

*** This file includes all Regulations adopted and published through the ***
*** New Jersey Register, Vol. 46 No. 21, November 3, 2014 ***

TITLE 5. COMMUNITY AFFAIRS
CHAPTER 27. REGULATIONS GOVERNING ROOMING AND BOARDING HOUSES

N.J.A.C. 5:27 (2014)

§ 5:27-1.1. Title

This chapter, promulgated pursuant to *N.J.S.A. 55:13B-1* et seq., shall be known and may be cited as the "Regulations Governing Rooming and Boarding Houses".

§ 5:27-1.2. Purpose

(a) This chapter is promulgated for the purpose of establishing standards to ensure that every rooming and boarding house in the State of New Jersey is constructed, maintained and operated in such a manner as 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.

(b) The Bureau shall have discretion not to enforce any standard hereby established if it determines that strict compliance with such standard is not necessary in a particular case in order to accomplish the purpose set forth in (a) above.

(c) In the event that the Bureau determines that any rooming or boarding house, or any part thereof, because of its partial use for other than single room occupancy should more appropriately be evaluated under applicable standards contained in the regulations for the Maintenance of Hotels and Multiple Dwellings (*N.J.A.C. 5:10*), the Bureau shall have discretion to enforce the standards contained in *N.J.A.C. 5:10* in lieu of the standards contained in *N.J.A.C. 5:27-4, 5, and 6*.

§ 5:27-1.3 Administration and enforcement

(a) The Bureau shall administer and enforce this chapter.

(b) The Bureau may authorize any municipality or county, through its appropriate housing, health or social services agencies, to perform inspections for the Bureau. Any authorization to perform inspections given to any municipality or county shall contain such terms and conditions as the Bureau may deem necessary and proper.

(c) The local enforcing agency, as the term is defined in *N.J.A.C. 5:70*, authorized to enforce the Uniform Fire Code in each municipality is hereby designated as the agent of the Bureau for the purpose of inspecting existing buildings in order to enforce all provisions of the Uniform Fire Safety Act, *N.J.S.A. 52:27D-192* et seq., and the Uniform Fire Code, *N.J.A.C. 5:70*, applicable to rooming and boarding houses.

1. If, in the course of inspecting any rooming or boarding house, any inspector performing inspections for the Bureau finds any condition which is, or appears to be, in violation of the Uniform Fire Code, the inspector shall promptly give notice of such condition to the Bureau, which shall notify the Division of Fire Safety.

2. The maintenance requirements set forth in the Uniform Fire Code, *N.J.A.C. 5:70*, shall supersede the standards for fire safety set forth in *N.J.A.C. 5:27-5*, with regard to all boarding houses as of December 19, 1988 and shall be the sole fire safety maintenance requirements applicable to all rooming and boarding houses on and after June 16, 1989.

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3. Any retrofit work required to be done in any rooming or boarding house shall be done in accordance with the Uniform Fire Code, *N.J.A.C. 5:70*. All buildings in compliance with the Uniform Fire Code shall be deemed to be in compliance with the fire safety standards set forth in this chapter.

4. Every licensee shall keep valid proof of compliance with the Uniform Fire Code on the premises and shall make it available to representatives of the Bureau upon request.

§ 5:27-1.4. Continuation of lawful existing use

The lawful occupancy and use of any rooming or boarding house existing on the effective date of the act may be continued unless a change is required by the provisions of this chapter and unless it is owned or operated by a person who has not obtained a license from the Bureau on or before December 31, 1980.

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

(a) Except as otherwise provided in these rules with regard to required alterations, no rooming or boarding house may be constructed or altered except in accordance with the Uniform Construction Code. Requirements of any adopted subcode of the Uniform Construction Code that exceed requirements of this chapter shall be inapplicable to required alterations unless the Bureau shall otherwise direct.

(b) No building which is not lawfully occupied and used as a rooming or boarding house on August 27, 1980 shall be used as a rooming or boarding house unless the owner and any operator thereof has been licensed by the Bureau and unless a certificate of occupancy allowing use as a rooming or boarding house, as the case may be, for the number of residents accommodated or intended to be accommodated has been obtained from the construction official having jurisdiction, if a certificate of occupancy is required as a result of change of use group or as a result of construction or alteration.

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

(d) A certificate of occupancy shall be required in the event of any change in occupancy or intended occupancy that will increase the number of residents from five or fewer to six or more or from 20 or fewer to 21 or more.

(e) The construction official having jurisdiction in each municipality is hereby designated as an agent of the Bureau for the purpose of inspecting newly constructed, converted or altered rooming and boarding houses in order to enforce the provisions of this chapter dealing with the construction of the building. Copies of all permits and certificates of occupancy issued by the construction official for rooming and boarding houses shall be provided by him or her to the Bureau.

(f) Nothing in this chapter shall be construed to impair the power of the construction official to enforce all provisions of the Uniform Construction Code pertaining to rooming and boarding houses, including, without limitation, provisions concerning hazardous conditions in existing buildings.

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§ 5:27-1.6 Licenses

(a) No person shall own or operate a rooming or boarding house without a license from the Bureau allowing such person to own or operate a rooming or boarding house providing the services therein provided and housing the number of residents therein housed.

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

1. Class A license: Valid for rooming houses only;
2. Class B license: Valid only for rooming houses and for boarding houses offering no financial services and no personal services other than meals and other food services and laundry;
3. Class C license: Valid for all rooming and boarding houses;
4. Class D license: Valid only for facilities operated under contract with an agency of the State of New Jersey; and
5. Class E license: Valid only for alcohol and drug rehabilitation facilities owned and operated by non-profit religious organizations.

(c) The annual fees for licenses shall be as follows:

1. Class A license: \$ 356.00 plus the amount determined in accordance with (c)6 below;
2. Class B license: \$ 400.00 plus the amount determined in accordance with (c)6 below;
3. Class C or D license: \$ 444.00 plus the amount determined in accordance with (c)6 below;
4. Class E license: \$ 333.00;
5. Any license, other than Class E, issued to a corporation, partnership, or association: \$ 666.00;
6. Except as otherwise provided in (c)7 below, the fee for any license, other than a Class E license, shall also include the following additional fee if the facility (or facilities) is (or are) occupied by, or intended to be occupied by, six or more residents:
 - i. Six - 10 residents \$ 56.00;
 - ii. Eleven - 15 residents \$ 111.00;
 - iii. Sixteen - 30 residents \$ 156.00;
 - iv. Thirty-one or more residents: \$ 222.00; and
7. The total fee for any license shall in no case exceed \$ 666.00.

(d) The licensee shall specify whether the licensee is licensed as an operator or as an owner and shall identify the property or properties, including occupied accessory buildings, operated or owned by the licensee. A separate endorsement shall be required for each building occupied by residents which is not an accessory building.

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(e) Except as otherwise provided in the Rehabilitated Convicted Offenders Act (*N.J.S.A. 2A:168A-1 et seq.*), no license shall be issued to any person who has at any time been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offense or offenses, or to any partnership of which such person is a member, or to any association or corporation of which said person is an officer, director or employee or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly.

(f) No license shall be issued to any person if the Bureau determines that the issuance of a license to such person would be contrary to the best interests of the residents of any rooming or boarding house or of the public generally.

(g) No owner shall employ any person not licensed as an operator to operate any rooming or boarding house. A separate operator shall be required for every building occupied by residents other than an accessory building.

(h) No license shall be issued to any person who has previously been denied a license by either the Department of Health or the Department of Human Services for reason of personal unfitness or who has had a license revoked by either the Department of Health or the Department of Human Services.

(i) No license shall be issued to, or shall continue to be held by, any person, who, in a final adjudication by a court of record or by the Division on Civil Rights, has been found to have discriminated against any resident or prospective resident on the basis of race, color, creed, national origin or ancestry.

(j) A Class D license shall specify the type of facility for which it is issued. Except as otherwise provided in this chapter, any service which may be provided under a Class C license may be provided under a Class D license and any facility operated under a Class D license shall conform to all standards that would be applicable to the facility were it operated under a Class C license.

(k) On or after July 1, 1987, no license to own or operate a boarding house shall be issued to, or shall be continued to be held by, any person who has not completed a training course approved by the Department of Community Affairs. This subsection shall not apply to persons holding or applying for only Class A (rooming house) licenses and shall only be effective so long as there exists a training program funded by the Department of Human Services.

(l) No license to operate a rooming or boarding house shall be issued by the Bureau prior to receipt from the local enforcing agency responsible for enforcement of the Uniform Fire Code in the municipality in which the rooming or boarding house to be operated by the applicant is located of certification that the building does not have any outstanding violations of the Uniform Fire Code *N.J.A.C. 5:70*.

(m) No license to operate a rooming or boarding house shall be issued until the applicant has provided proof of local zoning approval. No increase in the number of residents living in a rooming or boarding house shall be permitted without the applicant first providing proof of local zoning approval.

(n) No person shall own or operate a rooming or boarding house that offers or advertises or holds itself out as offering personal care services to residents with special needs, including, but not limited to, persons with Alzheimer's disease and related disorders or other forms of dementia, hold out a building as available for rooming or boarding house occupancy for such residents, or apply for any necessary construction or planning approvals related to the establishment of a rooming or boarding house for such residents without

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first having a Class C or Class D license with an endorsement from the Bureau allowing such services to be offered and provided at the facility.

§ 5:27-1.7. License applications

(a) Applicant information to be provided by an individual shall include the following:

1. Name, plus any other names ever used;
2. Present address, last previous address and any other addresses within the last two years, including dates of residency;
3. Telephone number, if any;
4. Social security number;
5. Date of birth;
6. Bank or other credit reference;
7. Any criminal convictions;
8. Education and work experience;
9. Class of license for which application is made.

(b) Applicant information to be provided by a corporation, association or partnership shall include the following:

1. Names and addresses of all officers, directors, stockholders, members and partners and any registered agent;
2. Designation of primary owner and all information required pursuant to (a) above with respect to such primary owner.

(c) Building information shall be provided for each building owned, operated, or intended to be owned or operated by an applicant and used or intended to be used as a rooming or boarding house and shall include the following:

1. Street address and lot and block designation of the building;
2. Whether or not a license was ever previously issued by the Bureau for the use of the building as a rooming or boarding house;
3. The number of stories;
4. The number of sleeping rooms to be used to accommodate residents;
5. The maximum number of residents intended to be accommodated;
6. The year, or approximate year, of construction;
7. The construction class;
8. Whether or not the building was previously registered with the Bureau of Housing Inspection as a hotel or multiple dwelling and, if so, the registration number;
9. Whether or not the property was ever licensed by the New Jersey Department of Health, and if so, the license number;
10. Date of transfer of the property to the present owner;
11. The name and address of any mortgage or other lien holder.

(d) In the event that any person who is licensed as an owner subsequently acquires another building which he intends to use as a rooming or boarding house, he shall submit to the Bureau a supplemental application containing the building information required pursuant to (c) above.

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(e) In the event of a change in any information provided to the Bureau pursuant to this section, the licensee shall notify the Bureau of such change within 14 days.

§ 5:27-1.8. Administrative hearings

(a) Any person aggrieved by any ruling, action or order of the Bureau shall be entitled to an administrative hearing in accordance with the Administrative Procedure Act.

(b) The administrative hearing shall be conducted by a judge of the Office of Administrative Law and the final decision shall be issued by the Director.

(c) The application for such hearing must be filed with the Director within 15 days of the receipt of the applicant of notice of the ruling, action or decision complained of. The Director shall have authority to waive this requirement when the interests of justice so require.

§ 5:27-1.9. Exceptions and exemptions

(a) Pursuant to *N.J.S.A. 55:13B-5(b)*, an owner may request an exception waiving, modifying or postponing the application of any regulation to any owner's rooming or boarding house.

(b) Requests for exceptions shall be made to the Chief of the Bureau, who shall have authority to approve or deny such requests in accordance with the standards set forth in *N.J.S.A. 55:13B-5(b)*. Requests shall be made in triplicate upon forms to be supplied by the Bureau.

(c) A request for an exception shall be submitted within 30 days of the receipt by the owner of notice of the ruling, action or decisions at issue and no request submitted thereafter shall be considered unless the owner advised the Bureau of his desire to file an exception request within 15 days of his receipt of notice of filing, action or decision at issue and was unable to submit the application within the 30 day period allowed because of the Bureau's failure to provide him with the required forms in a timely manner. The Chief of the Bureau shall have authority to waive these time requirements when the interests of justice so require.

(d) Upon the request of a State agency which has a contractual relationship with the owner of a facility operated under a Class D license, the Bureau shall waive application of any regulation contained in sub-chapters six through eleven of this chapter, unless the Bureau finds that harm to residents or the public generally would thereby result.

(e) Owners and operators who have been issued Class E licenses are, with respect to drug or alcohol rehabilitation facilities owned or operated under such licenses, exempt from the following requirements of this chapter:

1. *N.J.A.C. 5:27-1.6(i)*, with respect to creed only;
2. *N.J.A.C. 5:27-1.7(a)*5 through 8;
3. *N.J.A.C. 5:27-3.1(a)*1 through 4, 9, 13 and 14;
4. *N.J.A.C. 5:27-3.2(d)*;
5. *N.J.A.C. 5:27-3.3(c)*;
6. *N.J.A.C. 5:27-3.4(b)*;
7. *N.J.A.C. 5:27-3.10*;
8. *N.J.A.C. 5:27-8.1(b)*2;

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- 9. *N.J.A.C. 5:27-8.2*;
- 10. *N.J.A.C. 5:27-8.3*;
- 11. *N.J.A.C. 5:27-8.4(a)*; and
- 12. *N.J.A.C. 5:27-9.2(a)*.

§ 5:27-1.10. Search warrants

(a) In the event that any authorized representative of the Bureau is denied access to any rooming or boarding house, a search warrant shall be obtained by the Bureau in any court having jurisdiction.

(b) The application for the search warrant shall state that access to the premises is required in order to enforce the Act and shall specify whether the desired inspection is a regular annual inspection or a special inspection in response to information received by the Bureau indicating the possible existence of a condition violative of the Act or of these regulations.

§ 5:27-1.11. Tense, gender and number

Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter, words used in the singular include the plural and those used in the plural include the singular, all except where the context clearly indicates otherwise.

§ 5:27-1.12. Separability clause

If any provisions of these regulations shall be held invalid or ineffective in whole or in part, or inapplicable to any person or situation, it is the purpose and intent of these regulations that all other provisions thereof shall nevertheless be separately and fully effective.

§ 5:27-2.1 Definitions

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

"Accessory building" means a building, whether or not occupied by residents, the use of which is incidental to that of the main building of a rooming or boarding house and which is located on the same lot, or on a contiguous lot, or on a lot that would be contiguous but for the presence of a public street or other public right-of-way.

"Act" means the Rooming and Boarding House Act of 1979 (P.L. 1979, c.496; *N.J.S.A. 55:13B-1 et seq.*).

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"Alteration" means a change or rearrangement in the structural parts or in the egress facilities of any building or structure, or any enlargement thereof or the moving of such building or structure from one location to another.

"Ambulatory" means capable of walking up and down stairs without the assistance of another person.

"Approved" means approved by the Bureau.

"Assistive device" means any implement or mechanism which enables a person to be ambulatory who would not otherwise be ambulatory.

"Banking institutions" means and includes banks, trust companies, national banking associations, savings banks, savings and loan associations and Federal savings and loan associations.

"Boarding house". See *N.J.S.A. 55:13B-3(a)*.

"BOCA" means the Building Officials and Code Administrators International, Inc.

"Bureau" means the Bureau of Rooming and Boarding House Standards in the Division of Codes and Standards of the Department of Community Affairs.

"Certified medication aide" is a person who holds a valid current medication aide certification issued by the Department of Health and Senior Services pursuant to *N.J.A.C. 8:36-1.8*.

"Commercial center" means a place where commercial establishments and professional offices may be found.

"Commissioner". See *N.J.S.A. 5:13B-3(b)*.

"Construction" means any and all work necessary or incidental to the erection, demolition, assembling, installing or equipping of buildings or any alterations and operations incidental thereto.

"Construction class" means the category in which a building or space is classified based on the fire-resistance ratings of its construction elements as set forth in the current edition of the BOCA Basic Building Code.

"County welfare board" means the welfare board or board of social services of the county in which the rooming or boarding house is located.

"dba" means decibels, which is the numerical expression of the loudness of a sound.

"Director" means the Director of the Division of Codes and Standards of the Department of Community Affairs.

"Egress" means a path by which ambulatory persons can travel safely and without assistance from a unit of dwelling space along a continuous and unobstructed line to an exterior open area.

"Exit" means a means of egress from the interior of a building to an open exterior space.

"Financial services". See *N.J.S.A. 55:13B-3(c)*.

"Fire resistance ratings" means the time in hours or fractions thereof that materials or their assemblies will withstand fire exposure as determined by a fire test made in conformity with recognized standards.

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"Fuel-burning appliance" means a device or apparatus which 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, livingrooms, studies, recreation rooms, kitchens, dining rooms, and other similar spaces, but excluding closets, halls, stairways, laundry rooms, toilet rooms and bathrooms.

"HMFA" means the New Jersey Housing and Mortgage Finance Agency.

"Licensee" means any person licensed by the Bureau as either an owner or an operator.

"Local health agency" means any county, regional, municipal or other governmental agency organized for the purpose of providing health services, administered by a full-time health officer and conducting a public health program pursuant to law.

"Means of egress". See "egress".

"Monitoring of medication" means maintaining regular records of the type and amount of medication taken by a resident and the time at which such medication is taken.

"NFPA" means the National Fire Protection Association.

"Non-profit religious organization" means an organization that has tax-exempt status as a nonprofit religious organization in accordance with *section 501(c)(3) of the Internal Revenue Code* and that owns and operates a boarding house that is exempt from local property taxation.

"Occupant" means any person lawfully occupying or sharing occupancy of a unit of dwelling space on a regular basis.

"Operator". See *N.J.S.A. 55:13B-3(e)*.

"Owner". See *N.J.S.A. 55:13B-3(f)*.

"Partition" means a vertical unit or assembly of materials that separates one space from another within any story of a building.

"Personal services". See *N.J.S.A. 55:13B-3(g)*.

"Primary owner" means the individual designated by an owner that is a corporation or association as personally responsible for compliance with the act and with these regulations.

"Resident" means a person residing in a rooming or boarding house, exclusive of the owner and his or her family and bona fide employees and the operator and his or her family.

"Rooming house". See *N.J.S.A. 55:13B-3(h)*.

"Rooming unit" means a unit of dwelling space forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

"Rubbish" means all waste material other than garbage.

"Shall" as used in these regulations, is always to be construed as mandatory.

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"Story" means that portion of a building that is between a floor level and the next higher level or roof above.

"Story, cellar" means any story below the first story.

"Story, first" means the lowest story which contains habitable or occupiable rooms and which is more than 50 percent above grade. A story shall be considered more than 50 percent above grade whenever the number of stair risers to grade at any required exit from the lowest story shall be equal to less than half the number of stair risers in any stair connecting the lowest story with the next above.

"Story, ground" means any first story which provides barrier free access to grade at each of its required means of egress.

"Supervision of self-administration of medication" means dispensing by a licensee to a resident of medication in the custody of the licensee, whether in a container or otherwise.

"Travel distance" means the maximum length of exitway access travel, measured from the most remote point to an approved exit along the natural and unobstructed line of travel.

"Uniform Construction Code" means *N.J.S.A. 52:27D-119 et seq.*, *N.J.A.C. 5:23-1.1 et seq.*, and the subcodes adopted pursuant thereto.

"Unit of dwelling space". See *N.J.S.A. 55:13B-3(j)*.

"Unit of egress" means the maximum number of people by whom an egress is designed to be used.

§ 5:27-3.1. Enumeration of rights

(a) Every resident shall have the following rights:

1. To manage his or her own financial affairs;
2. To wear his or her own clothing;
3. To determine his or her own dress, hairstyle, or other personal effects according to individual preference;
4. To retain and use his or her personal property in his or her immediate living quarters, so as to maintain individuality and personal dignity, except where the licensee can demonstrate that such would be unsafe, that it would be impractical or would infringe upon the rights of others and that mere convenience is not the licensee's motive in restricting this right;
5. To receive and send unopened correspondence;
6. To have unaccompanied access to a telephone at a reasonable hour (but not the right to make toll calls at any other person's expense) and to have a private telephone at his or her own expense;
7. To privacy;
8. To retain the services of his or her own personal physician at his or her own expense or under a health care plan and to confidentiality and privacy concerning his or her medical condition and treatment;
9. To unrestricted communication, including personal visitation, with any person of his or her choice, at any reasonable hour;
10. To make contacts with the community and to achieve the highest level of independence, autonomy and interaction with the community of which he or she is capable;

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11. To present grievances on behalf of himself or herself or others to the licensee, governmental agencies or other persons without reprisal or threat of reprisal in any form or manner whatsoever;

12. To a safe, healthful and decent living environment and considerate and respectful care that recognizes the dignity and individuality of the resident;

13. To refuse to perform services for the licensee except pursuant to a bona fide contract between resident and licensee, such contract, in the case of a resident who is at least 62 years of age or has any physical or mental disability, to be in writing and witnessed by a representative of the county welfare board or of any other social service agency having responsibility for such resident;

14. To practice the religion of his or her choice, including the right to have adequate substitutes provided for foods or combinations of foods which the resident's religious beliefs forbid him or her to eat, or to abstain from religious practice;

15. To not be deprived of any constitutional, civil or legal right solely by reason of residence in a rooming or boarding house.

§ 5:27-3.2. House rules

(a) In order to better protect the health, safety, welfare and rights of all residents, the licensee shall establish reasonable rules governing the conduct of persons within the rooming or boarding house.

(b) Such rules shall include provisions to ensure that residents exercise their rights in such a way as not to infringe upon the rights of or endanger other residents.

(c) Copies of all rules shall be prominently posted in the building, shall be given to all residents at the commencement of residence and shall be provided to the Bureau upon request.

(d) Any rule determined by the Bureau to be unreasonable shall not be enforced and shall be deleted from the house rules.

§ 5:27-3.3. Harassment; fraud; eviction without due cause

(a) No licensee or employee or agent of a licensee shall engage in any conduct or permit residents or others to engage in any conduct, which is unreasonable under the circumstances and which tends to cause annoyance to any resident.

(b) No licensee or employee or agent of a licensee shall, in the course of his dealings with residents or with their property, engage in any conduct evidencing a lack of probity, integrity or trustworthiness.

(c) Unless otherwise directed or authorized by the Bureau no licensee shall cause any resident to be evicted from any rooming or boarding house except for good cause, as defined in *N.J.S.A. 2A:18-61.1* et seq., and except in accordance with the procedural requirements of *N.J.S.A. 2A:18-61.1* et seq.

1. A licensee may bring to the attention of the Bureau any situation in which the licensee believes that a directive from the Bureau, pursuant to this subsection, is necessary in order to facilitate appropriate placement of a resident, in accordance with *N.J.A.C. 5:27-3.5(b)*, and to protect the right of all residents to a safe, healthful and decent living environment, in accordance with *N.J.A.C. 5:27-3.1(a)12*.

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§ 5:27-3.4. Access to agency representatives

(a) Licensees shall not in any manner obstruct, and shall affirmatively facilitate, access for employees of public agencies and private social service and health agencies seeking to visit any resident or to have contact with the residents generally.

(b) A licensee who has reason to believe a resident to be in need of health or social services shall forthwith refer such resident to an appropriate agency.

(c) A licensee shall give notice the the county welfare board at least three working days prior to instituting any action to evict any resident or to any transfer of a resident initiated by a licensee, unless the county welfare board allows shorter notice.

(d) Every licensee shall provide to each resident or post, as the case may be, copies of such documents as the Bureau or any other public agency may prepare, for distribution to residents or posting.

§ 5:27-3.5. Appropriate placement

(a) No licensee shall accept as a resident in a boarding house a person who is not capable of self-evacuation with or without assistive devices, who is not certified by a licensed physician, or by a licensed nurse practitioner or licensed clinical nurse specialist legally authorized to issue such certification, to be free of communicable diseases and not in need of nursing care or who requires services not available in such boarding house.

(b) In the event that a resident ceases to be capable of self-evacuation, acquires a communicable disease or requires nursing care, supervision of self-administration of medication or services not available in the rooming or boarding house, it shall be the responsibility of the licensee to so notify the county welfare board forthwith so that the resident may be transferred to a facility suitable to his or her needs.

§ 5:27-3.6. Independence and community interaction

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.

§ 5:27-3.7. Violation by licensee

No licensee shall violate or unreasonably restrict the rights of residents nor shall any licensee permit the violation of unreasonable restriction of residents' rights by any person employed by or otherwise under the control of the licensee or upon the premises with the knowledge of the licensee.

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§ 5:27-3.8. Employees

(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 or who the licensee has reason to believe would be likely to engage in such conduct.

(b) Every licensee shall have on duty at all times as many employees as may be needed to properly safeguard the health, safety and welfare of the residents, as required by these regulations. Such employees shall be adequately trained and supervised.

§ 5:27-3.9. Disclosure of licensee identity

(a) A statement containing the following information shall be posted in a prominent place in every rooming and boarding house:

1. Name and address of the owner(s) of the property;
2. Name and address of any operator;
3. If the owner is a corporation, the name and address of each appropriate officer, of the registered agent and of the primary owner;
4. If the owner does not reside on the premises, a statement designating the operator as the owner's agent for purposes of accepting notices from residents, issuing receipts therefore and accepting service of process on behalf of the owner;
5. The name and address of any person other than the operator employed by the owner to provide regular maintenance service;
6. The name, address and telephone number of an individual authorized to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith;
7. The name and address of every holder of a recorded mortgage on the premises.

(b) Copies of the statement required pursuant to (a) above shall be given to each resident at the commencement of residence and provided to the Bureau, and to the county welfare board, marked with proof of filing in the office of the clerk of the municipality in which the rooming or boarding house is located.

(c) Revised statements shall be furnished within seven days of any change in the information required to be set forth.

(d) All statements and revised statements furnished pursuant hereto shall be signed by the owner or the duly authorized representative of the owner and shall stipulate the date of preparation.

§ 5:27-3.10. Disclosure of rates and services

(a) Every licensee shall at all times maintain a schedule setting forth the rates charged for the rental of the various rooms in the rooming or boarding house and for each of the other services or combinations of services available.

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(b) A copy of the schedule of rates shall be provided to, and shall be explained to, every present and prospective resident and at least one copy shall be prominently posted in the rooming or boarding house. Copies shall also be provided to the Bureau and to the county welfare board.

(c) In the event of any change in rates, a revised schedule shall be prepared indicating the change in rates. A copy thereof shall be prominently posted in the rooming and boarding house and copies shall be provided to all persons and agencies entitled to receive copies of the original schedule.

(d) No resident shall be charged for any services other than those which he or she has requested and which are actually provided to him or her.

§ 5:27-3.11. Security deposits

No security deposit, however designated, shall be required or accepted by any licensee from any resident or prospective resident, or shall be held by any licensee, unless there is full compliance with the requirements of *N.J.S.A. 46:8-19* through *46:8-26*.

§ 5:27-3.12. Limited tenure hotel guests

In the event that a hotel, motel or established guest house is classified as a rooming or boarding house for purposes of the Act by reason of having fewer than 85 percent of the dwelling units offered for limited tenure only, a resident occupying a unit on a limited tenure basis shall have the legal rights of a hotel guest and the rights set forth in section 3 of P.L.1979, c.500 (*N.J.S.A. 55:13B-19*) but shall not have any of the additional rights of residents established by this subchapter.

§ 5:27-4.1. Water supply

(a) Every rooming or boarding house shall be provided with a safe supply of potable water meeting the standards as set forth in the New Jersey Safe Drinking Water Act regulations (*N.J.A.C. 7:10-1 et seq.*) published by the New Jersey Department of Environmental Protection.

(b) The source of such water supply shall be approved by the New Jersey Department of Environmental Protection and/or the local health agency.

(c) The minimum rate of flow of hot or cold water issuing from a faucet or fixture shall be not less than one gallon per minute.

§ 5:27-4.2. Facilities

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

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(b) Every rooming or boarding house shall be provided with a minimum of one flush type water closet, lavatory, and a bathtub or shower for every eight persons or part thereof.

(c) Every water closet, lavatory, and bathtub or shower shall be accessible from within the building without passing through any part of any other rooming unit and shall be located no further than one floor above or below the rooming units served, provided that no resident shall be without ready access to any such facility by reason of physical disability. Such water, lavatory and bathtub or shower shall be contained in a room or rooms which are separated from all other rooms by walls, doors, or partitions that afford privacy.

(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, lavatory, and bathtub or shower required by this section shall be connected to both hot and cold water lines.

(f) Every rooming or boarding house shall have water heating facilities which are installed and maintained in good and safe working condition, connected with the hot water lines required under the provisions of (e) above, and capable of delivering water at a minimum temperature of not less than 120 degrees Fahrenheit and at a maximum temperature of not more than 140 degrees Fahrenheit at all times in accordance with anticipated needs.

§ 5:27-4.3. Garbage and rubbish storage

(a) Garbage or other organic waste shall be stored in watertight receptacles of metal or other approved material. Such receptacles shall be provided with tight-fitting covers. A sufficient number of garbage receptacles shall be provided by the licensee.

(b) Rubbish shall be stored in receptacles of metal or other approved material. A sufficient number of rubbish receptacles shall be provided by the licensee.

§ 5:27-4.4. Lighting and electrical service

(a) Every habitable room shall have at least one window or skylight facing directly to the outdoors. 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. 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 rooming and boarding house shall be provided with electric 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. Every such outlet and lamp shall be maintained in good and safe condition, and shall be connected to the source of electric power. No temporary wiring shall be used except extension cords which run directly from portable electrical fixtures to convenience outlets, and which do not lie under rugs or other floor coverings, nor extend through doorways, transoms, or other openings through structural elements.

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(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). Such light shall be measured 36 inches from the floor at the center of the room. Artificial lighting shall be controlled by a wall switch so located as to avoid danger of electrical hazards.

§ 5:27-4.5. Ventilation

(a) Means of ventilation shall be provided for every habitable room. Such ventilation may be provided either by an easily operable window or skylight having an openable area of at least 50 percent of the minimum window area or minimum skylight area as required in *N.J.A.C. 5:27-4.4(a)*, or by other means acceptable to the Bureau which will provide at least two air changes per hour.

(b) Means of ventilation shall be provided for every bathroom or water closet compartment. Such ventilation may be provided either by an easily operable window or skylight having an openable area of at least 50 percent of the minimum window area or minimum skylight area as required in *N.J.A.C. 5:27-4.4(a)*, or by other means acceptable to the Bureau which will provide at least six air changes per hour.

§ 5:27-4.6. Heating

(a) Every dwelling shall have heating facilities which are properly installed, maintained in good and safe working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments located therein to a temperature of at least 68 degrees Fahrenheit when the outside temperature is zero degrees Fahrenheit. The temperature shall be read at a height of three feet above floor level at the center of the room.

(b) Every space heater, except electrical, shall be properly vented to a chimney or duct leading to outdoors. Unvented portable space heaters, burning solid, liquid, or gaseous fuels, shall be prohibited.

(c) 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.

§ 5:27-4.7. Maintenance

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(a) Every foundation, floor, wall, ceiling, door, window, roof, or other part of a rooming or boarding house 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 so constructed 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. 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. 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 rooming or boarding house or be a cause of dampness.

(e) Every foundation, floor, and wall of a rooming or boarding house shall be free from chronic dampness.

(f) Every rooming and boarding house shall be free from rodents, vermin and insects. Rodent or vermin extermination and rodent proofing and vermin proofing may be required by the Bureau. 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. Such screens shall have a mesh of not less than No. 16.

(g) Every rooming and boarding house, including all exterior areas of the premises, shall be clean and free from garbage or rubbish and hazards to safety. Lawns, hedges and bushes shall be kept trimmed and shall not be permitted to become overgrown and unsightly. Fences shall be kept in good repair.

(h) The Bureau may order the licensee to clean, repair, paint, whitewash, or paper such walls or ceilings, when a wall or ceiling within a dwelling has deteriorated so as to provide a harborage for rodents or vermin, or when such a wall or ceiling has become stained or soiled, or the plaster, wallboard, or other covering has become loose or badly cracked or missing.

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

(j) No licensee shall cause or permit any services, facilities, equipment, or utilities which are required under this subsection to be removed from, shut off, or discontinued in any rooming or boarding house 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 Bureau. 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.

(k) A licensee of a rooming or boarding house located in an area found by the Bureau to be infested by rats, insects, or other vermin shall carry out such rat stoppage, vermin proofing, or other means of preventing infestations of said dwellings as may be required by the Bureau.

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

(m) Every licensee shall be responsible for maintaining in a clean and sanitary condition all areas of the rooming or boarding house.

(n) It shall be the responsibility of the licensee to provide for the orderly maintenance of the premises. The storage of objects or materials shall be done in an orderly manner so as to not constitute a health, safety, or fire hazard.

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§ 5:27-4.8. Use and occupancy of space

(a) Every rooming or boarding house 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. The floor area of that part of any room where the ceiling 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 Bureau; and provided that all requirements otherwise applicable to habitable rooms generally are satisfied.

§ 5:27-4.9. Matters not covered

Any matter or requirement essential for the structural safety of a rooming or boarding house or essential for the safety or health of the residents thereof or of the public, and which is not covered by the provisions of these regulations shall be the subject of determination by the Bureau in specific cases.

§ 5:27-4.10. Lead-safe maintenance requirements

(a) Each building constructed before 1978 that houses women and children shall be subject to the requirements for lead-safe maintenance contained in this section. All such buildings shall undergo a combined inspection and risk assessment, and lead hazard control work in accordance with (b) below or shall comply with the requirements for standard treatments contained in (c) below. Following the performance of lead hazard control work or standard treatments, all buildings shall be subject to the requirements for on-going evaluation and maintenance contained in (d) below.

1. Exception: Buildings, dwelling units or common areas that have been certified as lead free in accordance with *N.J.A.C. 5:17*.

(b) Inspection, risk assessment and lead hazard control work: A combined inspection and risk assessment shall be performed in accordance with the applicable provisions of *N.J.A.C. 5:17*. Data collected from a previous inspection or risk assessment may be used. If a property or portions of a property were inspected for lead-based paint prior to May 16, 2005, a risk assessment shall be performed for the property or portions inspected; however, a new inspection shall not be required. For purposes of this section, "risk assessment"

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shall exclude testing of soil. For purposes of this section, "floors" shall include both carpeted and uncarpeted surfaces.

1. Lead hazard control work to address lead-based paint hazards identified in the risk assessment shall be conducted in accordance with the applicable provisions of *N.J.A.C. 5:17* for lead-based paint abatement and in accordance with the U.S. Department of Housing and Urban Development rules (24 CFR 35) for interim controls included here as subchapter Appendix 4-A, incorporated herein by reference.

2. Following the performance of an inspection and risk assessment and any necessary lead hazard control work, the owner shall obtain a certification that the property is free of lead-based paint hazards issued in accordance with *N.J.A.C. 5:17-3.6*.

(c) Standard treatments: If the owner chooses not to have an inspection and risk assessment performed, as described in (b) above, the following lead hazard control requirements shall be followed for each dwelling unit and for all common areas. For each such building, the owner shall undertake periodic standard treatments as described below.

1. Standard treatments for lead safety shall be undertaken at unit turnover, unless they were undertaken less than 12 months before. Standard treatments shall be undertaken not less than once every 12 months in dwelling units where the owner has been notified by a tenant that a pregnant woman or a child under the age of six years resides.

2. Standard treatments shall include the following:

i. Smooth and cleanable horizontal surfaces shall be provided. All horizontal surfaces, such as floors, stairs, interior window sills and window troughs, that are rough, pitted or porous, shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane or linoleum;

(1) If carpet is to remain, wipe samples shall be collected from the carpeted surfaces. For test results that indicate lead levels above the clearance levels specified in *N.J.A.C. 5:17*, the carpet shall be removed;

(A) If carpet is to be removed and replaced with new carpet, the padding beneath the contaminated carpet shall also be replaced and the floor below shall be tested and shall not exceed the clearance levels set forth in *N.J.A.C. 5:17*.

ii. Conditions of rubbing, binding, friction or crushing of painted surfaces shall be corrected;

iii. Specialized cleaning shall be performed in accordance with (c)2iii(1) through (3) below.

(1) The work area shall be vacuumed with a HEPA vacuum cleaner as follows:

(A) HEPA vacuuming shall be sequenced to avoid passing through rooms already cleaned. The entry-way shall be vacuumed last; and

(B) In each room, vacuuming shall begin with the ceiling and shall proceed down the walls. Every surface shall be vacuumed including, but not limited to, ceiling, walls, windows, window sills, exterior sills, window wells, doors, heating and air conditioning equipment, fixtures, such as light fixtures, and built-in appliances. Floors shall be the final surface vacuumed.

(2) The work area(s) shall be wet washed with a detergent solution such as trisodium phosphate, formulated to bind lead. An original, marked container showing the nature of the formula and any necessary pre-

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cautions shall be available at the work site. The name of the product used and its manufacturer shall be included in the records retained by the owner.

(A) In each room, the wet wash process shall begin with the ceiling and work down to the floor following the sequence in (c)2iii(1)(A) and (B) above.

(B) String mops and mop buckets with wringers are required for wet washing floors. Sponge mops shall not be used.

(3) When dry, the abated area(s) shall be HEPA vacuumed again, following the sequence in (c)2iii(2)(A) and (B) above; and

iv. Maintenance staff trained in accordance with *N.J.A.C. 5:27-4.10(g)* or a lead evaluation firm certified in accordance with *N.J.A.C. 5:17* shall perform dust wipe sampling per *N.J.A.C. 5:17-9.1*, Table 9.1 for Single Surface Wipe Samples, if standard treatments are performed that disturb painted surfaces that total two square feet or more in any one interior room space, or ten percent or more of the total surface area of an interior component with a small surface area, including, but not limited to, window sills, baseboards or trim. The results shall not exceed the levels established in *N.J.A.C. 5:17*.

(d) On-going evaluation and maintenance, as described below, shall be required for all buildings.

1. A visual examination for deteriorated paint shall be performed by the owner at unit turnover or every twelve months, whichever comes first.

2. Deteriorated paint and the causes of deterioration shall be promptly and safely repaired in accordance with the requirements of (i) below.

i. Painted surfaces shall be made intact by paint stabilization, enclosure, encapsulation or removal.

ii. The causes of paint deterioration shall be diagnosed and corrected.

iii. Dust wipe testing shall be performed in accordance with (d)2iii(1) through (4) below when the work is complete to ensure that the lead dust levels do not exceed the lead hazard levels established by *N.J.A.C. 5:17*. If the level exceeds the lead hazard level established by *N.J.A.C. 5:17*, cleaning and retesting shall be performed until the results of testing demonstrate lead levels below the standard.

(1) Dust wipe sampling shall be performed following the first 20 maintenance activities. Ninety-five percent of these samples taken shall meet the clearance levels set forth at *N.J.A.C. 5:17*.

(2) If the 95 percent accuracy level is reached, dust wipe sampling shall be performed following five percent of maintenance activities performed and samples shall be ordered on a random basis. A 95 percent accuracy level shall be maintained.

(3) If the accuracy level falls below 95 percent or if a 95 percent accuracy level was not achieved following the first 20 maintenance activities, dust wipe sampling shall be performed following all maintenance activities until the 95 percent accuracy level is reached.

(4) Property owners shall be required to maintain records of all dust wipe sampling performed.

(e) The following concern exterior surfaces:

1. The requirements set forth in (a) through (d) above shall apply to stairwells, porches, balconies, entryways, and windows.

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2. For all other exterior surfaces, lead-safe work practices, in accordance with (i) below, shall be used for any work to be undertaken, unless the paint has been tested and not found to be lead-based paint.

(f) The following concern recordkeeping:

1. A record of testing performed and any certificate issued by a certified evaluation firm indicating that the building or any portion thereof is lead free shall be maintained for the life of the structure.

2. A record of all testing, visual examinations, findings and corrective action taken, including the date(s) and location(s) of any sampling performed and of corrective actions taken, shall be maintained for not less than five years and shall be made available upon request for review by the Bureau. This shall include a record of:

- i. Inspections, risk assessments and lead hazard control work performed pursuant to (b) above;
- ii. Standard treatments undertaken pursuant to (c) above;
- iii. On-going evaluation and maintenance undertaken pursuant to (d) above;
- iv. Any certificates issued to the building owner by a certified lead evaluation firm;
- v. Tenant notification required pursuant to (h) below; and
- vi. Any reports of deteriorated paint received from tenants and documentation of the owner's responses pursuant to (h) below.

3. A record of the training in safe building maintenance practices of each individual as required by (g) below shall be maintained by the owner as long as that individual is involved in the maintenance of the building and shall be made available upon request for review by the Bureau.

(g) Training requirements are as follows:

1. All owners or employees of the owner performing visual examinations or undertaking corrective action or maintenance work shall complete a one-day training course on safe building maintenance practices and applicable New Jersey law offered by a training provider accredited by the Department of Health and Senior Services. Courses approved for this purpose shall include:

- i. The Lead-Based Paint Maintenance Training Program, "Work Smart, Work Wet, and Work Clean to Work Lead Safe," prepared by the National Environmental Training Association for EPA and HUD;
- ii. "The Remodeler's and Renovator's Lead-Based Paint Training Program," prepared by HUD and the National Association of the Remodeling Industry;
- iii. Lead Safety for Remodeling, Repair and Painting: A Joint EPA-HUD Course; or
- iv. Any other course that the Department finds to be substantially equivalent.

2. Owners or employees of the owner shall not perform dust wipe sampling unless they have completed a State-certified course in accordance with this section or a HUD-approved clearance technician course (for example, the course developed by EPA, "Lead Sampling Technician ('HUD Clearance Technician') Training Course").

(h) Tenant notification and owner response requirements are as follows:

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1. Owners shall distribute a pamphlet developed by the Department prior to commencement of repair work that will disturb more than two square feet of lead-based paint, unless the tenant has received the pamphlet within the last 12 months.

2. Owners shall post a notice advising tenants to report deteriorated paint and shall respond to any reported problem within 30 days. The notice shall include the landlord's name, address, and telephone number.

i. If an owner has received notice from a tenant that there is a pregnant woman or a child under the age of six years residing in the unit or, with regard to any problem reported in a common area, in the building, the owner shall correct any conditions of deteriorated paint within one week of the tenant complaint.

ii. In buildings where there is no central location for posting notices or where notices are likely to be defaced or removed without authorization, the owner shall provide each tenant with a copy of such a notice.

(i) Lead-safe work practices: All work undertaken to repair or stabilize deteriorated paint and any other work that will disturb painted surfaces shall comply with the following:

1. Occupant protection and worksite preparation shall be performed in accordance with the applicable provisions of U.S. Department of Housing and Urban Development rules 24 CFR 35 included as subchapter Appendix 4-B, incorporated herein by reference.

2. The following work practices shall be prohibited:

i. Open flame burning or the use of high temperature (in excess of 1,100 degrees Fahrenheit) heat guns;
ii. Power sanding or sandblasting, unless a special HEPA (high efficiency particulate air) filter equipped vacuum attachment is used to contain dust;

iii. Uncontained water blasting or power washing; or

iv. Dry scraping or sanding more than two square feet of painted surface per room (interior) or more than 10 square feet per building (exterior).

3. All work shall be undertaken in a manner that prevents the spread of dust.

4. Specialized cleaning shall be performed at the end of each work day if the job will take more than one day and the area is to be occupied before work begins again and at the end of each job.

5. Occupant protection, worksite preparation and specialized cleaning ((i)1 and 4 above) are not required for maintenance activities that disturb painted surfaces that total:

i. Twenty square feet or less on the exterior of the building;

ii. Two square feet or less in any one interior room or space; or

iii. Ten percent or less of the total surface area of an interior or exterior component with a small surfaces area, including, but not limited to, window sills, baseboards or trim.

6. After the completion of any work involving the disturbance of painted surfaces of a size that exceeds the limits of (i)5 above, at least one dust wipe sample shall be taken by maintenance staff trained in accordance with (g) above in each room that is part of the work area at a location where work was performed. If the

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level exceeds the lead hazard level established by *N.J.A.C. 5:17*, the room shall be cleaned and retested until the results of testing demonstrate lead levels below the standard.

(j) Bare soil in excess of nine square feet per property shall be covered or access to these areas shall be restricted and bare soil in play areas or walkways of any size shall be covered unless that soil has been tested and has been found to be below the lead hazard level established by the U.S. Environmental Protection Agency at 40 CFR 745, incorporated herein by reference.

(k) Garages and other structures on the site: Any work on garages and other structures on the site shall be performed in accordance with the lead-safe work practices listed in (i) above. Structures to which tenants have access shall comply with the requirements set forth in (a) through (e) above.

APPENDIX 4-A

(New Jersey Requirements Added in Italics)
U. S. Department of Housing and Urban Development
24 CFR 35.1330, Interim controls

35.1330 INTERIM CONTROLS -- Interim controls of lead-based paint hazards identified in a risk assessment shall be conducted in accordance with the provisions of this section. Interim control measures include paint stabilization of deteriorated paint, treatments for friction and impact surfaces where levels of lead dust are above the levels specified. (See *N.J.A.C. 5:17-3.5, Lead hazards.*) Interim controls may be performed in combination with, or be replaced by, abatement methods.

(a) General requirements

(1) Only those interim control methods identified as acceptable methods in a current risk assessment report shall be used to control identified hazards.

(2) Occupants of dwelling units where interim controls are being performed shall be protected during the course of the work in accordance with *35.1345*. (See *N.J.A.C. 5:27-4 Appendix 4-B, Occupant protection and worksite preparation.*)

(3) *Testing shall be performed at the conclusion of interim control activities in accordance with N.J.A.C. 5:17.*

(4) *A person performing interim controls must be trained in accordance with N.J.A.C. 5:27-4.10(g) (training).*

(b) Paint stabilization

(1) Interim control treatments used to stabilize deteriorated lead-based paint shall be performed in accordance with the requirements of this section. Interim control treatments of intact, factory applied prime coatings on metal surfaces are not required. Finish coatings on such surfaces shall be treated by interim controls if those coatings contain lead-based paint.

(2) Any physical defect in the substrate of a painted surface or component that is causing deterioration of the surface or component shall be repaired before treating the surface or component. Examples of defective substrate conditions include dry rot, rust, moisture-related defects, crumbling plaster, and missing siding or other components that are not securely fastened.

(3) Before applying new paint, all loose paint and other loose material shall be removed from the surface to be treated. Acceptable methods for preparing the surface to be treated include wet scraping, wet sanding,

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and power sanding performed in conjunction with a HEPA filtered local exhaust attachment operated according to the manufacturer's instructions.

(4) *Lead-safe work practices shall be performed in accordance with N.J.A.C. 5:27-4.10(i).*

(5) Paint stabilization shall include the application of a new protective coating or paint. The surface substrate shall be dry and protected from future moisture damage before applying a new protective coating or paint. All protective coatings and paints shall be applied in accordance with the manufacturer's recommendations.

(c) Friction and impact surfaces

(1) Friction surfaces are required to be treated only if:

(i) Lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill, window trough, or floor) are equal to or greater than the standards specified. (See *N.J.A.C. 5:17-3.5, Lead hazards.*)

(ii) There is evidence that the paint surface is subject to abrasion; and

(iii) Lead-based paint is known or presumed to be present on the friction surface.

(2) Impact surfaces are required to be treated only if:

(i) Paint on an impact surface is damaged or otherwise deteriorated;

(ii) The damaged paint is caused by impact from a related building component (such as a door knob that knocks into a wall, or a door that knocks against its door frame); and

(iii) Lead-based paint is known or presumed to be present on the impact surface.

(3) Examples of building components that may contain friction or impact surfaces include the following:

(i) Window systems;

(ii) Doors;

(iii) Stair treads and risers;

(iv) Baseboards;

(v) Drawers and cabinets; and

(vi) Porches, decks, interior floors, and any other painted surfaces that are abraded, rubbed, or impacted.

(4) Interim control treatments for friction surfaces shall eliminate friction points or treat the friction surface so that paint is not subject to abrasion. Examples of acceptable treatments include rehangng and/or planing doors so that the door does not rub against the door frame, and installing window channel guides that reduce or eliminate abrasion of painted surfaces. Paint on stair treads and floors shall be protected with a durable cover or coating that will prevent abrasion of the painted surfaces. Examples of acceptable materials include carpeting, tile, and sheet flooring.

(5) Interim control treatments for impact surfaces shall protect the paint from impact. Examples of acceptable treatments include treatments that eliminate impact with the paint surface, such as a door stop to prevent a door from striking a wall or baseboard.

(6) Interim control for impact or friction surfaces does not include covering such a surface with a coating or other treatment, such as painting over the surface, that does not protect lead-based paint from impact or abrasion.

(d) Chewable surfaces

(1) Chewable surfaces are required to be treated only if there is evidence that a child of less than 6 years of age has chewed on the painted surface, and lead-based paint is known or presumed to be present on the surface.

(2) Interim control treatments for chewable surfaces shall make the lead-based paint inaccessible for chewing by children of less than 6 years of age. Examples include enclosures or coatings that cannot be penetrated by the teeth of such children.

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(e) Dust-lead hazard control

(1) Interim control treatments used to control dust-lead hazards shall be performed in accordance with the requirements of this section. Additional information on dust removal is found in the Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, particularly Chapter 11.

(2) Dust control shall involve a thorough cleaning of all horizontal surfaces, such as interior window sills, window troughs, floors, and stairs, but excluding ceilings. All horizontal surfaces, such as floors, stairs, window sills and window troughs, that are rough, pitted, or porous shall be covered with a smooth, cleanable covering or coating, such as metal coil stock, plastic, polyurethane, or linoleum.

(3) *If a carpet is to remain, wipe samples shall be collected from the carpeted surfaces. For test results that indicate lead levels above the clearance levels specified in N.J.A.C. 5:17, the carpet shall be removed.*

(f) *Bare soil shall be treated in accordance with N.J.A.C. 5:27-4.10(j).*

APPENDIX 4-B

(New Jersey Requirements Added in Italics)

U.S. Department of Housing and Urban Development

24 CFR 35.1345, Occupant protection and worksite preparation

This section establishes procedures for protecting dwelling unit occupants and the environment from contamination from lead-contaminated or lead-containing materials during hazard reduction activities.

(a) Occupant protection

(1) Occupants shall not be permitted to enter the worksite during hazard reduction activities until after hazard reduction work has been completed and clearance, if required, has been achieved.

(2) Occupants shall be temporarily relocated before and during hazard reduction activities to a suitable, decent, safe, and similarly accessible dwelling unit that does not have lead-based paint hazards, except if:

(i) Treatment will not disturb lead-based paint, dust-lead hazards or soil-lead hazards;

(ii) Only the exterior of the dwelling unit is treated, and windows, doors, ventilation intakes and other openings in or near the worksite are sealed during hazard control work and cleaned afterward, and entry free of dust-lead hazards, soil-lead hazards, and debris is provided;

(iii) Treatment of the interior will be completed within one period of 8-daytime hours, the worksite is contained so as to prevent the release of leaded dust and debris into other areas, and treatment does not create other safety, health or environmental hazards (e.g., exposed live electrical wiring, release of toxic fumes, or on-site disposal of hazardous waste); or

(iv) *Treatment of the interior entails work such that, at the conclusion of each workday, the worksite can be contained and cleaned to remove any visible dust or debris, and safe access to the bathroom and sleeping areas can be provided.*

(3) The dwelling unit and the worksite shall be secured against unauthorized entry, and occupants' belongings protected from contamination by dust-lead hazards and debris during hazard reduction activities. Occupants' belongings in the containment area shall be relocated to a safe and secure area outside the containment area, or covered with an impermeable covering with all seams and edges taped or otherwise sealed.

(b) Worksite preparation

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(1) The worksite shall be prepared to prevent the release of leaded dust, and contain lead-based paint chips and other debris from hazard reduction activities within the worksite until they can be safely removed. Practices that minimize the spread of leaded dust, paint chips, soil and debris shall be used during worksite preparation.

(2) A warning sign shall be posted at each entry to a room where hazard reduction activities are conducted when occupants are present; or at each main and secondary entryway to a building from which occupants have been relocated; or, for an exterior hazard reduction activity, where it is easily read 20 feet (6 meters) from the edge of the hazard reduction activity worksite. Each warning sign shall be provided in the occupants' primary language, to the extent practicable.

Title 5, Chapter 27, Subchapter 5. (RESERVED)

§ 5:27-6.1. 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).

(b) Every resident of every rooming house and of every boarding house operated under a Class B license shall be provided with a key to the main entrance door and, if applicable, to his or her rooming unit door, free of charge. Replacement keys, when required, shall 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 rooming house, and in every boarding house operated under a Class B license, 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. In all rooming and boarding houses have locks on entrance doors to rooming units, a master key capable of opening all such locks shall be retained by the licensee and shall be readily available in event of any emergency.

(f) 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. Grilles lockable from the inside only 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 boarding house operated under a Class C license, the licensee or an employee of the licensee shall at all times be responsible for answering the doorbell.

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§ 5:27-6.2. Protection of valuables

(a) Every licensee shall have either an on-premises safe or a safe deposit box in a banking institution to be used to hold valuables belonging to residents which such residents request the licensee to hold. Valuables belonging to each resident shall be properly identified.

(b) A licensee to whom a resident's valuables have been entrusted shall prepare an itemized list of such valuables, which list shall be signed by both the licensee and the resident. A copy of the list shall be given to the resident and a copy shall be retained by the licensee.

§ 5:27-6.3. Criminal acts

(a) It shall be the duty of every licensee, upon learning of a criminal act committed, or alleged to have been committed, against the person or property of a resident, to report all relevant information to the police agency having jurisdiction. A record of such report shall be retained and shall be available to the Bureau upon request.

(b) Whenever a resident is behaving in a disorderly manner and in any way endangering the security of any other resident, it shall be the duty of the licensee to give written notice to the disorderly resident to cease such behavior and to institute eviction proceedings if such behavior does not cease.

(c) Any licensee having knowledge of the abuse, neglect or exploitation of any resident shall provide all relevant information to the county welfare board.

§ 5:27-7.1. 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. Soap and toilet paper shall also be provided.

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

(c) This section shall not apply to rooming house units for which the lease or other occupancy agreement expressly excludes such services.

§ 5:27-7.2. 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.

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

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

§ 5:27-7.3. Living and dining rooms

(a) At least one living room shall be provided for use by residents. Such living room(s) shall contain comfortable chairs sufficient to provide seating for at least two-thirds of the residents or intended residents 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) Smoking may be permitted in designated living room areas, but smoke-free living room areas shall also be provided. Smoking areas shall be inspected by the licensee for evidence of fire every evening after residents have retired to their bedrooms.

(d) Dining rooms shall be of sufficient size and properly equipped to comfortably seat all residents or intended residents at any one time.

(e) This section shall apply to boarding houses only.

§ 5:27-7.4. Outdoor facilities and recreation

(a) In every boarding house 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.

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

(c) Every licensee shall take such action as may be reasonable to encourage the use by residents of recreational facilities available in the community.

§ 5:27-8.1. 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 rooming or boarding house and maintaining contact with him;

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5. Name, address and telephone number of personal physician, if any;
 6. Name, address and telephone number of next of kin or other person interested in the resident's well-being;
 7. Date of commencement of occupancy;
 8. Last date of occupancy and copy of death certificate if occupancy was terminated by the resident's death;
 9. Any complaints made by or about the resident, the date of such complaint and action taken by the licensee.
- (b) Each resident's file shall contain at least the following documents:
1. Certification issued by a licensed physician, or by a licensed nurse practitioner or licensed clinical nurse specialist legally authorized to issue such certification, as to general state of health and any illnesses or disabilities and medication required.
 2. Copy of a lease or other occupancy agreement, signed by both the licensee and the resident, clearly stating the services to be provided by the licensee and the charge to the resident for such services, said agreement to be witnessed, in the case of a resident at least 62 years of age or having any mental or physical disability, by a representative of the county welfare board or of any other social service agency having responsibility for such resident;
 3. Acknowledgement by the resident that he or she has received a copy of the rules and regulations of the rooming or boarding house and agrees to abide by them;
 4. 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. 5:27-11;
 5. Any other written agreement between the licensee and the resident.
- (c) No resident's file shall be made available without the resident's consent to any person other than the licensee, the resident, or a duly authorized representative of the Bureau, the county welfare board or other public agency having reasonable cause to have access to the file, all of whom shall have access to the file at any reasonable time.
- (d) In a rooming house, a licensee need only maintain the items listed in (a)1 and 7 above for residents under 62 years of age and items listed in (a)1, 2, 5, 6, and 7, and (b)3 above for residents 62 years of age or over.
- (e) An owner or operator of a boarding house owned and operated under a Class D or E license shall be permitted to develop and follow a method that will permit that the resident may remain anonymous when it is necessary to do so for rehabilitative purposes.

§ 5:27-8.2. 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 rooming and boarding house and the nature and amount of each expenditure made in connection therewith. Payments made to or profits retained by licensees shall be clearly stated.
- (b) All financial records maintained by any licensee in connection with any rooming or boarding house shall be made available by the licensee to the Bureau upon request of any duly authorized representative of the Bureau.

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§ 5:27-8.3. Additional requirements

(a) The Bureau, upon determining that records maintained by a licensee are disorderly or inadequate in any way, or that violations of the act or of these regulations exist which have not been terminated within the period of time allowed by the Bureau for such termination, may order the licensee to maintain such additional records, or maintain the records in such manner, as the Bureau may prescribe.

(b) It shall be the duty of any licensee to whom an order is issued pursuant to (a) above to comply with such order forthwith.

§ 5:27-8.4 Record retention

(a) All required financial records shall be retained for a period of five years from the date of the record.

(b) All required resident records shall be retained for a period of seven years after the resident ceases to reside at the rooming or boarding house.

(c) Financial records and resident records for residents who no longer reside at the rooming or boarding house may be stored off site or at a central location provided that written notice of the storage location of the records is provided to the Bureau.

§ 5:27-9.1. Applicability

(a) The standards in this subchapter shall apply only to boarding houses operated under either a Class B or Class C license.

(b) Neither food services nor laundry services shall be provided or offered to be provided in any rooming house operated under a Class A license.

§ 5:27-9.2. Diet and menu

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

(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, fortified or restored bread or cereal;
4. Meat, poultry, fish and eggs.

(c) Menus shall be prepared on a weekly basis. All menu items shall be specifically stated.

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(d) All menu changes and substitutions shall be recorded. Records of foods served shall be retained for three weeks following the date of service.

§ 5:27-9.3. 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. 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.

§ 5:27-9.4. 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. Freezers and freezer compartments of refrigerators shall be maintained at a temperature of not more than 0 degrees Fahrenheit. Refrigerators and freezers shall be cleaned and defrosted regularly.

§ 5:27-9.5. Laundry services

(a) A licensee providing laundry services may have clothes cleaned either on or off the premises of the boarding house.

(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.

§ 5:27-10.1. Applicability

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(a) The standards in this subchapter shall apply only to boarding houses operated under a Class C license providing or offering to provide the personal services specified.

(b) No rooming house operated under a Class A license and no boarding house operated under a Class B license shall provide or offer to provide the personal services specified in this subchapter.

§ 5:27-10.2. 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.

(c) 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 coordinated in a harmonious manner.

(d) 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. Sufficient time shall be allowed in light of the resident's physical condition.

§ 5:27-10.3. 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 daily activities or in going to bed. Sufficient time shall be allowed in light of 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.

§ 5:27-10.4. Transportation to health services

(a) Transportation shall be provided to medical and dental offices and other health facilities as required for treatment and for check-ups at least once annually.

(b) Unless otherwise agreed by the licensee, transportation need not be provided to health facilities located further than the nearest commercial center in which such health facilities may be found, unless special care not obtainable at such commercial center is required.

(c) 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.

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§ 5:27-10.5. Monitoring of medication

(a) A daily record shall be maintained of the type and amount of medication taken by the resident and the time at which such medication is taken.

(b) A licensee monitoring the taking of medication by a resident shall seek to insure compliance with the instructions of the physician who prescribed such medication and shall immediately report to such physician any deviation from such instructions or any use of other medication not prescribed or expressly allowed to be used by such physician.

(c) Any deviation from the instructions of a physician which results in a change in the resident's behavior shall be immediately reported to the county welfare board as well as to the physician.

§ 5:27-10.6. Supervision of self-administration of medicine

(a) When necessary for the health, safety or welfare of a resident, a licensee providing supervision of self-administration of medication shall provide the following services:

1. Storage of medication in a locked cabinet to which only the licensee has access;
2. Notifying residents of the time of taking their medication; and
3. Presenting residents with bottles of medication, reminding them of the proper dosage and watching when they remove and take the medication by themselves.

(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;
3. Administration of injections.

(c) Supervision of self-administration of medicine shall be provided only with the prior approval of the Bureau.

§ 5:27-11.1. Applicability

(a) The standards in this subchapter shall apply only to boarding houses operated under Class C license providing or offering to provide the financial services specified.

(b) No rooming house operated under a Class A license and no boarding house operated under a Class B license shall provide or offer to provide the financial services specified in this subchapter.

§ 5:27-11.2. Check cashing

(a) No check payable to a resident may be cashed by a licensee unless such check has been endorsed by the resident voluntarily and without coercion.

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(b) Unless otherwise agreed by the resident, all proceeds of a check given by a resident to a licensee for cashing shall be promptly delivered to the resident by the licensee.

§ 5:27-11.3. Holding of personal funds

(a) With the consent of the resident, a licensee may hold personal funds of the resident in trust for the resident.

(b) All funds held in trust for a resident shall be kept separately from the funds of the licensee.

(c) Funds which are not to be disbursed to the resident within one month of receipt by the licensee shall be placed in an interest bearing custodial account at a banking institution having an office in the municipality in which the boarding house is located or in the nearest commercial center having a banking institution office. The resident shall be advised as to the name and address of the banking institution and the account number.

§ 5:27-11.4. Assistance in purchasing

(a) With the consent of the resident, a licensee may use personal funds of the resident entrusted to the licensee for the purpose of purchasing goods and services desired by the resident.

(b) No licensee shall use personal funds of a resident to purchase goods and services agreed to be provided by the licensee pursuant to the lease or other occupancy agreement as part of the consideration for the rental or other service charge.

(c) Licensees assisting in purchasing shall provide residents with receipts for all purchases made with their personal funds.

§ 5:27-11.5. Ledgers

(a) Every licensee to whom residents' 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.

(b) The resident shall sign the ledger to acknowledge receipt of personal funds or of goods or services purchased with such personal funds.

§ 5:27-11.6. Personal needs allowances

No licensee shall retain for the licensee's own use, or require payment to the licensee of, any portion of the personal needs allowance required to be reserved to any resident pursuant to *N.J.S.A. 44:7-87(h)*. Such

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personal needs allowance shall not be less than \$40.00 unless otherwise provided by the Department of Human Services.

§ 5:27-11.7. Home energy assistance payments

Moneys paid to or on behalf of any resident pursuant to the Home Energy Assistance Act of 1980 or the Low-Income Home Energy Assistance Act of 1981 shall be the sole property of such resident. No licensee shall, in any manner whatsoever, directly or indirectly, coerce or induce any resident to give over such moneys to the licensee or to any other person.

§ 5:27-12.1. Purpose; delegation to Bureau

(a) The regulations in this subchapter are promulgated for the purpose of facilitating the discharge by the Department of Community Affairs of the functions assigned to it by the Boarding House Life Safety Improvement Act of 1981 (P.L.1981, c.515; N.J.S.A. 5:14J-52 et seq.).

(b) The functions assigned to the Department of Community Affairs by the Boarding House Life Safety Improvement Act of 1981 shall be discharged by the Bureau.

§ 5:27-12.2. Rental assistance agreements

(a) No rental assistance shall be paid by the Bureau to any owner except pursuant to a rental assistance agreement signed by the owner and the Chief of the Bureau. In the case of a corporation or association, the primary owner shall sign the agreement and an appropriate resolution of the corporation or association shall be submitted.

(b) The agreement shall provide that payment of the rental assistance funds shall be made by the Bureau directly to the HMFA, for credit to the owner's loan account.

(c) Pursuant to statute, the agreement shall require that the owner remit to the Bureau, upon demand by the Bureau, an amount equal to any rental assistance payment made by the Bureau on behalf of any resident having an income in excess of the maximum amount established by the HMFA at any time during the period of time covered by the rental assistance payment.

(d) The agreement shall require the owner to submit to the Bureau quarterly reports setting forth the names, ages, and incomes of all residents and whether or not they are disabled. This information shall be verified by the Bureau at least once annually.

(e) The agreement shall provide that payments on behalf of a resident who leaves the facility shall continue so long as such resident's place is taken within 90 days by another resident.

1. If the place of a resident receiving assistance is not taken by another such eligible resident within 90 days, all rental assistance payments made for the period after the departure of the eligible resident shall be returned to the Bureau upon demand. Such determination shall be made by the Bureau upon review of consecutive quarterly reports.

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(f) In the event that the owner commits, or allows to be committed, any violation of the Act or of this chapter or, in the case of a residential health care facility, of applicable Department of Health regulations, and continues to do so after being ordered by the Bureau or Department of Health, as the case may be, to terminate such violation, the Bureau may suspend or terminate rental assistance payments.

(g) No owner shall, without the written permission of the Bureau, fail to comply with any provision of a rental assistance agreement between such owner and the Bureau.

§ 5:27-12.3. Casino Revenue Fund rental assistance eligibility

(a) The following standards are established for the purpose of determining eligibility of residents for rental assistance made with funds appropriated from the Casino Revenue Fund:

1. A person 65 years of age or older shall be deemed to be a "senior citizen".
2. A person having his or her principal residence within the State of New Jersey who is totally and permanently unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment shall be deemed to be a "disabled resident of the State."

§ 5:27-13.1 Appropriate placement and care

(a) A resident with a diagnosis of probable Alzheimer's disease, other dementia, or other cognitive impairments shall be transferred from a licensed Class C boarding home to a facility which 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. "Consistently and totally dependent in eating" means being unable to swallow and/or requiring a feeding tube. "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 the facility owner or operator has a certified medication aide on-site, who is under the supervision of a registered nurse, full time.
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 facility and requires nursing monitoring. For example, monitoring of blood sugar, food and fluid intake, monitoring of skin integrity and possible dehydration.
6. The resident is in need of any type of feeding tube or other artificial feeding apparatus.
7. The resident is bed bound or requires repositioning due to his or her disease progression or due to a medically disabling condition.

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(b) Each resident's weight shall be taken at least monthly at the facility and recorded appropriately. Weight information shall be provided to the assessing professional for quarterly review, in accordance with (g) below. 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.

(c) The provision of hospice services in a residence is permitted under the supervision of a home health agency (HHA) in accordance with *N.J.A.C. 5:27-13.7* and with the development of a care plan by a registered nurse employed by the hospice service in conjunction with the residence Registered Nurse. The residence is responsible for the care plan implementation under the review of the Quality Assurance Nurse and with the assistance of the hospice service. (See *N.J.A.C. 5:27-13.7(b)*.)

(d) Services such as those provided by a visiting nursing or home health aide agency are permitted for short term, intermittent nursing care only.

(e) 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.

(f) 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.

(g) Each resident shall be assessed prior to admission, by a physician, physician's assistant, registered professional nurse, or clinical nurse specialist/nurse practitioner licensed to practice in the State of New Jersey. The assessment shall be conducted in person, and a signed, original copy of the assessment report shall be kept on-site at the residence. The licensed professional who carries out this assessment shall be the person's personal health care professional and shall be financially independent of the residence.

(h) Prior to admission, and at least annually thereafter, the facility shall notify the resident and the resident's family, care giver, or responsible agency in writing of the transfer characteristics in (a) above.

(i) In the event the assessment determines that a transfer to a facility providing a higher level of care is required, the transferring facility shall:

1. Verbally notify the resident, the resident's family, care giver or responsible agency of the assessment results within 24 hours of completion, with written notification to follow within 72 hours of assessment completion;

2. In consultation with the resident and the resident's family, arrange for and/or assist in the orderly transfer of the resident within 15 days; this shall include facility 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.

§ 5:27-13.2. Referrals

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The facility owner or operator shall maintain a list of licensed New Jersey long term care facilities and Department of Health and Senior Services licensed alternative care facilities and provide it to the resident, the resident's family, care giver or responsible agency when a resident needs a higher level of care.

§ 5:27-13.3. Training and staffing requirements

(a) All staff who are employed in the facility and are regularly in direct contact with residents shall complete the applicable courses and training programs set forth in (a)1 through 4 below and approved by the Bureau, at such time as such courses and training programs are available, in the care of persons with Alzheimer's disease and related disorders and other forms of dementia. Any such course shall provide all information concerning these diseases and accepted methods of care and treatment with which the Bureau shall deem it appropriate that persons providing care be familiar.

1. All operators shall obtain certification for having successfully completed the basic boarding home training course (75 hours) given by the Department of Human Services. All other employees who are regularly in direct contact with residents shall successfully complete the home health aide course (75 hours) given by a home health agency approved by the State Board of Nursing.

2. All employees who are regularly in direct contact with residents shall complete a five-day course given by a Registered Nurse or other professional approved by the Bureau which shall include orientation to the facility and specific training regarding Alzheimer's disease. The course shall be divided as follows:

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 OSHA, Right-to-Know 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 Assisted 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.

3. 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, so that there will be role-modeling and instant feedback for problem-solving.

4. Home health aides shall have a minimum of 12 hours per year of continuing education. This shall be accomplished through required monthly support group meetings with their peers and the supervising Registered Nurse or a social worker. The purpose of these meetings shall be to provide new information, shared information and validation of feelings for participants. Such meetings may be organized jointly for staff of more than one facility.

(b) At least two staff persons capable of providing assistance to residents shall be awake and on duty at all times.

§ 5:27-13.4 Building safety requirements

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(a) In addition to being maintained in accordance with the requirements of *N.J.A.C. 5:27-1.3(c)* and 5:27-4, all residences subject to this subchapter shall have the following:

1. On each floor above the ground floor to which one or more persons with Alzheimer's disease or a related disorder or other form of dementia has access, a designated area, approved by the Bureau, to which such persons may be brought, in which they may reasonably be expected to be safe, pending their evacuation, in an emergency situation. No Class C boarding home shall be permitted to have more than four residents that cannot physically self-evacuate unless the staffing shall be 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. 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 be at all times responsible for responding to the doorbell or intercom.

ii. 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.

iii. 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.

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

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

§ 5:27-13.5. Administration of medications

(a) All medications administered by qualified persons shall be administered in accordance with prescriber orders, facility policy and all Federal and State laws, rules and regulations.

(b) Administration of medications is within the scope of practice and remains the responsibility of the registered professional nurse. A registered professional nurse may choose to delegate the task of administering medications in accordance with *N.J.A.C. 13:37-6* to certified medication aides. When the registered professional nurse delegates the task of administering medications to certified medication aides, this delegation is based upon individual residents' needs and circumstances within specific limits. These limits shall include, but not be limited to, the following:

1. The administration of oral, ophthalmic, inhalant, nasal, rectal, vaginal, topical and injectable (subcutaneous) medications may be delegated. Residents receiving short-term scheduled medications (II-IV) for analgesia, and injections other than predrawn insulin, shall be reassessed by the registered professional nurse at least every 72 hours, in order to determine if the medication is still required;

2. The delegating registered professional nurse shall review with the certified medication aide medication actions and untoward effects for each drug to be administered. Pertinent information about medications' adverse effects, side effects, and potential interactions shall be incorporated into the care plan for each resident, with interventions to be implemented by the certified medication aide and other caregiving persons; and

3. A unit of use distribution system shall be developed and implemented.

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- (c) Each resident shall be identified prior to drug administration.
- (d) Drugs prescribed for one resident shall not be administered to another resident.
- (e) The certified medication aide shall report drug errors and adverse drug reactions immediately to the registered professional nurse who shall report the drug error or adverse drug reaction to the prescriber, and to the pharmacist, and who shall document the incident in the resident's record.
- (f) At least weekly, the registered nurse shall review and sign off on any medications or additions to the medication administration record which were made by the certified medication aide at the request of and under the delegation of the registered nurse.

§ 5:27-13.6. Storage of medications

- (a) For those residents who do not self-administer medications, the administrator shall provide an appropriate and safe medication storage area, either in a common area or in the resident's unit for the storage of medications. The storage area requirement may be satisfied through the use of a locked medication cart.
 - 1. The storage area shall be kept locked when not in use.
 - 2. The storage area shall be used only for storage of medications and medical supplies.
 - 3. The key to the storage area shall be kept on the person of the employee on duty who is responsible for resident supervision.
 - 4. 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.
 - 5. Medications shall be stored in accordance with manufacturer's instructions and with U.S.P. (United States Pharmacopoeia) requirements at USP 23, NF18, published by U.S. Pharmacopoeia Convention, 12601 Twinbrook Parkway, Rockville, MD 20852, incorporated herein by reference.
- (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, physician'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. If a generic substitute is used, the drug shall be labeled according to the Drug Utilization Review Council requirements at *N.J.S.A. 24:6E-1 et seq.* and *N.J.A.C. 8:70*. Required information appearing on individually packaged drugs or within an alternate 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 U.S.P. requirements cited in (a)5 above. 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 Bureau.

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(e) Discontinued or expired medications shall be destroyed within 30 days in the facility, or, if unopened and properly labeled, returned to the pharmacy. All medication destruction in the facility shall be witnessed and documented by two persons, each of whom shall be either the administrator, the registered nurse or the pharmacist.

§ 5:27-13.7. Nursing assessments of residents of boarding houses exclusively serving persons with Alzheimer's disease or related disorders or other forms of dementia

(a) The owner of every boarding house exclusively serving persons with Alzheimer's disease or related disorders or other forms of dementia shall enter into a contract with a home health agency (HHA) that is licensed by the Department of Health and certified for participation in the Medicare program of the U.S. Department of Health and Human Services to provide the nursing services set forth in this section.

(b) In accordance with the contract entered into pursuant to (a) above, prior to admission and on a quarterly basis thereafter, an HHA Registered Nurse (hereinafter referred to as the Quality Assurance Nurse) shall conduct a nursing assessment of each resident for the purpose of identifying and documenting the care and safety needs of the resident, which shall address the issues set forth in *N.J.A.C. 5:27-13.1* and shall include, but not be limited to:

1. Requirements for assistance with the activities of daily living;
2. Requirements for nursing care, if any; and
3. Requirements to ensure environmental safety for the resident.

(c) An additional assessment will be conducted if there is a significant change in the resident's condition.

(d) There shall be a rebuttable presumption that a resident shall be deemed to be appropriately placed in the boarding house provided that the nursing assessment required pursuant to this section indicates that the resident's identified needs are being met consistent with the Rooming and Boarding Act, *N.J.S.A. 55:13B-1* et seq., and regulations governing such residences.

§ 5:27-14.1. 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 above, carbon monoxide alarms may be installed in the locations specified in the Uniform Construction Code (*N.J.A.C. 5:23-3.20*) with the approval of the Bureau.

(b) Carbon monoxide alarms shall be manufactured, listed and labeled in accordance with UL 2034 and shall be installed in accordance with the requirements of this subchapter and NFPA 720. Carbon monoxide alarms shall be battery-operated, hard-wired or of the plug-in type.

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