

**HEALTH**

**HEALTH SYSTEMS BRANCH**

**DIVISION OF CERTIFICATE OF NEED AND LICENSING**

**CERTIFICATE OF NEED AND HEALTH CARE FACILITY LICENSURE PROGRAM**

**Licensing Standards for Dementia Care Homes**

**Proposed Readoption with Amendments: N.J.A.C. 8:37**

Authorized By: \_\_\_\_\_

Cathleen D. Bennett, Commissioner, Department of Health, with the approval of the Health Care Administration Board.

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

Proposal Number: PRN \_\_\_\_\_.

Submit written comments by \_\_\_\_\_, electronically to

[www.nj.gov/health/legal/ecomments.shtml](http://www.nj.gov/health/legal/ecomments.shtml) or by regular mail to:

Joy L. Lindo, Director

Office of Legal and Regulatory Compliance

Office of the Commissioner

New Jersey Department of Health

PO Box 360

Trenton, NJ 08625-0360

The agency proposal follows:

On February 7, 2017, the Licensing Standards for Dementia Care Homes, N.J.A.C. 8:37, was adopted as special new rules at 49 N.J.R. 461(a) in accordance with N.J.S.A.

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26:2H-157. Pursuant to N.J.S.A. 26:2H-157, N.J.A.C. 8:37 was scheduled to expire on May 31, 2017. As the Department submitted this notice of readoption with amendments to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to November 27, 2017.

From 1998 to 2016, the Department of Community Affairs (DCA) licensed dementia care homes as a subset of rooming and boarding houses regulated under N.J.S.A. 55:13B-1 et seq. and N.J.A.C. 5:27. The licensing of dementia care homes was transferred to the Department from the DCA by the Dementia Care Home Act (the Act), N.J.S.A. 26:2H-148 et seq. and N.J.S.A. 55:13B-5.1 (P.L. 2015, c. 125), effective June 1, 2016. Consistent with N.J.S.A. 26:2H-157, the Department adopted N.J.A.C. 8:37 as special new rules, which implemented the new statutory requirements set forth at N.J.S.A. 26:2H-148 et seq. The special new rules implemented the Act by establishing interim standards for licensure of and the provision of services by dementia care homes in New Jersey under the Department while it worked to establish permanent rules for the licensure and oversight of these facilities.

Since the special adoption of N.J.A.C. 8:37, the Commissioner has reviewed the chapter and has determined that it is appropriate to readopt the majority of its provisions as they remain necessary, proper, reasonable, efficient, understandable and responsive for the purposes for which they were originally promulgated. However, the Commissioner has determined that certain amendments to the rule chapter are necessary to ensure that dementia care homes are safe and properly licensed by the Department. Specifically, the Commissioner proposes to amend the rule chapter to include the process, fees and standards for licensure of dementia care homes and to

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update the physical plant requirements for dementia care homes to better reflect the standards that are necessary for the health and safety of residents. A summary of the rules proposed for readoption with amendments follows.

The Department proposes a technical amendment throughout the chapter that updates the name of the program responsible for the oversight of dementia care home licensure from “Office of Certificate of Need and Healthcare Facility Licensure” to “Certificate of Need and Healthcare Facility Licensure Program.” The Department also proposes technical amendments throughout the chapter to improve grammar and readability.

Proposed readopted N.J.A.C. 8:37-1.1 would continue to establish the purpose and scope of this chapter, which is the licensing of dementia care homes in accordance with the Act.

Proposed readopted N.J.A.C. 8:37-1.2 would continue to define the words and terms used throughout the chapter. The Department proposes to amend this section to delete the existing definition of “rubbish” because the chapter no longer uses this term.

Proposed amended N.J.A.C. 8:37-2.1 would set forth the requirement that a dementia care home receive a license issued by the Department in order to operate and also provide the process, fees and standards for licensure of the homes. The proposed amendments also delete the provisional licensure provisions for dementia care homes, which were promulgated for the sole purpose of providing a temporary license to already existing dementia care homes licensed under DCA while the Department worked to establish permanent licensing rules for the homes, as they are now obsolete by the new licensing standards. Additionally, the proposed amendments require a

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dementia care home to post its license in the facility and prohibit the assignment of a license. The proposed amendments also require licensure applications to be submitted using the Application for a New or Amended Acute Care Facility License, which would be incorporated into the rule by reference as proposed new Appendix B and which would be available for download from the Department's forms webpage.

Proposed amended N.J.A.C. 8:37-2.2(a) would set forth the procedure for licensure of newly constructed, renovated and expanded dementia care homes, including provisions for requiring approval by the Health Care Plan Review Unit of the Department of Community Affairs prior to initiation of renovation, expansion or construction projects. Proposed amended N.J.A.C. 8:37-2.2(b) would provide a licensure applicant for newly constructed, renovated or expanded dementia care homes with an opportunity to request a functional review with the Department to review plans and discuss licensure conditions. Proposed amended N.J.A.C. 8:37-2.2(c) would require newly constructed, renovated and expanded dementia care homes to conform to the New Jersey Uniform Construction Code standards and require each newly constructed, renovated and expanded dementia care home licensure application to include the written approval of final construction of the physical plant by the Health Care Plan Review Unit of the Department of Community Affairs. Proposed amended N.J.A.C. 8:37-2.2(d) would require the submission of the certificate of occupancy issued by the local municipality to the Department prior to issuance of a license for newly constructed, renovated or expanded dementia care home.

Proposed N.J.A.C. 8:37-2.3 would recodify the provisions found in N.J.A.C. 8:37-2.1(c) of the previous chapter and continue to require each dementia care home to have

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an administrator responsible for day-to-day operations and further provide that the Department must be given notice within 72 hours of any change of administrator.

Proposed N.J.A.C. 8:37-2.4 would recodify the provisions found in N.J.A.C. 8:37-2.2 of the previous chapter and continue to provide for access to the dementia care home, its staff, residents, responsible parties of residents, documents, and resident records by Department personnel at any time.

Proposed N.J.A.C. 8:37-2.5 would recodify the provisions found in N.J.A.C. 8:37-2.3 of the previous chapter and continue to provide for a waiver provision of licensing standards in the chapter, including the manner in which a dementia care home may apply for a waiver.

Proposed N.J.A.C. 8:37-2.6 would recodify the provisions found in N.J.A.C. 8:37-2.4 of the previous chapter and continue to provide for enforcement remedies for violations of statutes or rules by dementia care homes.

Proposed N.J.A.C. 8:37-2.7 would recodify the provisions found in N.J.A.C. 8:37-2.5 of the previous chapter and would continue to require a written resident admission agreement that includes what services are to be provided, require notice before additional charges can be levied against a resident, govern the requirements for a security deposit, require the dissemination of information about financial assistance to residents and their responsible parties, and require a ledger documenting all transactions if the dementia care home is entrusted with a resident's personal funds.

Proposed N.J.A.C. 8:37-2.8 would recodify the provisions found in N.J.A.C. 8:37-2.6 of the previous chapter and would continue to cover reportable events and would

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continue to require a dementia care home to report such events in the manner set forth at N.J.A.C. 8:43E-10.11.

Proposed N.J.A.C. 8:37-2.9 would recodify the provisions found in N.J.A.C. 8:37-2.7 of the previous chapter and would continue to cover personal needs allowances and require the dementia care home to comply with the personal needs allowance standards found at N.J.A.C. 8:36-6.3.

Proposed amended N.J.A.C. 8:37-3.1 would continue to address resident rights, including the statutory resident right requirements found at N.J.S.A. 26:2H-154, and require the dementia care homes to provide each resident, his or her family, and any responsible person a copy of these rights upon admission, as well as post them in a conspicuous public place in the facility. Subsection (a)(1) is amended to delete “the facility administrator” from the list of individuals to whom the responsibility to manage the resident’s financial affairs may be delegated.

Proposed readopted N.J.A.C. 8:37-4.1 would continue to address the admission and retention of residents, as well as health care monitoring of residents. The readopted rule also continues to codify the statutory requirements found at N.J.S.A. 26:2H-152(n)(6), which requires a prospective dementia care home resident to obtain a certification from a physician stating that a dementia care home is appropriate for the individual and, after the individual becomes a resident, requires the individual to obtain quarterly physician recertifications reaffirming his or her appropriateness for a dementia care home. The rule would also continue to address the use of restraints and “do not resuscitate” orders, require a facility to weigh a resident at least monthly, require notice to residents and their responsible parties of discharge criteria prior to admission and

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annually thereafter, and require the transfer of a resident to another facility that offers a higher level of care when such care is required.

Proposed readopted N.J.A.C. 8:37-4.2 would continue to provide discharge criteria and the standards for when discharge of a resident to a facility providing a higher level of care is required.

Proposed readopted N.J.A.C. 8:37-4.3 would continue to require a facility to maintain a list of long-term care facilities and to provide that list to a resident, the resident's family members and the resident's responsible party when the resident requires a higher level of care.

Proposed readopted N.J.A.C. 8:37-5.1 would continue to address the statutory restriction on the provision of health care services by an individual who has an ownership interest in a dementia care home. Proposed readopted N.J.A.C. 8:37-5.1 also continues to provide the only circumstances in which skilled nursing care may be provided in the facility.

Proposed readopted N.J.A.C. 8:37-5.2 would continue to list the services that a dementia care home must provide.

Proposed readopted N.J.A.C. 8:37-5.3 would continue to address staffing requirements. Facilities would still be required to have a sufficient number of trained staff available, with a minimum of two staff members on duty at all times.

Proposed readopted N.J.A.C. 8:37-5.4 would continue to establish training requirements for staff who have regular direct contact with residents, which include completion of a home health aide course, a five-day course given by a registered nurse that includes an orientation to the facility, as well as the completion of the Centers for

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Medicare & Medicaid Services Hand in Hand: A Training Series for Nursing Homes  
Toolkit on the care of persons with dementia.

Proposed readopted N.J.A.C. 8:37-5.5 would continue to address the assistance in dressing standards.

Proposed readopted N.J.A.C. 8:37-5.6 would continue to address the assistance in bathing and personal hygiene standards.

Proposed readopted N.J.A.C. 8:37-5.7 would continue to require facilities to provide their residents with transportation to health care services.

Proposed readopted N.J.A.C. 8:37-5.8 would continue to establish housekeeping standards.

The proposed amendment to N.J.A.C. 8:37-5.9 would make it clear that facilities are required to provide laundry services for their residents.

Proposed readopted N.J.A.C. 5:37-5.10 would continue to require facilities to assist each resident with living with as much independence and community interaction that is reasonably possible, as well as to provide residents with regularly scheduled recreational activities.

Proposed readopted N.J.A.C. 8:37-6.1 would continue to govern the supervision of self-administration of medicine and require the facility to maintain a daily record of a resident's self-administration of medication.

Proposed readopted N.J.A.C. 8:37-6.2 would continue to address the administration of medication and permit facilities to employ certified medication aides.

Proposed readopted N.J.A.C. 8:37-6.3 would continue to establish the standards for the storage of medications, set the requirements for the labelling of medications, as well as address the destruction of medications.

The proposed amendments to N.J.A.C. 8:37-7.1 would continue to establish the standards for a facility's water supply, recodify the hot water temperature requirements from N.J.A.C. 8:37-7.2(f) to amended subsection (b) of the rule as well as add the standards for the maintenance of ice machines and sewage disposal systems. Additionally, the proposed amendments to N.J.A.C. 8:37-7.1(c) would require the maintenance of equipment requiring draining to comply with the standards set forth in the International Mechanical Code, 2015 Edition, as supplemented and amended, which sets forth guidelines for sanitary draining of equipment and is incorporated into the rule by reference.

Proposed readopted N.J.A.C. 8:37-7.2 would continue to set physical plant requirements. The proposed amendment to this rule would require a facility to have a water closet, lavatory and a bathtub or shower for every four residents, rather than for every eight residents as set forth in the current rule.

The proposed amendments to N.J.A.C. 8:37-7.3 would continue to establish the requirements for waste and garbage storage, while clarifying that the standards for collecting, storing and disposing of waste and garbage must comply with the waste regulations promulgated by the Department of Environmental Protection and the requirements of N.J.A.C. 8:24. Additionally, the proposed amendments to N.J.A.C. 8:37-7.3(b) would require a facility's use of garbage compactors to comply with the standards set forth in the International Mechanical Code, 2015 Edition, as

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supplemented and amended, which sets forth guidelines for the use of garbage compactors and is incorporated into the rule by reference.

Proposed readopted N.J.A.C. 8:37-7.4 would continue to set the requirements for lighting and electrical service, while the proposed amendments would delete the requirements for specific lumens in specified areas of the facility. In addition, the proposed amendments would require each facility to have an annual electrical inspection.

Proposed readopted N.J.A.C. 8:37-7.5 would continue to establish standards for ventilation and would continue to prohibit windows from opening more than six inches so that residents cannot use them as an exit. The proposed amendment to the rule would provide for mechanical ventilation as well as windows in accordance with the Uniform Construction Code, N.J.A.C. 5:23.

The proposed amendments to N.J.A.C. 8:37-7.6 would continue to set the standards for heating systems, as well as add requirements for air conditioning. In addition, the amendments to the rule would address the maintenance of filters for the heating and air conditioning system.

Proposed readopted N.J.A.C. 8:37-7.7 would continue to address maintenance standards.

Proposed readopted N.J.A.C. 8:37-7.8 would continue to set use and occupancy of space standards, maintaining the requirement for a minimum of 150 square feet for the first resident and a minimum of 100 square feet for each additional resident, 80 square feet of floor space in each bedroom occupied by one individual and an additional 60 square feet of floor space for an additional occupant in a bedroom. The rule also

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continues to address the requirements for ceiling height and bedrooms below ground level.

Proposed readopted N.J.A.C. 8:37-7.9 continues to provide for the control of access for entrance and interior doors and continues the requirement for the main exterior door to have a doorbell. The proposed amendment to this section would remove the specific standards for locks on the entrance and interior doors.

Proposed readopted N.J.A.C. 8:37-7.10 would continue to set building safety requirements. The building safety standards continue to include a requirement for additional staffing when more than four residents cannot self-evacuate, as well as requirements for a fence with a self-locking gate, a closed-circuit camera on the gate or main entrance, and audible alarms on doors and windows.

Proposed readopted N.J.A.C. 8:37-7.11 would continue to provide the requirements for resident bedrooms. The bedroom requirements continue to include space requirements, conditions for sharing of a bedroom, as well as requiring a dresser and closet space.

Proposed readopted N.J.A.C. 8:37-7.12 would continue to set the standards for living and dining rooms. The rule will continue to require the provision of space for at least two-thirds of the facility's licensed resident capacity in the living room, as well as a sufficiently sized dining room to sit all of the residents at one time.

Proposed readopted N.J.A.C. 8:37-7.13 would continue to set the requirements for outdoor facilities and recreation equipment. Facilities would continue to be required to have an outdoor area with seating, as well as, when feasible, recreation equipment.

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Proposed readopted N.J.A.C. 8:37-7.14 would continue to require and set the standards for carbon monoxide alarms.

Proposed readopted N.J.A.C. 8:37-7.15 would continue to require compliance with the smoke free air rules at N.J.A.C. 8:6.

Proposed readopted N.J.A.C. 8:37-8.1 would continue to set the minimum standards for what is to be included in a resident's record.

Proposed readopted N.J.A.C. 8:37-8.2 would continue to set the standards for financial records.

Proposed readopted N.J.A.C. 8:37-8.3 would continue to require facilities to retain records in accordance with N.J.S.A. 26:8-5 et seq.

Proposed readopted N.J.A.C. 8:37-9.1 would continue to set the requirements for resident diets and facility menus. The diet and menu requirements continue to include weekly menus, the nutritional standards for daily diets and the retention of menus for three weeks following the date of service.

Proposed readopted N.J.A.C. 8:37-9.2 would continue to set the standards for a facility's food service, which includes three meals a day and snacks.

Proposed readopted N.J.A.C. 8:37-9.3 would continue to set the standards for food sanitation, including temperatures for freezers and refrigerators.

As the Department has provided a 60-day comment period on this notice of proposal, pursuant to N.J.A.C. 1:30-3.3(a)(5), this notice meets the exception from the rulemaking calendar requirement set forth at N.J.A.C. 1:30-3.1 and 3.2.

### **Social Impact**

The rules proposed for readoption with amendments would continue to provide

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the regulatory framework to fulfill the Department's obligation to license dementia care homes. Thus, the rules proposed for readoption impact dementia care homes and the individuals they serve.

The Department expects the rules proposed for readoption with amendments to have a favorable social impact on residents of dementia care homes because they ensure minimum standards of acceptable care. In short, the rules proposed for readoption would continue to ensure that dementia care homes employ qualified staff, maintain a safe and clean physical plant environment, offer nutritional foods, protect patient rights, and utilize adequate recordkeeping policies and procedures to oversee the delivery of care for each resident. As such, the licensure standards proposed for readoption with amendments would continue to support an existing foundation of services that improve the quality of life for residents of dementia care homes, ensure the effective delivery of care to residents and protect the health, safety, and general welfare of the residents of these facilities. As a result, the proposed rules would have a positive social impact on dementia care home residents. Therefore, the Department expects that the general public would react favorably to the proposal.

### **Economic Impact**

As stated above, the responsibility for licensure of dementia care homes was transferred from DCA to the Department under N.J.S.A. 26:2H-148 et seq. Due to this transfer, dementia care homes are now classified as health care facilities under the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq. See N.J.S.A. 26:2H-2(a). Because dementia care homes now fall under the Health Care Facilities Planning Act, the Department is required to charge the homes licensure and inspection fees.

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Specifically, N.J.S.A. 26:2H-12 requires the Department to charge a fee for the filing of an application for and issuance of a health care facility license, a fee for any renewal thereof, and a fee for a biennial inspection of the facility. Pursuant to this statutory mandate, the proposed readoption with amendments of N.J.A.C. 8:37 includes the licensure and inspection fees that will be assessed by the Department for dementia care homes. It is anticipated that the revenue collected from the licensure and inspection fees will ensure the capability of the Department to provide a thorough review of the dementia care home applications as well as a more effective level of scrutiny by way of survey inspections of the homes, thereby providing a level of protection and safety to the residents of these facilities.

The proposed fees are also reasonable as they are in-line with similarly situated health care facilities, namely assisted living facilities. Additionally, the license application, renewal and inspection fees represent a small percentage of the annual budgets of dementia care homes and remain below the fee caps set forth in N.J.S.A. 26:2H-12. Because the proposed fees are below the statutory licensure and inspection fee caps, represent only a small portion of a dementia care home's operating budget, and are the same as the fees charged for similar health care facilities, the Department does not anticipate that the facilities or their residents will endure any significant financial consequences as a result of the fees established in the rule proposal.

### **Federal Standards Statement**

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking a comparison with

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Federal law. The Department's authority for regulating dementia care homes comes solely from State statute, specifically the Dementia Care Home Act, N.J.S.A. 26:2H-148 et seq. As such, the dementia care home rules proposed for readoption are not promulgated under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or under a State statute that incorporates or refers to Federal laws, Federal standards, or Federal requirements. Therefore, a Federal standards analysis is not required.

### **Jobs Impact**

The Department does not expect the rules proposed for readoption with amendments would result in an increase or decrease in the number of jobs available in the State.

### **Agriculture Industry Impact**

The rules proposed for readoption would not have an impact on the agriculture industry.

### **Regulatory Flexibility Analysis**

All existing dementia care homes are considered small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed rules for readoption with amendments will continue to impose various reporting, recordkeeping, and compliance requirements upon dementia care homes. These requirements are discussed in the Summary statement above. The operational requirements for dementia care homes that are contained in this proposed rule readoption with amendments, including the notification requirement of reportable events as well as the retention and maintenance of resident records concerning admissions and discharges, are contained

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in existing rules. There is no basis for any modification of these requirements based on the size or nature of the facility as the clear intent of the enabling legislation is to ensure that residents of dementia care homes receive appropriate and safe care. Thus, no lesser requirements or exceptions can be provided based upon business size in the interest of public health, quality of care and safety.

### **Housing Affordability Impact Analysis**

The Department does not expect the rules proposed for readoption to have any impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules only apply to dementia care homes.

### **Smart Growth Development Impact Analysis**

The Department anticipates that the rules proposed for readoption would have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules only apply to dementia care homes.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 8:37

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

**Full text** of the rules proposed for readoption with amendments follows:

## **CHAPTER 37**

### **LICENSING STANDARDS FOR DEMENTIA CARE HOMES**

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## SUBCHAPTER 1. GENERAL PROVISIONS

### 8:37-1.1 Purpose and Scope

(a) This chapter implements the Dementia Care Home Act, N.J.S.A. 26:2H-148 et seq., P.L. 2015, c. 125 (enacted November 9, 2015), and is to apply to dementia care homes as defined in this chapter.

(b) This chapter is promulgated for the purpose of establishing [interim] licensing standards for dementia care homes in the State of New Jersey to ensure that they are maintained and operated in such a manner that will protect the health, safety, and welfare of its residents and at the same time preserve and promote a home-like atmosphere appropriate to such facilities[.]. [while the Department works to establish permanent rules pursuant to N.J.S.A. 26:2H-157.]

### 8:37-1.2 Definitions

(a) The following words and terms are defined in the Dementia Care Home Act at P.L. 2015, c. 125, § 17 (N.J.S.A. 26:2H-148) and are used in this chapter as defined in the Act:

"Alzheimer's disease and related disorders";

"Commissioner";

"Department";

"Dementia"; and

"Dementia care home."

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

“Act” means the Dementia Care Home Act, N.J.S.A. 26:2H-148 et seq., P.L. 2015, c. 125, which is legislation that was enacted on November 9, 2015, that provides for the licensure of dementia care homes by the Department.

"Activities of daily living (ADL)" means the functions or tasks for self-care, which are performed either independently or with supervision or assistance. Activities of daily living include dressing, bathing, toilet use, transfer, locomotion, bed mobility, and eating.

“Administrator” means an individual designated by the licensee who is responsible for the overall day-to-day operations of the dementia care home.

“Advanced practice nurse” means an individual who is certified by the New Jersey State Board of Nursing in accordance with N.J.S.A. 45:11-23 et seq.

“Assistance with transfer” means providing the physical assistance of no more than two facility staff while the resident moves between bed and a standing position or between bed, chair, or wheelchair.

"[Office of] Certificate of Need and Healthcare Facility Licensure **Program**" means the health care facility licensing unit within the Division of Certificate of Need and Licensing of the Health Systems Branch of the Department, for which the contact information is [Office of] Certificate of Need and Healthcare Facility Licensure **Program**, Division of Certificate of Need and Licensing, Department of Health, PO Box 358, Trenton, NJ 08625-0358, (609) 292-5960, facsimile number (609) 826-3745, and website address for forms [www.nj.gov/health/forms](http://www.nj.gov/health/forms).

"Facility" means a dementia care home licensed pursuant to this chapter.

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"Fuel-burning appliance" means a device or apparatus that is designed to utilize natural gas, manufactured gas, mixed gas, liquefied petroleum products, solid fuel, oil, or any gas as a fuel for heating, cooling, hot water, cooking, generating light, or power or for aesthetics.

"Garbage" means organic waste resulting from the preparation and consumption of food.

"Habitable room" means a residential room or space in which the ordinary functions of domestic life are carried on, including bedrooms, living rooms, studies, recreation rooms, kitchens, dining rooms, and other similar spaces, but excluding closets, halls, stairways, laundry rooms, toilet rooms, and bathrooms.

"Health care practitioner" means a physician, advanced practice nurse, or physician assistant.

"Health care professional" means an individual licensed by this State to administer health care in the ordinary course of business or practice of a profession.

"Health care service" means as defined at N.J.S.A. 26:2H-2.b.

"Licensee" means the individual or entity to whom a license to operate a dementia care home is issued.

"Medication administration" means a procedure in which a prescribed medication or biological is given to a resident by an authorized individual in accordance with all laws and regulations governing such procedures. The complete process of administration includes:

1. Removing an individual dose from a previously dispensed, properly labeled container (including a unit dose or unit-of-use container);

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2. Verifying it with the prescriber's orders;
3. Giving the individual dose to the resident;
4. Seeing that the resident takes it (if oral); and
5. Recording the required information, including, but not limited to, the method of administration, time administered, initials of individuals who administered the medication, and effect of the medication when "prn" or as-needed medications are administered.

“Medication aide” means a person who is qualified to administer medication in accordance with N.J.A.C. 8:36-9.2.

"NFPA" means the National Fire Protection Association.

“Physician” means an individual who is licensed or authorized by the New Jersey State Board of Medical Examiners to practice medicine in the State of New Jersey, in accordance with N.J.S.A. 45:9-1 et seq., and N.J.A.C. 13:35.

"Physician assistant" means an individual who is licensed by the New Jersey State Board of Medical Examiners, pursuant to N.J.S.A. 45:9-27.10 et seq.

“Resident” means a person with Alzheimer's disease or other forms of dementia who is: 18 years of age or older; ambulant with or without assistive devices; certified by a licensed physician to be free from communicable disease and not in need of skilled nursing care 24 hours a day, seven days a week; and, except in the case of a person 65 years of age or over, in need of dietary services, supervision of self-administration of medications, supervision of and assistance in activities of daily living, or assistance in obtaining health care services.

“Responsible person” means a person who has been designated as a resident’s healthcare representative, attorney-in-fact, guardian, or other legal representative for purposes of making healthcare decisions on behalf of the resident.

["Rubbish" means all waste material other than garbage.]

“Skilled nursing care” means nursing care ordered by a physician and given or supervised by a registered professional nurse, but does not include the administration of medications.

"Supervision of self-administration of medication" means a procedure in which an individual designated by the dementia care home provides a prescribed medication or biological in its properly labeled container to a resident for the resident to administer the medication or biological to himself or herself. The complete process of administration includes:

1. Obtaining the resident’s properly labeled container of prescribed medication or biological from the location in the dementia care home where medications are stored;
2. Reading aloud the label and dosing requirements listed on the container in the presence of the resident;
3. Handing the container of medication or biologic to the resident;
4. Observing the resident remove the proper dose of medication and administer the dose to himself or herself;
5. Returning the medication container to the proper storage area; and
6. Making a record in the resident’s file of the name of the medication taken, dosage amount, and time of administration.

## SUBCHAPTER 2. LICENSING

### 8:37-2.1 [Provisional licenses] **Application for Licensure**

[(a) No person, public or private institution, agency, entity, corporation, or business concern shall own or operate a dementia care home without a license from the Department.

(b) On or about June 1, 2016, the Department shall issue a provisional license to each dementia care home that holds a valid license from the Department of Community Affairs pursuant to N.J.A.C. 5:27 as of that date, which provisional license shall remain in place for one year unless the license is revoked sooner by the Department.]

**(a) No person shall operate a dementia care home, or offer, advertise, or hold out a facility as a dementia care home, or hold out a building as available for occupancy by dementia care home residents without a valid license issued by the Department.**

**(b) Any person, organization, or corporation desiring to operate a dementia care home shall make application to the Commissioner for a license on Form CN-7, Application for a New or Amended Acute Care Facility License, which is attached as chapter Appendix B and is incorporated herein by reference and is also available on the Department's website at:**

**<http://www.nj.gov/health/forms/cn-7.pdf>**

**(c) The Department shall charge a nonrefundable fee of \$1,500.00 plus \$15.00 per bed for the filing of an initial application for licensure as a dementia care home and for each annual renewal thereof. These fees shall not exceed the maximum caps as set forth at N.J.S.A. 26:2H-12.**

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**(d) The Department shall charge a nonrefundable fee of \$750.00 for the filing of an application to add bed or non-bed related services to an existing dementia care home license.**

**(e) The Department shall charge a nonrefundable fee of \$375.00 for the filing of an application to reduce bed or non-bed related services at an existing dementia care home.**

**(f) The Department shall charge a nonrefundable fee of \$375.00 for the filing of an application for the relocation of a dementia care home.**

**(g) The Department shall charge a nonrefundable fee of \$1,500.00 for the filing of an application for the transfer of ownership of a dementia care home.**

**(h) Approval of an application shall be contingent upon the applicant demonstrating capacity to operate a dementia care home in accordance with the rules of this chapter. The demonstration of the capacity to operate a dementia care home shall include:**

**1. An acceptable track record review of past and current compliance with State licensure requirements and applicable Federal requirements, in accordance with N.J.A.C. 8:43E-5.1(b) or (c), as applicable;**

**2. Establishment that the premises, equipment, personnel, including principals and management, finances, rules and bylaws, and standards of health care are fit and adequate and that there is reasonable assurance that the dementia care home will be operated in accordance with the standards required by these rules; and**

**3. An applicant's prior history in safely, properly and effectively operating**

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**a dementia care home either in New Jersey or in other states.**

**(i) When determining whether an applicant is capable of operating a dementia care home, the Department shall consider any evidence of licensure violations representing serious risk of harm to residents, any evidence of an applicant's violation of any State licensing or Federal standards in connection with an inappropriate discharge or denial of admission of a resident or patient as well as an applicant's record of criminal convictions involving fraud, patient or resident abuse or neglect, a crime of violence, a crime of moral turpitude or any other crime that presents a risk of harm to the safety or welfare of residents.**

**1. Evidence of the violations and/or crimes listed in subparagraph (i) above may be cause for the Department to deny the application.**

**2. The Department shall consider all applicants with a criminal history record pursuant to the requirements of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1, et seq.**

**(j) An applicant, for purposes of this rule, includes any person who was or is an owner or principal of a licensed health care facility, or who has managed, operated, or owned in whole or in part any health care facility, excluding individuals or entities who are limited partners with no managerial control or authority over the operation of the facility and who have an ownership interest of 10 percent or less in a corporation which is the applicant and who also do not serve as officers or directors of the applicant corporation;**

**(k) Each dementia care home shall be assessed an inspection fee of \$750.00. This fee shall be assessed in the year the dementia care home will be inspected, along**

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with the annual licensure fee for that year.

1. The inspection fee shall be added to the initial licensure fee for new dementia care homes.

2. This fee shall be imposed biennially, that is every other year, even if inspections occur more frequently.

3. Failure to pay the inspection fee shall result in non-renewal of the license for existing dementia care homes and the refusal to issue an initial license for new dementia care homes.

(l) If an application is denied, the applicant may challenge the denial by requesting a hearing within 30 days of the date of the denial.

1. The requested hearing shall be held in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(m) The license shall be conspicuously posted in the facility.

(n) The license is not assignable or transferable and it shall be immediately void if the facility ceases to operate or if its ownership changes.

(o) The license, unless sooner suspended or revoked, shall be renewed annually on the original licensure date, or within 30 days thereafter but dated as of the original licensure date.

1. The facility will receive a request for a renewal fee 30 days prior to the expiration of the license.

2. A renewal license shall not be issued unless the licensure fee is received by the Department.

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**8:37-2.2. Newly constructed, renovated, or expanded dementia care homes**

**(a) Any dementia care home with a renovation, expansion, or construction program shall submit plans to the Health Care Plan Review Unit, Division of Codes and Standards, New Jersey Department of Community Affairs, PO Box 815, Trenton, New Jersey 08625-0815, for review and approval prior to the initiation of the renovation, expansion, or construction project.**

**(b) Prior to submitting plans in accordance with the requirements of (a) above, an applicant for a license to operate a dementia care home may request that the Certificate of Need and Healthcare Facility Licensure Program schedule an appointment to conduct a functional review of the proposed project to review the conditions for licensure and operation, which request the Program shall grant.**

**(c) Newly constructed, renovated, and expanded dementia care homes shall conform with the New Jersey Uniform Construction Code, N.J.A.C. 5:23-3, Use Group I-2 of the subcode.**

**1. The licensure application for a newly constructed, renovated, and expanded dementia care home shall include written approval of final construction of the physical plant by the Health Care Plan Review Unit, Division of Codes and Standards, New Jersey Department of Community Affairs, in accordance with this chapter.**

**(d) A copy of the certificate of occupancy issued by the local municipality shall be submitted to the Health Care Plan Review Unit and to the Certificate of Need and Healthcare Facility Licensure Program prior to licensure or approval of newly constructed, renovated, or expanded dementia care homes.**

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**[(c)] 8:37-2.3 Administrator**

**(a)** Each dementia care home shall have an administrator who is responsible for the day-to-day operations of the dementia care home.

1. A dementia care home shall provide the [Office of] Certificate of Need and Healthcare Facility Licensure **Program** with written notification of a change in administrator, including the name of the new administrator, within 72 hours of the change.

[(d) No person shall operate a dementia care home, or offer, advertise, or hold out a facility as a dementia care home, or hold out a building as available for occupancy by dementia care home residents without a valid license issued by the Department for the operation of that facility in accordance with the provisions of the Act.]

**8:37-2.[2]4 Access to agency representatives**

Authorized Department staff may conduct survey visits at a facility at any time. Such visits may include, but shall not be limited to, the review of all facility documents and resident records, as well as conferences with residents, responsible parties of residents, and facility staff.

**8:37-2.[3]5 Waiver of licensing standards**

**(a)** Pursuant to N.J.S.A. 26:2H-153, the Commissioner or his or her designee may, in accordance with the general purposes and intent of this chapter, waive sections of the rules if, in his or her opinion, such waiver would not endanger the life, safety, or health of residents or the public and the failure to grant the waiver would pose a serious

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financial hardship to the licensee.

(b) A licensee seeking a waiver of a rule in this chapter shall apply in writing to the Director of the [Office of] Certificate of Need and Healthcare Facility Licensure **Program** [of the Department] on Form CN-28, Application for Waiver, which is attached as [chapter] Appendix A and is incorporated herein by reference and is also available on the Department's website at

<http://web.doh.state.nj.us/apps2/forms/subforms.aspx?pro=healthfacilities#need-care>.

(c) A written request for waiver shall include the following:

1. A citation to the specific rule or part of the rule for which a waiver is requested;
2. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the licensee upon full compliance;
3. An alternative proposal, which would ensure resident safety;
4. Documentation to support the application for waiver;
5. Whether the project is currently under review by the Department of Community Affairs, Health Care Plan Review; and
6. Whether the waiver request is based on plan review comments by the Department of Community Affairs.

(d) The Department may request additional information before processing a request for waiver.

(e) The Department's decision to deny a waiver is a final agency decision, of which jurisdiction and venue for judicial review are vested in the New Jersey Superior Court, Appellate Division.

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#### 8:37-2.[4]6 Violations

A person or entity found to be in violation of the provisions of N.J.S.A. 26:2H-148 et seq., or any rules or regulations adopted by the Commissioner pursuant thereto with respect to the operation of a dementia care home, shall be subject to the enforcement remedies provided for in N.J.S.A. 26:2H-13 or 26:2H-14 and N.J.A.C. 8:43E-3.

#### 8:37-2.[5]7 Resident admission agreement, financial arrangements, and full disclosure

(a) Prior to or upon admission, the licensee shall enter into a written resident admission agreement with each resident of the dementia care home or the resident's responsible party.

(b) The licensee shall disclose in the resident admission agreement, at a minimum, the services it will provide to the resident, the amount of any required security deposit, transportation it will provide for healthcare appointments, and the fee for the transportation, if any, the public programs or benefits that it accepts or delivers, the policies and discharge criteria that affect a resident's ability to remain in the facility, the fees for services provided and charges for supplies routinely provided by the licensee, and the costs of supplies which are specially ordered.

(c) Concerning financial arrangements, the licensee shall:

1. Impose no additional charges, expenses, or other financial liabilities in excess of what is provided in the resident admission agreement, unless at least 30 days written notification is provided to the resident and any responsible person of the charges and there is written documentation evidencing the resident's agreement to pay such charges;

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2. Impose no additional charges for increased level of care without documentation of recertification of the physician, as required by N.J.A.C. 8:37-4.1(a), that supports the need for the increase;

3. Maintain a written record of all financial arrangements with the resident and/or his or her responsible person, with copies furnished to the resident and any responsible person; and

4. Provide the resident and any responsible person with information about obtaining financial assistance available from third-party payers and/or other payers and referral systems for resident financial assistance.

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

1. The licensee shall hold such funds in trust for the resident and they shall remain the property of the resident and shall be returned to the resident, any responsible person, or the resident's estate upon discharge or death minus any outstanding payment owed to the licensee by the resident within 60 days after the person is no longer a resident.

2. All such funds shall be held in an interest-bearing account, in accordance with the requirements set forth at N.J.S.A. 30:13-4.1.

3. Immediately upon investment, the licensee shall notify the resident and any responsible person, in writing, of the name and address of the bank or investment company holding the funds and the amount of the deposit.

i. The licensee shall thereafter provide a quarterly statement to each resident and any responsible person for whom it holds security funds in trust identifying the balance, interest earned, and any deductions for charges or expenses incurred in accordance with the terms of the resident admission agreement.

(e) Every licensee to whom a resident's personal funds are entrusted shall maintain a ledger setting forth the date on which each payment was received, the amount of each such payment, the date of each disbursement, the amount of each such disbursement, the person to whom each such disbursement was made, and the purpose of each disbursement.

1. The resident or the resident's responsible party shall sign the ledger to acknowledge receipt of personal funds or of goods or services purchased with such personal funds.

#### 8:37-2.[6]8 Reportable events

(a) Licensees shall comply with the health care facility reporting requirements at N.J.A.C. 8:43E-10.11.

1. A dementia care home is considered a "home-based service" under N.J.A.C. 8:43E-10.11(a)1.

#### 8:37-2.[7]9 Personal needs allowances

When applicable, personal needs allowances shall comply with N.J.A.C. 8:36-6.3.

## SUBCHAPTER 3. RESIDENT RIGHTS

### 8:37-3.1 Resident rights

(a) Every resident of a dementia care home shall have the right to:

1. Manage the resident's own financial affairs or to have that responsibility delegated to a family member, an assigned guardian, [the facility administrator,] or some other individual with power of attorney. The resident's authorization must be in writing, and must be witnessed in writing;
2. Wear the resident's own clothing;
3. Determine the resident's own dress, hair style, or other personal effects according to individual preference;
4. Retain and use the resident's personal property in the resident's immediate living quarters, so as to maintain individuality and personal dignity, except where the licensee can demonstrate that it would be unsafe, impractical to do so, or infringe upon the rights of others, and that mere convenience is not the licensee's motive to restrict this right;
5. Receive and send unopened correspondence;
6. Unaccompanied access to a telephone at a reasonable hour and to a private phone at the resident's expense;
7. Privacy;
8. Retain the services of the resident's own personal physician at the resident's own expense or under a health care plan and to confidentiality and privacy concerning the resident's medical condition and treatment;

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9. Unrestricted communication, including personal visitation with any person of the resident's choice, at any reasonable hour;

10. Make contacts with the community and to achieve the highest level of independence, autonomy, and interaction with the community of which the resident is capable;

11. Present grievances on behalf of the resident or others to the operator, State governmental agencies, or other persons without threat of reprisal in any form or manner;

12. A safe and decent living environment and considerate and respectful care that recognizes the dignity and individuality of the resident;

13. Refuse to perform services for the licensee, except as contracted for by the resident and the operator;

14. Practice the religion of the resident's choice, or to abstain from religious practice; and

15. Not be deprived of any constitutional, civil, or legal right solely by reason of residence in a dementia care home.

(b) Each dementia care home shall ensure that a written notice of the rights set forth in (a) above is given to every resident, [their] **his or her** family, and any responsible person upon admittance to the facility and to each resident or responsible person upon request.

1. The operator shall also post this notice in a conspicuous public place in the facility.

2. This notice shall include the name, address, and telephone numbers of the complaint program in the Department, Office of the Ombudsman for the Institutionalized Elderly, county welfare agency, and county office on aging.

(c) Pursuant to N.J.S.A. 26:2H-154.c, a resident whose rights as set forth in (a) above are violated shall have a cause of action against any person committing the violation.

1. The action may be brought in any court of competent jurisdiction to enforce those rights and to recover actual and punitive damages for their violation.

2. A plaintiff who prevails in the action shall be entitled to recover reasonable attorney's fees and costs of the action.

#### SUBCHAPTER 4. ADMISSION AND RETENTION OF RESIDENTS

##### 8:37-4.1 Admission and retention; health care monitoring

(a) Prior to a prospective resident's admission to a dementia care home, the prospective resident shall receive a medical assessment from a physician and obtain a certification from that physician stating that a dementia care home is appropriate to meet the needs of the prospective resident.

1. Each resident shall be reassessed and recertified by a physician on a quarterly basis in compliance with N.J.S.A. 26:2H-152.n(6).

(b) The facility shall place a copy of the physician's certification and each recertification obtained thereafter in the resident's file.

(c) The facility shall take each resident's weight at least monthly at the facility and record it appropriately.

1. The facility shall provide the resident's weight information to the resident's assessing physician for each quarterly review, in accordance with (a) above.

2. If a resident loses more than five percent of his or her weight in a one-month period (and is not on a prescribed weight reduction plan), the facility must immediately notify the resident's attending physician.

(d) Absent an emergency, physical or chemical restraints that are being used for the purpose of restricting a person's mobility within the facility are not permitted. Whenever a physical or chemical restraint is being considered for use in a facility, it must be approved in writing by the resident's attending physician with an accompanying rationale for use of same.

(e) Even if a resident has a "Do Not Resuscitate" (DNR) order, staff must call 911 for appropriate assistance in the event of an emergency, so that appropriate medical staff can assist the resident and act, if appropriate.

(f) Prior to admission, and at least annually thereafter, the licensee shall notify the resident and the resident's responsible person in writing of the discharge criteria in N.J.A.C. 8:37-4.2.

(g) In the event the recertification required pursuant to (a)1 above determines that the resident requires a transfer to a facility providing a higher level of care, the dementia care home shall:

1. Verbally notify the resident, the resident's family and any responsible person of the assessment results within 24 hours of completion, with written notification to follow within 72 hours of assessment completion;

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2. In consultation with the resident, the resident's family, and any responsible person, arrange for and/or assist in the orderly transfer of the resident within 15 days; this shall include licensee assistance in seeking out and securing an appropriate placement for the resident; and

3. Arrange for the provision of all necessary services for the appropriate care of the resident until the resident is discharged.

#### 8:37-4.2 Discharge criteria

(a) The dementia care home shall set forth the criteria for discharge in the admission agreement that it enters into with the resident or the resident's responsible person prior to or upon admission.

(b) A resident shall be transferred from a dementia care home to a facility that offers a higher level of care if the resident exhibits one or more of the following characteristics:

1. The resident is consistently and totally dependent in eating and toileting.

i. "Consistently and totally dependent in eating" means being unable to swallow and/or requiring a feeding tube.

ii. "Consistently and totally dependent in toileting" means requiring a colostomy bag and/or catheter;

2. The resident is unable to self-administer medications (oral, topical, injectable) even when monitored; provided, however, that residents who are unable to self-administer medication shall be permitted to remain in the facility, provided medication management is provided by a licensed healthcare professional, who is acting within the scope of that person's license;

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3. The resident requires treatment of a stage two, three, or four pressure sore;
4. The resident exhibits behaviors and/or has cognitive impairments of such severity as to be a danger to self or others;
5. The resident is in need of a therapeutic diet that cannot be accommodated at the dementia care home and requires nursing monitoring.

- i. Examples of prescribed therapeutic diets that would necessitate a transfer of the resident to a facility that could provide a higher level of care are diets that require blood sugar monitoring, monitoring of food and fluid intake, and monitoring of skin integrity and possible dehydration;

6. The resident is bed bound or requires repositioning due to his or her disease progression or due to a medically disabling condition;

7. The resident requires skilled nursing care 24-hours a day, seven days a week;

8. The resident requires more than "assistance with transfer"; or

9. The resident has a medically unstable condition and/or has special health problems and the necessary therapy regimen for care and/or treatment cannot be appropriately developed and implemented in the dementia care home environment.

(c) The Commissioner may revoke the license of any provider who violates the criteria for discharging residents.

### 8:37-4.3 Referrals

The licensee shall maintain a list of licensed New Jersey long-term care facilities and provide it to the resident, the resident's family, and any responsible person when a resident needs a higher level of care.

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## SUBCHAPTER 5. PERSONAL CARE SERVICES

### 8:37-5.1 Restriction on health care services

(a) An individual who has an ownership interest in the licensed dementia care home shall not provide health care services in that facility.

(b) A licensed health care professional employed by the licensee or by an outside agency, who is acting within the scope of that person's license, may provide health care services to a resident of a dementia care home.

(c) A resident of a dementia care home shall not be given skilled nursing care while a resident, except for:

1. Emergencies;
2. Temporary illness for a period of one week or less; or
3. When it is ordered by a licensed physician and the resident does not require such care 24-hours a day, seven days a week.

### 8:37-5.2 Services provided by dementia care homes

(a) Dementia care homes shall provide residents with the following services:

1. Dietary services;
2. Recreational activities;
3. Supervision of self-administration of medications;
4. Supervision and assistance in activities of daily living; and
5. Assistance in obtaining necessary health care services.

### 8:37-5.3 Staffing requirements

(a) No licensee shall employ or continue to employ any person known to the licensee to have engaged in conduct violative of the rights of residents set forth at N.J.A.C. 8:37-3.1 or who the licensee has reason to believe would be likely to engage in such conduct.

(b) Every licensee shall have at least two staff persons on duty at all times who are awake and able to provide assistance to residents.

(c) The staffing level in (b) above is a minimum only and the dementia care home shall employ both professional and unlicensed staff in sufficient number and with sufficient ability and training to provide basic resident care, assistance, and supervision required, based on an assessment of the acuity of residents' needs.

1. Staffing shall meet the standards set at N.J.A.C. 8:37-7.10 for residents who cannot self-evacuate.

### 8:37-5.4 Training and staffing requirements

(a) All staff who are employed by the facility who have regular direct contact with residents and are not licensed healthcare professionals shall successfully complete the following:

1. The home health aide course (75 hours) given by a home health agency approved by the State Board of Nursing;

2. A five-day course given by a registered nurse or other healthcare professional, approved by the Department, which shall include orientation to the facility and specific training regarding Alzheimer's disease. The course shall be divided as follows:

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i. Day One: Mission; policies and procedures; rules for residents; rules for staff; scheduling of meals and activities; documentation requirements; residents' rights; confidentiality; and ethical behavior;

ii. Day Two: Safety issues; preventing falls and accidents; fire training and evacuation; infection controls and universal precautions; and Occupational Safety and Health Administration, and related issues;

iii. Day Three: Didactic information concerning Alzheimer's disease; audiovisuals; role plays; definition of dementia; associated behaviors of dementia (such as rummaging, wandering, impulsiveness, etc.); distinctive characteristics of individuals with dementia; and use of Senior Living University or similar tapes;

iv. Days Four and Five: Structured observation at a dementia-specific adult day care program or at a dementia unit of an assisted living facility; trainees to observe a multidisciplinary team in action with clients with dementia and to be given structured worksheets to complete; and trainees to participate in discussion sessions with their supervisor each day; and

3. The Centers for Medicare and Medicaid Services Hand in Hand: A Training Series for Nursing Homes Toolkit on the care of persons with dementia.

i. Information and the manner in which to obtain the toolkit is available at the following website: <http://www.cms-handinhandtoolkit.info/Index.aspx>.

(b) During the first 30 days on the job, a new employee shall be paired with an employee with more than one year of work experience in a dementia care home, so that there will be role-modeling and instant feedback for problem-solving.

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#### 8:37-5.5 Assistance in dressing

(a) Assistance in dressing shall be provided only by a person whom the resident consents to have assist him or her.

(b) The resident's preferences in selection of clothing shall be respected.

1. To the extent that the resident gives discretion in the choice of clothing to the person providing assistance in dressing, that discretion shall be exercised so as to dress the resident in comfortable clothing suitable to the season and coordinated in a harmonious manner.

(c) Assistance in dressing and undressing shall be provided at reasonable times, so that a resident is not unduly delayed in commencing his or her daily activities or in going to bed.

1. The dementia care home shall provide a sufficient amount of time for the resident to receive assistance with undressing and dressing with consideration given to the resident's physical condition.

#### 8:37-5.6 Assistance in bathing and personal hygiene

(a) Assistance in bathing and personal hygiene shall be provided only by a person whom the resident consents to have assist him or her.

(b) Assistance in bathing and personal hygiene shall be provided at reasonable times, so that a resident is not unduly delayed in commencing his or her daily activities or in going to bed.

1. The dementia care home shall provide a sufficient amount of time for the resident to receive assistance with bathing and hygiene with consideration given to the resident's physical condition.

(c) Any bath or shower used by residents requiring assistance shall have handrails and treads.

(d) Assistance in personal hygiene shall include assistance in oral hygiene, hair washing and grooming, manicure, pedicure, and shaving, as required.

#### 8:37-5.7 Transportation to health care services

(a) A licensee shall provide its residents with transportation to medical and dental offices and other health facilities as required for treatment and for the quarterly assessments as required by N.J.A.C. 8:37-4.1(a)1.

1. A licensee shall set forth the fee for the transportation, if any, and the maximum distance that it will travel for a resident's medical and dental appointments in the resident's agreement.

(b) In any emergency requiring the transportation of a resident to a hospital, it shall be the duty of the licensee to promptly notify the nearest first aid or emergency squad.

#### 8:37-5.8 Housekeeping

(a) A licensee shall supply, to every resident, a fresh change of bed linen and towels, all of which shall be in good condition, at least once a week and whenever there is a change of occupancy.

1. Soap and toilet paper shall also be provided by the licensee.

(b) A licensee shall provide housekeeping and interior maintenance at least once weekly and whenever there is a change in occupancy.

#### 8:37-5.9 Laundry services

(a) A licensee **shall** provid[ing]e laundry services **for its residents**.

1. **A licensee** may have clothes cleaned either on or off the premises of the dementia care home.

(b) Each resident's laundry shall be properly identified to prevent loss.

(c) All clothing given to the licensee for cleaning shall be returned to the resident properly cleaned, folded or ironed, as appropriate, and in a condition where it can readily be stored in a drawer or closet.

#### 8:37-5.10 Independence and community interaction; recreational activities

(a) A licensee shall take such affirmative action as may be necessary to assist each resident in living with as much independence and autonomy and with as high a degree of interaction with the community as may be reasonably possible.

(b) A licensee shall provide regularly scheduled recreational activities for residents.

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## SUBCHAPTER 6. PHARMACY SERVICES

### 8:37-6.1 Supervision of self-administration of medication

(a) When necessary for the health, safety, or welfare of a resident, a designated dementia care home employee shall provide the resident with supervision of self-administration of medications.

1. A resident's need for supervision of self-administration of medications shall be determined by the resident's physician and documented in the physician certification and/or recertification required under N.J.A.C. 8:37-4.1(a).

(b) Supervision of self-administration of medicine shall not include the following services:

1. Placement or pouring of the dosage in a container for the resident;
2. Placing of medication in the mouth or the food of the resident; or
3. Administration of injections.

(c) Any employee who is designated to provide resident supervision of self-administration of medications shall receive training from a licensed registered professional nurse or a licensed pharmacist.

1. The dementia care home shall document the training provided to each employee designated to provide resident supervision of self-administration of medications in the employee's file.

(d) An employee designated to supervise a resident's self-administration of medication shall maintain a daily record of the type and amount of medication taken by every resident and the time at which the medication is taken.

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1. The dementia care home shall keep the daily medication record in the resident's file.

(e) An employee designated to supervise a resident's self-administration of medication shall seek to ensure that a resident complies with the instructions of the health care practitioner who prescribed such medication and shall immediately report to such health care practitioner any deviation from such instructions or any use of other medication not prescribed or expressly allowed to be used by the health care practitioner.

1. Any deviation from the instructions of a prescribing health care practitioner that results in a change in the resident's behavior shall be immediately reported to the prescribing health care practitioner.

#### 8:37-6.2 Administration of medication

(a) Medication may only be administered by a health care professional who is acting within the scope of his or her license.

1. Facilities employing certified medication aides to administer medications to residents shall comply with the requirements at N.J.A.C. 8:36-11.5.

(b) Notwithstanding the definition of "health care service," the administration of medication, in and of itself, shall not be considered a health care service.

#### 8:37-6.3 Storage of medications

(a) The licensee shall provide an appropriate and safe medication storage area in a common area for all resident medications.

1. Resident medications shall not be stored or kept in individual resident rooms.

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2. The storage area requirement may be satisfied through the use of a locked medication cart.

3. The storage area shall be kept locked when not in use.

4. The storage area shall be used only for storage of medications and medical supplies.

5. The key to the storage area shall be kept on the person of the employee on duty who is responsible for medication supervision.

6. Each resident's medications shall be kept separated within the storage area, with the exception of large volume medications which may be labeled and stored together in the storage area.

7. Medications shall be stored in accordance with manufacturer's instructions and with United States Pharmacopoeia (USP) requirements at USP 39, NF 34, published by U.S. Pharmacopoeia Convention, 12601 Twinbrook Parkway, Rockville, MD 20852, [www.usp.org](http://www.usp.org), incorporated herein by reference, as amended and supplemented.

(b) All medications shall be kept in their original containers and shall be properly labeled and identified.

1. The label of each resident's prescription medication container shall be permanently affixed and contain the resident's full name, prescribing health care practitioner's name, prescription number, name and strength of drug, lot number, quantity, date of issue, expiration date, manufacturer's name if generic, directions for use, and cautionary and/or accessory labels.

i. If a generic substitute is used, the drug shall be labeled according to the requirements at N.J.S.A. 24:6E-9.

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ii. Required information appearing on individually packaged, single dose drugs, or within an automated medication delivery system need not be repeated on the label.

2. All over-the-counter (OTC) medications repackaged by the pharmacy shall be labeled with an expiration date, name and strength of the drug, lot number, date of issue, manufacturer's name if generic, and cautionary and/or accessory labels, in accordance with USP requirements set forth in (a)7 above.

i. Original manufacturer's containers shall be labeled with at least the resident's name and the name label shall not obstruct any of the aforementioned information.

3. If a unit of use drug distribution system is used, each dose of medication shall be individually packaged in a hermetically sealed, tamper-proof container, and shall carry full manufacturer's disclosure information on each discrete dose. Disclosure information shall include, but not be limited to, the following: product name and strength, lot number, expiration date, and manufacturer's or distributor's name.

(c) Single use and disposable items shall not be reused.

(d) No stock supply of prescription medications shall be maintained, unless prior approval is obtained from the Department in writing from the [Office of] Certificate of Need and Healthcare Facility Licensure **Program**, to which the facility shall direct the request to maintain a stock supply of prescription medications.

(e) The licensee shall ensure that discontinued or expired medications are destroyed within 30 days in the facility, or, if unopened and properly labeled, returned to the

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pharmacy for credit, if allowable, and in conformance with N.J.A.C. 13:39 and all applicable State and Federal laws, rules, and regulations.

## SUBCHAPTER 7. PHYSICAL PLANT

### 8:37-7.1 Water supply

(a) [Every facility shall be provided with a safe supply of potable water meeting the standards as set forth in the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., and the New Jersey Department of Environmental Protection's Safe Drinking Water Act rules, N.J.A.C. 7:10.] **The water supply used for drinking or culinary purposes shall be adequate in quantity, of a safe and sanitary quality, and from a water system that is constructed, protected, operated, and maintained in conformance with the New Jersey Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the New Jersey Department of Environmental Protection's Safe Drinking Water Act rules, N.J.A.C. 7:10 and local laws, ordinances, and regulations.**

(b) [The source of such water supply shall be approved by the New Jersey Department of Environmental Protection and/or the local health agency.] **Every facility shall have hot water heating systems that are installed and maintained in good and safe working condition, connected to the hot water lines required under the provisions of N.J.A.C. 8:37-7.2(e), and capable of delivering water at a minimum temperature of not less than 105 degrees Fahrenheit and at a maximum temperature of not more than 120 degrees Fahrenheit at all times in accordance with anticipated needs.**

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(c) [The minimum rate for the flow of hot or cold water issuing from a faucet or fixture shall be not less than one gallon per minute.] **Equipment requiring drainage, such as ice machines, shall drain to a sanitary connection, in accordance with the International Mechanical Code, 2015 Edition, incorporated herein by reference, as amended and supplemented, and local codes.**

**1. Copies of the International Mechanical Code are available from: International Code Council at 1-800-786-4452 or on the Internet at <http://www.iccsafe.org/>.**

**(d) The sewage disposal system shall be maintained in good repair and operated in compliance with N.J.S.A. 52:27D-123 et seq., the Uniform Construction Code, N.J.A.C. 5:23, and local ordinances and codes.**

#### 8:37-7.2 Physical plant requirements

(a) Every facility shall contain a kitchen sink of nonabsorbent impervious material.

(b) Every facility shall provide a minimum of one flush type water closet, lavatory, and a bathtub or shower for every [eight] **four** persons, or part thereof.

(c) Every water closet, lavatory, and bathtub or shower shall be accessible from within the facility without passing through any part of any other rooming unit and shall be located on the same floor as the rooming units to be served.

1. Such water closet, lavatory, and bathtub or shower shall be contained in a room or rooms that are separated from all other rooms by walls, doors, or partitions that afford privacy.

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(d) Every plumbing fixture shall be connected to water and sewer systems approved by the New Jersey Department of Environmental Protection and/or the local health agency, and shall be maintained in good working condition.

(e) Every kitchen sink, water closet, lavatory, and bathtub or shower required by this section shall be connected to both hot and cold water lines.

[(f) Every facility shall have hot water heating systems that are installed and maintained in good and safe working condition, connected to the hot water lines required under the provisions of (e) above, and capable of delivering water at a minimum temperature of not less than 105 degrees Fahrenheit and at a maximum temperature of not more than 120 degrees Fahrenheit at all times in accordance with anticipated needs.]

#### 8:37-7.3 [Garbage and rubbish storage] **Waste removal**

(a) [Garbage or other organic waste shall be stored in insect-proof, rodent-proof, fireproof, nonabsorbent, watertight containers with tightfitting covers.

1. The licensee shall provide a sufficient number of garbage receptacles to properly store garbage and other organic waste produced by the dementia care home.]

**All solid or liquid waste, garbage, and trash shall be collected, stored, and disposed of in accordance with the rules of the New Jersey State Department of Environmental Protection and this chapter.**

**1. Solid waste that is stored within the building shall be stored in insect-proof, rodent-proof, fireproof, nonabsorbent, watertight containers with tightfitting covers and collected from storage areas regularly so as to prevent nuisances such as odors.**

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**(b) Each facility shall establish and implement procedures and schedules 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) [Rubbish shall be stored in insect-proof, rodent-proof, fireproof, nonabsorbent, watertight containers with tightfitting covers.

1. The licensee shall provide a sufficient number of rubbish receptacles to properly store the rubbish produced by the dementia care home.] **If garbage compactors are used, they shall comply with the International Mechanical Code, 2015 Edition, incorporated herein by reference, as amended and supplemented, and local codes. Copies of the International Mechanical Code are available from: International Code Council at 1-800-786-4452 or on the Internet at <http://www.iccsafe.org/>.**

#### 8:37-7.4 Lighting and electrical service

(a) Every habitable room shall have at least one window or skylight facing directly to the outdoors.

1. The minimum total window or skylight area measured between stops, for every habitable room shall be eight percent of the floor area of such room.

2. Whenever walls or other portions of structures face a window of any habitable room and are located less than three feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be included in calculating the required minimum total window area.

(b) Every facility shall be provided with electrical service.

(c) Every habitable room shall contain sufficient wall-type electric outlets and lamps or light fixtures to enable occupants to use the room for its intended function.

1. Every such outlet and lamp shall be maintained in good and safe condition, and shall be connected to the facility's source of electric power.

2. No temporary wiring shall be used, except extension cords that run directly from portable electrical fixtures to convenience outlets, and that do not lie under rugs or other floor coverings, nor extend through doorways, transoms, or other openings through structural elements.

(d) [Every portion of each staircase, hall, cellar, basement, landing, furnace room, utility room, and all similar non-habitable space shall have either natural or artificial light available at all times, with an illumination of at least two lumens per square foot (two foot-candles) in the darkest portions.

(e) Every portion of any interior or exterior passageway or staircase shall be illuminated naturally or artificially at all times with an illumination of at least two lumens per square foot (two foot-candles) in the darkest portion of the normally traveled stairs and passageways.

(f) Every bathroom and water closet compartment shall have either natural or artificial light available at all times, with an illumination of at least three lumens per square foot (three foot-candles).

1. Such light shall be measured 36 inches from the floor at the center of the room.

2. Artificial lighting shall be controlled by a wall switch, so located as to avoid danger of electrical hazards.]

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**An electrician licensed in accordance with N.J.A.C. 13:31 shall annually inspect and provide a written statement to the facility that the electrical circuits and wiring in the facility are satisfactory and in safe condition.**

**1. The written statement shall include the date of inspection, and shall indicate that circuits are not overloaded, that all wiring and permanent fixtures are in safe condition, and that all portable electrical appliances, including lamps, are Underwriters Laboratories (U.L.) approved; and**

**2. The written statement shall be available for review by the Department during survey.**

#### 8:37-7.5 Ventilation

(a) Means of ventilation by either **easily operable** windows or by mechanical ventilation shall be provided for **in every habitable room and in every bathroom and water closet compartment in accordance with the Uniform Construction Code, N.J.A.C. 5:23.**

1. [Such ventilation may be provided either by an easily operable window or skylight having]**Windows shall have** an openable area of no more than six inches[and which will provide at least two air changes per hour].

[(b) Means of ventilation shall be provided for every bathroom and water closet compartment.

1. Such ventilation may be provided either by an easily operable window; or skylight having an openable area of no more than six inches and which will provide at least six air changes per hour.]

## 8:37-7.6 Heating and air conditioning

(a) [Every facility shall have a heating system that is properly installed, maintained in good and safe working condition, and capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments located therein.] **The heating and air conditioning system shall be adequate to maintain the required temperature in all areas used by residents. Residents may have individually controlled thermostats in residential units in order to maintain temperatures at their own comfort level.**

**1. During the heating season, the temperature in the facility shall be kept at a minimum of 72 degrees Fahrenheit (22 degrees Celsius) during the day ("day" means the time between sunrise and sunset) and 68 degrees Fahrenheit (20 degrees Celsius) at night, when residents are in the facility.**

**2. Neither the facility nor its residents shall utilize portable heaters.**

**3. During warm weather conditions, the temperature within the facility shall not exceed 82 degrees Fahrenheit.**

**i. The facility shall provide for and operate adequate ventilation in all areas used by residents.**

**ii. All areas of the facility used by residents shall be equipped with air conditioning and the air conditioning shall be operated so that the temperature in these areas does not exceed 82 degrees Fahrenheit.**

**4. Residents who can regulate temperature controls in their residential units may, by choice, exceed 82 degrees Fahrenheit.**

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(b) [Every licensee shall supply heat adequate to maintain a minimum inside temperature in all habitable rooms, bathrooms, and water closet compartments of 68 degrees Fahrenheit from October 1 of each year to the next succeeding May 1.

1. The temperature shall be read at a height of three feet above floor level at the center of the room.] **Filters for heaters and air conditioners shall be provided as needed and maintained in accordance with manufacturer's specifications.**

#### 8:37-7.7 Maintenance

(a) Every foundation, floor, wall, ceiling, door, window, roof, and other part of a facility shall be kept in good repair and capable of the use intended by its design, and any exterior part or parts thereof subject to corrosion or deterioration shall be kept well painted.

(b) Every inside and outside stairway, every porch, and every appurtenance thereto shall be constructed, so as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.

1. Every stairway having three or more steps shall be properly banistered and safely balustraded.

(c) Every porch, balcony, roof, and/or similar place higher than 30 inches above the ground, used for egress or for use by occupants, shall be provided with adequate railings or parapets.

1. Such protective railings or parapets shall be properly balustraded and be not less than three feet in height.

(d) Every roof, wall, window, exterior door, and hatchway shall be free from holes or leaks that would permit the entrance of water within a facility or be a cause of dampness.

(e) Every foundation, floor, and wall of a facility shall be free from chronic dampness.

(f) Every facility shall be free from rodents, vermin, and insects.

1. Every openable window, exterior door, skylight, and other opening to the outdoors shall be supplied with properly fitting screens in good repair from May 1 until October 1 of each year.

2. Such screens shall have a mesh of not less than No. 16.

(g) Every facility, including all exterior areas of the premises, shall be clean and free from garbage or rubbish and hazards to safety.

1. Lawns, hedges, and bushes shall be kept trimmed and shall not be permitted to become overgrown and unsightly.

2. Fences shall be kept in good repair.

(h) Every water closet compartment floor and bathroom floor shall be constructed and maintained, so as to be reasonably impervious to water, so as to permit such floor to be kept in a clean condition.

(i) No licensee shall cause or permit any services, facilities, equipment, or utilities that are required under this chapter to be removed from, shut off in, or discontinued in the dementia care home or part thereof, except for such temporary interruption as may be necessary while actual repairs or alterations are in process or during temporary emergencies when discontinuance of service is authorized by the Department.

1. In the event that any service or utility is discontinued, the licensee shall take immediate steps to cause the restoration of such service or utility.

(j) No licensee shall allow a vacant rooming unit to be occupied or let to a prospective resident unless it is clean and sanitary.

(k) Every licensee is responsible for maintaining in a clean and sanitary condition all areas of the facility.

(l) It is the responsibility of the licensee to provide for the orderly maintenance of the premises.

1. The storage of objects or materials shall be done in an orderly manner so as to not constitute a health, safety, or fire hazard.

#### 8:37-7.8 Use and occupancy of space

(a) Every facility shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

(b) Every rooming unit occupied for sleeping purposes by one occupant shall contain at least 80 square feet of floor space, and every room occupied for sleeping purposes by more than one occupant shall contain at least 60 square feet of floor space for each occupant.

(c) At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet.

1. The floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(d) A room located in part below the level of the ground may be used for sleeping provided that the walls and floor thereof in contact with the earth have been damp-proofed in accordance with a method approved by the Department; and provided that all requirements otherwise applicable to habitable rooms generally are satisfied.

#### 8:37-7.9 Control of access

(a) Every exterior door shall be equipped with [heavy duty dead latching locksets (series 161, FF-H-106a, minimum, with a minimum 7/8 inch by 5/8 inch with 1/2 inch minimum throw latch bolt with automatic dead-locking plunger)]**a lock**.

(b) Every resident of every dementia care home shall be provided with a key, if applicable, to his or her rooming unit door, free of charge.

1. Replacement keys, when required, may be provided at cost.

(c) All doors providing a means of egress shall be freely openable from the inside at all times.

(d) All exterior doors to common cellar or storage areas shall be lockable.

(e) Every entrance door to a rooming unit in every dementia care home shall be equipped with a [medium duty dead latching lockset (series 160, FF-H-106a, minimum with a minimum 11/16 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.

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1. In all dementia care homes 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 an emergency.

(f) All openable windows, sliding doors, basement windows, and windows opening onto areas affording easy access to the premises shall be equipped with a locking device of some kind.

1. Grilles lockable from the inside may be placed on the inside or outside of windows only if the windows do not serve to provide access to exits.

(g) Exposed hinges on exterior doors, and on entrance doors to rooming units where locks are required, shall have hinges with non-removable hinge pins.

(h) Every entrance door leading to living areas shall be kept locked at all times, except when in actual use, except when a licensee or an employee of the licensee is stationed nearby for the purpose of controlling or supervising entry or other reasonable provision has been made for entry control.

(i) The main entrance door shall be equipped with an exterior doorbell, audible throughout the building when in use. In every dementia care home, the licensee or an employee of the licensee shall at all times be responsible for answering the doorbell.

#### 8:37-7.10 Building safety requirements

(a) All facilities shall have the following:

1. On each floor above the ground floor to which one or more residents have access, a designated area that such persons may be brought where they may reasonably be expected to be safe, pending their evacuation in an emergency situation.

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i. No facility shall be permitted to have more than four residents that cannot physically self-evacuate, unless the staffing is increased to a ratio of one staff member per two residents that cannot self-evacuate; and

2. Physical security features in compliance with the following:

i. The entrance to the front yard shall be controlled with a non-scalable fence of at least four feet and a gate.

ii. The gate will have self-closing and self-latching hardware and be equipped with a doorbell or intercom that controls access into the building and the licensee or an employee of the licensee shall, at all times, be responsible for responding to the doorbell or intercom.

iii. Exterior doors shall be locked at all times and access by the residents and visitors will only be permitted with the assistance of a staff member.

iv. All doors to a common cellar or storage area shall remain locked at all times, except for ingress or egress in the presence of a staff member.

v. The gate or main entrance of the residence shall be monitored by a closed circuit monitor.

vi. Windows and doors will be equipped with audible alarms that will ring if a door or window is opened.

### 8:37-7.11 Bedrooms

(a) Each resident shall be provided with a comfortable bed of adequate size and with sufficient blankets and other bedding of standard quality.

(b) Only spaces unobstructed by doors, windows, and radiators shall be used for placement of beds.

(c) No person shall be housed in the same bedroom as another person not related by blood or marriage, except by mutual consent, provided that a provision for general consent to sharing of a bedroom may be included in an admission agreement.

(d) Each resident shall be provided with sufficient dresser and closet space within the bedroom for the storage of his or her clothing and other personal articles.

#### 8:37-7.12 Living and dining rooms

(a) At least one living room shall be provided for use by residents.

1. Such living room(s) shall contain comfortable chairs sufficient to provide seating for at least two-thirds of the facility's maximum licensed resident capacity at any one time.

(b) Living rooms shall have sufficient space for socializing and for such recreational activities as card playing, reading, letter writing, and watching television.

(c) Dining rooms shall be of sufficient size and properly equipped to provide [comfortably] **comfortable** seating for the facility's maximum licensed resident capacity at any one time.

#### 8:37-7.13 Outdoor facilities and recreation

(a) In every facility having a lawn, deck, or porch or other outdoor area suitable for use by residents, sufficient chairs shall be available to accommodate as many residents as can comfortably be seated there.

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(b) Where feasible in a facility, recreational equipment suitable for use by the residents shall be provided.

#### 8:37-7.14 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.

2. As an alternative to the requirements in (a)1 above, carbon monoxide alarms may be installed in the locations specified in the Uniform Construction Code (N.J.A.C. 5:23-3.20).

(b) Carbon monoxide alarms shall be manufactured, listed, and labeled in accordance with Underwriters Laboratories (UL) 2034 and shall be installed in accordance with the requirements of this subchapter and NFPA 720.

1. Carbon monoxide alarms shall be battery-operated, hard-wired, or of the plug-in type.

(c) At the request of a resident who is deaf or hearing-impaired, the licensee shall provide and install a visual alarm type carbon monoxide detector for that resident's sleeping area.

#### 8:37-7.15 Smoke free air

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Dementia care homes that permit smoking on their grounds shall comply with N.J.A.C. 8:6.

## SUBCHAPTER 8. RESIDENT RECORDS

### 8:37-8.1 Resident records

(a) It shall be the duty of each licensee to maintain an orderly file with respect to each resident containing at least the following information:

1. Full name of resident;
2. Date of birth;
3. Last previous address;
4. Name and address of the persons and/or agencies, if any, responsible for referring the resident to the dementia care home and maintaining contact with him or her;
5. Name, address, and telephone number of personal physician, if any;
6. Name, address, and telephone number of next of kin, resident's representative, or other person interested in the resident's well-being;
7. Date of commencement of occupancy;
8. Last date of occupancy and reason for the resident leaving the facility;
9. Any complaints made by or about the resident, the date of such complaint, and action taken by the licensee in response to the complaint;
10. Certification and re-certifications issued by a physician stating that the resident is appropriate for a dementia care home and is free from communicable diseases;

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i. Re-certifications shall be updated quarterly.

11. Copy of the resident admission agreement, signed by both the licensee and the resident or any responsible person;

12. Acknowledgement by the resident or the resident's responsible person that he or she has received a copy of the rules and regulations of the facility and agrees to abide by them;

13. A record of all property of the resident entrusted to the licensee, including, in the case of any resident receiving financial services, a ledger as required pursuant to N.J.A.C. 8:37-2.[5]7; and

14. Any other written agreement between the licensee and the resident.

(b) No resident's file shall be made available without the resident's consent to any person other than the licensee, the resident, or a responsible person having reasonable cause to have access to the file, all of whom shall have access to the file at any reasonable time.

#### 8:37-8.2 Financial records

(a) Every licensee shall keep orderly and complete records of the source and amount of all funds received in connection with the operation of each dementia care home and the nature and amount of each expenditure made in connection therewith.

(b) All financial records maintained by any licensee in connection with any facility shall be made available by the licensee to the Department upon request of any duly authorized representative of the Department.

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### 8:37-8.3 Record retention

Records shall be retained and preserved in accordance with N.J.S.A. 26:8-5 et seq.

## SUBCHAPTER 9. DIETARY

### 8:37-9.1 Diet and menu

(a) Every resident shall be provided with an appetizing, nutritionally adequate diet that is of good quality food, served at the proper temperature, correctly prepared, attractively and properly served in sufficient quantity, and in a form and texture that will meet his or her nutritional needs, taking into account his or her food preferences.

(b) The daily diet for each resident shall include servings from each of the following food groups in an amount that is nutritionally adequate in light of the resident's age, weight, and physical condition:

1. Milk or milk products;
2. Vegetables and fruits, including at least one serving per day of citrus fruit or juice;
3. Whole grain, enriched, or fortified bread or cereal; and
4. Meat, poultry, fish, and eggs.

(c) Menus shall be prepared on a weekly basis.

1. All menu items shall be specifically stated.

(d) All menu changes and substitutions shall be recorded.

1. Records of foods served shall be retained for three weeks following the date of service.

### 8:37-9.2 Food service

(a) Each resident shall be served at least three well-balanced and appetizing meals per day on a regular schedule and at reasonable intervals.

(b) Food and beverages shall be available to residents in reasonable quantities for between-meal and evening snacks.

(c) Any modified diet prescribed by a physician shall be conscientiously followed.

(d) Adequate dishes, utensils, and napkins shall be provided.

1. Salt, pepper, and sugar and other condiments shall be provided, as appropriate and in suitable containers.

(e) A reasonable amount of time shall be allowed for each resident to eat his or her meal.

### 8:37-9.3 Food sanitation

(a) All food shall be clean, wholesome, and free from spoilage, adulteration, and contamination.

(b) Only pasteurized milk shall be used.

(c) All areas in which food is kept, prepared, or served and all utensils, dishes, glasses, pots, and equipment used in the preparation or serving of food shall be maintained in a sound and sanitary condition and free from any hazard to health.

(d) Refrigerators in which food is kept shall be maintained at a temperature of at least 32 degrees Fahrenheit and not more than 45 degrees Fahrenheit.

1. Freezers and freezer compartments of refrigerators shall be maintained at a temperature of not more than 0 degrees Fahrenheit.

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2. Refrigerators and freezers shall be cleaned and defrosted regularly.

## APPENDIX

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New Jersey Department of Health  
Office of Certificate of Need and Healthcare Facility Licensure  
P.O. Box 358  
Trenton, NJ 08625-0358

**PROCEDURE FOR SUBMISSION OF A WAIVER REQUEST**

- A request for waiver from the requirements of the Department of Health licensing standards or AIA Guidelines for Design and Construction of Hospital and Health Care Facilities shall be submitted to the Department of Health, Office of Certificate of Need and Healthcare Facility Licensure on the attached form.
- Application for Waiver shall be completed for EACH waiver requested and completed in its entirety.
- Application for Waiver shall be submitted by the owner, chief executive officer, chief operating officer or administrator of the existing or proposed facility.
- Application for Waiver shall be submitted to John A. Calabria, Director, at:

Mailing Address:

New Jersey Department of Health  
Office of Certificate of Need and Healthcare Facility Licensure  
P. O. Box 358  
Trenton, NJ 08625-0358

Overnight Services (DHL, FedEx, UPS):

New Jersey Department of Health  
Office of Certificate of Need and Healthcare Facility Licensure  
25 South Stockton Street, 2nd Floor  
Trenton, NJ 08608-1832

- To obtain additional information regarding the waiver process, please call:

609-292-6552 Team A: for facilities located in Bergen, Hudson, Mercer, Morris, Passaic, Somerset, Sussex and Warren Counties

609-633-9042 Team B: for facilities located in Burlington, Gloucester, Hunterdon, Middlesex, Monmouth and Ocean Counties

609-292-7228 Team C: for facilities located in Atlantic, Camden, Cape May, Cumberland, Essex, Salem and Union Counties

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P.O. Box 358  
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**APPLICATION FOR WAIVER**

*(Requests for more than one waiver may not be combined. An Application for Waiver form must be completed for each waiver requested).*

CN Ref. #	DCA Ref. #	Facility ID # (if currently licensed)
Name and Address of Facility:		
Name, Address and Telephone Number of Owner, Chief Executive Officer (CEO), Chief Operating Officer (COO), or Administrator of the Existing or Proposed Facility:		
Name, Address and Telephone Number of Architect:		
The owner, CEO, COO or Administrator of the existing or proposed health care facility hereby applies for a waiver to the following regulation (identify regulation by name, code citation (if applicable) and date (if applicable)):		

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APPLICATION FOR WAIVER (continued)

A. Provide the following information for each rule or part of rule for which a waiver is being requested. Attach additional sheets as necessary.

1. Restate rule or part of rule for which a waiver is being requested and identify the specific rule citation.
  
  
  
  
  
  
  
  
  
  
2. Describe the reasons for requesting a waiver, including a statement of the type and degree of hardship that would result upon compliance.
  
  
  
  
  
  
  
  
  
  
3. Describe an alternative proposal to ensure patient safety.
  
  
  
  
  
  
  
  
  
  
4. Is documentation attached to support the waiver request?  
 No       Yes (Identify):

B. Is the project currently under review by the Department of Community Affairs, Health Care Plan Review?  
 No       Yes (Identify DCA Reviewer)

C. Is the request for a waiver based on plan review comments by the Department of Community Affairs.  
 No       Yes (Attach Comments)

Name of Owner, CEO, COO or Administrator	Title
Signature of Owner, CEO, COO or Administrator	Date

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