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To: All Licensed Long-Term Care Facilities Pursuant to N.J.A.C. 8:39

From: Michael J. Kennedy, J.D. *MLC*
Executive Director, Certificate of Need and Licensing Program

Date: April 18, 2024

Re: Applicability of N.J.A.C. 8:39 to Residents of a Subacute Unit

The Department of Health (Department) has received a request for an interpretation of the rules governing long-term care facilities, commonly known as nursing homes. The purpose of this memorandum is to clarify the meaning of “resident” as utilized in New Jersey’s standards for licensure of long-term care facilities, N.J.A.C. 8:39-1.1, et seq., and specifically, whether individuals receiving subacute care are considered “residents” under this rule.

N.J.A.C. 8:39-1.2 defines “resident” as “a person who resides in the facility and is in need of 24-hour continuous nursing supervision.” “Facility” is defined as “a facility or distinct part of a facility licensed by the New Jersey Department of Health as a long-term care facility.” To be clear, N.J.A.C. 8:39-1.2 does not limit the definition of “resident” based on the type or duration of care an individual receives in the long-term care facility.

Therefore, the Department interprets “resident” as used in N.J.A.C. 8:39 to encompass every individual who resides in the long-term care facility, including, but not limited to, individuals in the facility receiving subacute care and long-term care. All residents are entitled to the protections afforded under N.J.A.C. 8:39, except for those sections specifically exempted for respite care residents, found at 8:39-44.2(g).

If you have questions, please contact Jackie Chadwick, Program Manager, Division of Certificate of Need and Licensing at (609) 376-7745 or Jacqueline.Chadwick@doh.nj.gov. Thank you.