

RULE ADOPTIONS

CHILDREN AND FAMILIES

(a)

CHILD PROTECTION AND PERMANENCY

Notice of Readoption

Substance-Affected Infants

Readoption: N.J.A.C. 3A:26

Authority: N.J.S.A. 9:3A-7f, 9:6-8.15, 26:2H-5, and 30:4C-4.h.

Authorized By: Christine Norbut Beyer, M.S.W., Commissioner,
Department of Children and Families.

Effective Date: December 4, 2024.

New Expiration Date: December 4, 2031.

Take notice that pursuant to N.J.S.A. 52:14B-5.1.c, the rules at N.J.A.C. 3A:26 were scheduled to expire on January 16, 2025. These rules ensure New Jersey's compliance with the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. §§ 5101 et seq.), which requires healthcare providers to notify child protective services when a child is born and identified as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, pursuant to section 106(b)(2)(B)(ii) of CAPTA.

N.J.A.C. 3A:26-1 sets forth definitions, content requirements, and the Division of Child Protection and Permanency's procedures for receiving and evaluating reports that are submitted by ambulatory care facilities and hospitals pursuant to N.J.A.C. 8:43A-28.7 and 8:43G-2.13.

The Department of Children and Families has reviewed the rules at N.J.A.C. 3A:26 and found them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

COMMUNITY AFFAIRS

(b)

DIVISION OF CODES AND STANDARDS

Rooming and Board Homes

Adopted Amendments: N.J.A.C. 5:27-1.5, 1.6, 1.9, 2.1, 4.6, 4.7, and 6.1

Adopted New Rules: N.J.A.C. 5:27-13.1, 13.2, and 13.3

Proposed: December 4, 2023, at 55 N.J.R. 2381(a).

Adopted: December 4, 2024, by Jaquelyn A. Suárez, Commissioner,
Department of Community Affairs.

Filed: December 4, 2024, as R.2025 d.005, **without change**.

Authority: N.J.S.A. 55:13B-4 and 6.

Effective Date: January 6, 2025.

Expiration Date: June 6, 2031.

Summary of Public Comments and Agency Responses:

Comments were received from George Brice, Adam Chrone, and Mitchell Malec.

Comments Received From George Brice

1. COMMENT: The commenter recommends removing the provision stating that operators may drug test as part of the house rules because there is not a requirement mandating a drug test.

RESPONSE: The Department of Community Affairs (Department) respectfully disagrees. The intention of including non-mandatory items in the rules is to clarify that a weekly drug and alcohol screening and a

reasonable curfew are house rules that are permitted and are not deemed unreasonable, in accordance with N.J.A.C. 5:27-3.2(a).

2. COMMENT: In reference to paragraph 5 in the definition of "cooperative sober living residences" (CSLRs), the commenter states that this paragraph gives more reason to mandate new operator licenses where residents have access to community resources. The commenter recommends the Department support more expansion of community-based housing and support services.

RESPONSE: The Department thanks the commenter for their recommendation. The Department approves the licensing of all operators that meet the requirements of the rules. Additionally, the Department does not determine the location of the CSLRs.

3. COMMENT: In reference to paragraph 6 in the definition of CSLRs, the commenter states that the operator needs to ensure that the services align with research. Additionally, the commenter notes that the Department needs to understand that not just anyone can reasonably implement non-clinical recovery and support services without training and active monitoring.

Furthermore, the commenter states that mandating recovery activities is not being recovery-oriented. The commenter recommends the Department implement timely operator consequences rather than empowering operators with options for handling residents.

RESPONSE: The Department respectfully disagrees. The operator's consequences for failure to abide by requirements are handled appropriately and timely in accordance with the rulemaking. While the Department permits CSLRs to mandate non-clinical and recovery support services, the professional quality and responsibilities of drug and alcohol counseling services are regulated at N.J.A.C. 13:34C.

4. COMMENT: The commenter provided a list of feedback and recommendations for the Department for general concerns on CSLRs, which follows verbatim:

"1. Disseminate statewide new rule proposals and other future information to behavioral health organizations, advocacy groups, support groups, self-help centers, community wellness centers, etc.

2. Engage peer leaders and the peer workforce to take on responsibilities.

3. Mandating heating.

4. Mandating air conditioning.

5. Providing key State contact numbers, including 988, Disability Rights of NJ, warm lines, and a listing of self-help and community wellness centers.

6. Mandating professional pest control exterminators.

7. Mandating professional maintenance.

8. Mandating professional safety inspections.

9. Monitor the payees, e.g., the owner.

10. Support self-payee, such as offering financial literacy education.

11. Mandate affordable, fair rent prices, including itemized operator charges submitted to the resident.

12. Ensure cost of living adjustment money goes to the resident, not the payee owner.

13. Ensure boarding home operators earn the additional operational cost that residents increased SSI supplement pays for.

14. Be more mindful to strategize keeping money in the resident's pocket.

15. Regulating operators who have known far too long that they can make their money even while under indictment and live very well.

16. Truly vet boarding home operators.

17. Move past the historical mantra of "Where will these people go?"

18. Require training for boarding home operators and mandate active monitoring and enforcement of these places.

19. Regulate operators who expand institutional barriers and prevent timely healthcare. Additionally, they should aid residents to pursue employment, education, training, and social activities.

20. Prevent boarding homes in poor geographic locations, etc.

21. Survey residents regarding living conditions and life satisfaction with a wellness inventory tool and assess their access to healthcare, employment, education, training, and social activities.

22. Assist the behavioral health community and its stakeholders by creating more housing.

23. Move away from large, congregate housing.

24. If the State deems it necessary, contract the behavioral health community to modernize buildings for housing.

25. End competition with New Jersey's warehouses in the diminishing Garden State.

26. Provide a campus for New Jersey's unhoused who are living with mental health conditions."

RESPONSE: The Department thanks the commenter for their feedback and recommendations; however, some items are either outside the scope of this rulemaking or the Department does not have oversight on these topics, whereas other items are currently addressed at N.J.A.C. 5:27, as noted below:

Items 1 and 2 regarding engagement in the rulemaking process is outside the scope of this rulemaking, which pertains to the oversight of CSLRs. The Department follows the public notice requirements set forth at N.J.A.C. 1:30, including posting on the Department's website for public review and comment of proposed rulemaking.

Items 3 and 4 regarding heating and air conditioning, mandates for these utilities are already required pursuant to N.J.A.C. 5:27-4.6.

Regarding Item 5, the Department does not regulate what information must be disseminated to residents; however, N.J.A.C. 5:27-3.4 provides that licensees must not obstruct resident access to agency representatives.

Items 6, 7, and 8 represent maintenance requirements which are reflected at N.J.A.C. 5:27.

Regarding Items 9 through 14, the Department is not responsible for the oversight of representative payees, nor is it responsible for establishing the rent requirements in CSLRs. The requirements state, at N.J.A.C. 5:27-3.1(a)1, that all residents shall have the right to manage their own financial affairs. Additionally, to the extent the commenter's concerns involve facilities that are not CSLRs, financial services are covered at N.J.A.C. 5:27-11.

Items 15 and 16, regarding requirements for owners and operators, are covered pursuant to the license requirements set forth at N.J.A.C. 5:27-1.6.

Regarding Item 17, CSLRs seek to provide a type of recovery housing where residents can function as a single housekeeping unit. They seek to address a specific need for housing, as do the other classes of licensure for rooming and boarding houses.

Item 18 requests training for operators. See the Response to Comment 7.

Regarding Item 19, the Department addresses access to healthcare at N.J.A.C. 5:27-3.1(a)8.

Item 20 requests that boarding homes not be in "poor geographic locations." The Department does not regulate where a rooming home, boarding home, or CSLR is physically located or operated. Further, there is no basis to prohibit a rooming or boarding home based on the socioeconomic status of the region.

Item 21, requests the Department to undertake a survey regarding resident living conditions and satisfaction, as such a request is outside the scope of this rulemaking.

Regarding the large, congregate homes cited at Item 23, CSLRs are limited to a total of 10 residents, not including operators. That said, insofar as these comments relate to other classes of rooming and boarding homes, the rules address the maximum permissible occupancy of the space at N.J.A.C. 5:27-4.8.

Items 22, 24, 25, and 26 represent broad ideas regarding housing production that are outside the scope of this rulemaking, which pertain only to the operation of CSLRs.

5. COMMENT: The commenter included emails, pictures, website links, and complaints concerning a rooming and boarding home in their comments.

RESPONSE: The Department thanks the commenter for the information and has provided the Bureau of Rooming and Boarding House Standards (Bureau) with the complaints for review.

Comments Received From Adam Chrono

6. COMMENT: The commenter states that they work in the local community center and have heard complaints of overcharging at privately owned boarding homes and residential health care facilities. They note that many residents who suffer from mental health conditions are taken advantage of by landlords, who are charging as much as they can get. Furthermore, the commenter notes that some residents have had their remaining money withheld even after paying rent.

The commenter recommends not allowing landlords to be a resident's payee or to trick the resident into thinking they are the resident's payee. The commenter states that it appears to be a conflict of interest even if the paperwork is correct, and if it is the only option, it should be with strict oversight.

RESPONSE: Privately operated boarding homes and residential healthcare facilities are outside the scope of this rulemaking, which pertains only to CSLRs. The Department is not responsible for the oversight of representative payees. Complaints and questions concerning this matter are to be reported to the United States Social Security Administration. Additionally, to the extent the commenter's concerns involve facilities that are not CSLRs, financial services are covered at N.J.A.C. 5:27-11.

7. COMMENT: The commenter states that employees of rooming and boarding homes should be required to take ethics training and be reprimanded for unnecessary cruelty to residents, such as theft and abuse. The commenter notes that cruelties are increasingly becoming a constant, rather than a variable.

RESPONSE: The Department thanks the commenter for their recommendation mandating ethics training and will look into this matter. Additionally, theft and abuse are criminal offenses that are required to be reported to the local authorities, the Bureau of Rooming and Boarding House Standards, and the county social services board.

8. COMMENT: The commenter states that there should be stricter oversight concerning resident mail and that the Department should ensure that residents receive their mail unopened. The commenter has heard of many residents at facilities receiving their mail already opened or not receiving it at all.

RESPONSE: The Department thanks the commenter for their recommendation; however, this matter would fall under the purview of the county social services board, in accordance with N.J.S.A. 44:7-93. The county social services board or office of social services for each county in the State is responsible for the health, safety, and welfare of residents in these facilities and ensures protections against exploitation and abuse.

9. COMMENT: The commenter recommends that rooming and boarding homes not be allowed to confiscate resident identification and other vital papers. The commenter explains that when rooming and boarding homes do this, it makes it harder for residents to utilize resources.

RESPONSE: Please see the Response to Comment 8.

10. COMMENT: The commenter recommends better enforcement of existing rules as most of these rooming and boarding homes are in awful condition. The commenter states they appreciate that rooming and boarding homes must now have heat up to 81 degrees. However, the commenter explains that they know of a boarding home reported to the State for lack of heat that is still without heat months later.

RESPONSE: The Department thanks the commenter for their recommendation. The Bureau of Rooming and Boarding House Standards does not have any record of a currently licensed facility without heat.

11. COMMENT: The commenter recommends boarding homes and residential healthcare facilities be mandated to have higher standards for extermination of pests. The commenter notes that they have received a number of complaints about pests.

RESPONSE: Please see the Response to Comment 8. Additionally, N.J.A.C. 5:27-4.7 requires that rooming and boarding houses be kept free from rodents, vermin, and insects.

Comments Received From Mitchell Malec

12. COMMENT: The commenter suggests the proposed amendment at N.J.A.C. 5:27-1.5(c)1ii needs revision. The commenter notes that the intent of this amendment appears to state that there shall not be more than 10 residents and all occupants shall be capable of prompt self-evacuation;

however, they question how this rule applies to owners who reside on-site and if operators are considered staff. The commenter recommends reviewing the definitions of occupant, owner, and resident for clarity and intent.

RESPONSE: The Department respectfully disagrees. An “occupant” as defined in the rulemaking is a person lawfully occupying or sharing occupancy of a unit or dwelling space on a regular basis. The intent of N.J.A.C. 5:27-1.5(c)1ii is for there to be no more than 10 residents and occupants lawfully occupying or sharing occupancy of a unit or dwelling space on a regular basis. Operators and staff who reside on-site are not considered towards the total occupancy count, as stated in the section, but must, like all occupants, be capable of prompt self-evacuation.

13. COMMENT: The commenter notes that N.J.A.C. 5:27-1.6(b)6 references N.J.A.C. 5:27-13 for additional rules for CSLRs. The commenter states that N.J.A.C. 5:27-13 is unnecessary, as some rules are redundant, and others could be in amendments to other parts at N.J.A.C. 5:27. The commenter recommends a better rule presentation.

RESPONSE: The Department respectfully disagrees that N.J.A.C. 5:27-13 is unnecessary and finds that the format of the rulemaking is appropriate. The additional rules clarify and concisely present the rulemaking applicable to CSLRs.

14. COMMENT: The commenter requests justification from the Department for each proposed new requirement for CSLRs. Additionally, the commenter asks if CSLRs are to provide personal services, such as protection of valuables, and if they are required to have exterior doorbells.

RESPONSE: The Department respectfully declines to justify each proposed new requirement; however, specific justification and explanation can be found in the Summary statement in the notice of proposal. In general, the new requirements for CSLRs are proposed in response to operator, resident, and community feedback, as well as Department review in the time since the initial adoption of the CSLR rules. In addition, amendments required pursuant to P.L. 2021, c. 260, are also included in the notice of proposal.

15. COMMENT: The commenter states that N.J.A.C. 5:27-1.9(f) is confusing as it appears to be a list of CSLR exemptions. The commenter notes it is redundant and provides examples of these sections in other parts of N.J.A.C. 5:27. The commenter recommends revision.

RESPONSE: The Department respectfully disagrees that N.J.A.C. 5:27-1.9(f) is confusing and needs revision. The list clarifies and concisely presents the locations of applicable exemptions for all rooming and boarding house licenses in the rulemaking. This list is consistent with the list at Subchapter 13 and the redundancy ensures that no matter where a code user is looking for the CSLR exemptions, they are clearly stated.

16. COMMENT: The commenter requests an explanation concerning why N.J.A.C. 5:27-7.3(a) states that N.J.A.C. 5:27-7.3 does not apply to CSLRs, while N.J.A.C. 5:27-7.3(f) provides that the section shall apply to boarding houses only. The commenter recommends removing existing N.J.A.C. 5:27-7.3(a) and replacing it with N.J.A.C. 5:27-7.3(f).

RESPONSE: The Department respectfully disagrees with the recommended revision; although both subsections (a) and (f) provide the applicability of the section and are worded differently, the rules are not inaccurate as they read.

17. COMMENT: The commenter recommends the Department review the January 16, 2018, New Jersey Register, 50 N.J.R. 310(a), because Comment and Response 33 indicates deleting the qualifier shall not apply to CSLRs, and the proposed text at N.J.A.C. 5:27-1.9(f)8 keeps the qualifier.

RESPONSE: The Department respectfully disagrees; comments in the New Jersey Register at 50 N.J.R. 310(a) are outside the scope of this rulemaking. Further, N.J.A.C. 5:27-1.9(f)8 deals with posted information regarding the name and owner and does not relate to the concerns reflected at Comment 33 at 50 N.J.R. 310(a).

18. COMMENT: The commenter notes that N.J.A.C. 5:27-1.9(e)4 provides an exemption from N.J.A.C. 5:27-3.2(d) and that N.J.A.C. 5:27-3.2(d) does not state Class E, but does state Class F. The commenter then explains that N.J.A.C. 5:27-1.9(e)5 provides an exemption from N.J.A.C. 5:27-3.3(c) and not N.J.A.C. 5:27-3.3(a) or (b) as the section specifically mentions in other than Class F facilities. The commenter recommends that the Department review these exemptions to determine if any revisions at N.J.A.C. 5:27-1.9(e) are needed. The commenter provides examples by

comparing N.J.A.C. 5:27-8.2(a) to 1.9(e)9, 8.3(a) to 1.9(e)10, 8.4(a) to 1.9(e)11, and 9.2(a) to 1.9(e)12, respectively.

Furthermore, the commenter states that based on N.J.A.C. 5:27-1.9(e)11, Class E is exempt from N.J.A.C. 5:27-8.4(a), which reads, “This section shall not apply to cooperative sober living residences.” The commenter then questions if a Class E licensed facility becomes a CSLR, is it then exempt from the provisions at N.J.A.C. 5:27-8.4, or is it that both Class E and F licensed facilities are exempt from N.J.A.C. 5:27-8.4, but are not stated. The commenter requests clarification.

RESPONSE: The Department thanks the commenter for their recommendation to review exceptions for a potential future revision. Additionally, in accordance with N.J.A.C. 5:27-1.6(b)6, CSLRs cannot fall within a Class E license classification because CSLRs can only be licensed as Class F facilities. Class E licenses are only applicable to alcohol and drug rehabilitation facilities operated or owned by non-profit religious organizations as stated at N.J.A.C. 5:27-1.6(b)5.

19. COMMENT: The commenter requests clarification concerning whether a Class E licensed facility is exempt from N.J.A.C. 5:27-3.4(b) and 3.10, but a Class F licensed facility is not.

RESPONSE: N.J.A.C. 5:27-3.4(b) and 3.10 are exempt for Class E facilities and are not exempt for Class F licensed facilities. These facilities serve different purposes despite both being related to sobriety and are licensed separately.

20. COMMENT: The commenter questions if N.J.A.C. 5:27-14.1 is not exempted for Class F licenses because it is not proposed for exemption and is a provision of the Uniform Fire Code.

RESPONSE: N.J.A.C. 5:27-14.1 is applicable to all licensed Rooming and Boarding House facilities.

21. COMMENT: The commenter questions if the certificate of occupancy requires carbon monoxide alarms for CSLRs pursuant to N.J.A.C. 5:27-1.5(c)1. Additionally, the commenter asks if the requirement for a visual alarm type noted at N.J.A.C. 5:27-14.1(c) applies to CSLR facilities and Class E licensed facilities.

RESPONSE: N.J.A.C. 5:27-1.5(c)1 states that a certificate of occupancy shall not be required for the change in the character of use of CSLR facilities; however, because all rooming and boarding house facilities are bound by the rules at N.J.A.C. 5:27-14.1, carbon monoxide alarms are required for CSLRs. Additionally, because of the aforementioned applicability of N.J.A.C. 5:27-14.1, a visual alarm type is required in all classes of rooming and boarding house facilities upon request.

22. COMMENT: The commenter notes that N.J.A.C. 5:27-1.9(f)3 includes N.J.A.C. 5:27-3.3(a), (b), and (c)1, while N.J.A.C. 5:27-1.9(f)8 includes N.J.A.C. 5:27-3.9(a)6 and 7, and N.J.A.C. 5:27-1.9(f)9 includes N.J.A.C. 5:27-3.9(b). The commenter questions if N.J.A.C. 5:27-1.9(f)3 should be separated into three parts, N.J.A.C. 5:27-3.3(a), (b), and (c)1.

RESPONSE: The Department respectfully disagrees that N.J.A.C. 5:27-1.9(f)3 should be separated into three parts as this unnecessarily separates similar sections.

23. COMMENT: The commenter recommends that terminology should be consistent throughout the rulemaking and should be revised as needed. The commenter provides examples, such as N.J.A.C. 5:27-6.3(a) and 7.3(a), stating “This section shall not apply to cooperative sober living residences” versus “In all facilities other than Class F facilities, which are cooperative sober living residences” that is, at proposed N.J.A.C. 5:27-6.1(e). The commenter provides further examples, such as, “In other than Class F facilities, cooperative sober living residences” at N.J.A.C. 5:27-3.6 or “Class F cooperative sober living residence” at proposed N.J.A.C. 5:27-13.1(a) or “CLASS F COOPERATIVE SOBER LIVING RESIDENCES” at the heading of proposed Subchapter 13.

Additionally, the commenter asks if a Class F facility can only apply to CSLRs or if CSLRs exist without a Class F license. The commenter notes that “facility” appears to solely apply to CSLRs and does not apply to other issued licenses such as Class A, B, C, D, or E.

RESPONSE: The Department respectfully disagrees that terminology is inconsistent. Class F facilities are the sole licensed classification for CSLRs, and as such, a CSLR cannot exist without a Class F license. Additionally, “facility” does apply to other issued licenses and is used in reference to other licensed classes within the rulemaking.

24. COMMENT: The commenter references the definition of CSLRs at N.J.A.C. 5:27-2.1 and questions if the intent is to require two operators or only one operator to be present on-site from 7:00 P.M. to 7:00 A.M. The commenter notes that it appears possible for one, two, or three operators or owners to meet both requirements. The commenter also notes that the language seems to state operators are not required to be at the residence between 7:00 A.M. and 7:00 P.M., whether or not residents are home. Additionally, the commenter states that N.J.A.C. 5:27-3.8(b) exempts CSLRs from this requirement, and due to the exemption, the Department should reconsider this amendment.

RESPONSE: The commenter is correct that N.J.A.C. 5:27-3.8(b) exempts CSLRs, as such, CSLRs are not required to have an operator to be at the residence at all times between 7:00 A.M. and 7:00 P.M.; this is to allow operators, who may or may not reside on premises, to take care of personal and other matters outside of the residence. Additionally, two operators are required, however, only one is required to be on the premises between 7:00 P.M. and 7:00 A.M., and at least one operator must reside in the residence.

25. COMMENT: The commenter asks if it is acceptable for staff or other employees to be present instead of an operator or an owner. Additionally, they ask if the individual(s) need to be a licensee.

RESPONSE: In accordance with N.J.S.A. 55:13B-3(e), an operator is an individual responsible for the daily operation of a rooming or boarding house. This can include staff, owner(s), and designated individuals. Additionally, the operator does not need to be the licensee of the CSLR.

26. COMMENT: The commenter recommends revising the definition of CSLRs, Criteria 2, to remove "occupants" and replace with "residents," as defined at N.J.A.C. 5:27-2.1.

RESPONSE: The Department respectfully disagrees with the revision of the definition because "occupant" is not referenced in Criteria 2 in the definition of CSLR.

27. COMMENT: The commenter notes that the proposed amendment at N.J.A.C. 5:27-4.6(d) allows a room designated for activities requiring physical exertion to exceed 81 degrees Fahrenheit. The commenter explains this goes against the intent at P.L. 2021, c. 260, and requests justification. The commenter requests the Department not to cite P.L. 2021, c. 260, when justifying the amendment.

RESPONSE: The Department respectfully disagrees that the proposed amendments concerning temperature go against the intent at P.L. 2021, c. 260. The exemption for areas designated for physical exertion is explicitly stated at P.L. 2021, c. 260.

28. COMMENT: The commenter notes that Duke University research has shown that the ideal temperature for physical activity indoors is between 68 and 72 degrees Fahrenheit. The commenter recommends the Department review recommendations and revise the rulemaking concerning temperature in rooms designated for physical exertion, as needed.

RESPONSE: The Department cannot revise the rulemaking concerning temperature in rooms designated for physical exertion because it is a statutory requirement pursuant to P.L. 2021, c. 260.

29. COMMENT: The commenter requests the Department make a new section on air conditioning and cooling because N.J.A.C. 5:27-4.6 only applies to heating, not air conditioning or cooling.

RESPONSE: The Department respectfully disagrees; a new section is not necessary for the inclusion of provisions for the cooling of rooming and boarding houses. Air conditioning and cooling provisions were included in the heating provisions due to the interconnected nature of the systems in rules and function.

30. COMMENT: The commenter requests the Department appropriately change N.J.A.C. 5:27-4.6(a) and (c), if 65 degrees Fahrenheit is allowed pursuant to P.L. 2021, c. 260.

RESPONSE: The Department respectfully disagrees with changing N.J.A.C. 5:27-4.6(a) and (c) because it is within the allowable temperature range, as noted at P.L. 2021, c. 260.

31. COMMENT: The commenter asks if the intent of P.L. 2021, c. 260, was to require air conditioning and heating capable of maintaining the temperature between 65 and 81 degrees Fahrenheit in all areas used by residents and if P.L. 2021, c. 260, allows rooms designated for activities requiring physical exertion and where residents can individually control

the temperature to operate below or above the established temperature range.

RESPONSE: P.L. 2021, c. 260, requires air conditioning and heating capable of maintaining temperatures between 65 and 81 degrees Fahrenheit in all areas used by residents, except in areas designated for physical exertion and in areas where residents can individually control the temperature to operate below or above the established temperature range.

32. COMMENT: The commenter states that N.J.A.C. 5:27-4.7(o) should be eliminated. The commenter explains that the assignment of responsibility to the licensee or operator appears incorrect and does not need to be specifically stated in these rules when N.J.A.C. 5:27-1.3 requires the enforcement of the Uniform Fire Code (UFC). The commenter suggests the Department review UFC, Section 505.1, Address Identification.

The commenter further states that they assume this would already be on the fire and housing inspector checklist, but if it is not, then it should be added. The commenter notes that the responsibility to provide address identification appears to be the building owner's responsibility, but questions why the rulemaking states this. The commenter questions the intent to redundantly explain that all licensed facilities have approved address identification in compliance with the UFC.

RESPONSE: The Department respectfully disagrees that proposed N.J.A.C. 5:27-4.7(o) should be eliminated. Redundancy of requirements in different rulemakings aids in clarity and understanding of rules. Additionally, the definition of "licensee" includes owners and operators, who are each responsible for the maintenance and operation of a facility, including adherence to regulatory requirements.

33. COMMENT: The commenter questions if CSLRs, which are Group R-3 or R-5, have to comply with the address identification requirements based on the July 29, 2022, Fire Safety and Rooming and Boarding House memorandum distributed to all local enforcing agency fire officials and CSLR licensees pursuant to N.J.A.C. 5:27-1.6, which advises that only provisions of N.J.A.C. 5:70-4.19 of the Fire Safety Code are enforceable.

RESPONSE: The July 29, 2022 memorandum advises that CSLRs, which are R-3 and R-5 use structures, are not to be cited for violations pursuant to Subchapter 4 of the UFC; however, the memorandum provides exemption for violations pursuant to N.J.A.C. 5:70-4.19 of the UFC. The memorandum does not state that N.J.A.C. 5:70-4.19 of the UFC are the only provisions enforceable for CSLRs.

34. COMMENT: The commenter questions if the July 29, 2022 Fire Safety and Rooming and Boarding House memorandum, is another exemption for inclusion on the lists at N.J.A.C. 5:27-1.9(f) and 13.1(a).

RESPONSE: The July 29, 2022 Fire Safety and Rooming and Boarding House memorandum is not an exemption, but merely a clarification of existing rules and procedures, as such, the Department respectfully declines to include the memorandum in the list of exemptions at N.J.A.C. 5:27-1.9(f) and 13.1(a).

35. COMMENT: The commenter questions if the requirement at N.J.A.C. 5:27-4.7(o) applies to Oxford Houses.

RESPONSE: The provisions at N.J.A.C. 5:27-4.7 are applicable to all licensed rooming and boarding houses.

36. COMMENT: The commenter requests further explanation on the justification for the proposed language at N.J.A.C. 5:27-4.7(p) for all classes of rooming and boarding houses, including CSLRs designated as R-3 or R-5 use.

RESPONSE: Proposed N.J.A.C. 5:27-4.7(p) is included to ensure the entry door to each sleeping room in all classes of rooming and boarding houses is discernable to residents, staff, and emergency services.

37. COMMENT: The commenter requests information on the specific requirements at N.J.A.C. 5:27-4.7(p), such as size of lettering or numbers, color of doors, pictograms, if Braille and other ADA room signage are required, or if it is just a giant star on each sleeping room.

RESPONSE: There are not any specific requirements for this amendment other than door identification; the intent is to ensure sleeping rooms are identifiable to residents and not unmarked.

38. COMMENT: The commenter questions if a UFC provision exists that addresses the requirement at N.J.A.C. 5:27-4.7(p), and if so, how it is presented.

RESPONSE: There is not a provision in the UFC that similarly addresses the requirement at N.J.A.C. 5:27-4.7(p). Room numbers/identification in the UFC are required for multiple dwellings and other structures; however, one- and two-family dwellings are not included within those requirements.

39. COMMENT: The commenter asks why the assignment of the requirement at N.J.A.C. 5:27-4.7(p) is to the licensee.

RESPONSE: The licensee, in accordance with the definition at N.J.A.C. 5:27-2.1, is an owner or operator and, as such, is responsible for maintenance and regulatory adherence of the facility.

40. COMMENT: The commenter questions the meaning of "room classification" at N.J.A.C. 5:27-4.7(p) and how it would look on the entry door to a sleeping room in a single, double, triple, or quad room or if it would be next to the beds in the room.

RESPONSE: Room classification is a means by which a room may be classified. For example, in a facility in which a large room includes sleeping arrangements, the door may be marked by a color which is designated by the facility as meaning "sleeping room." Additionally, the identification would be located on the door to a room, irrespective of the number of beds within the room.

41. COMMENT: The commenter questions the intent at N.J.A.C. 5:27-4.7(p) and asks if it is to have each entry door to each sleeping room be discernable and be appropriately labeled, if needed, or if it is for firefighting and rescue operations.

RESPONSE: See the Response to Comment 36.

42. COMMENT: The commenter requests the Department consider expanding N.J.A.C. 5:27-4.7(p) to include closets, utility, and storage rooms, and other rooms and spaces. Additionally, the commenter recommends posting a room and floor layout in the residence and for an "animals inside" sticker to be attached to exterior windows and doors if animals are present.

RESPONSE: The Department respectfully disagrees with expanding N.J.A.C. 5:27-4.7(p). Identification of other rooms and spaces is not necessary for the purposes of these rules. Sleeping room identification has regulatory inclusion for the safety and security of residents, staff, and emergency services. Additionally, the Department respectfully disagrees with the recommendation concerning the posting of room and floor layout and signs indicating the presence of animals because the Department does not anticipate a need for this requirement in the rulemaking.

43. COMMENT: The commenter states that N.J.A.C. 5:27-4.7(q) is proposing designation of responsibility to the licensee and questions if the intent is that heat-generating devices cannot be present in all rooms, including staff lounges, or if it is only applicable to resident rooms or sleeping rooms.

RESPONSE: The intention of proposed N.J.A.C. 5:27-4.7(q) is to disallow the use of heat-generating devices in individual rooms, such as resident rooms or sleeping rooms. This subsection is not applicable to common areas of the rooming or boarding house.

44. COMMENT: The commenter questions the intent at N.J.A.C. 5:27-4.7(r) and asks if it is for the licensee to provide a new bathroom lockset or if that single-occupancy bathrooms have doors that lock from within.

RESPONSE: The intent at N.J.A.C. 5:27-4.7(r) is for bathroom facilities to have a means of privacy through the use of a lockset, whether that entails a lockset for bathroom stall doors or a lockset for a single-occupancy bathroom door. Additionally, the language at N.J.A.C. 5:27-4.7(r) does not state that the locksets are required to be new.

45. COMMENT: Regarding N.J.A.C. 5:27-4.7(r), the commenter questions whether residents of CSLRs are not allowed to lock their bedroom doors from within, as bathroom doors require locksets and bedroom doors are not mentioned. Additionally, the commenter suggests that this proposed amendment should be a house rule, rather than regulatory.

RESPONSE: The Department respectfully disagrees that the requirement for bathroom locksets should be a house rule. Residents of CSLRs have a right to privacy when using bathroom facilities, as such, the right to privacy is maintained in the rulemaking, however, requirements regarding locksets for bedroom doors are at the discretion of the operators and can be listed in the house rules.

46. COMMENT: The commenter requests that the Department expand on N.J.A.C. 5:27-13.2, which concerns establishing house rules that may

or may not be allowed in Class F facilities and others. The commenter notes that N.J.A.C. 5:27-3.2(d) provides that, even if the Department determines the Class F facility rule is unreasonable, the section provides an exemption for Class F facilities. The commenter further states that proposed N.J.A.C. 5:27-13.2(b) shall not overrule N.J.A.C. 5:27-3.2(d).

RESPONSE: The Department respectfully disagrees, N.J.A.C. 5:27-3.2(d) provides an exemption to CSLRs and states that rules determined to be unreasonable by the Bureau shall not be enforced and shall be deleted from the house rules. As CSLRs are exempted from N.J.A.C. 5:27-3.2(d), the Bureau cannot determine if the rules are unreasonable and shall not be enforced, unless those rules fall within the scope of proposed N.J.A.C. 5:27-13.2.

47. COMMENT: The commenter asks if the Department has other prohibitions on CSLR house rules and that a review is necessary for exemptions to Class E licensed facilities, such as those listed at N.J.A.C. 5:27-1.9(e)4. Additionally, the commenter questions if Class E licensed facilities are also exempt from N.J.A.C. 5:27-3.2(d) even though subsection (d) reads, "In other than Class F facilities."

RESPONSE: This rulemaking clarifies exemptions related to Class F facilities; it does not address Class E facilities. However, the Department may review the exemptions applicable to other facilities and will update, if necessary.

48. COMMENT: The commenter recommends N.J.A.C. 5:27-4.7(r) be rewritten as the intent is unclear.

RESPONSE: The Department respectfully disagrees that the intent is unclear and needs revision. As stated in the proposed rulemaking, the intent of N.J.A.C. 5:27-4.7(r) is that bathroom facilities have a lockset that can be locked from the inside.

49. COMMENT: The commenter, referencing N.J.A.C. 5:27-4.7(s), recommends that posting a copy of the License to Own and Operate and the Fire Certificate be allowed instead of the original documents. Additionally, the commenter requests that the Department review N.J.A.C. 5:27-1.3(c)4.

RESPONSE: The Department respectfully disagrees. N.J.A.C. 5:27-4.7(s) does not specify that only the original copy of the License to Own and Operate and the Fire Certificate must be posted.

50. COMMENT: The commenter states that the proposed amendment at N.J.A.C. 5:27-6.1(e) conflicts with the proposed amendment at N.J.A.C. 5:27-13.3(c). The commenter notes that the proposed amendment at N.J.A.C. 5:27-6.1(e) does not require Class F facilities to comply with N.J.A.C. 5:27-6.1(e), and it does not prohibit Class F facilities from installing such devices.

RESPONSE: The Department respectfully disagrees. N.J.A.C. 5:27-6.1(e) exempts CSLRs from the requirement, as such, it does not conflict with proposed N.J.A.C. 5:27-13.3(c).

51. COMMENT: The commenter questions if the provisions at N.J.A.C. 5:27-1.9(f) need restatement at N.J.A.C. 5:27-13.1(a) or if the intent was that all CSLR provisions be expressed and set forth at Subchapter 13. The commenter recommends the elimination of redundancy, if possible.

RESPONSE: See the Response to Comment 15.

52. COMMENT: The commenter recommends a review of N.J.A.C. 10:44A-6 to clarify intent and improve the proposed wording at N.J.A.C. 5:27-13.3. Additionally, the commenter questions if the intent at N.J.A.C. 5:27-13.3(b) is for lock boxes or some other means to be available and usable to residents to keep their prescription medications secure. The commenter states that further description appears needed.

RESPONSE: The Department respectfully disagrees that a review of N.J.A.C. 10:44A-6 is needed to clarify intent and wording at N.J.A.C. 5:27-13.3. Additionally, the intent at N.J.A.C. 5:27-13.3(b) is for lockboxes or some other means of prescription medicine security and storage be available and usable for residents.

53. COMMENT: The commenter notes that N.J.A.C. 5:27-13.3(c) may be a UFC issue; however, it is not at N.J.A.C. 5:70-4.19. The commenter states that this could also be a house rule and questions if this requirement is due to concerns related to egress and ingress for bedrooms.

Furthermore, the commenter asks if a keyed entry lock that unlocks the bedroom door when opening the door from inside is allowed or if this provision only applies to resident bedrooms. They question if the intent is to prohibit using double-keyed deadbolt locks and storeroom and

classroom locksets on resident bedroom doors. The commenter requests clarification of intent and appropriately reword text.

RESPONSE: The Department respectfully disagrees that N.J.A.C. 5:27-13.3(c) should be a house rule because the purpose is to narrow this specific requirement to CSLRs and is proposed to ensure the safety and compliance of residents with the function of CSLRs. The intent of N.J.A.C. 5:27-13.3(c) is to prevent the installation of certain locksets that cannot be opened easily with simple tools, when necessary. Additionally, this requirement restricts all keyed entry locks and deadbolts on bedroom doors, irrespective of which side the lock opens.

54. COMMENT: The commenter notes that the Department's Summary, Item 1, sets forth an editorial error in the reference at N.J.A.C. 5:23-4.6 meant to be N.J.A.C. 5:27-4.6. As N.J.A.C. 5:23 is in the notice of proposal, revisions at N.J.A.C. 5:23-3.14(b)3, 6.31(q)1, and other Department rules, such as, but not limited to, the UFC should be considered.

RESPONSE: The Department respectfully disagrees that other Department rules be considered at this time because of an inadvertent error in the notice of proposal Summary.

55. COMMENT: The commenter recommends the proposed rulemaking not be adopted. Furthermore, they recommend the Department review existing rules to make the appropriate revisions and present them clearly and concisely.

RESPONSE: The Department respectfully disagrees; some of the proposed rules are statutorily required and other proposed changes are necessary for the effective operation of CSLR facilities.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and new rules are not being adopted pursuant to the authority of, or in order to implement, comply with, or participate in, any program established pursuant to Federal law or any State statute that incorporates to any Federal law, standards, or requirements.

Full text of the adoption follows:

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

5:27-1.5 Construction and alteration; change of use

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

(c) A certificate of occupancy shall be required in the event of any change in use other than a conversion from a one- or two-unit dwelling to a rooming or boarding house occupied or intended to be occupied by five or fewer residents.

1. A certificate of occupancy shall not be required for the change in the character of use of Class F, cooperative sober living residences pursuant to N.J.A.C. 5:23-6, provided that:

i. (No change.)

ii. There shall be not more than 10 occupants, excluding staff and operator(s); each occupant, including staff and operator(s), shall be capable of prompt self-evacuation;

iii.-v. (No change.)

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

5:27-1.6 Licenses

(a) (No change.)

(b) There shall be six classes of licenses, which shall be as follows:

1.-5. (No change.)

6. Class F license: Valid only for cooperative sober living residences, as defined in this chapter. Cooperative sober living residences shall be subject to this chapter as indicated at N.J.A.C. 5:27-13. Cooperative sober living residences shall be required to comply with all applicable statutory requirements.

(c)-(m) (No change.)

5:27-1.9 Exceptions and exemptions

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

(f) Owners and operators who have been issued Class F licenses for cooperative sober living residences are exempt from the following requirements of this chapter:

1. N.J.A.C. 5:27-1.6(k);

2. (No change in text.)

3. N.J.A.C. 5:27-3.3(a), (b), and (c)1;

Recodify existing 3.-6. as 4.-7. (No change in text.)

8. N.J.A.C. 5:27-3.9(a)6 and 7;

9. N.J.A.C. 5:27-3.9(b);

10. N.J.A.C. 5:27-3.12;

11. N.J.A.C. 5:27-4.9;

12. N.J.A.C. 5:27-5;

13. N.J.A.C. 5:27-6.1(e);

14. N.J.A.C. 5:27-6.3;

15. N.J.A.C. 5:27-7.3;

16. N.J.A.C. 5:27-7.4; and

17. N.J.A.C. 5:27-8.1 through 12.3.

SUBCHAPTER 2. DEFINITIONS

5:27-2.1 Definitions

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

...

"Cooperative sober living residences" means a residential setting that serves solely as a home for individuals who are recovering from drug or alcohol addiction and is intended to provide an environment where the residents can support each other's sobriety and recovery. In addition to the other requirements specified in this chapter, a cooperative sober living residences shall satisfy the following criteria:

1. Management by an entity or organization that provides two operators, one of whom must be present on-site from 7:00 P.M. to 7:00 A.M. when residents are present, and at least one of whom shall reside in the residence and exercise some level of control over the operation of the residence and establishes the residence's rules;

2. Occupancy shall not exceed 10 individuals, exclusive of the operator(s);

3.-4. (No change.)

5. No provision of food, laundry, financial, or other personal services by the licensee; and

6. Ability of licensee, at its discretion, to provide non-clinical recovery and support services. The licensee may also elect to mandate or encourage residents to attend self-help recovery programs, participate in activities related to maintaining sobriety and continuing recovery, or receive off-site services deemed desirable or necessary to maintain sobriety.

...

SUBCHAPTER 4. GENERAL BUILDING REQUIREMENTS

5:27-4.6 Heating

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

(d) The licensee shall ensure the maximum temperature in all habitable rooms, bathrooms, and water closet compartments does not exceed 81 degrees Fahrenheit, except in rooms:

1. Designated for activities requiring physical exertion; or

2. Where residents can individually control the temperature in their own living units, independent from other areas.

5:27-4.7 Maintenance

(a)-(n) (No change.)

(o) It shall be the responsibility of the licensee to prominently display a house number on the exterior of the property.

(p) It shall be the responsibility of the licensee to provide a room classification or identification on each entry door to each sleeping room.

(q) No licensee shall allow heat generating devices, such as irons, candles, incense, or hot plates, in the individual rooms of the rooming or boarding house.

(r) The licensee shall provide a bathroom lockset that can be locked from the inside.

(s) The owner or operator shall prominently post the License to Own and Operate, as well as the Fire Certificate, in the facility.

SUBCHAPTER 6. SECURITY

5:27-6.1 Control of access

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

(e) In all facilities other than Class F facilities, which are cooperative sober living residences, every entrance door to a rooming unit in every rooming house, and in every boarding house operated pursuant to a Class B license, shall be equipped with a medium duty dead latching lockset (series 160, FF-H-106a, minimum with a minimum 1 1/16 inch by 1/2 inch with 1/2 inch minimum throw latch bolt with automatic deadlocking plunger) or with a dead bolt lock separate from the latch set. Each such door shall also be equipped with a viewing device. In all rooming and boarding houses that have locks on entrance doors to rooming units, a master key capable of opening all such locks shall be retained by the licensee and shall be readily available in event of any emergency.

(f)-(i) (No change.)

SUBCHAPTER 13. ADDITIONAL RULES REGARDING CLASS F COOPERATIVE SOBER LIVING RESIDENCES

5:27-13.1 Scope

(a) Owners and operators who have been issued a license for a Class F cooperative sober living residence must comply with this chapter, except that the following requirements are not applicable to Class F cooperative sober living residences:

1. N.J.A.C. 5:27-1.6(k);
2. N.J.A.C. 5:27-3.2(d);
3. N.J.A.C. 5:27-3.3(a), (b), and (c)1;
4. N.J.A.C. 5:27-3.4(c);
5. N.J.A.C. 5:27-3.5(a), with respect to certification by a medical professional, and N.J.A.C. 5:27-3.5(b), with regard to the responsibility for obtaining medical treatment;
6. N.J.A.C. 5:27-3.6;
7. N.J.A.C. 5:27-3.8(b);
8. N.J.A.C. 5:27-3.9(a)6 and 7;
9. N.J.A.C. 5:27-3.9(b);
10. N.J.A.C. 5:27-3.12;
11. N.J.A.C. 5:27-4.9;
12. N.J.A.C. 5:27-5;
13. N.J.A.C. 5:27-6.1(e);
14. N.J.A.C. 5:27-6.3;
15. N.J.A.C. 5:27-7.3;
16. N.J.A.C. 5:27-7.4; and
17. N.J.A.C. 5:27-8.1 through 12.3.

5:27-13.2 House rules

(a) As a part of the house rules established in accordance with N.J.A.C. 5:27-3.2, owners and operators of Class F cooperative sober living residences may mandate weekly drug and alcohol screening of all residents in order to ensure a sober living environment.

(b) The house rules may impose a reasonable curfew for residents.

1. The established curfew shall not be applicable when residents are at a recovery- or employment-related activity.
2. The established curfew shall not prevent residents from reasonable activities, including visitations or errands.

5:27-13.3 Additional requirements for safety of residents

(a) The licensee of a Class F cooperative sober living residence shall notify the Department immediately by telephone at (609) 984-1704, followed within 72 hours by written confirmation, of any event where first responders respond to a serious incident, including, but not limited to, death, overdose, or assault. Such notification shall be limited to the date, time, and nature of the incident.

(b) The licensee of a Class F cooperative sober living residence shall provide lockboxes for residents to keep prescription medications secure.

(c) Bedroom doors in Class F cooperative sober living residences shall not be equipped with keyed entry locks or deadbolts.

(a)

DIVISION OF HOUSING AND COMMUNITY RESOURCES

Notice of Readoption

Housing Preference for Veterans and Surviving Spouses

Readoption: N.J.A.C. 5:40

Authority: P.L. 2016, c. 19 (N.J.S.A. 40A:12A-20.1 and 55:14K-8) and P.L. 2017, c. 19 (N.J.S.A. 40:37A-114.1 and 40A:12A-20.2).

Authorized By: Jacquelyn A. Suárez, Commissioner, Department of Community Affairs.

Effective Date: November 25, 2024.

New Expiration Date: November 25, 2031.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 5:40 were scheduled to expire on January 2, 2025. The readopted rules are intended to implement the provisions at P.L. 2016, c. 19, and P.L. 2017, c. 19, both of which direct the Commissioner of the Department of Community Affairs (Department) to promulgate rules to provide a housing preference for veterans and surviving spouses of veterans who qualify for public housing assistance, as well as homeless veterans, disabled veterans, and family members who are the primary residential caregivers for disabled veterans residing with them.

The chapter consists of two subchapters. Subchapter 1 sets forth the general provisions and addresses the title and purpose of the rules and sets forth the applicable definitions. Subchapter 2 delineates between the types of housing preference for housing projects financed, in whole or in part, by the New Jersey Housing and Mortgage Finance Agency (NJHMFA), housing projects operated by a public housing authority or a redevelopment agency, housing projects operated pursuant to the authority of the Local Redevelopment and Housing Law, housing projects operated by a county improvement authority, and housing vouchers administered by the Department.

The Department has reviewed the rules and has determined that they should be readopted without change. The rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Therefore, pursuant to P.L. 2011, c. 45, these rules are readopted and shall continue in effect for a seven-year period.

ENVIRONMENTAL PROTECTION

(b)

DIVISION OF FISH AND WILDLIFE

Endangered and Nongame Species

Adopted Amendments: N.J.A.C. 7:3-1.5; 7:7-9.36; 7:15-1.5; 7:25-4.1, 4.13, 4.17, and 4.18; 7:36-2.1; and 7:38-1.4

Adopted Repeals: N.J.A.C. 7:25-21

Proposed: June 3, 2024, at 56 N.J.R. 936(a).

Adopted: November 6, 2024, by Shawn M. LaTourette, Commissioner, Department of Environmental Protection.

Filed: November 7, 2024, as R.2024 d.119, **without change**.

Authority: As to N.J.A.C. 7:3: N.J.S.A. 13:1B-3, 13:1B-15.100 through 102, 13:1B-15.106, 13:1D-9, 13:1L-1 et seq., 45:1-9, 45:15C-1 et seq., and 54:4-23.1 et seq.

As to N.J.A.C. 7:7: N.J.S.A. 12:3-1 et seq., 12:5-3, 13:1D-1 et seq., 13:1D-9 et seq., 13:1D-29 et seq., and 13:9A-1 et seq.

As to N.J.A.C. 7:15: N.J.S.A. 13:1B-15.146 through 15.150, 13:1D-1 et seq., 13:19-1 et seq., 13:20-1 et seq., 23:2A-1 et seq., 40:55D-93 through 99, 58:10A-1 et seq., 58:11-23 et seq., 58:11A-1 et seq., 58:16A-50 et seq., and 58:29-1 et seq.