

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:

Certificate of Need Program
 Division of Health Planning and Resources Development
 New Jersey State 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.

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

(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 Licensing, Certification and Standards Program.

Amended by R.1996 d.339, effective July 15, 1996.
 See: 28 N.J.R. 2365(a), 28 N.J.R. 3556(a).

8:42-2.3 Surveys and temporary license

(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 Health Facilities Inspection 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 Health Facilities Inspection Program of the Department when the deficiencies, if any, have been corrected, and the Health Facilities Inspection Program will schedule one or more resurveys of the facility prior to issue of license.

(b) A temporary license may be issued to 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, Certification and Standards Program and representatives of the facility, who will be advised that the purpose of the temporary license is to allow the Department to determine the facility'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. Survey(s) by representatives of the Department indicate that the facility adheres to these rules; and

4. Professional personnel are employed in accordance with the staffing requirements in these rules.

(c) No health care facility shall accept patients until the facility has the written approval and/or license issued by the Licensing, Certification and Standards Program of the Department.

(d) 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.

(e) A temporary license may be issued to a facility for a period of six months and may be renewed as determined by the Department.

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

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

8:42-2.4 Full license

(a) A full license shall be issued on expiration of the temporary license, 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., 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.

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 Licensing, Certification and Standards Program of the Department within seven working days after the revocation, non-renewal, or suspension of license.

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 Licensing, Certification and Standards 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.

8:42-2.7 Action against a license

(a) If the Department determines that operational or safety deficiencies exist, it may require that all new admissions to the facility cease. This may be done simultaneously with, or in lieu of, action to revoke licensure and/or impose a fine. The Commissioner or his or her designee shall notify the facility in writing of such determination.

(b) The Commissioner may order the immediate cessation of services by a facility whenever he or she determines imminent danger to any person's health or safety.

(c) The provisions of (a) and (b) above shall apply to facilities with a temporary license and facilities with a full license.

8:42-2.8 Hearings

(a) If the Department proposes to suspend, revoke, deny or refuse to renew a license, the licensee or applicant may request a hearing which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) Prior to transmittal of any hearing request to the Office of Administrative Law, the Department may schedule a conference to attempt to settle the matter.

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.