

1. Private, non-profit, which shall include any hospital owned and operated by a corporation, association, religious or other organization, no part of the net earnings of which is applied, or may lawfully be applied, to the benefit of any private shareholder or person;

2. Private proprietary or profit, which shall include any hospital owned and operated by a person, partnership or corporation, the net proceeds of which are subject to distribution for the benefit of such person, corporation or shareholders; and

3. Public hospital, which shall include any institution maintained, supervised or controlled by an agency of the government of the State or any county or municipality that provides diagnostic and/or treatment services for the care of two or more non-related individuals suffering from illness, injury or deformity.

(b) Hospitals shall be further classified as:

1. General hospital, which shall include any hospital which maintains and operates organized facilities and services for the diagnosis, treatment or care of persons suffering from acute illness, injury or deformity and in which all diagnosis, treatment and care are administered by or performed under the direction of persons licensed to practice medicine or osteopathy in the State of New Jersey;

2. Special hospitals, which shall include any hospital which assures provision of comprehensive specialized diagnosis, care, treatment and rehabilitation where applicable on an inpatient basis for one or more specific categories and for a hospital that provides long term acute care through a broad spectrum of clinical care services for acutely ill/medically complex patients requiring, on average, a 25-day or greater length of stay. Special hospitals do not include hospitals or hospital units providing comprehensive rehabilitation services and licensed in accordance with the provisions of N.J.A.C. 8:43H. Special hospitals providing long term acute care services shall be further classified as follows:

i. Long term acute care hospital-within-a-hospital means a hospital established in accordance with the standards imposed by the United States Department of Health and Human Services at 42 CFR Part 412 et al. that occupies space in a building also used by another hospital and is licensed as a special hospital in accordance with N.J.A.C. 8:43G-38.

ii. Long term acute care hospital-freestanding means a hospital established in accordance with the standards imposed by the United States Department of Health and Human Services at 42 CFR Part 412 et al. that is a physically separate self-contained facility and is licensed as a special hospital in accordance with N.J.A.C. 8:43G-38; and

3. Psychiatric hospital, which shall include any hospital which assures provision of comprehensive specialized

diagnosis, care, treatment and rehabilitation where applicable on an in-patient basis for patients with primary psychiatric diagnoses.

Amended by R.1995 d.124, effective March 20, 1995.  
See: 26 N.J.R. 4537(a), 27 N.J.R. 1290(a).  
Amended by R.2003 d.49, effective January 21, 2003.  
See: 34 N.J.R. 490(a), 35 N.J.R. 414(a).  
Rewrote (b)2.

#### Case Notes

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

#### 8:43G-1.4 Information and complaint procedure

(a) Questions regarding hospital licensure may be addressed to the Inspections Program or the Licensing and Certification Program at the following address:

New Jersey State Department of Health  
Division of Health Facilities Evaluation and Licensing  
PO Box 367  
Trenton, NJ 08625-0367  
(609) 588-7725

(b) To make a complaint about a New Jersey licensed hospital or nursing home, call:

1-800-792-9770 (toll-free hotline)

## SUBCHAPTER 2. LICENSURE PROCEDURE

### 8:43G-2.1 Certificate of Need

(a) Where, in accordance with N.J.S.A. 26:2H-1 et seq., as amended, a Certificate of Need is required, a hospital shall not be instituted, constructed, expanded or licensed to operate except upon application for and receipt of a Certificate of Need issued by the Commissioner of the Department of Health.

(b) Application forms for a Certificate of Need and instructions for completion may be obtained from:

Certificate of Need Program  
Division of Health Planning and Resources Development  
New Jersey State Department of Health  
PO Box 360  
Trenton, New Jersey 08625-0360

(c) The hospital shall implement all conditions imposed by the Commissioner as specified in Certificate of Need approval letters. Failure to implement the conditions may result in the imposition of enforcement sanctions in accordance with N.J.S.A. 26:2H-13 and 14.

Amended by R.1995 d.124, effective March 20, 1995.  
See: 26 N.J.R. 4537(a), 27 N.J.R. 1290(a).

**Case Notes**

Licensed beds not interchangeable between categories without hospital licensing board approval. *Desai v. St. Barnabas Medical Center*, 103 N.J. 79, 510 A.2d 662 (1986).

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

(a) Where applicable, following receipt of a Certificate of Need as a hospital, any person, organization, or corporation desiring to operate a hospital shall make application to the Commissioner for a license on forms prescribed by the Department. Such forms may be obtained from:

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

(b) The Department shall charge a nonrefundable fee of \$8,000 for the filing of an application for licensure and each annual renewal of a general acute care, special, or psychiatric hospital. These fees shall not exceed the maximum caps as set forth at N.J.S.A. 26:2H-12, as may be amended from time to time.

(c) The Department shall charge a nonrefundable fee of \$2,000 for the filing of an application to add services to an existing general acute care, special, or psychiatric hospital.

(d) The Department shall charge a nonrefundable fee of \$250.00 for the filing of an application to reduce services at an existing general acute care, special, or psychiatric hospital.

(e) The Department shall charge a nonrefundable fee of \$1,000 for the filing of an application for the relocation of a general acute care, special, or psychiatric hospital.

(f) The Department shall charge a nonrefundable fee of \$1,000 for the filing of an application for the transfer of ownership of a general acute care, special, or psychiatric hospital.

(g) Each general acute care, special, and psychiatric hospital shall be assessed a biennial inspection fee of \$4,000. 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 fee for new facilities. Failure to pay the inspection fee shall result in non-renewal of the license for existing facilities and the refusal to issue an initial license for new facilities. This fee shall be imposed only every other year even if inspections occur more frequently and only for the inspection required to either issue an initial license or to renew an existing license. This fee shall not be imposed for any other type of inspection.

(h) If a hospital operates a service that is subject to separate licensing regulation, for example, a long-term care or comprehensive rehabilitation facility, the Department shall charge an additional licensing fee for that service, as set forth in the applicable rules.

(i) All applicants shall demonstrate that they have the capacity to operate a hospital in accordance with the rules in this chapter. An application for a license or change in service may be denied if the applicant cannot demonstrate that the premises, equipment, personnel, including principals and management, finances, rules and bylaws, and standards or health care are fit and adequate and that there is reasonable assurance that the health care facility will be operated in accordance with the standards required by these rules. The Department shall consider an applicant's prior history in operating a health care facility either in New Jersey or in other states in making this determination. Any evidence of licensure violations representing serious risk of harm to patients may be considered by the Department, as well as any record of criminal convictions representing a risk of harm to the safety or welfare of patients.

(j) Any applicant denied a license to operate a facility shall have the right to a fair hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedures Rules, N.J.A.C. 1:1.

Amended by R.1995 d.124, effective March 20, 1995.

See: 26 N.J.R. 4537(a), 27 N.J.R. 1290(a).

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).

In (b), increased the fee from \$1,500 plus \$5.00 per bed to \$8,000; inserted a new (g); and recodified former (g) through (i) as (h) through (j).

### 8:43G-2.3 Newly constructed or expanded facilities

(a) The application for a license pursuant to N.J.A.C. 8:43G-2.2 for the operation of a new hospital shall include written approval of final construction of the physical plant by:

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

(b) An on-site inspection of the construction of the physical plant shall be made at the Department's discretion by representatives of the Health Facilities Construction Service to verify that the building has been constructed in accordance with the final architectural plans approved by the Department.

(c) Any health care facility which intends to undertake any alteration, renovation, or new construction of the physical plant, whether a Certificate of Need is required or not, shall submit plans to the Health Facilities Construction Service of the Department for review and approval prior to the initiation of any work.

Amended by R.1995 d.124, effective March 20, 1995.

See: 26 N.J.R. 4537(a), 27 N.J.R. 1290(a).

### 8:43G-2.4 Surveys and temporary license

(a) When the written application for licensure pursuant to N.J.A.C. 8:43G-2.2 is approved and the building is ready for occupancy, a survey of the facility by representatives of the Division of Health Facilities Evaluation and Licensing of the Department shall be conducted at the Department's discretion to determine if the facility meets the standards set forth in this chapter.

1. Representatives of the Division of Health Facilities Evaluation and Licensing of the Department shall discuss the findings of the survey, including any deficiencies found, with representatives of the hospital facility.

2. The hospital facility shall notify the Division of Health Facilities Evaluation and Licensing of the Department in writing when the deficiencies, if any, have been corrected. Following review of the hospital facility's report, the Division of Health Facilities Evaluation and Licensing may schedule one or more surveys of the facility prior to occupancy.

(b) A temporary license shall be issued to the operator of a facility when the following conditions are met:

1. An office conference for review of the conditions for licensure and operation has taken place between the Licensing and Certification Program and representatives of the hospital facility, who have been advised that the purpose of the temporary license is to allow the Depart-

ment to determine the hospital's compliance with N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the rules pursuant thereto;

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

3. Written approvals of the water supply and sewage disposal system from local officials are on file with the Department for any water supply or sewage disposal system not connected to an approved municipal system; and

4. Survey(s) by representatives of the Department indicate that the hospital meets the mandatory standards set forth in this chapter.

(c) No hospital facility shall accept patients in any new service, unit, or facility until the hospital has a written approval and/or license issued by the Licensing and Certification Program of the Department.

(d) The hospital shall accept only that number of patients for which it is approved and/or licensed.

(e) Survey visits may be made to a hospital at any time by authorized staff of the Department. Such visits may include, but are not limited to, the review of all hospital documents and patient records and conferences with patients.

(f) A temporary license shall be issued to the operator of a hospital facility for a period of six months and shall be renewed as determined by the Department.

1. The temporary license shall be conspicuously posted in the hospital facility.

2. The temporary license shall not be assignable or transferable and shall be immediately void if the facility ceases to operate, if the facility's ownership changes, or if the facility is relocated to a different site.

Amended by R.1995 d.124, effective March 20, 1995.  
See: 26 N.J.R. 4537(a), 27 N.J.R. 1290(a).  
Amended by R.1996 d.339, effective July 15, 1996.  
See: 28 N.J.R. 2365(a), 28 N.J.R. 3556(a).

#### 8:43G-2.5 Full license

(a) A full license shall be issued to the operator on expiration of the temporary license, if the surveys by the Department have determined that the health care facility is operated as required by N.J.S.A. 26:2H-1 et seq., and amendments thereto, and by the rules pursuant thereto.

(b) A license shall be granted for a period of one year or less as determined by the Department in accordance with (a) above.

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

(d) The license shall not be assignable or transferable and shall be immediately void if the hospital ceases to operate, if its ownership changes, or if it is relocated to a different site. A representative of the hospital shall notify the Department of any change in the ownership form or controlling interests affecting hospital governance. The Department shall determine whether a certificate of need or licensing application must be completed prior to the implementation of any ownership changes based upon the information filed and the criteria within N.J.A.C. 8:33-3.3.

(e) The license, unless suspended or revoked, shall be renewed annually on the original licensure date, or within 30 days thereafter but dated as of the original licensure date.

1. The facility shall receive a request for renewal fee 30 days prior to expiration of the license. A renewal license shall not be issued unless the licensure fee is received by the Department.

2. The license may not be renewed if Departmental rules, regulations and/or requirements are not met.

Amended by R.1995 d.124, effective March 20, 1995.  
See: 26 N.J.R. 4537(a), 27 N.J.R. 1290(a).  
Amended by R.1996 d.339, effective July 15, 1996.  
See: 28 N.J.R. 2365(a), 28 N.J.R. 3556(a).

#### 8:43G-2.6 Revocation or suspension of license

(a) The Department is authorized to suspend or revoke a license issued pursuant to this subchapter, order closure of a service or unit within the hospital, or impose a money penalty on any of the following grounds:

1. Violation of any provisions of N.J.S.A. 26:2H-1 et seq. or any rules and regulations issued pursuant thereto;

2. Permitting, aiding or abetting the commission of any illegal act in said facility; and/or

3. Conducting practices contrary to accepted procedures and detrimental to the welfare of the patient.

#### 8:43G-2.7 Surrender of license

At least 30 days prior to voluntary surrender of its license where approved by Certificate of Need, or as directed under an order of revocation, refusal to renew, or suspension of license, a facility must directly notify each patient and the patient's physician concerned of the intended closure. The license shall be returned to the Licensing and Certification Program of the Department within seven calendar days from voluntary surrender, order of revocation, expiration, or suspension of license, whichever is applicable.

#### 8:43G-2.8 Waiver

(a) The Commissioner or his or her designee may, in accordance with the general purposes and intent of N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the standards in this chapter, waive sections of this chapter if, in his or her opinion, such waiver would not endanger the life, safety, or health of the patient or public.