

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

- 5:15-1.5 Construction and alteration; change of use
 - (a)-(b) (No change.)
 - (c) A new or amended certificate of occupancy shall be required in the event of any change of use other than the following:
 - 1.-3. (No change.)
 - 4. The use of a building, or portion thereof, that is an auditorium, gymnasium, or similar [A-3] assembly use as defined in the [BOCA National Building Code] **Uniform Construction Code, N.J.A.C. 5:23**, as a Class II shelter as defined in N.J.A.C. 5:15-1.6(b)2.
 - (d) (No change.)

SUBCHAPTER 4. FACILITY REQUIREMENTS

- 5:15-4.2 Building standard requirements
 - (a) A building newly constructed after May 1, 1989, **or an existing structure modified for use as a shelter after May 1, 1989**, shall be in compliance with the Uniform Construction Code for **Group R-1** [use, group] occupancy, if residency is for less than 30 days or R-2 if residency is for 30 days or more.
 - (b) A shelter existing on May 1, 1989, [or an existing structure modified for use as a shelter after May 1, 1989,] shall conform to the requirements of the Uniform Fire Code (N.J.A.C. 5:70-4) for R-1 use group structures, if residency is for less than 30 days, or for R-2 if residency is for 30 days or more.
 - (c) (No change.)

(a)

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 with Amendments: N.J.A.C. 5:27A
Proposed New Rule and Repeal: N.J.A.C. 5:27A-17.4
Proposed New Rules: N.J.A.C. 5:27A-19

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.
 Authority: N.J.S.A. 26:2H-5 and 30:11A-3; and Reorganization Plan No. 002-2005.
 Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2017-129.
 Submit written comments by September 15, 2017, to:
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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, were scheduled to expire on June 11, 2017. As the Department of Community Affairs (Department) filed this notice of readoption prior to that date, the expiration date is extended 180 days to December 8, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department has reviewed the rules and finds that they continue to be necessary for the purpose for which they were adopted 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 pursuant to

Reorganization Plan 002-2005. Residential health care facilities located with, and operated by, a licensed health care facility remain subject to the jurisdiction of the Department of Health. Residential health care facilities were moved to the jurisdiction of the Department of Community Affairs because, as a practical matter, these facilities are very similar to rooming and boarding houses. As a result, some proposed amendments aim to create an equal regulatory treatment for both facilities.

A residential health care facility 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.

The proposed amendments would update the language to correct errors, revise enforcement practices to address violations, and align the rules with N.J.A.C. 5:27, Regulations Governing Rooming and Boarding Houses. Three proposed amendments are made to update the rules to accurately reflect current practices. The proposed amendment to N.J.A.C. 5:27A-14.2(a)19iv, which currently allows residents to provide monies from the Home Energy Assistance Program to the facility, deletes the phrase “may, but,” because doing so is illegal. At N.J.A.C. 5:27A-15.3(b)4, the proposed amendment would change the word “feet” to “inches” to accurately reflect the measurement requirements of the section. The proposed amendment to N.J.A.C. 5:27A-2.1(i) would update the inspection fee to reflect the change in frequency and payment from a biennial inspection fee of \$450.00 to an annual inspection fee of \$225.00.

The proposed amendment to N.J.A.C. 5:27A-2.4(a) would add a reference to the Uniform Construction Code, regarding when a building is ready for occupancy. At N.J.A.C. 5:27A-17.2, an amendment is proposed to require the Department to cite specific rules in written summary reports of deficiency findings.

At N.J.A.C. 5:27A-9.2 and 16.4, phone numbers that are out-of-service or inapplicable are proposed to be deleted.

At N.J.A.C. 5:27A-1.3, proposed amendments would remove the definition for “epidemic,” which appears nowhere in the rules and remove the word “basic” from “basic physical plant services,” to align the definition with the language used throughout the rules. The proposed amendment to N.J.A.C. 5:27A-3.3(d)1 would replace the word “then” with “than” and the proposed amendment to N.J.A.C. 5:27A-3A.2(b) would change the word “insure” to “ensure.”

At N.J.A.C. 5:27A-15.3(a)11, the proposed amendment would add a hyphen for the phrase “high-level disinfection.” The proposed amendment to N.J.A.C. 5:27A-16.4(g) would replace the word “contagious” with “communicable” to match the definition and language used throughout the chapter. The proposed amendment to N.J.A.C. 5:27A-18.10(d) clarifies the requirement for residential health care facilities placed on provisional licenses to “conspicuously” post the provisional license within the facility.

The rules for residential health care facilities were recodified to the Department of Community Affairs from the Department of Health in 2005, necessitating that some requirements be adjusted to align with N.J.A.C. 5:27, Regulations Governing Rooming and Boarding Homes, since residents of residential health care facilities are similar to those residing in boarding homes. The proposed deletion and replacement of N.J.A.C. 5:27A-10.1(a)2 would require facilities to maintain a daily record of the type and amount of medication taken by a resident and the time at which such medication was taken. This would eliminate the need for N.J.A.C. 5:27A-10.1(a)3, which states that the Department may

request full records be taken to address deficiencies within the facility, and is, therefore, proposed for deletion.

The proposed amendment at N.J.A.C. 5:27A-17.3 would delete subsections (b), (c), and (d), regarding the ability to request an informal review of deficiencies and replace them with subsections addressing a request for an administrative hearing. N.J.A.C. 5:27A-17.4 is proposed for repeal and replacement to include provisions for an exception request to specific rules or an extension request to abate violations that are modeled after the policy in N.J.A.C. 5:27 and the Evaluation Report and Orders of the Commissioner, and would remove provisions requiring a date of compliance or a plan of correction. Proposed new N.J.A.C. 5:27A-3A.2(f) would add a requirement that each mattress and box spring be encased in a tear-proof cover as a means of preventing the spread of bed bugs in residential health care facilities.

Amendments to Subchapter 18 would address various enforcement remedies for violations of the Code. The proposed amendment to N.J.A.C. 5:27A-18.2 would change the last sentence regarding to whom notifications of violations can be delivered to match the New Jersey Rooming and Boarding House Act of 1979, N.J.S.A. 55:13B-1 et seq. A proposed amendment at N.J.A.C. 5:27A-18.4(a)6 would delete the exemption allowing residential healthcare facility owners to accept more than the maximum number of residents for what the owner views as an emergency. The proposed deletion of N.J.A.C. 5:27A-18.6(a)4 would remove an exception allowing owners to exceed authorized service or bed capacity for what the owner views as emergency conditions. At N.J.A.C. 5:27A-18.4(a)7, the proposed amendment deletes specific licensure violations and states that, for all violations of licensure rules related to resident care or physical plant standards, a penalty of up to the statutory maximum of \$5,000 dollars may be assessed. This allows for the deletion of N.J.A.C. 5:27A-18.4(a)8, 9, and 10, as these circumstances would be included in the proposed amendment to (a)7.

Amendments are proposed at N.J.A.C. 5:27A-1.4(a)2 and 3, 8.2(f), 9.2(e), 15.4(a), 16.4(c), and 16.4(h) to remove "and Senior Services" from the name of the Department of Health, pursuant to P.L. 2012 c. 17. At N.J.A.C. 5:27A-9.2(e), the proposed amendment also adds a reference to the Department of Health for clarity regarding which Department to contact for medical assessments. The additional amendment to N.J.A.C. 5:27A-8.2(f) requires that facilities maintain the most recent edition of N.J.A.C. 8:24. At N.J.A.C. 5:27A-1.5(a)3, "Senior Services" is removed from the name of the Department of Health, and an outdated reference to the Standards for Licensure of Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs (N.J.A.C. 8:36) is updated. An additional change is made at N.J.A.C. 5:27A-15.4(a) for clarity.

Proposed new Subchapter 19 adds rules for the installation of carbon monoxide alarms. This subchapter aligns with the carbon monoxide alarm rules in Subchapter 14 of the Regulations Governing Rooming and Boarding Houses (N.J.A.C. 5:27). N.J.A.C. 5:27A-19.1 is proposed to add the National Fire Protection Association (NFPA) 720, which contains standards for the installation of carbon monoxide alarms and detection systems.

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

The rules proposed for readoption with amendments, a repeal, and new rules, are necessary in order to protect persons who reside in the 79 residential health care facilities regulated by the Department of Community Affairs. The residents include many of the most vulnerable members of our society, and many residents have physical or mental disabilities. It is essential that the rules proposed for readoption with amendments, a repeal, and new 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. The amendments, repeal, and new rules are proposed to clarify, correct, and update the rules may be expected to have a positive social impact.

Economic Impact

The fees are a part of the rules proposed for readoption with amendments, a repeal, and new rules. It is not anticipated that the

proposed amendments, repeal, and new rules would have any economic impact.

The existing 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; \$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. N.J.A.C. 5:27A-2.1(i) as proposed for amendment would continue to require an additional annual inspection fee of \$225.00 on an annual basis (rather than \$450.00 on a biennial basis).

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 with amendments, a repeal, and new rules 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

It is not anticipated that rules proposed for readoption with amendments, a repeal, and new rules would result in the creation or loss of jobs.

Agricultural Industry Impact

The Department does not anticipate that the rules proposed for readoption with amendments, a repeal, and new rules would have any effect on the agricultural industry.

Regulatory Flexibility Analysis

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 rules proposed for readoption with amendments, a repeal, and new rules. The proposed amendments would require a change in tracking medication, which would add to recordkeeping. As this change in recordkeeping aligns with the Regulations Governing Rooming and Boarding House Standards, it is not expected to be a significant alteration.

Housing Affordability Impact Analysis

This rules proposed for readoption with amendments, a repeal, and new rules concern the licensing, maintenance, and inspection of residential health care facilities that are independent of any health care facility licensed by the Department of Health. It would not likely have any impact upon housing production costs or to affect the affordability of housing in New Jersey.

Smart Growth Development Impact Analysis

This rules proposed for readoption with amendments, a repeal, and new rules concern the licensing, maintenance, and inspection of residential health care facilities that are independent of any health care facility licensed by the Department of Health. It would be most unlikely to have any impact upon housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

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

Full text of the proposed amendments, new rules, and repeal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. DEFINITIONS AND QUALIFICATIONS

5:27A-1.3 Definitions

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

...
 ["Basic physical plant services" means heat, power, lighting, water, food and staff.]

...
 ["Epidemic" means the occurrence in a facility of one or more cases of an illness in excess of normal expectancy for that illness, derived from a common or propagated source.]

...
"Physical plant services" means heat, power, lighting, water, food, and staff.

5:27A-1.4 Qualifications of the administrator of a residential health care facility

(a) The administrator of a residential health care facility shall be in good physical and mental health, of good moral character, and shall exhibit concern for the safety and well-being of residents[;], and shall:

1. (No change.)
2. Hold a current New Jersey license as a nursing home administrator, or be eligible to take the New Jersey Nursing Home Administrator's Licensing Examination, according to Department of Health [and Senior Services] requirements found in N.J.A.C. 8:34; or
3. Complete an assisted living administrator training course approved by the Department of Health [and Senior Services] as specified at N.J.A.C. 8:36-[1.5(a)3]**3.2(b)**.

(b) (No change.)

SUBCHAPTER 2. LICENSURE PROCEDURES

5:27A-2.1 Application for licensure

(a)-(h) (No change.)

(i) Each residential health care facility shall be assessed [a biennial] **an annual** inspection fee of [\$450.00] **\$225.00**. This fee shall be assessed [in the year the facility will be inspected,] along with the annual licensure fee [for that] **each** 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] **denial of** an initial license for new facilities. This fee shall **only** be imposed [only every other year] **once annually** 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.

5:27A-2.4 Surveys and license

(a) When the written application for licensure is approved, the fee for filing the application has been received, the preliminary conference has been completed, and the building is ready for occupancy **pursuant to N.J.A.C. 5:23, the Uniform Construction Code**, a survey of the facility by **the Department's** representatives of the Residential Health Care Evaluation Program [of the Department] shall be conducted, in order to determine if the facility adheres to the rules in this chapter.

1.-2. (No change.)

(b)-(i) (No change.)

SUBCHAPTER 3. PHYSICAL PLANT FOR NEW CONSTRUCTION, RENOVATIONS, AND ADDITIONS

5:27A-3.3 Room sizes and features

(a)-(c) (No change.)

(d) Each facility shall provide a minimum of 30 square feet of lighted storage space per resident, in accordance with the following allotments:

1. At least 10 square feet of locked personal storage, which may be in a room or common area other [than] **than** the resident's bedroom; and
2. (No change.)

SUBCHAPTER 3A. PHYSICAL ENVIRONMENT FOR EXISTING RESIDENTIAL HEALTH CARE FACILITIES

5:27A-3A.2 Resident bedrooms

(a) (No change.)

(b) Sleeping rooms occupied by more than one resident shall have a minimum of 50 square feet of clear floor area per resident. There shall be three feet of clear space between beds and at the foot of each bed to [insure] **ensure** comfort and safety to residents. Space for storage of personal possessions and a non-folding arm chair shall be provided for each bed.

(c)-(e) (No change.)

(f) Every mattress and box spring shall be encased in separate tear-proof covers that are fully sealed and free of rips, punctures, or openings of any kind.

SUBCHAPTER 8. DIETARY SERVICES

5:27A-8.2 Requirements for dietary services

(a)-(e) (No change.)

(f) The facility and personnel shall comply with the provisions of Chapter XII of the New Jersey Sanitary Code, N.J.A.C. 8:24. The facility shall [obtain] **have and keep for reference** a copy of **the most recent edition** of N.J.A.C. 8:24 by contacting [the Residential Health Care Survey Program of] the Department of Health [and Senior Services at (609) 633-8993].

SUBCHAPTER 9. HEALTH SERVICES

5:27A-9.2 Provision of health services

(a)-(d) (No change.)

(e) The nursing assessment required by (d) above shall be documented on the Minimum Data Set for resident assessment and care screening (MDS 2.0), or on an equivalent assessment instrument, which has been developed by the facility and approved by the Department of **Health** prior to its use. Copies of the MDS 2.0 may be obtained by contacting the [Residential Health Care Survey Program of the] Department of Health [and Senior Services at (609) 633-8993].

(f)-(m) (No change.)

SUBCHAPTER 10. MEDICATIONS

5:27A-10.1 Self-administration of medications

(a) A designated employee shall provide [resident] supervision and/or assistance during **a resident's** self-administration of medications in accordance with the prescriber's orders. [Any employee who has been designated to provide resident supervision or assistance during self-administration of medications shall have received training from] **Prior to providing such assistance, the designated employee shall be trained by** the health maintenance and monitoring director, the provider pharmacist, or the consultant pharmacist.

1. (No change.)

[2. The facility shall document any observed instance where medications are not taken in accordance with the prescriber's orders.

3. If the facility fails to substantially comply with the requirements of this subchapter, or if the facility has significant deficiencies relating to self-administration of medications, the Department may require additional documentation, including, but not limited to, documentation of every observed instance when medications are taken.]

2. The facility shall maintain a daily record of the type and amount of medication taken by the resident and the time at which such medication is taken.

(b) (No change.)

SUBCHAPTER 14. RESIDENT RIGHTS

5:27A-14.2 Rights of each resident

(a) Resident rights, policies, and procedures shall ensure that, [as] **at a** minimum, each resident admitted to the facility:

1.-18. (No change.)

19. Is allowed, or his or her next of kin and/or sponsor and/or guardian and/or conservator, as defined in N.J.S.A. 3B:13A-1 through

3B:13A-36, is allowed to manage the resident's personal financial affairs, or is given at least a quarterly written statement of financial transactions made on his or her behalf, should the facility accept his or her written delegation of this responsibility.

i.-iii. (No change.)

iv. Each resident residing in a residential health care facility who receives benefits generated from the Home Energy Assistance Program in accordance with N.J.A.C. 5:49 [may, but] shall not be required to[,] provide the owner, operator, employee, or [their] **his or her** representative with any portion of monies provided through the Home Energy Assistance Program. No owner, operator, employee, or representative of the facility shall coerce, intimidate, or exploit **any** residents into providing them with any portion of their home energy assistance checks;

20.-23. (No change.)

SUBCHAPTER 15. HOUSEKEEPING, SANITATION, SAFETY, AND MAINTENANCE

5:27A-15.3 Resident environment

(a) The following housekeeping and sanitation conditions shall be met:

1.-10. (No change.)

11. Items that come in contact with open skin or mucous membranes shall be sterilized, or, at a minimum, receive [high level] **high-level** disinfection;

12.-13. (No change.)

(b) The following safety conditions shall be met:

1.-3. (No change.)

4. Combustible materials shall not be stored in heater rooms or within 18 [feet] **inches** of any heater;

5.-10. (No change.)

5:27A-15.4 Waste removal

(a) All solid or liquid waste [which] **that** is not regulated medical waste, garbage, [and] **or** trash shall be collected, stored, and disposed of in accordance with the rules of the New Jersey State Department of Environmental Protection and the New Jersey State Department of Health [and Senior Services] (N.J.A.C. 8:24). Solid waste shall be stored in insectproof, rodentproof, fireproof, nonabsorbent, watertight containers with tightfitting covers and collected from storage areas regularly so as to prevent nuisances such as odors. Procedures and schedules shall be established and implemented for the cleaning of storage areas and containers for solid or liquid waste, garbage, and trash, in accordance with N.J.A.C. 8:24.

(b)-(c) (No change.)

SUBCHAPTER 16. INFECTION PREVENTION AND CONTROL SERVICES

5:27A-16.4 Employee health and resident policies and procedures for infection prevention and control

(a)-(b) (No change.)

(c) The facility shall report annually the results of all tuberculin testing of personnel and residents, on forms provided by the Department of Health [and Senior Services], Division of Epidemiology, Tuberculosis Program[, (609) 588-7522].

(d)-(f) (No change.)

(g) The facility shall maintain records documenting [contagious] **communicable** diseases contracted by employees during employment.

(h) The facility shall maintain listings of all residents and personnel who have infections, diseases, or conditions [which] **that** are reportable to the Department of Health [and Senior Services] pursuant to Chapter II, New Jersey State Sanitary Code, Communicable Diseases, N.J.A.C. 8:57, unless prohibited by Federal or State law.

(i) (No change.)

SUBCHAPTER 17. SURVEY PROCEDURES

5:27A-17.2 Deficiency findings

(a) (No change.)

(b) At the conclusion of a survey or within 10 business days thereafter, the Department shall provide a facility with a written summary [of any factual findings used] **citing the rules** as a basis to determine that a licensure violation has occurred[, and a statement of each licensure regulation to which the finding of a deficiency relates].

5:27A-17.3 Informal dispute resolution **and administrative hearings**

(a) (No change.)

[(b) Following completion of the survey, a facility may contact the DCA Residential Health Care Licensure Program to request an informal review of deficiencies cited. The request must be made in writing within 10 business days of the receipt of the written survey findings. The written request must include:

1. A specific listing of the deficiencies for which informal review is requested; and

2. Documentation supporting any contention that a survey finding was in error.

(c) The review will be conducted within 10 business days of the request by supervisory staff of the DCA Residential Health Care Licensure Program who did not directly participate in the survey. The review can be conducted in person at the offices of the Department, or by mutual agreement, solely by review of the documentation as submitted.

(d) A decision will be issued by the Department within seven business days of the conference or the review, and if the determination is to agree with the residential health care facility's contentions, the deficiencies will be removed from the record. If the decision is to disagree with the request to remove deficiencies, a plan of correction is required within five business days of receipt of the decision. The facility retains all other rights to appeal deficiencies and enforcement actions taken pursuant to these rules.]

(b) Any person aggrieved by a finding of deficiency shall be entitled to an administrative hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq.

(c) The administrative hearing shall be conducted by an administrative law judge of the Office of Administrative Law, and the final decision shall be issued by the Commissioner.

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

5:27A-17.4 [Plan of correction] **Exceptions and extensions**

[(a) The Department may require that the residential health care facility submit a written plan of correction specifying how each deficiency that has been cited will be corrected along with the time frames for completion of each corrective action. A single plan of correction may address all events associated with a given deficiency.

(b) The plan of correction shall be submitted within 10 business days of the residential health care facility's receipt of the notice of violations, unless the Department specifically authorizes an extension for cause. Where deficiencies are the subject of informal dispute resolution pursuant to N.J.A.C. 5:27A-17.3, the extension shall pertain only to the plans of correction for the deficiencies under review.

(c) The Department may require that the residential health care facility's representatives appear at an office conference to review findings of serious or repeated licensure deficiencies and to review the causes for such violations and the facility's plan of correction.

(d) The plan of correction shall be reviewed by the Department and will be approved where the plan demonstrates that compliance will be achieved in a manner and time that assures the health and safety of patients or residents. If the plan is not approved, the Department may request that an amended plan of correction be submitted within five business days. In relation to violations of resident or patient rights, the Department may direct specific corrective measures that must be implemented by residential health care facilities.]

(a) Upon receipt of notice of the ruling, action, or decision at issue, an owner may request an extension of time to comply or an exception waiving or modifying the application of any rule pursuant to N.J.S.A. 26:2H-1 et seq.

(b) Requests for exceptions or extensions shall be made to the Chief of the Bureau of Rooming and Boarding House Standards, who shall have the authority to approve or deny such requests in accordance with the standards set forth in N.J.S.A. 26:2H-1 et seq. Requests shall be made 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 decision at issue. No request thereafter shall be considered, unless the owner advises the Bureau by mail or e-mail of his or her desire to file an exception request within 15 days of his or her receipt of notice of filing, action, or decision at issue and was unable to submit the application within the 30-day period allowed. The Chief of the Bureau shall have authority to waive these time requirements when the interests of justice so require.

(d) If the licensee finds an extension of time necessary to abate any violation, a letter shall be submitted not fewer than two weeks prior to the date of compliance. This letter shall include:

1. The violations abated to date;
2. The reason why each unabated violation cannot be corrected prior to the date of penalty; and
3. The date by which all violations can be abated.

SUBCHAPTER 18. ENFORCEMENT REMEDIES

5:27A-18.2 Notice of violations and enforcement actions

The Commissioner shall serve notice to a residential health care facility of the proposed assessment of civil monetary penalties, suspension or revocation of a license, or placement on a provisional license, setting forth the specific violations, charges, or reasons for the action. Such notice shall be served on a licensee or its registered agent or a bona fide employee of the licensee, corporation, or company, or a person above the age of 14 at the licensee's dwelling in person or by certified mail.

5:27A-18.4 Civil monetary penalties

(a) Pursuant to N.J.S.A. 26:2H-13 and 14, the Commissioner may assess a penalty for violation of licensure rules in accordance with the following standards:

- 1.-5. (No change.)
6. For maintaining or admitting more patients or residents to a residential health care facility than the maximum capacity permitted under the license, [except in an emergency as documented by the residential health care facility in a contemporaneous notice to the Department,] \$25.00 per patient per day plus an amount equal to the average daily charge collected from such patient or patients;
7. For all violations of licensure regulations related to patient care or physical plant standards, [that represent a risk to the health, safety, or welfare of patients or residents of a residential health care facility or the general public, \$500.00 per violation where such deficiencies are isolated or occasional and do not represent a pattern or widespread practice throughout the residential health care facility] a penalty up to the statutory maximum of \$5,000 may be assessed.
8. Where there are multiple deficiencies related to patient care or physical plant standards throughout a residential health care facility, and/or such violations represent a direct risk that a patient's physical or mental health will be compromised, or where an actual violation of a resident's or patient's rights is found, a penalty of \$ 1,000 per violation may be assessed for each day noncompliance is found;
9. For repeated violations of any licensing regulation within a 12-month period or on successive annual inspections, or failure to implement an approved plan of correction, where such violation was not the subject of a previous penalty assessment, \$ 500.00 per violation, which may be assessed for each day noncompliance is found. If the initial violation resulted in the assessment of a penalty, within a 12-month period or on successive annual inspections, the second violation shall result in a doubling of the original fine, and the third and successive violations shall result in a tripling of the original fine;
10. For violations resulting in either actual harm to a patient or resident, or in an immediate and serious risk of harm, \$ 2,500 per violation, which may be assessed for each day noncompliance is found;]

Recodify existing 11.-12. as 8.-9. (No change in text.)

(b)-(c) (No change.)

5:27A-18.6 Curtailment of admissions

(a) The Department may issue an order curtailing all new admissions and readmissions to a residential health care facility in the following circumstances:

1. (No change.)
 2. Where the Department has issued a Notice of Proposed Revocation or Suspension of a residential health care facility license, for the purpose of limiting the census of a facility if patients or residents must be relocated upon closure; or
 3. Where the admission or readmission of new patients or residents to a residential health care facility would impair the facility's ability to correct serious or widespread violations of licensing regulations related to direct patient care and cause a diminution in the quality of care[; or].
- [4. For exceeding the licensed or authorized bed or service capacity of a residential health care facility, except in those instances where exceeding the licensed or authorized capacity was necessitated by emergency conditions and where immediate and satisfactory notice was provided to the Department.]

(b) (No change.)

5:27A-18.10 Provisional license

(a)-(c) (No change.)

(d) A residential health care facility placed on provisional license status shall conspicuously post the provisional license [in a location] within the facility [which is conspicuous].

SUBCHAPTER 19. CARBON MONOXIDE ALARMS

5:27A-19.1 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.
 - i. As an alternative to (a)1 above, carbon monoxide alarms may be installed in the locations specified in the Uniform Construction Code, N.J.A.C. 5:23, with the approval of the Department.
- (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.
 - (c) At the request of a tenant of a unit in which a person who is deaf or hearing impaired resides, the owner shall provide and install a visual alarm type carbon monoxide detector for that unit.

(a)

**DIVISION OF LOCAL GOVERNMENT SERVICES
LOCAL FINANCE BOARD
Employee Compensation Disclosure
Proposed New Rules: N.J.A.C. 5:30-18**

Authorized By: Local Finance Board, Timothy J. Cunningham, Chair.

Authority: N.J.S.A. 40A:5-50 and 40A:5A-10.c.

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

Proposal Number: PRN 2017-138.

Please submit written comments on the notice of proposal by September 15, 2017, via e-mail to digs@dca.nj.gov or by regular mail to:

Patricia Parkin McNamara, Executive Secretary
Local Finance Board
Department of Community Affairs