

ADOPTIONS SECTION

HEALTH

HEALTH SYSTEMS BRANCH

DIVISION OF CERTIFICATE OF NEED AND LICENSING

Notice of Readoption

Certificate of Need: Policy Manual for Long Term Care Services

Readoption: N.J.A.C. 8:33H

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

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

Effective Date: February 15, 2024.

New Expiration Date: February 15, 2031.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the Acting Commissioner (Acting Commissioner) of the Department of Health (Department) hereby readopts without change, N.J.A.C. 8:33H, Certificate of Need: Policy Manual for Long Term Care Services, which was scheduled to expire on April 20, 2024.

N.J.A.C. 8:33H, Certificate of Need: Policy Manual for Long Term Care Services, sets forth Certificate of Need and related planning requirements for long-term care services. Subchapter 1, General Provisions, explains the purpose and scope of the chapter; defines terms; sets forth standards for determining if new pediatric long-term care beds are necessary; sets forth standards for adult patients needing ventilator care, and care of residents with severe behavioral management problems; directs that each assisted living residence and assisted living program file for an expedited Certificate of

Need; directs new facilities to set aside a portion of their facilities for Medicaid-eligible residents; sets forth how the size and occupancy of facilities may affect their licenses or applications for a certificate of need; sets forth standards for comprehensive personal care homes; sets forth standards for Statewide restricted admission facilities; adds additional requirements to certificate of need applications for the conversion or elimination of beds to those found at N.J.A.C. 8:33-4.1(a); sets forth requirements that long-term care assisted living residences, programs, and comprehensive personal care homes are subject to a track record evaluation as described at N.J.A.C. 8.33-4.10(d); sets occupancy requirements for Medicaid-eligible and former psychiatric patients; requires that applicants for a Certificate of Need demonstrate financial feasibility of their projects, including construction and future operating costs; sets forth environmental and physical plant requirements that are in addition to standard construction requirements for nursing homes; sets forth requirements concerning the location site of facilities; sets forth criteria for the prioritization of recommended features for the approval of nursing home projects; and sets forth the relationship between licensure and certificate of need requirements.

The Department is developing rulemaking that would revise, update, and reorganize existing N.J.A.C. 8:33H and anticipates filing this rulemaking with the Office of Administrative Law for processing in the ordinary course. However, this rulemaking will not be ready for stakeholder comment and proposal before the expiration of existing N.J.A.C. 8:33H.

The Acting Commissioner has reviewed N.J.A.C. 8:33H and has determined that, pending the finalization of the anticipated rulemaking in development, described above,

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 should be readopted.

Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 8:33H is readopted and shall continue in effect for seven years.