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To: Assisted Living Residences Licensed Pursuant to N.J.A.C. 8:36 and
Long-Term Care Facilities Licensed Pursuant to N.J.A.C. 8:39

From: Rebecca Nazario-Straffi, MBA 
Assistant Commissioner, Division of Certificate of Need and Licensing

Date: September 3, 2026

Subject: Prohibition on Space-Sharing between Licensed Facilities and
Unlicensed Entities

This guidance memorandum is to remind assisted living residences (ALRs) licensed pursuant to N.J.A.C. 8:36 that sharing space with unlicensed entities is not permitted.

The Department of Health (Department) has licensing and regulatory authority over licensed "health care facilities" as the term is defined at N.J.S.A. 26:2H-2. Entities such as community-based independent living (IL communities) and other forms of senior living communities do not provide medical care, are not licensed as health care facilities, and are therefore not licensed health care facilities under the authority of the Department.

Recently, the Department has experienced an increase in complaints involving resident safety concerns and conflicts between residents of ALRs and residents of IL communities. These incidents have occurred in facilities where ALR residents and IL community residents share common areas, including lobbies, elevators, dining areas, recreational spaces, and other community areas.

Additionally, the Department has become aware of incidents in which facility staff were unable to determine whether an individual resided in the licensed ALR or the unlicensed IL community. The Department is also aware of a recent trend where ALRs and IL communities are requesting the Department to license a shared "flex bed" or "transitional bed/unit" model which would allow for the same bed/residential space to be used interchangeably by licensed facilities and unlicensed entities at the facility's discretion.

These incidents reinforce the Department's longstanding position that licensed healthcare facilities must maintain exclusive use and control of the space necessary to

provide services, ensure regulatory compliance, and safeguard the health, safety, and welfare of facility residents under the Department's oversight.

Accordingly, the Department is publishing this memo to remind healthcare facilities that the Department requires all clinical, administrative, service, and support areas necessary for the operation of a licensed health care facility be provided within the boundaries of the licensed premises. These areas shall be under the exclusive control of the licensed facility and cannot be shared with entities that are not licensed by the Department. Enforcement of this requirement supports proper regulatory oversight, clear accountability for resident care and supervision, and the protection of residents within the licensed facility.

While the Department may consider requests for waivers in limited circumstances, these requests are evaluated on a case-by-case basis in accordance with applicable regulatory requirements and are typically not issued in connection with new construction projects.

The Department also reminds ALRs that sharing space between ALRs licensed under N.J.A.C. 8:36 and long-term care facilities licensed under N.J.A.C. 8:39 is also not permitted. While both types of facilities are regulated by the Department, such a space-sharing arrangement between the two separate and distinct licensed health care facility types is not permitted.

Any questions regarding this memo may be directed to Nicole Pine at Nicole.Pine@doh.nj.gov.