with the Uniform Fire Code shall be deemed to be in compliance with the fire safety standards set forth in this chapter.

4. Every licensee shall keep valid proof of compliance with the Uniform Fire Code on the premises and shall make it available to representatives of the Bureau upon request.

Amended by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989).
See: 20 N.J.R. 2126(a), 20 N.J.R. 3122(a).
Deleted "fire prevention" in (a); added (c).
Amended by R.1991 d.288, effective June 17, 1991.
See: 23 N.J.R. 932(a), 23 N.J.R. 1925(a).
Requirement to keep proof of compliance on premises added at (c)4. Administrative Correction.
See: 25 N.J.R. 5928(b).

Case Notes

Communal living arrangement of four elderly women qualified as boarding house subject to licensing regulations. In the Matter of Frank Gialanella, 96 N.J.A.R.2d (CAF) 40.

Allowing residents, including a high percentage of mental patients, to remain in hazardous living quarters warranted imposition of civil penalty against rooming house. *Community Affairs v. Sea Phoenix*, 95 N.J.A.R.2d (CAF) 21.

Unlicensed premises operated as a boarding house; closure and a fine. Levin v. Bureau of Rooming and Boarding House Standards, 92 N.J.A.R.2d (CAF) 12.

Multiple violations of fire safety regulations as basis for order to vacate. Dept. of Community Affairs v. St. Jude's Boarding Home, 2 N.J.A.R. 432 (1981).

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

Class E license and fee provisions added; local zoning approval requirement added at (m).

Administrative Correction.

See: 25 N.J.R. 5928(b).

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

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Amended by R.1998 d.298, effective July 6, 1998.

See: 30 N.J.R. 509(a), 30 N.J.R. 2433(a).

Added a new (n).

Case Notes

Appointment of receiver to conserve boarding facility modified to denial of boarding house license. *Milligan v. Bureau of Rooming and Boarding House Standards*, 97 N.J.A.R.2d (CAF) 81.

Building lessees violated state law by operating rooming and boarding house without license. *Division of Housing and Development v. Cummins and Malhtra*, 97 N.J.A.R.2d (CAF) 7.

Rooming house with numerous fire and safety code violations was subject to being vacated as a hazard to health, safety and welfare of occupants. *Department of Community Affairs v. M.C. Investment*, 95 N.J.A.R.2d (CAF) 91.

Rooming house license denied; fire code. *Department of Community Affairs v. Stoner*, 94 N.J.A.R.2d (CAF) 105.

Penalty; operation of rooming house without license. *Department of Community Affairs v. Roshop*, 94 N.J.A.R.2d (CAF) 100.

License held by rooming house tenant did not meet owner's licensing requirements. *1020 River Road Realty Co. v. Bureau of Rooming and Boarding House Standards*, 92 N.J.A.R.2d (CAF) 22.

Rooming house operator required to renew owner's license. *1020 River Road Realty Co. v. Bureau of Rooming and Boarding House Standards*, 92 N.J.A.R.2d (CAF) 22.

Operation of unlicensed boarding house warranted fine and closure. *Levin v. Bureau of Rooming and Boarding House Standards*, 92 N.J.A.R.2d (CAF) 12.

5:27-1.7 License applications

(a) Applicant information to be provided by an individual shall include the following:

1. Name, plus any other names ever used;
2. Present address, last previous address and any other addresses within the last two years, including dates of residency;
3. Telephone number, if any;
4. Social security number;
5. Date of birth;
6. Bank or other credit reference;
7. Any criminal convictions;
8. Education and work experience;
9. Class of license for which application is made.

(b) Applicant information to be provided by a corporation, association or partnership shall include the following:

1. Names and addresses of all officers, directors, stockholders, members and partners and any registered agent;

2. Designation of primary owner and all information required pursuant to (a) above with respect to such primary owner.

(c) Building information shall be provided for each building owned, operated, or intended to be owned or operated by an applicant and used or intended to be used as a rooming or boarding house and shall include the following:

1. Street address and lot and block designation of the building;
2. Whether or not a license was ever previously issued by the Bureau for the use of the building as a rooming or boarding house;
3. The number of stories;
4. The number of sleeping rooms to be used to accommodate residents;
5. The maximum number of residents intended to be accommodated;
6. The year, or approximate year, of construction;
7. The construction class;
8. Whether or not the building was previously registered with the Bureau of Housing Inspection as a hotel or multiple dwelling and, if so, the registration number;
9. Whether or not the property was ever licensed by the New Jersey Department of Health, and if so, the license number;
10. Date of transfer of the property to the present owner;
11. The name and address of any mortgage or other lien holder.

(d) In the event that any person who is licensed as an owner subsequently acquires another building which he intends to use as a rooming or boarding house, he shall submit to the Bureau a supplemental application containing the building information required pursuant to (c) above.

(e) In the event of a change in any information provided to the Bureau pursuant to this section, the licensee shall notify the Bureau of such change within 14 days.

5:27-1.8 Administrative hearings

(a) Any person aggrieved by any ruling, action or order of the Bureau shall be entitled to an administrative hearing in accordance with the Administrative Procedure Act.

(b) The administrative hearing shall be conducted by a judge of the Office of Administrative Law and the final decision shall be issued by the Director.

(c) The application for such hearing must be filed with the Director within 15 days of the receipt of the applicant of notice of the ruling, action or decision complained of. The

Director shall have authority to waive this requirement when the interests of justice so require.

5:27-1.9 Exceptions and exemptions

(a) Pursuant to N.J.S.A. 55:13B-5(b), an owner may request an exception waiving, modifying or postponing the application of any regulation to any owner's rooming or boarding house.

(b) Requests for exceptions shall be made to the Chief of the Bureau, who shall have authority to approve or deny such requests in accordance with the standards set forth in N.J.S.A. 55:13B-5(b). Requests shall be made in triplicate upon forms to be supplied by the Bureau.

(c) A request for an exception shall be submitted within 30 days of the receipt by the owner of notice of the ruling, action or decisions at issue and no request submitted thereafter shall be considered unless the owner advised the Bureau of his desire to file an exception request within 15 days of his receipt of notice of filing, action or decision at issue and was unable to submit the application within the 30 day period allowed because of the Bureau's failure to provide him with the required forms in a timely manner. The Chief of the Bureau shall have authority to waive these time requirements when the interests of justice so require.

(d) Upon the request of a State agency which has a contractual relationship with the owner of a facility operated under a Class D license, the Bureau shall waive application of any regulation contained in subchapters six through eleven of this chapter, unless the Bureau finds that harm to residents or the public generally would thereby result.

(e) Owners and operators who have been issued Class E licenses are, with respect to drug or alcohol rehabilitation facilities owned or operated under such licenses, exempt from the following requirements of this chapter:

1. N.J.A.C. 5:27-1.6(i), with respect to creed only;
2. N.J.A.C. 5:27-1.7(a)5 through 8;
3. N.J.A.C. 5:27-3.1(a)1 through 4, 9, 13 and 14;
4. N.J.A.C. 5:27-3.2(d);
5. N.J.A.C. 5:27-3.3(c);
6. N.J.A.C. 5:27-3.4(b);
7. N.J.A.C. 5:27-3.10;
8. N.J.A.C. 5:27-8.1(b)2;
9. N.J.A.C. 5:27-8.2;
10. N.J.A.C. 5:27-8.3;
11. N.J.A.C. 5:27-8.4(a); and
12. N.J.A.C. 5:27-9.2(a).

As amended, R.1984 d.154, eff. May 7, 1984.

See: 16 N.J.R. 181(a), 16 N.J.R. 1071(a).

(d) added.

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

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

Class E exemption provisions added at (e).

5:27-1.10 Search warrants

(a) In the event that any authorized representative of the Bureau is denied access to any rooming or boarding house, a search warrant shall be obtained by the Bureau in any court having jurisdiction.

(b) The application for the search warrant shall state that access to the premises is required in order to enforce the Act and shall specify whether the desired inspection is a regular annual inspection or a special inspection in response to information received by the Bureau indicating the possible existence of a condition violative of the Act or of these regulations.

5:27-1.11 Tense, gender and number

Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter, words used in the singular include the plural and those used in the plural include the singular, all except where the context clearly indicates otherwise.

5:27-1.12 Separability clause

If any provisions of these regulations shall be held invalid or ineffective in whole or in part, or inapplicable to any person or situation, it is the purpose and intent of these regulations that all other provisions thereof shall nevertheless be separately and fully effective.

SUBCHAPTER 2. DEFINITIONS

Subchapter Historical Note

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

5:27-2.1 Definitions

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

"Accessory building" means a building, whether or not occupied by residents, the use of which is incidental to that of the main building of a rooming or boarding house and which is located on the same lot, or on a contiguous lot, or on a lot that would be contiguous but for the presence of a public street or other public right-of-way.

8. To retain the services of his or her own personal physician at his or her own expense or under a health care plan and to confidentiality and privacy concerning his or her medical condition and treatment;

9. To unrestricted communication, including personal visitation, with any person of his or her choice, at any reasonable hour;

10. To make contacts with the community and to achieve the highest level of independence, autonomy and interaction with the community of which he or she is capable;

11. To present grievances on behalf of himself or herself or others to the licensee, governmental agencies or other persons without reprisal or threat of reprisal in any form or manner whatsoever;

12. To a safe, healthful and decent living environment and considerate and respectful care that recognizes the dignity and individuality of the resident;

13. To refuse to perform services for the licensee except pursuant to a bona fide contract between resident and licensee, such contract, in the case of a resident who is at least 62 years of age or has any physical or mental disability, to be in writing and witnessed by a representative of the county welfare board or of any other social service agency having responsibility for such resident;

14. To practice the religion of his or her choice, including the right to have adequate substitutes provided for foods or combinations of foods which the resident's religious beliefs forbid him or her to eat, or to abstain from religious practice;

15. To not be deprived of any constitutional, civil or legal right solely by reason of residence in a rooming or boarding house.

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

Case Notes

Free exercise right did not support challenge to state statute that was not expressly directed to religion. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A. 3 (N.J.) 1990, 919 F.2d 183.

Religious group could claim violation of its right to associate for free speech purposes if it could demonstrate that statutory reporting requirements hindered its activity. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Group did not have viable establishment clause claim. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

5:27-3.2 House rules

(a) In order to better protect the health, safety, welfare and rights of all residents, the licensee shall establish reasonable rules governing the conduct of persons within the rooming or boarding house.

(b) Such rules shall include provisions to ensure that residents exercise their rights in such a way as not to infringe upon the rights of or endanger other residents.

(c) Copies of all rules shall be prominently posted in the building, shall be given to all residents at the commencement of residence and shall be provided to the Bureau upon request.

(d) Any rule determined by the Bureau to be unreasonable shall not be enforced and shall be deleted from the house rules.

Case Notes

Free exercise right did not support challenge to state statute that was not expressly directed to religion. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Religious group could make out prima facie claim of violation of its right to associate for free speech purposes if it could demonstrate that complying with statutory reporting requirements hindered program. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Group did not have viable establishment clause claim. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Statute neither unduly interfered with free exercise of religion nor created excessive state entanglement with religion. *Market Street Mission v. Bureau of Rooming and Boarding House Standards*, Dept. of Community Affairs, State of N.J., 110 N.J. 335, 541 A.2d 668 (1988), appeal dismissed 109 S.Ct. 209, 488 U.S. 882, 102 L.Ed.2d 201.

5:27-3.3 Harassment; fraud; eviction without due cause

(a) No licensee or employee or agent of a licensee shall engage in any conduct or permit residents or others to engage in any conduct, which is unreasonable under the circumstances and which tends to cause annoyance to any resident.

(b) No licensee or employee or agent of a licensee shall, in the course of his dealings with residents or with their property, engage in any conduct evidencing a lack of probity, integrity or trustworthiness.

(c) Unless otherwise directed or authorized by the Bureau no licensee shall cause any resident to be evicted from any rooming or boarding house except for good cause, as defined in N.J.S.A. 2A:18-61.1 et seq., and except in accordance with the procedural requirements of N.J.S.A. 2A:18-61.1 et seq.

1. A licensee may bring to the attention of the Bureau any situation in which the licensee believes that a directive from the Bureau, pursuant to this subsection, is necessary in order to facilitate appropriate placement of a resident, in accordance with N.J.A.C. 5:27-3.5(b), and to protect the right of all residents to a safe, healthful and decent living environment, in accordance with N.J.A.C. 5:27-3.1(a)12.

Amended by R.1981 d.435, effective November 16, 1981.
See: 13 N.J.R. 562(b), 13 N.J.R. 842(e).

(c): "Unless otherwise directed by the Bureau" added.
Amended by R.1989 d.526, effective October 16, 1989.
See: 21 N.J.R. 93(a), 21 N.J.R. 3295(b).

At (c) language added regarding the "authorizing" of eviction thereby insuring licensees have ability to initiate emergency removals.

5:27-3.4 Access to agency representatives

(a) Licensees shall not in any manner obstruct, and shall affirmatively facilitate, access for employees of public agencies and private social service and health agencies seeking to visit any resident or to have contact with the residents generally.

(b) A licensee who has reason to believe a resident to be in need of health or social services shall forthwith refer such resident to an appropriate agency.

(c) A licensee shall give notice the the county welfare board at least three working days prior to instituting any action to evict any resident or to any transfer of a resident initiated by a licensee, unless the county welfare board allows shorter notice.

(d) Every licensee shall provide to each resident or pose, as the case may be, copies of such documents as the Bureau or any other public agency may prepare, for distribution to residents or posting.

5:27-3.5 Appropriate placement

(a) No licensee shall accept as a resident in a boarding house a person who is not capable of self-evacuation with or without assistive devices, who is not certified by a licensed physician, or by a licensed nurse practitioner or licensed clinical nurse specialist legally authorized to issue such certification, to be free of communicable diseases and not in need of nursing care or who requires services not available in such boarding house.

(b) In the event that a resident ceases to be capable of self-evacuation, acquires a communicable disease or requires nursing care, supervision of self-administration of medication or services not available in the rooming or boarding house, it shall be the responsibility of the licensee to so notify the county welfare board forthwith so that the resident may be transferred to a facility suitable to his or her needs.

Amended by R.1982 d.379, effective November 1, 1982.
See: 14 N.J.R. 499(a), 14 N.J.R. 1211(a).

Added last sentence in (a).
Amended by R.1993 d.104, effective March 1, 1993.
See: 24 N.J.R. 4310(a), 25 N.J.R. 920(c).

Deleted references to rooming house; changed "ambulatory" to "capable of self-evacuation"; deleted exception for users of assistive devices or wheelchairs.

Amended by R.1995 d.280, effective May 12, 1995.
See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).
Amended by R.1996 d.165, effective April 1, 1996.
See: 28 N.J.R. 23(a), 28 N.J.R. 1833(b).

In (a) inserted licensed nurse practitioner and clinical nurse specialist.

5:27-3.6 Independence and community interaction

A licensee shall take such affirmative action as may be necessary to assist each resident in living with as much independence and autonomy and with as high a degree of interaction with the community as may be reasonably possible.

5:27-3.7 Violation by licensee

No licensee shall violate or unreasonably restrict the rights of residents nor shall any licensee permit the violation of unreasonable restriction of residents' rights by any person employed by or otherwise under the control of the licensee or upon the premises with the knowledge of the licensee.

5:27-3.8 Employees

(a) No licensee shall employ or continue to employ any person known to the licensee to have engaged in conduct violative of the rights of residents or who the licensee has reason to believe would be likely to engage in such conduct.

(b) Every licensee shall have on duty at all times as many employees as may be needed to properly safeguard the health, safety and welfare of the residents, as required by these regulations. Such employees shall be adequately trained and supervised.

5:27-3.9 Disclosure of licensee identity

(a) A statement containing the following information shall be posted in a prominent place in every rooming and boarding house:

1. Name and address of the owner(s) of the property;
2. Name and address of any operator;
3. If the owner is a corporation, the name and address of each appropriate officer, of the registered agent and of the primary owner;
4. If the owner does not reside on the premises, a statement designating the operator as the owner's agent for purposes of accepting notices from residents, issuing receipts therefore and accepting service of process on behalf of the owner;
5. The name and address of any person other than the operator employed by the owner to provide regular maintenance service;
6. The name, address and telephone number of an individual authorized to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith;
7. The name and address of every holder of a recorded mortgage on the premises.

(b) Copies of the statement required pursuant to (a) above shall be given to each resident at the commencement of residence and provided to the Bureau, and to the county welfare board, marked with proof of filing in the office of the clerk of the municipality in which the rooming or boarding house is located.

(c) Revised statements shall be furnished within seven days of any change in the information required to be set forth.

(d) All statements and revised statements furnished pursuant hereto shall be signed by the owner or the duly authorized representative of the owner and shall stipulate the date of preparation.

5:27-3.10 Disclosure of rates and services

(a) Every licensee shall at all times maintain a schedule setting forth the rates charged for the rental of the various rooms in the rooming or boarding house and for each of the other services or combinations of services available.

(b) A copy of the schedule of rates shall be provided to, and shall be explained to, every present and prospective resident and at least one copy shall be prominently posted in the rooming or boarding house. Copies shall also be provided to the Bureau and to the county welfare board.

(c) In the event of any change in rates, a revised schedule shall be prepared indicating the change in rates. A copy thereof shall be prominently posted in the rooming and boarding house and copies shall be provided to all persons and agencies entitled to receive copies of the original schedule.

(d) No resident shall be charged for any services other than those which he or she has requested and which are actually provided to him or her.

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

5:27-3.11 Security deposits

No security deposit, however designated, shall be required or accepted by any licensee from any resident or prospective resident, or shall be held by any licensee, unless there is full compliance with the requirements of N.J.S.A. 46:8-19 through 46:8-26.

5:27-3.12 Limited tenure hotel guests

In the event that a hotel, motel or established guest house is classified as a rooming or boarding house for purposes of the Act by reason of having fewer than 85 percent of the dwelling units offered for limited tenure only, a resident occupying a unit on a limited tenure basis shall have the legal rights of a hotel guest and the rights set forth in section 3 of P.L.1979, c.500 (N.J.S.A. 55:13B-19) but shall not have any of the additional rights of residents established by this subchapter.

R.1983 d.157, eff. May 16, 1983.
See: 15 N.J.R. 375(b), 15 N.J.R. 804(a).

SUBCHAPTER 4. GENERAL BUILDING REQUIREMENTS

Subchapter Historical Note

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

5:27-4.1 Water supply

(a) Every rooming or boarding house shall be provided with a safe supply of potable water meeting the standards as set forth in the New Jersey Safe Drinking Water Act regulations (N.J.A.C. 7:10-1 et seq.) published by the New Jersey Department of Environmental Protection.

(m) Every licensee shall be responsible for maintaining in a clean and sanitary condition all areas of the rooming or boarding house.

(n) It shall be the responsibility of the licensee to provide for the orderly maintenance of the premises. The storage of objects or materials shall be done in an orderly manner so as to not constitute a health, safety, or fire hazard.

Case Notes

Rooming house with numerous fire and safety code violations was subject to being vacated as a hazard to health, safety and welfare of

occupants. Department of Community Affairs v. M.C. Investment, 95 N.J.A.R.2d (CAF) 91.

Debris removal violation. Dept. of Community Affairs v. St. Jude's Boarding Home, 2 N.J.A.R. 432 (1981).

5:27-4.8 Use and occupancy of space

(a) Every rooming or boarding house shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

(b) Every rooming unit occupied for sleeping purposes by one occupant shall contain at least 80 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 60 square feet of floor space for each occupant.

(c) At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet. The floor area of that part of any room where the ceiling is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(d) A room located in part below the level of the ground may be used for sleeping provided that the walls and floor thereof in contact with the earth have been damp-proofed in accordance with a method approved by the Bureau; and provided that all requirements otherwise applicable to habitable rooms generally are satisfied.

As amended, R.1982 d.378, eff. November 1, 1982.

See: 14 N.J.R. 496(b), 14 N.J.R. 1210(b).

Deleted ... in whole or ... in (d).

Case Notes

Rooming and Boarding House Act applied to religious rescue mission which provided free food, shelter and therapeutic programs for recovering alcoholics and drug addicts. *Market Street Mission v. Bureau of Rooming and Boarding House Standards*, Dep't of Community Affairs, 217 N.J.Super. 56, 524 A.2d 1283 (App.Div.1987) reversed on other grounds 110 N.J. 335, 541 A.2d 668 (1988) appeal dismissed 109 S.Ct. 209, 488 U.S. 882, 102 L.Ed.2d 201.

5:27-4.9 Matters not covered

Any matter or requirement essential for the structural safety of a rooming or boarding house or essential for the safety or health of the residents thereof or of the public, and which is not covered by the provisions of these regulations shall be the subject of determination by the Bureau in specific cases.

SUBCHAPTER 5. (RESERVED)

Subchapter Historical Note

Subchapter 5, Fire Safety, was filed and became effective August 28, 1980 as R.1980 d.376. See: 12 N.J.R. 452(a), 12 N.J.R. 569(b). Subchapter 5 was readopted pursuant to Executive Order No. 66(1978), effective June 14, 1985 as R.1985 d.350. See: 17 N.J.R. 341(b), 17 N.J.R. 1759(a). Subchapter 5 was repealed by R.1988 d.572, effective December 19, 1988 (operative June 16, 1989). See: 20 N.J.R. 2126(a), 20 N.J.R. 3122.

SUBCHAPTER 6. SECURITY

Subchapter Historical Note

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

5:27-6.1 Control of access

(a) Every exterior door shall be equipped with heavy duty dead latching locksets (series 161, FF-H-106a, minimum, with a minimum 7/8 inch by 5/8 inch with 1/2 inch minimum throw latch bolt with automatic dead-locking plunger).

(b) Every resident of every rooming house and of every boarding house operated under a Class B license shall be provided with a key to the main entrance door and, if applicable, to his or her rooming unit door, free of charge. Replacement keys, when required, shall be provided at cost.

(c) All doors providing a means of egress shall be freely openable from the inside at all times.

(d) All exterior doors to common cellar or storage areas shall be lockable.

(e) Every entrance door to a rooming unit in every rooming house, and in every boarding house operated under a Class B license, shall be equipped with a medium duty dead latching lockset (series 160, FF-H-106a, minimum with a minimum 11/16 inch by 1/2 inch with 1/2 inch minimum throw latch bolt with automatic deadlocking plunger) or with a dead bolt lock separate from the latch set. Each such door shall also be equipped with a viewing device. In all rooming and boarding houses have locks on entrance doors to rooming units, a master key capable of opening all such locks shall be retained by the licensee and shall be readily available in event of any emergency.

(f) All openable windows, sliding doors, basement windows and windows opening onto areas affording easy access to the premises shall be equipped with a locking device of some kind. Grilles lockable from the inside only may be placed on the inside or outside of windows only if the windows do not serve to provide access to exits.

(g) Exposed hinges on exterior doors, and on entrance doors to rooming units where locks are required, shall have hinges with non-removable hinge pins.

(h) Every entrance door leading to living areas shall be kept locked at all times except when in actual use, except when a licensee or an employee of the licensee is stationed nearby for the purpose of controlling or supervising entry or other reasonable provision has been made for entry control.

(i) The main entrance door shall be equipped with an exterior doorbell, audible throughout the building when in

use. In every boarding house operated under a Class C license, the licensee or an employee of the licensee shall at all times be responsible for answering the doorbell.

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

5:27-6.2 Protection of valuables

(a) Every licensee shall have either an on-premises safe or a safe deposit box in a banking institution to be used to hold valuables belonging to residents which such residents request the licensee to hold. Valuables belonging to each resident shall be properly identified.

(b) A licensee to whom a resident's valuables have been entrusted shall prepare an itemized list of such valuables, which list shall be signed by both the licensee and the resident. A copy of the list shall be given to the resident and a copy shall be retained by the licensee.

5:27-6.3 Criminal acts

(a) It shall be the duty of every licensee, upon learning of a criminal act committed, or alleged to have been committed, against the person or property of a resident, to report all relevant information to the police agency having jurisdiction. A record of such report shall be retained and shall be available to the Bureau upon request.

(b) Whenever a resident is behaving in a disorderly manner and in any way endangering the security of any other resident, it shall be the duty of the licensee to give written notice to the disorderly resident to cease such behavior and to institute eviction proceedings if such behavior does not cease.

(c) Any licensee having knowledge of the abuse, neglect or exploitation of any resident shall provide all relevant information to the county welfare board.

(b) A licensee shall provide housekeeping and interior maintenance at least once weekly and whenever there is a change in occupancy.

(c) This section shall not apply to rooming house units for which the lease or other occupancy agreement expressly excludes such services.

As amended, R.1981 d.359, eff. October 8, 1981.
See: 13 N.J.R. 393(a), 13 N.J.R. 704(c).
(c) added.

5:27-7.2 Bedrooms

(a) Each resident shall be provided with a comfortable bed of adequate size and with sufficient blankets and other bedding of standard quality.

(b) Only spaces unobstructed by doors, windows and radiators shall be used for placement of beds.

(c) No person shall be housed in the same rooming units as another person not related by blood or marriage except by mutual consent, provided that a provision for general consent to sharing of a rooming unit may be included in a lease or other occupancy agreement.

(d) Each resident shall be provided with sufficient dresser and closet space within the rooming unit for the storage of his or her clothing and other personal articles.

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

5:27-7.3 Living and dining rooms

(a) At least one living room shall be provided for use by residents. Such living room(s) shall contain comfortable chairs sufficient to provide seating for at least two-thirds of the residents or intended residents at any one time.

(b) Living rooms shall have sufficient space for socializing and for such recreational activities as card playing, reading, letter writing and watching television.

(c) Smoking may be permitted in designated living room areas, but smoke-free living room areas shall also be provided. Smoking areas shall be inspected by the licensee for evidence of fire every evening after residents have retired to their bedrooms.

(d) Dining rooms shall be of sufficient size and properly equipped to comfortably seat all residents or intended residents at any one time.

(e) This section shall apply to boarding houses only.

As amended, R.1981 d.359, eff. October 8, 1981.
See: 13 N.J.R. 393(a), 13 N.J.R. 704(c).
(e) added.

SUBCHAPTER 7. RESIDENTS' COMFORT

Subchapter Historical Note

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

5:27-7.1 Housekeeping

(a) A licensee shall supply to every resident a fresh change of bed linen and towels, all of which shall be in good condition, at least once a week and whenever there is a change of occupancy. Soap and toilet paper shall also be provided.

5:27-7.4 Outdoor facilities and recreation

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

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

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

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

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

(a): "rooming or" deleted.

(b): "in boarding houses" added.

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

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

5:27-8.1 Resident records

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

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

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

1. Certification issued by a licensed physician, or by a licensed nurse practitioner or licensed clinical nurse specialist legally authorized to issue such certification, as to general state of health and any illnesses or disabilities and medication required.

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

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

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

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

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

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

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

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

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

(d) added.

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

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

Anonymity provisions added at (e).

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

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Amended by R.1996 d.165, effective April 1, 1996.

See: 28 N.J.R. 23(a), 28 N.J.R. 1833(b).

In (b)1 inserted licensed nurse practitioner and clinical nurse specialist.

Case Notes

Free exercise right did not support challenge to state statute that was not expressly directed to religion. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Religious group could claim violation of its right to associate for free speech purposes if it could demonstrate that statutory reporting requirements hindered its activity. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

Group did not have viable establishment clause claim. *Salvation Army v. Department of Community Affairs of State of N.J.*, C.A.3 (N.J.) 1990, 919 F.2d 183.

5:27-8.2 Financial records

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

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

5:27-8.3 Additional requirements

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

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

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

5:27-8.4 Record retention

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

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

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

SUBCHAPTER 9. FOOD AND LAUNDRY SERVICES

Subchapter Historical Note

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

5:27-9.1 Applicability

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

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

5:27-9.2 Diet and menu

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

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

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

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

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

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

5:27-9.3 Food service

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

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

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

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

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

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

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

Case Notes

Remedy for violation of boarding home standards was not a food stamp application by resident therein, but an enforcement proceeding by Department of Community Affairs to correct violation. *D.W. v. Union County*, 95 N.J.A.R.2d (DEA) 13.

5:27-9.4 Food sanitation

(a) All food shall be clean, wholesome and free from spoilage, adulteration and contamination.

(b) Only pasteurized milk shall be used.

(c) All areas in which food is kept, prepared or served and all utensils, dishes, glasses, pots and equipment used in the preparation or serving of food shall be maintained in a sound and sanitary condition and free from any hazard to health.

(d) Refrigerators in which food is kept shall be maintained at a temperature of at least 32 degrees Fahrenheit and not more than 45 degrees Fahrenheit. Freezers and freezer compartments of refrigerators shall be maintained at a temperature of not more than 0 degrees Fahrenheit. Refrigerators and freezers shall be cleaned and defrosted regularly.

5:27-9.5 Laundry services

(a) A licensee providing laundry services may have clothes cleaned either on or off the premises of the boarding house.

(b) Each resident's laundry shall be properly identified to prevent loss.

(c) All clothing given to the licensee for cleaning shall be returned to the resident properly cleaned, folded or ironed as appropriate and in a condition where it can readily be stored in a drawer or closet.

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

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

(a): "rooming or" deleted.

SUBCHAPTER 10. OTHER PERSONAL SERVICES

Subchapter Historical Note

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

5:27-10.1 Applicability

(a) The standards in this subchapter shall apply only to boarding houses operated under a Class C license providing or offering to provide the personal services specified.

(b) No rooming house operated under a Class A license and no boarding house operated under a Class B license shall provide or offer to provide the personal services specified in this subchapter.

5:27-10.2 Assistance in dressing

(a) Assistance in dressing shall be provided only by a person whom the resident consents to have assist him or her.

(b) The resident's preferences in selection of clothing shall be respected.

(c) To the extent that the resident gives discretion in the choice of clothing to the person providing assistance in dressing, that discretion shall be exercised so as to dress the resident in comfortable clothing suitable to the season coordinated in a harmonious manner.

(d) Assistance in dressing and undressing shall be provided at reasonable times so that a resident is not unduly delayed in commencing his or her daily activities or in going to bed. Sufficient time shall be allowed in light of the resident's physical condition.

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

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

5:27-10.3 Assistance in bathing and personal hygiene

(a) Assistance in bathing and personal hygiene shall be provided only by a person whom the resident consents to have assist him or her.

(b) Assistance in bathing and personal hygiene shall be provided at reasonable times so that a resident is not unduly delayed in commencing his daily activities or in going to bed. Sufficient time shall be allowed in light of the resident's physical condition.

(c) Any bath or shower used by residents requiring assistance shall have handrails and treads.

(d) Assistance in personal hygiene shall include assistance in oral hygiene, hair washing and grooming, manicure, pedicure and shaving, as required.

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

See: 27 N.J.R. 1346(a), 27 N.J.R. 2188(a).

5:27-10.4 Transportation to health services

(a) Transportation shall be provided to medical and dental offices and other health facilities as required for treatment and for check-ups at least once annually.

(b) Unless otherwise agreed by the licensee, transportation need not be provided to health facilities located further than the nearest commercial center in which such health facilities may be found, unless special care not obtainable at such commercial center is required.

(c) In any emergency requiring the transportation of a resident to a hospital, it shall be the duty of the licensee to promptly notify the nearest first aid or emergency squad.

5:27-10.5 Monitoring of medication

(a) A daily record shall be maintained of the type and amount of medication taken by the resident and the time at which such medication is taken.

(b) A licensee monitoring the taking of medication by a resident shall seek to insure compliance with the instructions of the physician who prescribed such medication and shall immediately report to such physician any deviation from such instructions or any use of other medication not prescribed or expressly allowed to be used by such physician.

(c) Any deviation from the instructions of a physician which results in a change in the resident's behavior shall be immediately reported to the county welfare board as well as to the physician.

5:27-10.6 Supervision of self-administration of medicine

(a) When necessary for the health, safety or welfare of a resident, a licensee providing supervision of self-administration of medication shall provide the following services:

1. Storage of medication in a locked cabinet to which only the licensee has access;
2. Notifying residents of the time of taking their medication; and
3. Presenting residents with bottles of medication, reminding them of the proper dosage and watching when they remove and take the medication by themselves.

(b) Supervision of self-administration of medicine shall not include the following services:

1. Placement or pouring of the dosage in a container for the resident;
2. Placing of medication in the mouth or the food of the resident;
3. Administration of injections.

(c) Supervision of self-administration of medicine shall be provided only with the prior approval of the Bureau.

R.1982 d.379, eff. November 1, 1982.
See: 14 N.J.R. 499(a), 14 N.J.R. 1211(a).

SUBCHAPTER 11. FINANCIAL SERVICES

Subchapter Historical Note

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

5:27-11.1 Applicability

(a) The standards in this subchapter shall apply only to boarding houses operated under Class C license providing or offering to provide the financial services specified.

(b) No rooming house operated under a Class A license and no boarding house operated under a Class B license shall provide or offer to provide the financial services specified in this subchapter.

5:27-11.2 Check cashing

(a) No check payable to a resident may be cashed by a licensee unless such check has been endorsed by the resident voluntarily and without coercion.

(b) Unless otherwise agreed by the resident, all proceeds of a check given by a resident to a licensee for cashing shall be promptly delivered to the resident by the licensee.

Administrative Correction to (a).
See: 22 N.J.R. 921(b).

5:27-11.3 Holding of personal funds

(a) With the consent of the resident, a licensee may hold personal funds of the resident in trust for the resident.

(b) All funds held in trust for a resident shall be kept separately from the funds of the licensee.

(c) Funds which are not to be disbursed to the resident within one month of receipt by the licensee shall be placed in an interest bearing custodial account at a banking institution having an office in the municipality in which the boarding house is located or in the nearest commercial center having a banking institution office. The resident shall be advised as to the name and address of the banking institution and the account number.

5:27-11.4 Assistance in purchasing

(a) With the consent of the resident, a licensee may use personal funds of the resident entrusted to the licensee for the purpose of purchasing goods and services desired by the resident.

(b) No licensee shall use personal funds of a resident to purchase goods and services agreed to be provided by the licensee pursuant to the lease or other occupancy agreement as part of the consideration for the rental or other service charge.

(c) Licensees assisting in purchasing shall provide residents with receipts for all purchases made with their personal funds.

5:27-11.5 Ledgers

(a) Every licensee to whom residents' personal funds are entrusted shall maintain a ledger setting forth the date on which each payment was received, the amount of each such payment, the date of each disbursement, the amount of each such disbursement, the person to whom each such disbursement was made and the purpose of each disbursement.

(b) The resident shall sign the ledger to acknowledge receipt of personal funds or of goods or services purchased with such personal funds.

5:27-11.6 Personal needs allowances

No licensee shall retain for the licensee's own use, or require payment to the licensee of, any portion of the personal needs allowance required to be reserved to any resident pursuant to N.J.S.A. 44:7-87(h). Such personal needs allowance shall not be less than \$40.00 unless otherwise provided by the Department of Human Services.

5:27-11.7 Home energy assistance payments

Moneys paid to or on behalf of any resident pursuant to the Home Energy Assistance Act of 1980 or the Low-Income Home Energy Assistance Act of 1981 shall be the sole property of such resident. No licensee shall, in any manner whatsoever, directly or indirectly, coerce or induce any resident to give over such moneys to the licensee or to any other person.

R.1983 d.628, effective January 17, 1984.
See: 15 N.J.R. 1622(a), 16 N.J.R. 130(a).

SUBCHAPTER 12. FIRE SAFETY LOANS

5:27-12.1 Purpose; delegation to Bureau

(a) The regulations in this subchapter are promulgated for the purpose of facilitating the discharge by the Department of Community Affairs of the functions assigned to it by the Boarding House Life Safety Improvement Act of 1981 (P.L.1981, c.515; N.J.S.A. 5:14J-52 et seq.).

(b) The functions assigned to the Department of Community Affairs by the Boarding House Life Safety Improvement Act of 1981 shall be discharged by the Bureau.

5:27-12.2 Rental assistance agreements

(a) No rental assistance shall be paid by the Bureau to any owner except pursuant to a rental assistance agreement signed by the owner and the Chief of the Bureau. In the case of a corporation or association, the primary owner shall

sign the agreement and an appropriate resolution of the corporation or association shall be submitted.

(b) The agreement shall provide that payment of the rental assistance funds shall be made by the Bureau directly to the HMFA, for credit to the owner's loan account.

(c) Pursuant to statute, the agreement shall require that the owner remit to the Bureau, upon demand by the Bureau, an amount equal to any rental assistance payment made by the Bureau on behalf of any resident having an income in excess of the maximum amount established by the HMFA at any time during the period of time covered by the rental assistance payment.

(d) The agreement shall require the owner to submit to the Bureau quarterly reports setting forth the names, ages, and incomes of all residents and whether or not they are disabled. This information shall be verified by the Bureau at least once annually.

(e) The agreement shall provide that payments on behalf of a resident who leaves the facility shall continue so long as such resident's place is taken within 90 days by another resident.

1. If the place of a resident receiving assistance is not taken by another such eligible resident within 90 days, all rental assistance payments made for the period after the departure of the eligible resident shall be returned to the Bureau upon demand. Such determination shall be made by the Bureau upon review of consecutive quarterly reports.

(f) In the event that the owner commits, or allows to be committed, any violation of the Act or of this chapter or, in the case of a residential health care facility, of applicable Department of Health regulations, and continues to do so after being ordered by the Bureau or Department of Health, as the case may be, to terminate such violation, the Bureau may suspend or terminate rental assistance payments.

(g) No owner shall, without the written permission of the Bureau, fail to comply with any provision of a rental assistance agreement between such owner and the Bureau.

Amended by R.1983 d.251, effective June 20, 1983.
See: 15 N.J.R. 587(b), 15 N.J.R. 1015(c).

Added (g).
Administrative Correction.
See: 25 N.J.R. 5928(b).

5:27-12.3 Casino Revenue Fund rental assistance eligibility

(a) The following standards are established for the purpose of determining eligibility of residents for rental assistance made with funds appropriated from the Casino Revenue Fund:

1. A person 65 years of age or older shall be deemed to be a "senior citizen".

2. A person having his or her principal residence within the State of New Jersey who is totally and permanently unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment shall be deemed to be a "disabled resident of the State."

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

SUBCHAPTER 13. ADDITIONAL RULES REGARDING PERSONS WITH ALZHEIMER'S DISEASE OR RELATED DISORDERS OR OTHER FORMS OF DEMENTIA

Authority

N.J.S.A. 55:13B-6, as amended by P.L. 1997, c.260.

Source and Effective Date

R.1998 d.298, effective July 6, 1998.
See: 30 N.J.R. 509(a), 30 N.J.R. 2433(a).

5:27-13.1 Appropriate placement and care

(a) A resident with a diagnosis of probable Alzheimer's disease, other dementia, or other cognitive impairments shall be transferred from a licensed Class C boarding home to a facility which offers a higher level of care, if the resident exhibits one or more of the following characteristics:

1. The resident is consistently and totally dependent in eating and toileting. "Consistently and totally dependent in eating" means being unable to swallow and/or requiring a feeding tube. "Consistently and totally dependent in toileting" means requiring a colostomy bag and/or catheter.

2. The resident is unable to self-administer medications (oral, topical, injectable) even when monitored; provided, however, that residents who are unable to self-administer medication shall be permitted to remain in the facility provided the facility owner or operator has a certified medication aide on-site, who is under the supervision of a registered nurse, full time.

3. The resident requires treatment of a stage two, three or four pressure sore.

4. The resident exhibits behaviors and/or has cognitive impairments of such severity as to be a danger to self or others.

5. The resident is in need of a therapeutic diet that cannot be accommodated at the facility and requires nursing monitoring. For example, monitoring of blood sugar, food and fluid intake, monitoring of skin integrity and possible dehydration.

6. The resident is in need of any type of feeding tube or other artificial feeding apparatus.

7. The resident is bed bound or requires repositioning due to his or her disease progression or due to a medically disabling condition.

(b) Each resident's weight shall be taken at least monthly at the facility and recorded appropriately. Weight information shall be provided to the assessing professional for quarterly review, in accordance with (g) below. If a resident loses more than five percent of his or her weight in a one-month period (and is not on a prescribed weight reduction plan), the facility must immediately notify the resident's attending physician.

(c) The provision of hospice services in a facility is only allowed with prior notice to the Bureau and with the development of a care plan by a physician, physician's assistant, registered professional nurse or clinical nurse specialist/nurse practitioner. Once the Bureau is notified and the care plan is in place, the facility, in collaboration with the family, must arrange for 24-hour private duty nursing care to supplement hospice services.

(d) Services such as those provided by a visiting nursing or home health aide agency are permitted for short term, intermittent nursing care only.

(e) Absent an emergency, physical or chemical restraints that are being used for the purpose of restricting a person's mobility within the facility are not permitted. Whenever a physical or chemical restraint is being considered for use in a facility, it must be approved in writing by the resident's attending physician with an accompanying rationale for use of same.

(f) Even if a resident has a "Do Not Resuscitate" (DNR) order, staff must call 911 for appropriate assistance in the event of an emergency, so that appropriate medical staff can assist the resident and act, if appropriate.

(g) Each resident shall be assessed prior to admission, and at least quarterly thereafter, to determine if the resident exhibits one or more of the characteristics for transfer listed in (a) above. Such assessment shall be performed by a physician, physician's assistant, registered professional nurse, or clinical nurse specialist/nurse practitioner licensed to practice in the State of New Jersey. The assessment shall be conducted in person, and a signed, original copy of the assessment report shall be kept on-site at the facility. The licensed professional who carries out this assessment shall be the person's personal health care professional and shall be financially independent of the facility.

(h) Prior to admission, and at least annually thereafter, the facility shall notify the resident and the resident's family, care giver, or responsible agency in writing of the transfer characteristics in (a) above.

3. If a unit of use drug distribution system is used, each dose of medication shall be individually packaged in a hermetically sealed, tamper-proof container, and shall carry full manufacturer's disclosure information on each discrete dose. Disclosure information shall include, but not be limited to, the following: product name and strength, lot number, expiration date, and manufacturer's or distributor's name.

(c) Single use and disposable items shall not be reused.

(d) No stock supply of prescription medications shall be maintained, unless prior approval is obtained from the Bureau.

(e) Discontinued or expired medications shall be destroyed within 30 days in the facility, or, if unopened and properly labeled, returned to the pharmacy. All medication destruction in the facility shall be witnessed and documented by two persons, each of whom shall be either the administrator, the registered nurse or the pharmacist.

New Rule, R.2000 d.202, effective May 15, 2000.
See: 32 N.J.R. 739(a), 32 N.J.R. 1763(b).

SUBCHAPTER 14. CARBON MONOXIDE ALARMS

Authority

P.L. 1999, c.15, section 6: and N.J.S.A. 52:27D-133.4.

Source and Effective Date

R.1999 d.259, effective August 16, 1999.
See: 31 N.J.R. 825(a), 31 N.J.R. 2330(a).

5:27-14.1 Carbon monoxide alarms

(a) Carbon monoxide alarms shall be installed and maintained in full operating condition in the following locations:

1. Single station carbon monoxide alarms shall be installed and maintained in the immediate vicinity of every sleeping room in buildings that contain a fuel-burning appliance or that have an attached garage.

2. As an alternative to the requirements above, carbon monoxide alarms may be installed in the locations specified in the Uniform Construction Code (N.J.A.C. 5:23-3.20) with the approval of the Bureau.

(b) Carbon monoxide alarms shall be manufactured, listed and labeled in accordance with UL 2034 and shall be installed in accordance with the requirements of this subchapter and NFPA 720. Carbon monoxide alarms shall be battery-operated, hard-wired or of the plug-in type.