

## COMMUNITY AFFAIRS

### Division of Codes and Standards

### STANDARDS FOR LICENSURE OF RESIDENTIAL HEALTH CARE FACILITIES NOT LOCATED WITH, AND OPERATED BY, LICENSED HEALTH CARE FACILITIES

#### Proposed Readoption: N.J.A.C. 5:27A

Authorized By: Charles A. Richman, Acting Commissioner,

Department of Community Affairs.

Authority: N.J.S.A. 26:2H-5; N.J.S.A. 30:11A-3; Reorganization Plan No. 002-2005

Proposal Number: PRN 2009-267

Calendar: Reference: See Summary below for explanation of exception to calendar requirement..

Submit written comments by November 7, 2009 to:

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**CHARLES A. RICHMAN, Acting Commissioner**

The agency proposal follows.

#### Summary

Pursuant to N.J.S.A. 52:14B-5.1, the Standards for Licensure of Residential Health Care Facilities Not Located With, and Operated By Licensed Health Care Facilities, N.J.A.C. 5:27A, are scheduled to expire on August 21, 2010. The Department has reviewed these rules and finds that they continue to be necessary for the purpose for which they were promulgated and is therefore proposing that they be readopted.

The rules proposed for readoption are intended to protect the health, safety and welfare of residents of residential health care facilities under the jurisdiction of the Department of Community Affairs. Reorganization Plan 002-2005 assigned jurisdiction over residential health care facilities to the Department of Community Affairs only if they were not located with, and operated by, a health care facility licensed by the Department of Health and Senior Services. Residential health care facilities located with and operated by a licensed health care facility remain subject to the jurisdiction of the Department of Health and Senior Services.

A residential health care facility is a facility that provides food, shelter, supervised health care and related services, in a homelike setting, to four or more persons, 18 years of age or older, who are unrelated to the owner or administrator.

The chapter proposed for readoption includes 18 subchapters, which are as follows: definitions and qualifications; licensure procedures; physical plant for construction, renovations, and additions; physical environment for existing residential health care facilities; general requirements; administration; resident care policies; personal care services; dietary services; health services; medications; recreational services; emergency services and procedures; resident records; resident rights; housekeeping, sanitation, safety and maintenance; infection prevention and control services; survey procedures; and enforcement remedies. There are also three appendices, which are as follows: guidelines for inappropriate behavior and resident to resident abuse; daily food guide; and recommendations for pet therapy.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

### **Social Impact**

These rules are necessary in order to protect persons who reside in the 85 residential health care facilities regulated by the Department of Community Affairs. There are currently 3,089 licensed beds in these facilities. Residents of rooming and boarding houses include many of the most vulnerable members of our society. Many of them have physical or mental disabilities. It is essential that these rules remain in effect in order to enable the Department to provide the protection of their health, safety and welfare that is required by statute.

### **Economic Impact**

The rules provide for the following nonrefundable fees: \$225.00, plus \$15.00 per bed, for the filing of a license application and for each annual renewal thereof, not to exceed the statutory maximum of \$4,000.00; \$750.00 for the filing of an application to add bed or non-bed related services at an existing facility; \$150.00 for the filing of an application to reduce bed or non-bed related services at an existing facility; \$375.00 for the filing of an application for relocation of a facility; and \$750.00 for the filing of an application for the transfer of ownership of a facility. There is an addition biennial inspection fee of \$450.00.

The cost of bringing a facility into compliance with the rules will vary depending upon the degree to which the facility is not in compliance.

### **Federal Standards Statement**

No Federal standards analysis is required because the rules proposed for readoption are not being proposed under the authority of, or in order to implement, comply with or participate in any program established under, Federal law or a State statute that incorporates or refers to Federal law, standards or requirements.

### **Jobs Impact**

The enforcement of the rules proposed for readoption may create jobs for person involved in administering residential health care facilities and in maintaining them or otherwise provided required services to the residents.

### **Agricultural Industry Impact**

The Department does not anticipate that the rules proposed for readoption would have any effect on the agricultural industry.

#### **Regulatory Flexibility Statement**

The great majority of residential health care facilities are owned by "small businesses," as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules implement the statute by establishing reporting, recordkeeping and compliance requirements that all owners and administrators must comply with in order to protect the health, safety and welfare of residents. No differential requirements are therefore appropriate. No professional services that would not otherwise be required by a properly operated residential health care facility business would be required as a result of the readoption of these rules.

#### **Smart Growth Impact**

Readoption of these rules would not have any effect upon achievement of smart growth or implementation of the State Development and Redevelopment Plan.

#### **Smart Growth Development Impact**

This proposal is intended to readopt rules concerning the licensing, maintenance and inspection of residential health care facilities that are independent of any health care facility licensed by the Department of Health and Senior Services. It would be most unlikely to have any impact upon housing production within planning areas one and two or within designated centers under the State Development and Redevelopment Plan.

#### **Housing Affordability Impact**

This proposal is intended to readopt rules concerning the licensing, maintenance and inspection of residential health care facilities that are independent of any health care facility licensed by the Department of Health and Senior Services. It would be most unlikely to have any impact upon housing production costs or to affect affordability.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:27A.