

SUBCHAPTER 9. MANDATORY ADMINISTRATION

8:39-9.1 Ownership

(a) The facility shall inform the Department of the ownership and management of the facility and its location, and proof of ownership shall be available at the facility.

1. In the case of group or corporate management of a facility, the facility shall specify:

- i. The name and address of the firm or corporation; and
- ii. The names and addresses of all stockholders who own 10% or greater of the voting shares; members of any limited liability corporation; partners; and directors of the firm or corporation.

2. Any proposed change in ownership shall be approved by the Department in accordance with N.J.A.C. 8:39-2.12.

(b) The facility shall not be owned or operated by any person convicted of a crime relating adversely to the person's capability of owning or operating the facility.

8:39-9.2 Administrator

(a) The facility shall be directed by an individual who holds a current New Jersey license as a nursing home administrator. The administrator shall be administratively responsible for all aspects of the facility.

1. In a facility with more than 240 beds, in addition to the licensed administrator, there shall be a full-time administrative supervisor who is assigned the evening shift and reports directly to the licensed administrator.

2. In a facility with 100 beds or more, the administrator shall serve full-time in an administrative capacity within the facility.

3. In facilities with fewer than 100 beds, a licensed administrator shall serve at least half-time within the facility.

4. Two facilities may share a common administrator, if such facilities are within a 20-mile radius and if the total number of beds for which both facilities are licensed is no more than 120.

(b) A facility shall not retain in any administrative, managerial, supervisory, or similar position, a nursing home administrator whose license is either suspended or revoked, pursuant to N.J.S.A. 26:2H-27 and 26:2H-28 and N.J.A.C. 8:34-1.1.

(c) When a vacancy exists in the position of administrator for 48 hours or more, the facility shall arrange for licensed administrative supervision on a consultant basis, which shall continue until a new licensed administrator shall be appointed, which shall be within 90 days of the appointment of the consultant.

8:39-9.3 Mandatory policies and procedures for staff

(a) There shall be written policies and procedures for personnel that are reviewed annually, revised as needed, and implemented. They shall include at least:

1. A written job description for each category of personnel in the facility and distribution of a copy to each newly hired employee;

2. Personnel policies in compliance with Federal and State requirements;
3. A system to ensure that written, job-relevant criteria are used in making evaluation, hiring, and promotion decisions;
4. A system to ensure that employees meet ongoing requirements for credentials; and
5. Written criteria for personnel actions that require disciplinary action.

(b) The facility shall make reasonable efforts to ensure that staff providing direct care to residents in the facility are in good physical and mental health, emotionally stable, of good moral character, and are concerned for the safety and well-being of residents; and have not been convicted of a crime relating adversely to the person's ability to provide care, such as homicide, assault, kidnapping, sexual offenses, robbery, and crimes against the family, children or incompetents, except where the applicant or employee with a criminal history has demonstrated his rehabilitation in order to qualify for employment at the facility. ("Reasonable efforts" shall include an inquiry on the employment application, reference checks, and/or criminal background checks where indicated or necessary.)

(c) The facility shall ensure that all private duty nursing staff and contract personnel are monitored and those who do not meet the requirements at (b) above or facility policies and procedures are not permitted to perform services in the facility.

(d) The facility shall develop and implement a grievance procedure for all staff. The procedure shall include, at least, a system for receiving grievances, a specified response time, assurance that grievances are referred appropriately for review, development of resolutions, and follow-up action.

(e) Each staff member shall wear clean clothes and shall use good personal hygiene.

8:39-9.4 Mandatory notification

(a) The administrator shall provide to the owner and/or governing body of the facility a copy of the licensing survey report and any additional survey-related data sent by the Department to the administrator of the facility.

(b) Results of the most recent licensure survey, Federal standard certification conducted by the Department and any plan of correction shall be available for inspection by any resident or visitor, in a readily accessible place, at all times. A notice announcing the availability of those results and all other surveys conducted in the past 12 months shall be conspicuously posted in diverse readily accessible areas of the facility.

(c) The facility shall make all policy and procedure manuals available to residents, families, and guardians during normal business hours or by prior arrangement.

(d) A facility shall notify the Department immediately in writing at such time as it becomes financially insolvent and upon the filing of a voluntary or involuntary petition for bankruptcy under Title 11 of the United States Code.

(e) The facility shall notify the Department immediately by telephone (609-633-8981, or 1-800-792-9770 after office hours), followed within 72 hours by written confirmation, of any of the following:

1. Interruption for three or more hours of physical plant services and/or other services essential to the health and safety of residents;
2. Termination of employment of the administrator or the director of nursing, and the name and qualifications of the proposed replacement;

3. All alleged or suspected crimes which endanger the life or safety of residents or employees, which are also reportable to the police department, and which result in an immediate on-site investigation by the police.

i. In addition, the State Office of the Ombudsman for the Institutionalized Elderly (1-877-582-6995) shall be immediately notified of any suspected or reported resident abuse, neglect, or exploitation of residents aged 60 or older, pursuant to P.L. 1983 c.43, N.J.S.A. 52:27G-7.1, and the Department shall be immediately notified for residents under the age of 60; and

4. All fires, disasters, deaths, and imminent dangers to a resident's life or health resulting from accidents or incidents in the facility.

(f) The facility shall notify the Department of the admission of any resident under 18 years of age.

8:39-9.5 Mandatory policies and procedures for residents' accounts

(a) The facility shall maintain a written record of all financial arrangements with each resident, next of kin who has entered into financial arrangements with the facility on behalf of the resident, and/or guardian. Copies of the record shall be accessible to the resident, next of kin who has entered into financial arrangements with the facility on behalf of the resident, or guardian during normal business hours or by prior arrangement.

(b) The facility shall provide the resident with 30 days prior written notice of charges, expenses, or other financial liabilities that are in addition to the agreed per diem rate. The resident's prior written approval for additional charges shall not be required in the event of a health emergency that requires the resident to receive immediate special services or supplies.

(c) Funds deposited with a facility for a particular resident's use and safekeeping shall be held in an account which is separate from any of the facility's operating accounts.

1. Funds in excess of \$50.00 shall be deposited in an interest bearing account(s) and all interest earned on resident's funds shall be credited to that account.

2. If a resident's personal funds do not exceed \$50.00, they shall be maintained in a separate interest bearing account, a non-interest bearing account, or a petty cash fund.

3. The facility shall assure the security of all personal funds of residents deposited with the facility, through purchase of a surety bond or an alternative that provides protection equivalent to a surety bond.

(d) All residents who have advanced a security deposit to a facility prior to or upon admission shall be entitled to receive interest earnings which accumulate on such funds or property.

1. The facility shall hold such funds or property in trust for the resident and they shall remain the property of the resident. All such funds shall be held in an interest-bearing account as established under the requirements of N.J.S.A. 30:13-1 et seq.

2. The facility may deduct an amount not to exceed one percent per annum of the amount so invested or deposited for costs of servicing and processing the accounts.

3. The facility, within 60 days of establishing an account, shall notify the resident, in writing, of the name of the bank or investment company holding the funds and the account number. The facility shall thereafter provide a quarterly statement to each resident it holds security funds in trust for, identifying the balance, interest earned, and any deductions for charges or expenses incurred in accordance with the terms of the contract or agreement of admission.

8:39-9.6 Mandatory policies and procedures for advance directives

(a) The facility shall develop and implement procedures to ensure that there is a routine inquiry made of each adult resident, upon admission to the facility and at other appropriate times, concerning the existence and location of an advance directive. If the resident is incapable of responding to this inquiry, the facility shall have procedures to request the information from the resident's family or in the absence of a family member, another individual with personal knowledge of the resident. The procedures shall assure that the resident or family's response to this inquiry is documented in the medical record. Such procedures shall also define the role of facility admissions, nursing, social service and other staff as well as the responsibilities of the attending physician or advanced practice nurse.

(b) The facility shall develop and implement procedures to promptly request and take reasonable steps to obtain a copy of currently executed advance directives from all residents. These shall be entered when received into the medical record of the resident.

(c) A resident shall be transferred to another health care facility only for a valid medical reason, in order to comply with other applicable laws or Department rules, to comply with clearly expressed and documented resident choice, or in conformance with the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 *et seq.*, in the instance of private, religiously affiliated health care institutions who establish policies defining circumstances in which it will decline to participate in the implementation of advance directives. Such institutions shall provide notice to residents or their families or health care representatives prior to or upon admission of their policies. A timely and respectful transfer of the individual to another institution which will implement the resident's advance directive shall be effected. The facility's inability to care for the resident shall be considered a valid medical reason. The sending facility shall receive approval from a physician or advanced practice nurse and the receiving health care facility before transferring the resident.

(d) The facility shall, in consultation with the attending physician or advanced practice nurse, take all reasonable steps to effect the appropriate, respectful and timely transfer of residents with advance directives to the care of an alternative health care professional in those instances where a health care professional declines as a matter of professional conscience to participate in withholding or withdrawing life-sustaining treatment. In those instances where the health care professional is the resident's physician or advanced practice nurse, the facility shall take reasonable steps, in cooperation with the physician or advanced practice nurse, to effect the transfer of the resident to another physician's or advanced practice nurse's care in a responsible and timely manner. Such transfer shall assure that the resident's advance directive is implemented in accordance with their wishes within the facility, except in cases governed by (c) above.

(e) The facility shall have procedures to provide each adult resident upon admission, and where the resident is unable to respond, to the family or other representative of the resident, with a written statement of their rights under New Jersey law to make decisions concerning the right to refuse medical care and the right to formulate an advance directive. Such statement shall be issued by the Commissioner. Appropriate written information and materials on advance directives and the institution's written policies and procedures concerning implementation of such rights shall also be provided. Such written information shall also be made available in any language which is spoken as a primary language, by more than 10 percent of the population served by the facility.

(f) The facility shall develop and implement procedures for referral of residents requesting assistance in executing an advance directive or additional information to either staff or community resource persons who can promptly advise and/or assist the resident.

(g) The facility shall develop and implement policies to address application of the facility's procedures for advance directives to residents who experience an urgent life-threatening situation.

(h) The facility shall develop and implement policies and procedures for the declaration of death of residents, in instances where applicable, in accordance with N.J.S.A. 26:6-1 *et seq.* and the New Jersey

Declaration of Death Act, N.J.S.A. 26:6A-1 et seq. (P.L. 1991, c.90). Such policies shall also be in conformance with rules promulgated by the New Jersey Board of Medical Examiners which address declaration of death based on neurological criteria (N.J.A.C. 13:35-6A), including the qualifications of physicians or advanced practice nurses authorized to declare death based on neurological criteria and the acceptable medical criteria, tests, and procedures which may be used. The policies and procedures shall also accommodate a resident's religious beliefs with respect to declaration of death.

(i) The facility shall establish procedures for considering disputes among the resident, health care representative and the attending physician concerning the resident's decision-making capacity or the appropriate interpretation and application of the terms of an advance directive to the resident's course of treatment. The procedures may include consultation with an institutional ethics committee, a regional ethics committee or another type of affiliated ethics committee, or with any individual or individuals who are qualified by their background and/or experience to offer clinical and ethical judgments.

(j) The facility shall establish a process for residents, families, and staff to discuss and address questions and concerns relating to advance directives and decisions to accept or refuse medical treatment.

(k) The facility shall provide periodic community education programs, individually or in coordination with other area facilities or organizations, that provide information to consumers regarding advance directives and their rights under New Jersey law to execute advance directives.

(l) At least one education or training program each year shall be held and documented for all administrative and resident care staff regarding the rights and responsibilities of staff under the New Jersey Advance Directives for Health Care Act (P.L. 1991, c.201) and the Federal Patient Self Determination Act (P.L. 101-508), and internal facility policies and procedures to implement these laws.

SUBCHAPTER 10. ADVISORY ADMINISTRATION

8:39-10.1 Advisory policies and procedures for administration

(a) The administrator monitors trends in staff turnover.

(b) Each of at least five service directors participates in facility planning through preparation of annual budgets and annual reports, and participates in annual budget conferences among all service directors and the administrators.

8:39-10.2 Advisory staff qualifications

The administrator holds current professional certification from the American College of Health Care Administrators, or possesses a master's degree in health care administration or a related field.

8:39-10.3 Advisory staff education and training

(a) Personnel who provide direct resident care are offered an opportunity to attend at least one education program each year and receive fee reimbursement or compensatory time off. Records of continuing education programs attended are maintained.

(b) The facility conducts a tuition aid program directed toward the career development and upward mobility of staff, including both professional and ancillary personnel.

(c) The facility is a teaching nursing home, that is, the site of an internship, externship, or residency training program for health professionals, as part of the curriculum of an accredited or State-approved school or training program. The facility has sought input from the residents and/or the resident council concerning teaching programs.

(d) The facility maintains a library of textbooks and/or recent periodicals on long-term care, geriatric care, nursing, and other disciplines that is accessible to staff.