

**ADOPTIONS SECTION**

**HEALTH**

**HEALTH SYSTEMS BRANCH**

**CERTIFICATE OF NEED AND LICENSING DIVISION**

**CERTIFICATE OF NEED AND HEALTHCARE FACILITY LICENSURE PROGRAM**

**Notice of Readoption**

**Standards for Licensure of Adult Day Health Services Facilities**

**Readoption with Technical Changes: N.J.A.C. 8:43F**

Authority: N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

Authorized By: Judith M. Persichilli, RN, BSN, MA, Commissioner, Department of Health, with the approval of the Health Care Administration Board.

Effective Dates:                November 18, 2021, Readoption;  
   December 20, 2021, Technical Changes.

New Expiration Date:        November 18, 2028.

**Take notice** that, pursuant to N.J.S.A. 52:14B-5.1, the Commissioner (Commissioner) of the Department of Health (Department) hereby readopts N.J.A.C. 8:43F, Standards for Licensure of Adult Day Health Services Facilities.

In accordance with N.J.S.A. 52:14B-5.1, N.J.A.C. 8:43F was scheduled to expire on January 31, 2021. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c

has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

N.J.A.C. 8:43F, Standards for Licensure of Adult Day Health Services Facilities, governs all health care facilities, subject to the Health Care Facilities Planning Act (Act), N.J.S.A. 26:2H-1 et seq., that provide adult day health services. This chapter establishes standards and general criteria for the licensure of an adult day health services facility. N.J.A.C. 8:43F-1 provides the scope, purpose, and definitions for the chapter. Subchapter 2 details the licensing application procedures, the enforcement remedies available to the Department, the applicant's right to a hearing and duties of the license holder. Subchapter 3 requires the establishment of an administrator position, along with the responsibilities and qualifications of the individual. Subchapter 4 details the policies and procedures regarding participant rights. Subchapter 5 concerns participant pre-admission and admission assessments, along with a plan of care. Subchapter 6 details the services provided and staffing requirements. Subchapter 7 sets forth the provision of nursing services by registered professional nurses and the delegation of duties.

Subchapter 8 details the provision of medical services, requires a facility to designate a physician as a medical consultant and sets forth the responsibilities of the medical consultant, and responsibilities of physicians, advanced practice nurses, and physician assistants. Subchapter 9 requires the establishment of a pharmaceutical consultant position and details the provision of medication administration policies and pharmaceutical control and reporting policies. Subchapter 10 sets forth the qualifications of the food services supervisor and dietitian, along with the dietary

services that must be provided. Subchapter 11 details the rehabilitation services, supplies, and equipment that must be provided. Subchapter 12 concerns the social worker qualifications and services provided. Subchapter 13 requires the establishment of an activities director position, along with the responsibilities and qualifications of the individual and the provision of activities services. Subchapter 14 details the physical plant standards for the facility. Subchapter 15 concerns the medical records of participants. Subchapter 16 sets forth infection control policies and procedures, as well as housekeeping and sanitation requirements. Subchapter 17 establishes policies for the transportation of participants and Subchapter 18 requires the establishment of a written plan for a quality improvement program.

The Commissioner has reviewed N.J.A.C. 8:43F and has determined that the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which the Department originally promulgated it, as amended and supplemented over time and, with the technical changes described below, should be readopted.

The Department is making several technical changes upon readoption. The Department is correcting references throughout the chapter to the Department to reflect the change in the Department's name pursuant to N.J.S.A. 26:1A-2. The Department is correcting references to the names and contact information of units within the Department that have changed following Department reorganization. The Department is correcting references throughout the chapter to the Office of the Ombudsman for the Institutionalized Elderly to reflect the change in the name of that entity to the State Long-Term Care Ombudsman pursuant to P.L. 2017, c. 131, § 202 (see N.J.S.A.

52:27G-1 et seq., particularly at 52:27G-3) and changes to that entity's contact information. Throughout the chapter, the Department is updating mailing addresses and other contact information of entities to which the chapter refers; and updating cross-references to laws, rules, and publications to which the chapter refers.

Therefore, pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 8:43F is readopted and shall continue in effect for seven years.

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

## SUBCHAPTER 1. GENERAL PROVISIONS

### 8:43F-1.1 Scope and purpose

The rules in this chapter [pertain] **apply** to all facilities that provide adult day health services, regardless of the source of payment. These rules constitute the basis for the licensure of adult day health services facilities by the New Jersey Department of Health [and Senior Services]. The Medicaid rules for adult day health services are contained [in] **at** N.J.A.C. [8:86] **10:164**. Adult day health services facilities provide specialized, integrated care to participants in order to assist them in reaching the functional levels of which they are capable, as well as to protect their health and safety. The purpose of this chapter is to establish minimum rules to which an adult day health service facility must adhere to be licensed to operate in New Jersey. An adult day health services facility that is a Medicaid provider shall also comply with the rules at N.J.A.C. [8:86] **10:164**.

## 8:43F-1.2 Definitions

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

...

“Adult day health services facility” means a facility or a distinct part of a facility which is licensed by the New Jersey Department of Health [and Senior Services] to provide preventive, diagnostic, therapeutic, and rehabilitative services under medical and nursing supervision to meet the needs of functionally impaired adult participants who are not related to the members of the governing authority by marriage, blood, or adoption. Adult day health services facilities provide services to participants for a period of time, which does not exceed 12 hours during any calendar day.

“Advanced practice nurse” means an individual [so] certified by the New Jersey [State] Board of Nursing, **Division of Consumer Affairs of the New Jersey Department of Law and Public Safety**, in accordance with [N.J.S.A. 45:11-23 et seq] **N.J.A.C. 13:37-7**.

...

“Commissioner” means the [New Jersey] Commissioner of **the New Jersey Department of Health** [and Senior Services].

...

“Controlled Dangerous Substances Acts” means the [Controlled Substances] **Comprehensive Drug Abuse Prevention and Control Act of 1970** (Title II, Public Law 91-513) and the New Jersey Controlled Dangerous Substances Act [of 1970], N.J.S.A. 24:21-1 et seq.

...

“Department” means the New Jersey Department of Health [and Senior Services].

“Dietitian” means a person who is registered or eligible for registration by the Commission on Dietetic Registration (Office on Dietetic Credentialing)[, 216 W. Jackson Boulevard--7th Floor., Chicago, Illinois 60606-6995)].

“Division” means the Division of [Health Facilities Evaluation] **Certificate of Need and Licensing** within the New Jersey Department of Health [and Senior Services] **for which the contact information is Division of Certificate of Need and Licensing, PO Box 358, Trenton, NJ 08625-0358.**

...

“Licensed nursing personnel” (licensed nurse) means registered professional nurses or practical nurses licensed by the New Jersey [State] Board of Nursing, **Division of Consumer Affairs of the New Jersey Department of Law and Public Safety pursuant to N.J.A.C. 13:37-2.**

“Licensed practical nurse” (LPN) means an individual who is [so] licensed by the New Jersey [State] Board of Nursing, **Division of Consumer Affairs of the New Jersey Department of Law and Public Safety** pursuant to [N.J.S.A. 45:11-27] **N.J.A.C. 13:37-2.**

...

“Occupational therapist” means an individual who is [so] licensed, or eligible for licensure, by the New Jersey Occupational Therapy Advisory Council, **Division of**

**Consumer Affairs of the New Jersey Department of Law and Public Safety**, in accordance with [N.J.S.A. 45:9-37.51] **N.J.A.C. 13:44K**.

...

“Physician” means an individual who is licensed or authorized by the New Jersey State Board of Medical Examiners, **Division of Consumer Affairs of the New Jersey Department of Law and Public Safety** to practice medicine in the State of New Jersey, pursuant to [N.J.S.A. 45:9-1 et seq] **N.J.A.C. 13:35**.

...

“Prior authorization” means the approval process of eligible Medicaid participants by the Department prior to the provision of adult day health services, in accordance with N.J.A.C. 8:86-1.5 and [8:43F-2.8]**10:164-1.5**.

“Registered professional nurse” (RN) means a person who is [so] licensed by the New Jersey [State] Board of Nursing, **Division of Consumer Affairs of the New Jersey Department of Law and Public Safety** pursuant to [N.J.S.A. 45:11-26] **N.J.A.C. 13:37-2**.

...

“Speech-language pathologist” means an individual who holds a current New Jersey license issued by the Audiology and Speech-Language Pathology Advisory Committee, Division of Consumer Affairs of the New Jersey Department of Law and Public Safety **pursuant to N.J.A.C. 13:44C**.

...

SUBCHAPTER 2. LICENSURE PROCEDURES

## 8:43F-2.1 Licensure application procedures and requirements

(a) A person, organization, or corporation desiring to operate an adult day health services facility, or to expand or relocate an existing facility, shall submit an application for a license on forms prescribed by the Department. Such forms may be obtained from[:]

[Director

Office of Certificate of Need and Healthcare Facility Licensure

Division of Health Facilities Evaluation and Licensing

New Jersey Department of Health and Senior Services

PO Box 358

Trenton, NJ 08625-0358] **the Director of the Division or at N.J.A.C.**

### **8:39 Appendix D.**

1.-7. (No change.)

8. The Department shall not issue or continue licensure for the operation of an adult day health services facility unless the current or prospective owner(s) and administrator(s) have obtained prior clearance from the Department's Criminal Background Investigation Unit. The Department shall not issue clearance to any current or prospective owner or administrator who has been convicted of a crime or offense relating adversely to the person's ability to provide care, including, but not limited to, homicide, assault kidnapping, sexual offenses, robbery, crimes against the family, children, or [incompetents] **persons adjudicated to be incapacitated**, and financial crimes, except when the current or prospective owner or administrator with a criminal history has demonstrated his or her rehabilitation in order to qualify as an owner or



administrator in accordance with the standards set forth in the Rehabilitated Convicted Offender Act, N.J.S.A. 2A:168A-1 et seq.

i. In accordance with the provisions of the Administrative Procedure[s] Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure[s] Rules, N.J.A.C. 1:1, any individual disqualified from owning, operating, or administering an adult day health services facility shall be given an opportunity to challenge the accuracy of the disqualifying criminal history record prior to being permanently disqualified from participation.

#### 8:43F-2.2. Waiver

(a) The Commissioner or his or her designee may, in accordance with the general purposes and intent of N.J.S.A. 26:2H-1 et seq., and the rules in this chapter, waive provisions of these rules if, in his or her opinion, such waiver would not render the premises, equipment, personnel, finances, rules and bylaws, and standards of health care at a facility unfit or inadequate.

1. A facility seeking a waiver of these rules shall apply in writing to the Director of the [Facility Licensing and Certification Program of the Department] **Division**.

2.-3. (No change.)

#### 8:43F-2.3 Newly constructed or expanded facilities

(a) The licensure application for a newly constructed, renovated or expanded facility shall include written approval of final construction of the physical plant by:

Health Care Plan Review Unit

Division of Codes and Standards

New Jersey Department of Community Affairs

PO Box [815] **817**

Trenton, NJ [08625-0815] **08625-0817**

(609) 633-8151

1. Any existing or proposed adult day health services facility with a construction program shall submit plans to the Health Care Plan Review Unit, Division of Codes and Standards, New Jersey Department of Community Affairs, PO Box [815] **817**, Trenton, NJ [08625-0815] **08625-0817**, for review and approval prior to the initiation of construction.

2. (No change.)

#### 8:43F-2.4 Preliminary conference

When a newly constructed facility is approximately 80 percent complete or when an applicant's estimated date of opening is within 30 days, the applicant shall schedule a preliminary conference with the [Office of Certificate of Need and Healthcare Facility Licensure] **Division** for review of the conditions for licensure and operation.

#### 8:43F-2.5 Surveys

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the Department shall be conducted at the Department's discretion to determine if the facility adheres to the rules in this chapter.

1. (No change.)

2. The facility shall notify the [Office of Certificate of Need and Healthcare Facility Licensure of the Department] **Division** when the deficiencies, if any, have been corrected, and the Assessment and Survey Program shall schedule one or more resurveys of the facility prior to occupancy.

3. (No change.)

(b) No facility shall admit participants to the facility until the [Office of Certificate of Need and Healthcare Facility Licensure of the Department] **Division** issues a license to operate the facility.

(c)-(e) (No change.)

#### 8:43F-2.6 License

(a) The Department shall issue a license to the operator of the facility when all of the following conditions are met:

1. A project proposal has been submitted by the applicant and approved by the [Office of Certificate of Need and Healthcare Facility Licensure] **Division**, in writing;

i. The project proposal shall specify if there will be more than one shift of operation and shall provide the hours of operation for each shift. Any change in the hours of operation shall be reported, in writing, to the [Office of Certificate of Need and Healthcare Facility Licensure] **Division**; and

ii. (No change.)

2. (No change.)

3. A preliminary conference for review of conditions for licensure and operation has taken place between representatives of the facility and staff of the Division [of Health Facilities Evaluation and Licensing];

4. (No change.)

5. In accordance with N.J.A.C. 8:43F-2.1(a)[9]8, the owners and administrators of prospective adult day health services facilities shall have clearance from the Criminal Background Investigation Unit prior to operating the adult day health services facilities;

6. The applicant has submitted the following additional documents to the [Office of Certificate of Need and Healthcare Facility Licensure] **Division**:

i.- iii. (No change.)

7. A survey by Department staff [indicates] **indicating** that the facility meets the standards set forth in the chapter and N.J.S.A. 26:2H-1 et seq.

(b) - (g) (No change.)

#### 8:43F-2.7 Surrender of license

The facility shall notify each participant, the participant's physician, advanced practice nurse, or physician assistant, and any guarantors of payment at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license. In such cases, the license shall be returned to the [Office of Certificate of Need and Healthcare Facility Licensure] **Division** within seven working days after the voluntary surrender, revocation, non-renewal, or suspension of license.

8:43F-2.11. Disclosure of ownership

(a) (No change.)

(b) No facility shall be owned or operated by any individual who does not receive clearance from the Criminal Background Investigation Unit in accordance with N.J.A.C. 8:43F-2.1(a)8 [or 9], or who has a history of continuing or serious violations of N.J.A.C. 8:43F or [N.J.A.C. 8:86] **10:164** or other statutory requirements.

8:43F-2.12 Transfer of ownership

(a) Any proposed change in ownership shall be reported to the Director of the [Office of Certificate of Need and Healthcare Facility Licensure of the Department] **Division**, in writing at least 30 days prior to the change.

(b) Prior to transferring ownership of a facility, the prospective new owner shall submit an application to the [Office of Certificate of Need and Healthcare Facility Licensure] **Division**. The application shall include the following information:

1.-4. (No change.)

(c) (No change.)

(d) When a transfer of ownership application has been reviewed and deemed acceptable, an approval letter from the [Office of Certificate of Need and Healthcare Facility Licensure] **Division** shall be sent to the applicant along with licensure application forms.

(e) After the transaction has been completed, the applicant shall submit the following documents to the [Office of Certificate of Need and Healthcare Facility Licensure]

**Division.**

1.-3. (No change.)

(f)-(g) (No change.)

SUBCHAPTER 3. ADMINISTRATION

8:43F-3.3 Administrative policies and procedures

(a)-(c) (No change.)

(d) A policy and procedure manual(s) for the organization and operation of the facility shall be developed, implemented, and reviewed at intervals specified in the manual(s). Each review of the manual(s) shall be documented, and the manual(s) shall be available in the facility to representatives of the Department at all times. The manual(s) shall include at least the following:

1.- 7. (No change.)

8. Policies and procedures for complying with applicable statutes and protocols to report abuse or mistreatment of participants, elopement, sexual abuse, specified communicable disease, rabies, poisonings, and unattended or suspicious deaths.

These policies and procedures shall include, but not be limited to:

i. The notification of any suspected case of participant abuse or exploitation that occurs during the participant's participation in adult day health services to the [Office of the Ombudsperson for the Institutionalized Elderly in the Division of Elder Advocacy of the] New Jersey [Department of the Public Advocate] **Long-Term**

**Care Ombudsman**, pursuant to N.J.S.A. 52:27G-7.1 et seq., if the participant is 60 years of age or older, and if less than 60 years of age, to the [Assessment and Survey Unit in the] Division of Health [Facilities Evaluation] **Facility Survey** and [Licensing] **Field Operations** of the Department;

ii. The notification of any suspected case of participant abuse or exploitation that occurs outside of the participant's participation in adult day health services that is discovered by facility staff to Adult Protective Services, pursuant to N.J.S.A. 52:27D-[46]**406** et seq., if the participant is 60 years of age or older;

iii.-vi. (No change.)

(e) - (f) (No change.)

#### 8:43F-3.4. Mandatory notification

(a) The facility shall notify the Department immediately by telephone at [609-633-9034 (609-392-2020 after business hours)] **(609) 633-8991 or (800) 792-9770**, followed by written confirmation within 72 hours of the following:

1.-6. (No change.)

(b) (No change.)

### SUBCHAPTER 4. PARTICIPANT RIGHTS

#### 8:43F-4.2 Rights of each participant

(a) (No change.)

(b) The administrator shall provide all participants and/or their families with the name, address, and telephone number of the following offices where complaints may be lodged:

Division of Health [Facilities Evaluation] **Facility Survey** and [Licensing]

**Field Operations**

New Jersey Department of Health [and Senior Services]

PO Box [367] **358**

Trenton, NJ [08625-0367] **08625-0358**

Telephone: (800) 792-9770

[Office of the Ombudsperson for the Institutionalized Elderly] **New Jersey**

**Long-Term Care Ombudsman**

Division of Elder Advocacy

New Jersey Department of the Public Advocate

PO Box 852

Trenton, NJ 08625-0852

Telephone: (877) 582-6995

Division of Medical Assistance and Health Services

New Jersey Department of Human Services

PO Box 712

Trenton, NJ 08625-0712

[Telephone: (609) 588-3828]



**Website:**

**<https://www.state.nj.us/humanservices/doas/home/adultpsp.html>**

Division of [Youth and Family Services] **Child Protection and  
Permanency**

New Jersey Department of Children and Families

PO Box 729

Trenton, NJ 08625-0729

Telephone: [(609) 984-4500] **(609) 292-0617**, or to report child abuse or  
neglect, 1-877-NJABUSE (652-2873)

(c)-(d) (No change.)

SUBCHAPTER 5. PARTICIPANT ASSESSMENT AND PLAN OF CARE

8:43F-5.4 Development and implementation of plan of care, and discharge

(a)-(c) (No change.)

(d) The plan of care shall include documented discharge planning, which shall address the participant's changing status that may alter the appropriateness of day care and necessitate helping the caregiver to access alternative resources.

1. The plans for discharge shall be in compliance with N.J.A.C. [8:86-1.5] **10:164**, regarding Medicaid eligibility criteria, if applicable.

2. (No change.)

(e)-(f) (No change.)

## SUBCHAPTER 6. GENERAL SERVICES

### 8:43F-6.1 General services provided

(a)-(d) (No change.)

(e) Adult day health services shall be provided for at least five consecutive hours and no more than 12 hours daily, exclusive of transportation time, for a minimum of five days per week.

1. For Medicaid-eligible participants, the facility shall also comply with all of the provisions [of] **at N.J.A.C. [8:86] 10:164.**

(f) The facility shall maintain a daily record of participant attendance for each day during which services are provided, in accordance with N.J.A.C. [8:86-1.3(a)3] **10:164-1.3(a)4.**

### 8:43F-6.3 Personnel

(a) The facility shall make reasonable efforts to ensure that all staff providing direct care to participants in the facility are in good health, are concerned for the safety and well-being of participants, and have not been convicted of a crime relating adversely to the person's ability to provide care to participants, except when the applicant or employee with a criminal history has demonstrated his or her rehabilitation, in accordance with the standards set forth at N.J.S.A. 2A:168A-1 et seq., and N.J.A.C. 8:43F-2.1(a)[8ii]**8i**, in order to qualify for employment at the facility.

(b)-(f) (No change.)

## SUBCHAPTER 8. MEDICAL SERVICES

8:43F-8.4. Responsibilities of physicians, advanced practice nurses, and physician assistants

(a) (No change.)

(b) The physician, advanced practice nurse, or physician assistant who provides care to the participant shall provide the following information, which shall be included in the participant's medical record:

1. A signed, dated medical history and physical examination report, including results of a chest [X-ray] **x-ray**, if performed. The history and physical examination shall be performed within 60 days prior to or upon admission to the program;

2.- 4. (No change.)

(c) (No change.)

## SUBCHAPTER 9. PHARMACEUTICAL SERVICES

8:43F-9.4. Pharmacy control policies and procedures

(a) - (c) (No change.)

(d) Alternative medication delivery systems, such as unit-of-use, unit dose, or customized medication packages, shall be labeled, dispensed, stored, accounted for, and monitored in accordance with the New Jersey State Board of Pharmacy rules, N.J.A.C. 13:39, the United States [Pharmacopoeia] **Pharmacopeia**, and generally accepted standards of pharmaceutical practice for medication distribution systems. Required information appearing on individually packaged medications or within an alternative medication delivery system need not be repeated on the label.

(e) (No change.)

## SUBCHAPTER 10. DIETARY SERVICES

### 8:43F-10.2 Qualifications of the food service supervisor

(a) The food service supervisor shall:

1. (No change.)

2. Be a graduate of a dietetic technician or dietetic assistant training program approved by the [American Dietetic Association] **Commission on Dietetic Registration** (Office on Dietetic Credentialing)[, 216 Jackson Boulevard--7th Floor, Chicago, Illinois 60606-6995)]; or

3. (No change.)

### 8:43F-10.3. Qualifications of the dietitian

The dietitian must be registered or eligible for registration by the Commission on Dietetic Registration, Office on Dietetic Credentialing[, 216 W. Jackson Boulevard, 7th Floor] Chicago, Illinois 60606-6995].

## SUBCHAPTER 13. ACTIVITIES SERVICES

### 8:43F-13.2. Qualifications of activities director

(a) The activities director shall:

1. Be certified or eligible for certification as an activity director certified (ADC) by the National Certification Council for Activity Professionals (National Certification Council for Activity Professionals, [PO Box 62589, Virginia Beach, VA 23466] **3015 Upton Drive, Suite 103, Kensington, MD 20895**);

2. Be certified or eligible for certification as a certified therapeutic recreation specialist (CTRS) by the National Council for Therapeutic Recreation **Certification** (National Council for Therapeutic Recreation, [Inc., 7 Elmwood Drive] **16 Squadron Boulevard, Suite 101**, New City, NY 10956);

3. (No change.)

4. Have a high school diploma and at least three years of full-time, or full-time equivalent, experience in activities in a licensed health care facility and have successfully completed an activities education program approved by the New Jersey Department of Health [and Senior Services] after a review of the specific curriculum, consisting of 90 hours of training and incorporating the following elements:

i.- v. (No change.)

5. (No change.)

#### SUBCHAPTER 14. PHYSICAL PLANT REQUIREMENTS

##### 8:43F-14.1 Physical plant

(a)-(b) (No change.)

(c) Prior to any construction, plans shall be submitted to the New Jersey Department of Community Affairs, [Health Care] **Healthcare Facilities** Plan Review [Services] Unit (609[-]) 633-8151[)] for review.

(d) (No change.)