HEALTH

HEALTH SYSTEMS BRANCH

DIVISION OF CERTIFICATE OF NEED AND LICENSING

OFFICE OF CERTIFICATE OF NEED AND HEALTHCARE FACILITY LICENSURE

Standards for Licensure of Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs; Licensing Standards for Dementia Care Homes; Standards for Licensure of Long-Term Care Facilities; and Standards for Licensure of Residential Health Care Facilities Located With, and Operated by Licensed Health Care Facilities

Definitions and Social Isolation Prevention

Proposed Readoption to Specially Adopted Amendments and New Rules:

N.J.A.C. 8:36-1.3 and 13A, 8:37-1.2 and 10, 8:39-1.2 and 39A, and 8:43-1.3 and 17

Authorized By: Kaitlan Baston, MD, MSc, DFASAM, Commissioner, Department of Health, with the approval of the Health Care Administration Board.

Authority: N.J.S.A. 26:2H-12.97 through 12.99, especially 12.98; and P.L. 2020, c. 113, § 4.

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

Proposal Number: PRN 2024-123.

Submit written comments electronically by December 20, 2024, to www.nj.gov/health/legal/ecomments.shtml, or by mail postmarked by , 2024, to:

Kimberly Jenkins, Director

Office of Legal and Regulatory Compliance

Office of the Commissioner

New Jersey Department of Health

PO Box 360

Trenton, NJ 08625-0360

The agency proposal follows:

Summary

P.L. 2020, c. 113 (approved October 23, 2020, and codified in part at N.J.S.A. 26:2H-12.97 through 12.99) (Act) directs the Department of Health (Department) to specially adopt rules establishing standards for the prevention of social isolation of residents of long-term care facilities, which would be effective upon filing and for one year thereafter. P.L. 2020, c. 113, § 4. The Act defines the term "long-term care facility," to mean a nursing home, an assisted living facility, a comprehensive personal care home, a residential health care facility, or a dementia care home that the Department licenses pursuant to the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq. N.J.S.A. 26:2H-97.

On September 23, 2023, to implement its rulemaking obligations pursuant to the Act, the Department filed with the Office of Administrative Law, a notice of special adoption of amendments and new rules, published in the New Jersey Register on November 6, 2023, at 55 N.J.R. 2271(a). The specially adopted amendments and new rules, thus, were scheduled to expire on September 23, 2024, unless a notice of proposal to readopt is accepted for filing by the Office of Administrative Law (see N.J.A.C. 1:30-6.4(f)) on or before the 365-day expiration date. The amendments and

new rules are now being proposed for readoption in accordance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. Pursuant to N.J.S.A. 52:14B-5.1.c(2), the filing of this notice of proposal to readopt the specially adopted amendments and new rules before their expiration extends their expiration date by 180 days, to March 22, 2025.

The Department now proposes to readopt the specially adopted amendments and new rules, which are codified at N.J.A.C. 8:36, Standards for Licensure of Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs, N.J.A.C. 8:37, Licensing Standards for Dementia Care Homes, N.J.A.C. 8:39, Standards for Licensure of Long-Term Care Facilities, and N.J.A.C. 8:43, Standards for Licensure of Residential Health Care Facilities Located with, and Operated by, Licensed Health Care Facilities, and are described in further detail below.

N.J.A.C. 8:36-13A.1, 8:37-10.1, 8:39-39A.1, and 8:43-17.1, Scope and purpose, would continue to establish the scope and purpose of the subchapter within each chapter. N.J.A.C. 8:36-13A.1(a), 8:37-10.1(a), 8:39-39A.1(a), and 8:43-17.1(a) ensure that all covered long-term care facilities take steps to always prevent the social isolation of residents. N.J.A.C. 8:36-13A.1(b), 8:37-10.1(b), 8:39-39A.1(b), and 8:43-17.1(b) establish the purpose of codifying the requirements at N.J.S.A. 26:2H-12.97 et seq., which direct the Department to adopt emergency rules to address the prevention of social isolation for residents.

N.J.A.C. 8:36-1.3, 8:36-13A.2, 8:37-1.2, 8:39-1.2, and 8:43-1.3 incorporate the following new statutory definitions set forth at N.J.S.A. 26:2H-12.97: “cohorting,” “religious and recreational activities,” and “social isolation.” N.J.A.C. 8:36-13A.2,

Definitions, establishes definitions that apply only as used at N.J.A.C. 8:36-13A, while N.J.A.C. 8:36-1.3, 8:37-1.2, 8:39-1.2, 8:43-1.3, Definitions, were amended to add these definitions.

N.J.A.C. 8:36-13A.3, 8:37-10.2, 8:39-39A.2, and 8:43-17.2, Policies and procedures, require facilities to adopt and implement policies and procedures to prevent the social isolation of residents, as required pursuant to N.J.S.A. 26:2H-12.98. N.J.A.C. 8:36-13A.3(a), 8:37-10.2(a), 8:39-39A.2(a), and 8:43-17.2(a) require facilities to adopt and implement written policies and procedures to prevent the social isolation of residents. N.J.A.C. 8:36-13A.3(b), 8:37-10.2(b), 8:39-39A.2(b), and 8:43-17.2(b) set forth the minimum requirements of the policies and procedures. N.J.A.C. 8:36-13A.3(c), 8:37-10.2(c), 8:39-39A.2(c), and 8:43-17.2(c) require the policies and procedures to include standards to encourage and enable residents of the facility to engage both with other facility residents and external support systems, such as family and friends. N.J.A.C. 8:36-13A.3(d), 8:37-10.2(d), 8:39-39A.2(d), and 8:43-17.2(d) describe alternative electronic or virtual means and methods that may be utilized by facilities to foster engagement and communication when in-person contact is limited. N.J.A.C. 8:36-13A.3(e), 8:37-10.2(e), 8:39-39A.2(e), and 8:43-17.2(e) describe the minimum steps facilities are required to take to prevent the social isolation of residents when in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by Federal and State statute, rule, or regulation, including posting information on the facility website and following Centers for Medicare and Medicaid Services (CMS) recommendations.

N.J.A.C. 8:36-13A.4, 8:37-10.3, 8:39-39A.3, and 8:43-17.3, Requirements for residents with disabilities that impede communication, require facilities' policies and procedures to address the needs of facility residents who have disabilities that impede their ability to communicate through the provision of access to assistive and supportive technology to facilitate the residents' engagement with other residents, family members, friends, and other external support systems, through electronic means, pursuant to N.J.S.A. 26:2H-12.98. N.J.A.C. 8:36-13A.4(a), 8:37-10.3(a), 8:39-39A.3(a), and 8:43-17.3(a) describe the affected groups who may have disabilities that impede their ability to communicate, and, therefore, should be given access to assistive and supportive technology.

N.J.A.C. 8:36-13A.5, 8:37-10.4, 8:39-39A.4, and 8:43-17.4, Acquisition of technology, require facilities' policies and procedures to address the acquisition, maintenance, and replacement of technological means, such as computers and videoconferencing equipment to facilitate residents' communication with others (communication technology), pursuant to N.J.S.A. 26:2H-12.98. N.J.A.C. 8:36-13A.5(a), 8:37-10.4(a), 8:39-39A.4(a), and 8:43-17.4(a) describe the types of technology that may be utilized and require policies and procedures to address the acquisition, maintenance, and replacement of such technology.

N.J.A.C. 8:36-13A.6, 8:37-10.5, 8:39-39A.5, and 8:43-17.5, Maintenance of technology, require facilities' policies and procedures to address the maintenance of communication technology, as described at N.J.S.A. 26:2H-12.98. N.J.A.C. 8:36-13A.6(a), 8:37-10.5(a), 8:39-39A.5(a), and 8:43-17.5(a) describe environmental barriers

and physical controls that must be addressed in the policies and procedures, as well as cleaning and disinfecting protocols.

N.J.A.C. 8:36-13A.7, 8:37-10.6, 8:39-39A.6, and 8:43-17.6, Use of and training of residents in acquired technology, require facilities' policies and procedures to address the training of residents in the availability and use of communication technology, consistent with the provisions at N.J.S.A. 26:2H-12.98. N.J.A.C. 8:36-13A.7(a), 8:37-10.6(a), 8:39-39A.6(a), and 8:43-17.6(a) require policies and procedures that address the ordering, providing, and return process of devices and equipment. N.J.A.C. 8:36-13A.7(b), 8:37-10.6(b), 8:39-39A.6(b), and 8:43-17.6(b) require facilities to designate personnel who must communicate the process of requesting, providing, and returning devices and equipment to the residents.

N.J.A.C. 8:36-13A.8, 8:37-10.7, 8:39-39A.7, and 8:43-17.7, Facility responsibility for training residents in use of equipment, require facilities to designate a staff member who is responsible for training residents in the use of communication technology and training other facility employees in the use of communication technology so these facility employees can train and assist residents in the use of communication technology, consistent with N.J.S.A. 26:2H-12.98. N.J.A.C. 8:36-13A.8(a), 8:37-10.7(a), 8:39-39A.7(a), and 8:43-17.7(a) describe the appropriate categories of facility personnel who may be trained to provide assistance to residents who need help accessing and using the available technology.

N.J.A.C. 8:36-13A.9, 8:37-10.8, 8:39-39A.8, and 8:43-17.8, Resident assessments, require facilities to assess and regularly reassess residents' needs regarding their participation in social interactions and religious and recreational

activities, pursuant to N.J.S.A. 26:2H-12.98. N.J.A.C. 8:36-13A.9(a), 8:37-10.8(a), 8:39-39A.8(a), and 8:43-17.8(a) require regular resident assessments and that the assessments are documented. N.J.A.C. 8:36-13A.9(b), 8:37-10.8(b), 8:39-39A.8(b), and 8:43-17.8(b) require that sufficient quantities of devices are available based on the feedback from resident assessments.

N.J.A.C. 8:36-13A.10, 8:37-10.9, 8:39-39A.9, and 8:43-17.9, Individualized visitation plan, require facilities' policies and procedures to address the development of individualized visitation plans for each resident upon the request of the resident or the resident's family member or guardian, pursuant to N.J.S.A. 26:2H-12.98. N.J.A.C. 8:36-13A.10(a), 8:37-10.9(a), 8:39-39A.9(a), and 8:43-17.9(a) set forth the minimum requirements that must be addressed in the individualized resident visitation plan.

N.J.A.C. 8:36-13A.11, 8:37-10.10, 8:39-39A.10, and 8:43-17.10, Funding, identifies the Department website at which facilities can obtain information as to the process by which it may apply for funding from civil monetary penalty funds, to acquire and maintain communication technology, as authorized pursuant to N.J.S.A. 26:2H-12.98(c).

As the Department is providing a 60-day comment period for this notice of proposal, pursuant to N.J.A.C. 1:30-3.3(a)5, the notice is excepted from the rulemaking calendar requirement.

Social Impact

The specially adopted new rules and amendments proposed for readoption would have a positive effect on the residents of long-term care facilities by providing increased communication options for residents of the covered facilities, thereby helping

to ensure residents of the covered facilities are not socially isolated, even if another event like the COVID-19 pandemic occurs. The Social Isolation Act directs the Department to specially adopt rules establishing standards for the prevention of social isolation of residents of long-term care facilities. The specially adopted new rules and amendments remain necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which they originally were promulgated.

Economic Impact

The specially adopted amendments and new rules proposed for readoption would have an economic impact on the facilities covered by the rules. As the Summary above describes, facilities are required to acquire and maintain appropriate communication technology, train staff and residents in its use, have an appropriate number of trained staff to assess the needs of residents to prevent social isolation and, as needed, train them in the use of communication technology. Facilities will incur costs associated with obtaining and training staff in the use of required communication technology. However, as the specially adopted amendments and new rules proposed for readoption have already been in place over the past year, facilities will likely face minimal costs at this time for continued compliance.

Facilities that do not comply with the Act or the specially adopted amendments and new rules would incur costs and penalties associated with Department enforcement activities. Facilities may be able to offset these costs by applying to the Department for funds from civil monetary penalties the Department collects, as authorized at N.J.S.A. 26:2H-12.98(c). The Department would incur costs associated with oversight and

enforcement of facilities' compliance with the Act and the specially adopted amendments and new rules.

Federal Standards Statement

There are no Federal standards applicable to the specially adopted amendments and new rules proposed for readoption. Therefore, no Federal standards analysis is required.

Jobs Impact

The Department does not expect that the specially adopted amendments and new rules proposed for readoption have resulted or would result in an increase or decrease in the number of jobs available in the State.

Agriculture Industry Impact

The specially adopted amendments and new rules proposed for readoption have not and would not have an impact on the agriculture industry in the State.

Regulatory Flexibility Analysis

The Social Isolation Act establishes minimum standards for the prevention of social isolation of residents of long-term care facilities. The specially adopted amendments and new rules proposed for readoption would establish standards applicable to access to assistive technology to residents of long-term care facilities, some of which are likely to be small businesses as the term is defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The Summary above describes these requirements, and the Economic Impact describes the costs of compliance that entities subject to the chapter must retain.

Compliance with the specially adopted amendments and new rules proposed for readoption would require facilities to adopt and implement policies and procedures, acquire, and maintain communicative technologies and accessories, designate one employee to train other employees to aid residents, and train residents in the use of the technologies. There are no reporting requirements and the only recordkeeping requirements concern the creation of policies and procedures and the maintenance of records to track the staff that has received the training.

Compliance with the specially adopted amendments and new rules proposed for readoption may require facilities to purchase and maintain communicative technologies and accessories; however, long-term care facilities should already be in possession of such technologies because of the COVID-19 executive directives. Regarding professional services, a long-term care facility may decide to engage the services of a company to create the policies and procedures necessary for compliance; however, that decision would be determined by each facility and no facility is required to do so.

Lastly, long-term care facilities would need to ensure that staff has sufficient time to be able to assist residents in the use of such technologies. Most individuals, including residents of long-term care facilities, are familiar with and use cellular telephones and other smart devices and would not need training from facility staff. Although the specially adopted amendments and new rules proposed for readoption impose compliance requirements that may bring about monetary costs, it is the Act itself that imposes the proposed standards upon nursing homes. Therefore, the Department proposes no lesser or differing standards based upon business size.

Housing Affordability Impact Analysis

The specially adopted amendments and new rules proposed for readoption have had and would have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that they would evoke a change in the average costs associated with housing because they establish standards applicable to licensed long-term care facilities to establish policies and procedures to prevent residents' social isolation, and to acquire and maintain communication technology for residents' use, which would have no bearing on housing development or costs.

Smart Growth Development Impact Analysis

The specially adopted amendments and new rules proposed for readoption would have an insignificant impact on smart growth and there is an extreme unlikelihood that they would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because they establish standards applicable to licensed long-term care facilities to establish policies and procedures to prevent residents' social isolation, and to acquire and maintain communication technology for residents' use, which would have no bearing on smart growth or housing production.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the specially adopted amendments and new rules proposed for readoption follows (additions to original rule text in effect prior to November 6, 2023,

indicated in boldface thus; deletions from original rule text in effect prior to November 6, 2023, indicated in brackets [thus]; no changes are proposed in this rulemaking):

CHAPTER 36

STANDARDS FOR LICENSURE OF ASSISTED LIVING RESIDENCES, COMPREHENSIVE PERSONAL CARE HOMES, AND ASSISTED LIVING PROGRAMS

SUBCHAPTER 1. GENERAL PROVISIONS

8:36-1.3 Definitions

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

…

"Cohorting" means the practice of grouping patients who are or are not colonized or infected with the same organism to confine their care to one area and prevent contact with other patients.

…

"Religious and recreational activities" includes any religious, social, or recreational activity that is consistent with the resident's preferences and choosing, regardless of whether the activity is coordinated, offered, provided, or sponsored by facility staff or by an outside activities provider.

…

"Social isolation" means a state of isolation, wherein a resident of a long-term care facility is unable to engage in social interactions and religious

and recreational activities with other facility residents or with family members, friends, and external support systems.

…

SUBCHAPTER 13A. SOCIAL ISOLATION PREVENTION

8:36-13A.1 Scope and purpose

(a) This chapter sets forth rules and standards intended to ensureensure that assisted living facilitiesfacilities and comprehensive personal care homes take steps to prevent the social isolation of residents at all times.

(b) The purpose of this chapter is to codify the requirements at N.J.S.A. 26:2H-12.97 et seq., which direct the Department to adopt emergency rules to address the prevention of social isolation for residents of assisted living facilitiesfacilities and comprehensive personal care homes.

8:36-13A.2 Definitions

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

"Facility" means an assisted living facility or comprehensive personal care home.

"Resident" means a person who resides in an assisted living facility or comprehensive personal care home.

8:36-13A.3 Policies and procedures

(a) A facility must adopt and implement written policies and procedures intended to prevent the social isolation of residents.

(b) These required policies and procedures must, at a minimum, address the following:

1. Providing technology to residents for the purpose of maintaining contact with individuals outside of the facility;

2. Ensuring that appropriately trained staff is available to assist residents in maintaining contact with individuals outside of the facility; and

3. Standards for acquiring the technology to implement the requirements at (b)1 above.

(c) These policies and procedures must include standards to encourage and enable residents of the facility to engage in in-person contact, communications, and religious and recreational activities with:

1. Other facility residents; and

2. External support systems, such as family and friends.

(d) The required policies and procedures adopted and implemented must address the requirements at (c) above when such in-person contact, communication, or activities are limited for any resident of the facility.

1. This can be done through the use of electronic or virtual means and methods, including, but not limited to:

i. Computer technology;

ii. Internet;

iii. Social media;

iv. Videoconferencing; and

v. Other innovative technological means or methods.

(e) Facilities are required, at a minimum, to take the following steps to prevent the social isolation of residents when in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by Federal and State statute, rule, or regulation:

1. Prominently display on their website and/or social media platforms and include in communications to families, guardians, and the public, a phone number or method of communication for urgent calls or complaints, along with a link to the facility's social isolation policy.

2. Follow Centers for Medicare and Medicaid Services (CMS) recommendations at https://www.cms.gov/files/document/qso-20-28-nh-revised.pdf, for communication when facilities cannot permit in-person visits, as follows:

i. Offer alternative means of communication for people who would otherwise visit, such as virtual communications;

ii. Create or increase email listserv communications to update resident's family members;

iii. Assign facility staff as the primary contact to families for inbound calls, and conduct regular outbound calls to keep families up to date (for example, a "virtual visitation coordinator");Assign facility staff as the primary contact to families for inbound calls, and conduct regular outbound calls to keep families up to date (for example, a "virtual visitation coordinator");

iv. Offer a phone line with a voice recording updated at set times, at least daily, with the facility's general operating status, such as when it is safe to resume visits;

v. Host conference calls, webinars, or virtual "office hours" at set times, at a minimum, on a weekly basis, when families can call in, or log on to a conference line, in order to have facility staff share the status of activities or happenings in the facility and family members can ask questions or make suggestions; and

vi. Update the facility's website, at minimum on a weekly basis, to share the status of the facility and include information that helps families know what is happening in their loved one's environment, such as food menus and any scheduled activities.

8:36-13A.4 Requirements for residents with disabilities that impede communication

(a) The social isolation prevention policies and procedures adopted and implemented by each facility are to include protocols and procedures that provide for residents of the facility who have disabilities that impede their ability to communicate, to be given access to assistive and supportive technology, as may be necessary, to facilitate the residents' engagement in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other residents, family members, friends, and

other external support systems, through electronic means, including, but not limited to, residents who are:

1. Blind;

2. Deaf;

3. Deaf-blind;

4. Diagnosed with Alzheimer's disease or other related dementias; or

5. Diagnosed with developmental disabilities.

8:36-13A.5 Acquisition of technology

(a) Facilities must develop and implement specific administrative policies and procedures, as may be necessary, to ensure that residents are able to engage in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and external support systems, through electronic means. These policies and procedures must address the acquisition, maintenance, and replacement of:

1. Computers;

2. Videoconferencing equipment;

3. Distance-based communications technology;

4. Assistive and supportive technology and devices; and

5. Other technological equipment, accessories, and electronic licenses.

8:36-13A.6 Maintenance of technology

(a) Facilities must develop policies and procedures addressing the maintenance of the technology acquired pursuant to the requirements of this subchapter. These policies and procedures must address:

1. The use of environmental barriers and other controls when the equipment and devices are in use, especially in cases where the equipment or devices are likely to become contaminated with bodily substances, are touched frequently with gloved or ungloved hands, or are difficult to clean; and

2. The disinfecting of the equipment and devices and any environmental barriers or other physical controls used in association therewith after each use.

8:36-13A.7 Use of and training of residents in acquired technology

(a) Facilities must develop policies and procedures addressing a resident's:

1. Requisition of devices and equipment;

2. Timely provision of devices and equipment; and

3. Return of devices and equipment.

(b) Facilities must designate and require appropriate staff to communicate the policies and procedures at (a) above to residents.

8:36-13A.8 Facility responsibility for training residents in use of equipment

(a) Each facility shall designate at least one member of the therapeutic recreation or activities department, or, if the facility does not have such a

department, designate at least one senior staff member, as determined by the facility administrator, to train other appropriate facility employees to provide direct assistance to residents, upon request, and on an as-needed basis, as necessary, to ensure that each resident is able to successfully access and use the technology, devices, and equipment acquired. These facility employees who are appropriate to be trained to assist residents include, but are not limited to:

1. Activities professionals;

2. Activities volunteers;

3. Social workers;

4. Occupational therapists; and

5. Therapy assistants.

8:36-13A.9 Resident assessments

(a) The facility shall develop and implement policies and procedures to ensure that appropriate staff assess and regularly reassess the individual needs and preferences of facility residents with respect to the residents' participation in social interactions and religious and recreational activities.

1. The assessments and reassessments are to be documented in the resident's medical record.

(b) The facility must ensure that the quantity of devices and equipment maintained on-site at the facility at all times are sufficient to meet the assessed social and activities needs and preferences of each facility resident.

8:36-13A.10 Individualized visitation plan

(a) A facility shall develop and implement policies and procedures to ensure that upon the request of a resident or a resident's family member or guardian, appropriate facility staff must develop an individualized visitation plan for the resident. The individualized visitation plan shall:

1. Identify the assessed needs and visitation preferences of the resident;

2. Identify the visitation preferences specified by the resident's family members, if any;

3. Address the need for a visitation schedule and establish a visitation schedule, if deemed to be appropriate;

4. Describe the location and modalities to be used in visitation; and

5. Describe the respective responsibilities of staff, visitors, and the resident when engaging in visitation pursuant to the individualized visitation plan.

8:36-13A.11 Funding

Information on the process for facilities seeking to request funding for communicative technologies and accessories necessary to comply with this subchapter from civil monetary penalty (CMP) funds, as approved by the Federal Centers for Medicare and Medicaid Services, is available on the Department's website at: https://www.nj.gov/health/healthfacilities/cmp/.

CHAPTER 37

LICENSING STANDARDS FOR DEMENTIA CARE HOMES

SUBCHAPTER 1. GENERAL PROVISIONS

8:37-1.2 Definitions

(a) The following words and terms are defined in the Dementia Care Home Act at P.L. 2015, c. 125, § 17 (N.J.S.A. 26:25-148) and are used in this chapter as defined in the Act:

…

"Cohorting" means the practice of grouping patients who are or are not colonized or infected with the same organism to confine their care to one area and prevent contact with other patients.

…

"Religious and recreational activities" includes any religious, social, or recreational activity that is consistent with the resident's preferences and choosing, regardless of whether the activity is coordinated, offered, provided, or sponsored by facility staff or by an outside activities provider.

…

"Social isolation" means a state of isolation wherein a resident of a long-term care facility is unable to engage in social interactions and religious and recreational activities with other facility residents or with family members, friends, and external support systems.

…

SUBCHAPTER 10. SOCIAL ISOLATION PREVENTION

8:37-10.1 Scope and purpose

(a) This chapter sets forthsets forth rules and standards intended to ensureensure that dementia care homes take steps to prevent the social isolation of residents when in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by Federal and State statute, rule, or regulation.

(b) The purpose of this chapter is to codify the requirements at N.J.S.A. 26:2H-12.97 et seq., which direct the Department to adopt emergency rules to address the prevention of social isolation for residents of dementia care homes.

8:37-10.2 Policies and procedures

(a) A facility must adopt and implement written policies and procedures intended to prevent the social isolation of residents.

(b) These required policies and procedures must, at a minimum, address the following:

1. Providing technology to residents for the purpose of maintaining contact with individuals outside of the facility;

2. Ensuring that appropriately trained staff is available to assist residents in maintaining contact with individuals outside of the facility; and

3. Standards for acquiring the technology to implement the requirements at (b)1 above.

(c) These policies and procedures must include standards to encourage and enable residents of the facility to engage in in-person contact, communications, and religious and recreational activities with:

1. Other facility residents; and

2. External support systems, such as family and friends.

(d) The required policies and procedures adopted and implemented must address the requirements at (c) above when such in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by Federal and State statute, rule, or regulation.

1. This can be done through the use of electronic or virtual means and methods, including, but not limited to:

i. Computer technology;

ii. Internet;

iii. Social media;

iv. Videoconferencing; and

v. Other innovative technological means or methods.

(e) Facilities are required, at a minimum, to take the following steps to prevent the social isolation of residents:

1. Prominently display on their website and/or social media platforms and include in communications to families, guardians, and the public, a phone number or method of communication for urgent calls or complaints, along with a link to the facility's social isolation policy.

2. Follow Centers for Medicare and Medicaid Services (CMS) recommendations at https://www.cms.gov/files/document/qso-20-28-nh-revised.pdf, for communication when facilities cannot permit in-person visits, as follows:

i. Offer alternative means of communication for people who would otherwise visit, such as virtual communications;

ii. Create or increase email listserv communications to update resident's family members;

iii. Assign facility staff as the primary contact to families for inbound calls, and conduct regular outbound calls to keep families up to date (for example, a "virtual visitation coordinator");Assign facility staff as the primary contact to families for inbound calls, and conduct regular outbound calls to keep families up to date (for example, a "virtual visitation coordinator");

iv. Offer a phone line with a voice recording updated at set times, at least daily, with the facility's general operating status, such as when it is safe to resume visits;

v. Host conference calls, webinars, or virtual "office hours" at set times, at a minimum, on a weekly basis, when families can call in, or log on to a conference line, in order to have facility staff share the status of activities or happenings in the facility and family members can ask questions or make suggestions; and

vi. Update the facility's website, at a minimum, on a weekly basis, to share the status of the facility and include information that helps families know what is happening in their loved one's environment, such as food menus and any scheduled activities.

8:37-10.3 Requirements for residents with disabilities that impede communication

(a) The social isolation prevention policies and procedures adopted and implemented by each facility are to include protocols and procedures that provide for residents of the facility who have disabilities that impede their ability to communicate, to be given access to assistive and supportive technology, as may be necessary, to facilitate the residents' engagement in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other residents, family members, friends, and other external support systems, through electronic means, including, but not limited to, residents who are:

1. Blind;

2. Deaf;

3. Deaf-blind;

4. Diagnosed with Alzheimer's disease or other related dementias; or

5. Diagnosed with developmental disabilities.

8:37-10.4 Acquisition of technology

(a) Facilities must develop and implement specific administrative policies and procedures, as may be necessary, to ensure that residents are able to engage in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and external support systems, through electronic means. These policies and procedures must address the acquisition, maintenance, and replacement of:

1. Computers;

2. Videoconferencing equipment;

3. Distance-based communications technology;

4. Assistive and supportive technology and devices; and

5. Other technological equipment, accessories, and electronic licenses.

8:37-10.5 Maintenance of technology

(a) Facilities must develop policies and procedures addressing the maintenance of the technology acquired pursuant to the requirements of this subchapter. These policies and procedures must address:

1. The use of environmental barriers and other controls when the equipment and devices are in use, especially in cases where the equipment or devices are likely to become contaminated with bodily substances, are touched frequently with gloved or ungloved hands, or are difficult to clean; and

2. The disinfecting of the equipment and devices and any environmental barriers or other physical controls used in association therewith after each use.

8:37-10.6 Use of and training of residents in acquired technology

(a) Facilities must develop policies and procedures addressing a resident's:

1. Requisition of devices and equipment;

2. Timely provision of devices and equipment; and

3. Return of devices and equipment.

(b) Facilities must designate and require appropriate staff to communicate the policies and procedures at (a) above to residents.

8:37-10.7 Facility responsibility for training residents in use of equipment

(a) Each facility shall designate at least one member of the therapeutic recreation or activities department, or, if the facility does not have such a department, designate at least one senior staff member, as determined by the facility administrator, to train other appropriate facility employees to provide direct assistance to residents, upon request, and on an as-needed basis, as necessary, to ensure that each resident is able to successfully access and use of the technology, devices, and equipment acquired. These facility employees who are appropriate to be trained to assist residents include, but are not limited to:

1. Activities professionals;

2. Activities volunteers;

3. Social workers;

4. Occupational therapists; and

5. Therapy assistants.

8:37-10.8 Resident assessments

(a) The facility shall develop and implement policies and procedures to ensure that appropriate staff assess and regularly reassess the individual needs and preferences of facility residents with respect to the residents' participation in social interactions and religious and recreational activities.

1. These assessments and reassessments are to be documented in the resident's medical record.

(b) The facility must ensure that the quantity of devices and equipment maintained on-site at the facility at all times are sufficient to meet the assessed social and activity needs and preferences of each facility resident.

8:37-10.9 Individualized visitation plan

(a) A facility shall develop and implement policies and procedures to ensure that upon the request of a resident or a resident's family member or guardian, appropriate facility staff must develop an individualized visitation plan for the resident. The individualized visitation plan shall:

1. Identify the assessed needs and visitation preferences of the resident;

2. Identify the visitation preferences specified by the resident's family members, if any;

3. Address the need for a visitation schedule and establish a visitation schedule, if deemed to be appropriate;

4. Describe the location and modalities to be used in visitation; and

5. Describe the respective responsibilities of staff, visitors, and the resident when engaging in visitation pursuant to the individualized visitation plan.

8:37-10.10 Funding

Information on the process for facilities seeking to request funding for communicative technologies and accessories necessary to comply with this subchapter from civil monetary penalty (CMP) funds, as approved by the Federal Centers for Medicare and Medicaid Services, is available on the Department's website at: https://www.nj.gov/health/healthfacilities/cmp/.

CHAPTER 39

STANDARDS FOR LICENSURE OF LONG-TERM CARE FACILITIES

SUBCHAPTER 1. GENERAL PROVISIONS

8:39-1.2 Definitions

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

…

“Cohorting” means the practice of grouping patients who are or are not colonized or infected with the same organism to confine their care to one area and prevent contact with other patients.

…

“Religious and recreational activities” includes any religious, social, or recreational activity that is consistent with the resident’s preferences and choosing, regardless of whether the activity is coordinated, offered, provided, or sponsored by facility staff or by an outside activities provider.

…

“Social isolation” means a state of isolation wherein a resident of a long-term care facility is unable to engage in social interactions and religious and recreational activities with other facility residents or with family members, friends, and external support systems.

…

SUBCHAPTER 39A. SOCIAL ISOLATION PREVENTION

8:39-39A.1 Scope and purpose

(a) This chapter sets forthsets forth rules and standards intended to ensureensure that long-term care facilities take steps to prevent the social isolation of residents when in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by Federal and State statute, rule, or regulation.

(b) The purpose of this chapter is to codify the requirements at N.J.S.A. 26:2H-12.97 et seq., which direct the Department to adopt emergency rules to address the prevention of social isolation for residents of long-term care facilities.

8:39-39A.2 Policies and procedures

(a) A facility must adopt and implement written policies and procedures intended to prevent the social isolation of residents.

(b) These required policies and procedures must, at a minimum, address the following:

1. Providing technology to residents for the purpose of maintaining contact with individuals outside of the facility;

2. Ensuring that appropriately trained staff is available to assist residents in maintaining contact with individuals outside of the facility; and

3. Standards for acquiring the technology to implement the requirements at (b)1 above.

(c) These policies and procedures must include standards to encourage and enable residents of the facility to engage in in-person contact, communications, and religious and recreational activities with:

1. Other facility residents; and

2. External support systems, such as family and friends.

(d) The required policies and procedures adopted and implemented must address the requirements at (c) above when such in-person contact,

communication, or activities are prohibited, restricted, or limited, as permitted by Federal and State statute, rule, or regulation.

1. This can be done through the use of electronic or virtual means and methods, including, but not limited to:

i. Computer technology;

ii. Internet;

iii. Social media;

iv. Videoconferencing; and

v. Other innovative technological means or methods,

(e) Facilities are required, at a minimum, to take the following steps to prevent the social isolation of residents:

1. Prominently display on their website and/or social media platforms and include in communications to families, guardians, and the public, a phone number or method of communication for urgent calls or complaints, along with a link to the facility's social isolation policy.

2. Follow Center for Medicare and Medicaid Services (CMS) recommendations at https://www.cms.gov/files/document/qso-20-28-nh-revised.pdf, for communication when facilities cannot permit in-person visits, as follows:

i. Offer alternative means of communication for people who would otherwise visit, such as virtual communications;

ii. Create or increase email listserv communications to update resident's family members;

iii. Assign facility staff as the primary contact to families for inbound calls, and conduct regular outbound calls to keep families up to date (for example, a "virtual visitation coordinator");Assign facility staff as the primary contact to families for inbound calls, and conduct regular outbound calls to keep families up to date (for example, a "virtual visitation coordinator");

iv. Offer a phone line with a voice recording updated at set times, at least daily, with the facility's general operating status, such as when it is safe to resume visits;

v. Host conference calls, webinars, or virtual "office hours" at set times, at a minimum, on a weekly basis, when families can call in, or log on to a conference line, in order to have facility staff share the status of activities or happenings in the facility and family members can ask questions or make suggestions; and

vi. Update the facility's website, at a minimum, on a weekly basis, to share the status of the facility and include information that helps families know what is happening in their loved one's environment, such as food menus and any scheduled activities.

8:39-39A.3 Requirements for residents with disabilities that impede communication

(a) The social isolation prevention policies and procedures adopted and implemented by each facility are to include protocols and procedures that

provide for residents of the facility who have disabilities that impede their ability to communicate, to be given access to assistive and supportive technology, as may be necessary, to facilitate the residents' engagement in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other residents, family members, friends, and other external support systems, through electronic means, including, but not limited to, residents who are:

1. Blind;

2. Deaf;

3. Deaf-blind;

4. Diagnosed with Alzheimer's disease or other related dementias; or

5. Diagnosed with developmental disabilities.

8:39-39A.4 Acquisition of technology

(a) Facilities must develop and implement specific administrative policies and procedures, as may be necessary, to ensure that residents are able to engage in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and external support systems, through electronic means. These policies and procedures must address the acquisition, maintenance, and replacement of:

1. Computers;

2. Videoconferencing equipment;

3. Distance-based communications technology;

4. Assistive and supportive technology and devices; and

5. Other technological equipment, accessories, and electronic licenses.

8:39-39A.5 Maintenance of technology

(a) Facilities must develop policies and procedures addressing the maintenance of the technology acquired pursuant to the requirements of this subchapter. These policies and procedures must address:

1. The use of environmental barriers and other controls when the equipment and devices are in use, especially in cases where the equipment or devices are likely to become contaminated with bodily substances, are touched frequently with gloved or ungloved hands, or are difficult to clean; and

2. The disinfecting of the equipment and devices and any environmental barriers or other physical controls used in association therewith after each use.

8:39-39A.6 Use of and training of residents in acquired technology

(a) Facilities must develop policies and procedures addressing a resident's:

1. Requisition of devices and equipment;

2. Timely provision of devices and equipment; and

3. Return of devices and equipment.

(b) Facilities must designate and require appropriate staff to communicate the policies and procedures at (a) above to residents.

8:39-39A.7 Facility responsibility for training residents in use of equipment

(a) Each facility shall designate at least one member of the therapeutic recreation or activities department, or, if the facility does not have such a department, designate at least one senior staff member, as determined by the facility administrator, to train other appropriate facility employees to provide direct assistance to residents, upon request, and on an as-needed basis, as necessary, to ensure that each resident is able to successfully access and use the technology, devices, and equipment acquired. These facility employees who are appropriate to be trained to assist residents include, but are not limited to:

1. Activities professionals;

2. Activities volunteers;

3. Social workers;

4. Occupational therapists; and

5. Therapy assistants.

8:39-39A.8 Resident assessments

(a) The facility shall develop and implement policies and procedures to ensure that appropriate staff assess and regularly reassess the individual needs and preferences of facility residents with respect to the residents' participation in social interactions and religious and recreational activities.

1. These assessments and reassessments are to be documented in the resident's medical record.

(b) The facility must ensure that the quantity of devices and equipment maintained on-site at the facility at all times are sufficient to meet the assessed social and activities needs and preferences of each facility resident.

8:39-39A.9 Individualized visitation plan

(a) A facility shall develop and implement policies and procedures to ensure that upon the request of a resident or a resident's family member or guardian, appropriate facility staff must develop an individualized visitation plan for the resident. The individualized visitation plan shall:

1. Identify the assessed needs and visitation preferences of the resident;

2. Identify the visitation preferences specified by the resident's family members, if any;

3. Address the need for a visitation schedule and establish a visitation schedule, if deemed to be appropriate;

4. Describe the location and modalities to be used in visitation; and

5. Describe the respective responsibilities of staff, visitors, and the resident when engaging in visitation pursuant to the individualized visitation plan.

8:39-39A.10 Funding

Information on the process for facilities seeking to request funding for communicative technologies and accessories necessary to comply with this subchapter from civil monetary penalty (CMP) funds, as approved by the

Federal Centers for Medicare and Medicaid Services, is available on the Department's website at: https://www.nj.gov/health/healthfacilities/cmp/.

CHAPTER 43

STANDARDS FOR LICENSURE OF RESIDENTIAL HEALTH CARE FACILITIES LOCATED WITH, AND OPERATED BY LICENSED HEALTH CARE FACILITIES

SUBCHAPTER 1. DEFINITIONS AND QUALIFICATIONS

8:43-1.3 Definitions

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

…

"Cohorting" means the practice of grouping patients who are or are not colonized or infected with the same organism to confine their care to one area and prevent contact with other patients.

…

"Facility" means a residential health care facility licensed pursuant to this chapter.

…

"Religious and recreational activities" includes any religious, social, or recreational activity that is consistent with the resident's preferences and choosing, regardless of whether the activity is coordinated, offered, provided, or sponsored by facility staff or by an outside activities provider.

…

"Resident" means a person **residing in a residential health care facility** who is 18 years of age or [over] **older**, mobile [under] **pursuant to** his or her power with or without assistive devices and able to effectuate his or her own evacuation from the [building] **facility**.

…

"Social isolation" means a state of isolation wherein a resident of a long-term care facility is unable to engage in social interactions and religious and recreational activities with other facility residents or with family members, friends, and external support systems.

…

SUBCHAPTER 17. SOCIAL ISOLATION PREVENTION

8:43-17.1 Scope and purpose

(a) This chapter sets forthsets forth rules and standards intended to ensureensure that residential health care facilities take steps to prevent the social isolation of residents when in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by Federal and State statute, rule, or regulation.

(b) The purpose of this chapter is to codify the requirements at N.J.S.A. 26:2H-12.97 et seq., which direct the Department to adopt emergency rules to address the prevention of social isolation for residents of residential health care facilities.

8:43-17.2 Policies and procedures

(a) A facility must adopt and implement written policies and procedures intended to prevent the social isolation of residents.

(b) These required policies and procedures must, at a minimum, address the following:

1. Providing technology to residents for the purpose of maintaining contact with individuals outside of the facility;

2. Ensuring that appropriately trained staff is available to assist residents in maintaining contact with individuals outside of the facility; and

3. Standards for acquiring the technology to implement the requirements at (b)1 above.

(c) These policies and procedures must include standards to encourage and enable residents of the facility to engage in in-person contact, communications, and religious and recreational activities with:

1. Other facility residents; and

2. External support systems, such as family and friends.

(d) The required policies and procedures adopted and implemented must address facilitating face to face contact through electronic means when such in-person contact, communication, or activities are prohibited, restricted, or limited, as permitted by Federal and State statute, rule, or regulation.

1. This can be done through the use of electronic or virtual means and methods, including, but not limited to:

i. Computer technology;

ii. Internet;

iii. Social media;

iv. Videoconferencing; and

v. Other innovative technological means or methods,

(e) Facilities are required, at a minimum, to take the following steps to prevent the social isolation of residents:

1. Prominently display on their website and/or social media platforms and include in communications to families, guardians, and the public, a phone number or method of communication for urgent calls or complaints, along with a link to the facility's social isolation policy.

2. Follow Center for Medicare and Medicaid Services (CMS) recommendations at https://www.cms.gov/files/document/qso-20-28-nh-revised.pdf, for communication when facilities cannot permit in-person visits, as follows:

i. Offer alternative means of communication for people who would otherwise visit, such as virtual communications;

ii. Create or increase email listserv communications to update resident's family members;

iii. Assign facility staff as the primary contact to families for inbound calls, and conduct regular outbound calls to keep families up to date (for example, a "virtual visitation coordinator");Assign facility staff as the primary contact to families for inbound calls, and conduct regular

outbound calls to keep families up to date (for example, a "virtual visitation coordinator");

iv. Offer a phone line with a voice recording updated at set times, at least daily, with the facility's general operating status, such as when it is safe to resume visits;

v. Host conference calls, webinars, or virtual "office hours" at set times, at a minimum, on a weekly basis, when families can call in, or log on to a conference line, in order to have facility staff share the status of activities or happenings in the facility and family members can ask questions or make suggestions; and

vi. Update the facility's website, at a minimum, on a weekly basis, to share the status of the facility and include information that helps families know what is happening in their loved one's environment, such as food menus and any scheduled activities.

8:43-17.3 Requirements for residents with disabilities that impede communication

(a) The social isolation prevention policies and procedures adopted and implemented by each facility are to include protocols and procedures that provide for residents of the facility who have disabilities that impede their ability to communicate, to be given access to assistive and supportive technology, as may be necessary, to facilitate the residents' engagement in face-to-face or verbal/auditory-based contact, communications, and religious

and recreational activities with other residents, family members, friends, and other external support systems, through electronic means, including, but not limited to, residents who are:

1. Blind;

2. Deaf;

3. Deaf-blind;

4. Diagnosed with Alzheimer's disease or other related dementias; or

5. Diagnosed with developmental disabilities.

8:43-17.4 Acquisition of technology

(a) Facilities must develop and implement specific administrative policies and procedures, as may be necessary, to ensure that residents are able to engage in face-to-face or verbal/auditory-based contact, communications, and religious and recreational activities with other facility residents and with family members, friends, and external support systems, through electronic means. These policies and procedures must address the acquisition, maintenance, and replacement of:

1. Computers;

2. Videoconferencing equipment;

3. Distance-based communications technology;

4. Assistive and supportive technology and devices; and

5. Other technological equipment, accessories, and electronic licenses.

8:43-17.5 Maintenance of technology

(a) Facilities must develop policies and procedures addressing the maintenance of the technology acquired pursuant to the requirements of this subchapter. These policies and procedures must address:

1. The use of environmental barriers and other controls when the equipment and devices are in use, especially in cases where the equipment or devices are likely to become contaminated with bodily substances, are touched frequently with gloved or ungloved hands, or are difficult to clean; and

2. The disinfecting of the equipment and devices and any environmental barriers or other physical controls used in association therewith after each use.

8:43-17.6 Use of and training of residents in acquired technology

(a) Facilities must develop policies and procedures addressing a resident's:

1. Requisition of devices and equipment;

2. Timely provision of devices and equipment; and

3. Return of devices and equipment.

(b) Facilities must designate and require appropriate staff to communicate the policies and procedures at (a) above to residents.

8:43-17.7 Facility responsibility for training residents in use of equipment

(a) Each facility shall designate at least one member of the therapeutic recreation or activities department, or, if the facility does not have such a

department, designate at least one senior staff member, as determined by the facility administrator, to train other appropriate facility employees to provide direct assistance to residents, upon request, and on an as-needed basis, as necessary, to ensure that each resident is able to successfully access and use the technology, devices, and equipment acquired. These facility employees who are appropriate to be trained to assist residents include, but are not limited to:

1. Activities professionals;

2. Activities volunteers;

3. Social workers;

4. Occupational therapists; and

5. Therapy assistants.

8:43-17.8 Resident assessments

(a) The facility shall develop and implement policies and procedures to ensure that appropriate staff assess and regularly reassess the individual needs and preferences of facility residents with respect to the residents' participation in social interactions and religious and recreational activities.

1. These assessments and reassessments are to be documented in the resident's medical record.

(b) The facility must ensure that the quantity of devices and equipment maintained on-site at the facility at all times are sufficient to meet the assessed social and activities needs and preferences of each facility resident.

8:43-17.9 Individualized visitation plan

(a) A facility shall develop and implement policies and procedures to ensure that upon the request of a resident or a resident's family member or guardian, appropriate facility staff must develop an individualized visitation plan for the resident. The individualized visitation plan shall:

1. Identify the assessed needs and visitation preferences of the resident;

2. Identify the visitation preferences specified by the resident's family members, if any;

3. Address the need for a visitation schedule and establish a visitation schedule, if deemed to be appropriate;

4. Describe the location and modalities to be used in visitation; and

5. Describe the respective responsibilities of staff, visitors, and the resident when engaging in visitation pursuant to the individualized visitation plan.

8:43-17.10 Funding

Information on the process for facilities seeking to request funding for communicative technologies and accessories necessary to comply with this subchapter from civil monetary penalty (CMP) funds, as approved by the Federal Centers for Medicare and Medicaid Services, is available on the Department's website at: https://www.nj.gov/health/healthfacilities/cmp.