

(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.

8:43-2.2 Application for licensure

(a) Following receipt of a certificate of need, any person, organization, or corporation desiring to operate a residential health care facility shall make application to the Commissioner for a license on forms prescribed by the Department. Such forms may be obtained from:

Director
Licensing and Certification
Division of Health Facilities Evaluation and Licensing
New Jersey State Department of Health
CN 367
Trenton, New Jersey 08625
609-588-7726

(b) The Department shall charge a nonrefundable fee of \$150.00 plus \$4.00 per bed for the filing of an application for licensure and each annual renewal of a residential health care facility. 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) Each applicant for a license to operate a facility shall make an appointment for a preliminary conference at the Department with the Licensing and Certification Program.

(d) The Department shall charge a nonrefundable fee of \$500.00 for the filing of an application to add bed or non-bed related services to an existing residential health care facility.

(e) The Department shall charge a nonrefundable fee of \$100.00 for the filing of an application to reduce bed or non-bed related services at an existing residential health care facility.

(f) The Department shall charge a nonrefundable fee of \$250.00 for the filing of an application for the relocation of a residential health care facility.

(g) The Department shall charge a nonrefundable fee of \$500.00 for the filing of an application for the transfer of ownership of a residential health care facility.

(h) All applicants shall demonstrate that they have the capacity to operate a residential health care facility in accordance with the rules in this chapter. An application for a license or change in service shall be denied if the applicant cannot demonstrate that the premises, equipment, personnel, including principals and management, finances, rules and bylaws, and standards of 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.

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

8:43-2.3 Newly constructed or expanded facilities

(a) Any residential health care facility with a construction program, whether a Certificate of Need is required or not, shall submit plans to the Health Facilities Construction Services of the Department for review and approval prior to the initiation of construction.

(b) The licensure application for a newly constructed or expanded facility shall include written approval of final construction of the physical plant by Health Facilities Construction Services, Division of Health Facilities Evaluation and Licensure, New Jersey State Department of Health, in accordance with this chapter.

(c) An on-site inspection of the construction of the physical plant shall be made by representatives of Health Facilities Construction Services to verify that the building has been constructed in accordance with the architectural plans approved by the Department.

8:43-2.4 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 manual.

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 occupancy.

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

1. A preliminary conference (see N.J.A.C. 8:43-2.2(c)) for review of the conditions for licensure and operation has taken place between the Licensing and Certification 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 compli-

ance with N.J.S.A. 26:2H-1 et seq., and amendments thereto, and the rules pursuant thereto;

2. The completed licensure application is on file with the Department;

3. The fee for filing of the application has been received by the Department;

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

5. 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;

6. Survey(s) by representatives of the Department indicate the facility adheres to the rules in this manual; and

7. Personnel are employed in accordance with the staffing requirements in this manual.

(c) No facility shall admit residents to the facility until the facility has the written approval and/or license issued by the Licensing and Certification Program of the Department.

(d) Survey visits may be made to a facility at any time by authorized staff of the Department. Such visits may include, but not be limited to, the review of all facility documents and resident records and conferences with residents.

(e) A temporary license may be issued to a facility for a period of up to 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 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.1996 d.339, effective July 15, 1996.
See: 28 N.J.R. 2365(a), 28 N.J.R. 3556(a).

8:43-2.5 Full license

(a) A full license shall be issued on expiration of the temporary license, if surveys by the Department have determined that the 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.

(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 facility ceases to operate, if the facility's ownership changes, or if the facility is relocated to a different site.

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

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

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

8:43-2.6 Surrender of license

The facility shall notify each resident, the resident's physician, and any guarantors of payment, the county welfare agency, the Office of the Ombudsman, the Department of Human Services, and the SSI program, Region II office, if residents are SSI recipients, 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 and Certification Program of the Department within seven working days after the voluntary surrender, revocation, non-renewal, or suspension of license.

8:43-2.7 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 rules in this manual, waive sections of these rules if, in his or her opinion, such waiver would not endanger the life, safety, or health of residents or the public.

(b) A facility seeking a waiver of these rules shall apply in writing to the Director of the Licensing and Certification 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 adherence;
3. An alternative proposal which would ensure resident safety; and
4. Documentation to support the request for waiver.

(d) The Department reserves the right to request additional information before processing a request for waiver.

8:43-2.8 Action against a license

(a) If the Department determines that operational or safety deficiencies exist, it may require that all 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 removal of residents from a facility whenever he or she determines imminent danger to any person's health or safety, in accordance with the following:

1. The county welfare agency, the Office of the Ombudsman, and the Department of Human Services shall be notified by the Department at the time the residents are to be removed;

2. The Department shall request county participation in coordination with appropriate service agencies, and make monitoring visits to ensure appropriate care and services to residents during the interim period until relocation takes place;

3. The Department shall notify the SSI program, Region II office, if residents are SSI recipients; and

4. The Department shall cooperate with all agencies and providers of services to relocate residents in the same area if possible.

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

8:43-2.9 Hearings

(a) If the Department proposes to suspend, revoke, deny, assess a monetary penalty, 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.