



State of New Jersey
DEPARTMENT OF HEALTH

PHILIP D. MURPHY
Governor

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TAHESHA L. WAY
Lt. Governor

www.nj.gov/health

KAITLAN BASTON, MD, MSc, DFASAM
Commissioner

To: Administrators of Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs Licensed Pursuant to N.J.A.C. 8:36, Long-Term Care Facilities Licensed Pursuant to N.J.A.C. 8:39, Residential Health Care Facilities Licensed Pursuant to N.J.A.C. 8:43, Adult Day Health Services Facilities Licensed Pursuant to N.J.A.C. 8:43F, and Pediatric Medical Day Care Facilities Licensed Pursuant to N.J.A.C. 8:43J

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

Date: October 17, 2024

Re: Certificate of Occupancy Requirements for Transfer of Ownership Requests for a Facility or Program

Multiple chapters of the New Jersey Administrative Code that affect long-term care facilities contain sections entitled "Transfer of Ownership." These sections, N.J.A.C. 8:36-5.3, N.J.A.C. 8:39-2.12, N.J.A.C. 8:43-4.3, N.J.A.C. 8:43F-2.12, N.J.A.C. 8:43F-2.12, and N.J.A.C. 8:43J-2.12, are similar in form and content. Each section requires a facility to submit a certificate of occupancy or similar document to the Department of Health ("Department") after the transfer of ownership of a facility or program has been completed.

Chapter 95 of 2021 added N.J.S.A. 26:2H-7-25, et seq., which established new standards for the transfers of nursing homes; see the Department's memorandum of September 16, 2024 (attached) for further explanation of these standards. As part of implementing these new standards, the Department has informed nursing home transfer of ownership applicants that the N.J.A.C. 8:39-2.12(f)(3) requirement to submit a certificate of occupancy or similar document as part of the transfer is waived until further rulemaking is completed. This anticipated rulemaking will delete this requirement in its entirety.

This memorandum informs the regulated community that the Department hereby waives the requirement of the submission of a certificate of occupancy or similar document, after the transfer of ownership, contained at N.J.A.C. 8:36-5.3(a)(7)(iii), N.J.A.C. 8:43-4.3(e)(3), N.J.A.C. 8:43F-2.12(e)(3), N.J.A.C. 8:43F-2.12(e)(3), and

N.J.A.C. 8:43J-2.12(d)(3). All other requirements listed in the four sections remain extant and unchanged. The Department also intends to amend these rules to delete the requirement that a certificate of occupancy or similar document be filed after the transaction is complete.

Should you require any additional information, please contact Michael J. Kennedy, J.D. at Michael.Kennedy@doh.nj.gov



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To: Long-Term Care Facilities license under N.J.A.C. 8:39.

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

Date: September 16, 2024

Re: The Sale or Transfer of real property where a Nursing Home is located as governed by
N.J.S.A. 26:2H-7.27

There have been statutory changes affecting the transfer of ownership of a nursing home and the sale of the land on which a nursing home is located. The purpose of this memorandum is to advise you of changes to the Department of Health's ("Department") procedures for transferring ownership of the real property where a nursing home is located. The new process is required due to legislation codified at N.J.S.A. 26:2H-7.27.

New Statutory Requirements

Pursuant to N.J.S.A. 26:2H-7.27, before selling or transferring ownership of the land or other real property on which a nursing home is located, the prospective new owner must submit notice to the Department and the Department of Human Services, which notice shall include the following items:

1. The sale or transfer of real property fees to the Department of Health. The Department has not set the amount of the transfer of real property fee at this time, which will be promulgated in future regulations.
2. A cover letter stating the applicant's intent to purchase the land or other real property on which a nursing home is located, and identification of the nursing home by name, address, and county;
3. A description of the proposed transaction, including:
 - a. identification of the current owners of the land or other real property on which a nursing home is located;
 - b. identification of 100 percent of the proposed new owners, including the names and addresses of all principals and interested parties. The term

“interested parties” includes trustees and all beneficiaries of a trust that is in the proposed ownership structure; and

- c. if applicable, a copy of an organizational chart, including parent corporations and wholly-owned subsidiaries;
- 4. A copy of the agreement of sale or transfer, the proposed terms of the lease, rent, or use agreement with the nursing home and, if applicable, a copy of any management agreements; and
- 5. An attestation by the new owners of the land or other real property that they will lease, rent, or authorize use of the land or other real property by the nursing home at a rate that is consistent with the fair market value for the lease, rent, or use of similar facilities in the same market area.

Notice to the Department of Health should be sent to the Intake Program at CNLapps@doh.nj.gov. Notice to the Department of Human Services should be sent to nfsubmissions@dhs.nj.gov. A summary of the notice submitted in accordance with N.J.S.A. 26:2H-7.27, including the names of the prospective new owners, shall be made available on the Department’s Internet website. Once the Department acknowledges that the relevant materials have been received, the proposed sale of the real property may be consummated.

The transfer of ownership of the rights to a license to operate a nursing home is governed by new statutes found at N.J.S.A. 26:2H-7.25 and 7.26. Nursing homeowners and operators should review the processes outlined in those statutes. Please note that the Department intends to promulgate regulations incorporating the statutory provisions. However, the statutory provisions found in N.J.S.A. 26:2H-7.25, et seq. are in effect regardless of the Department’s pending rulemaking and must be followed.

Should you require any additional information, please contact Michael J. Kennedy, J.D. at Michael.Kennedy@doh.nj.gov.