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NEW JERSEY



REGISTER

**IN THIS ISSUE—
“INDEX OF PROPOSED RULES”**

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The New Jersey Register supplements the New Jersey Administrative Code. See the Index of Adopted Rules on Page 713 of the July 6 issue for the Registers that should be retained as an update to the Administrative Code.

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RULE PROPOSALS

COMMUNITY AFFAIRS

(a)

DIVISION OF HOUSING

Uniform Construction Code Administrative Hearings – Final Decision; Licensing

Proposed Amendments: N.J.A.C. 5:23-2.38, 4.15, 4.26, 5.2, 5.9 and 5.11

Authorized By: John P. Renna, Commissioner, Department
of Community Affairs.
Authority: N.J.S.A. 52:27D-124.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael L. Ticktin, Esq.
Administrative Practice Officer
Division of Housing
CN 804
Trenton, New Jersey 08625

The Department of Community Affairs thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-269.

The agency proposal follows:

Summary

These amendments make certain changes to the U.C.C. licensing regulations. An erroneous use of the term "felony" is corrected. A peer review procedure is established to determine appropriate means of dealing with technical errors by licensees. Examination rules are revised to reflect the fact that a national examination sys-

tem is now used for licensing. It is also specified that the Director of the Division of Housing has authority to issue final decisions in administrative hearings under the U.C.C.

Social Impact

This would be an administrative change with no apparent social impact other than the improved handling of technical errors by licensees as a result of peer review.

Economic Impact

There may be minor administrative costs associated with the peer review procedure.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

5:23-2.38 Departmental appeal

(a) Whenever the department shall act as the enforcing agency under section 10 of the State Uniform Construction Code Act, [the commissioner shall appoint a hearing officer to provide] an appeal in lieu of the appeal to the county, municipal or joint construction board of appeals[.] **may be made to the Division of Housing. The case shall be adjudicated before the Office of Administrative Law and the final decision shall be issued by the Director of the Division of Housing.** Such hearings shall be governed by the provisions of the [administrative procedure act] **Administrative Procedure Act (see N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq. as implemented by N.J.A.C. 1:1),** and the time provisions applicable to county or municipal boards.

5:23-4.15 Suspension and revocation

(a)-(e) (No change.)

(f) The department shall provide any person aggrieved by any action of the department pursuant to this section with a hearing in accordance with the applicable provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. [15:15-10.1 et seq.] **1:1. The case shall be adjudicated before the Office of Administrative Law and the final decision shall be issued by the Director of the Division of Housing.**

5:23-4.26 Construction boards of appeal

(a) (No change.)

(b) Rules concerning organization are:
1.-5 (No change.)

NEW JERSEY REGISTER

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6. Departmental appeal: Whenever the department shall act as the enforcing agency under section 10 of the State Uniform Construction Code Act, the commissioner shall [appoint a hearing officer to] provide an appeal in lieu of the appeal to the county, municipal or joint construction board of appeals. Such hearings shall be governed by the provisions of the Administrative Procedure Act, and the time provisions applicable to county or municipal boards. **Any such case shall be adjudicated before the Office of Administrative Law and the final decision shall be issued by the Director of the Division of Housing.**

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

5:23-5.2 Office established; hearings

(a) (No change.)

(b) Rules concerning hearings are:

1. Any person aggrieved by any notice, action, ruling or order of the commissioner, with respect to this subchapter, [has] **shall have a right to a hearing before the [commissioner or his hearing officer] Office of Administrative Law. The final decision in any such case shall be issued by the Director of the Division of Housing.**

2. Rules concerning hearing procedure are:

i. Responsibility to request hearing; time to request hearing; contents of request for hearing: The aggrieved person must request a hearing. The request must be made with 15 days after receipt of the action or ruling complained of. The request should be mailed to the Hearing [Officer] **Coordinator**, Division of Housing [and Urban Renewal], Department of Community Affairs, [P.O. Box 2768] **CN 804**, Trenton, New Jersey 08625. The request for hearing should raise all issues that will be set forth at the hearing.

ii. Time and place of hearing: Persons requesting a hearing will be notified on the place, date, and time of the hearing within 15 business days of the receipt of the request.

iii. Contents of notice of hearing: The notice of hearing shall include:

- (1) A statement of the time, place, and nature of the hearing;
- (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) A reference to the particular sections of the statutes and regulations and rules involved; and
- (4) A short and factual statement of matters asserted.

iv. Postponement of hearing:

(1) A person shall have a right to a postponement where the licensure advisory board representative of the subcode discipline under question is not present at the hearing.

(2) One postponement of a hearing shall be allowed each party if requested at least 24 hours prior to the scheduled hearing. No hearing shall be postponed a second time except upon good cause.

v. Conduct of hearing: Opportunity shall be afforded to all parties to respond, appear and present evidence and argument on all issues involved.

vi. Oath; affirmation: All witnesses shall be sworn.

vii. Evidence admissible at hearing:

(1) The parties shall not be bound by rules of evidence whether statutory, common law, or adopted by the rules of court.

(2) All relevant evidence is admissible, except as otherwise provided herein.

(3) The hearing officer may in his discretion exclude any evidence if he finds that its probative value is substantially outweighed by the risk that its admission will either necessitate undue consumption of time or create substantial danger of undue prejudice or confusion.

(4) Every party shall have the right to present in person, or by attorney, his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full disclosure of facts.

viii. Burden of producing evidence: The burden of producing evidence shall initially be upon the party pleading the existence of a fact. Once the initial duty is discharged by the party, the burden of producing evidence shall shift to the adversary.

ix. Stipulation of fact as basis for decision with or without hearing:

An agreed statement of facts may be introduced into the hearing record with respect to any issue. An agreed statement of facts may be accepted by the hearing officer without a hearing. The acceptance of an agreed statement of facts may be deemed a waiver of a right to hearing.

x. Objections to conduct a hearing: Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing. Automatic exceptions will be allowed to all adverse rulings. The commissioner shall, in his discretion, have the authority to review any objection to the rulings of the hearing officer or the conduct of a hearing. The aforementioned review by the commissioner shall not stay the conduct of the hearing unless otherwise ordered by the commissioner.

xi. Hearing officer's recommended report and decision:

(1) The hearing officer's recommended report and decision shall be filed with the agency and delivered or mailed to the licensure advisory board and the parties of record. The recommended report and decision shall contain findings of fact and conclusions of law separately stated. Findings of fact shall be based exclusively on the evidence presented at the hearing and on matters judicially or officially noticed.

(2) An opportunity shall be afforded the licensure advisory board and all parties of record to file exceptions, objections and replies to the commissioner in writing.

(3) The commissioner shall adopt, reject or modify the recommended report and decision.

(4) The recommended report and decision shall become a party of the record in the case.

xii. Notice of commissioner's final decision: Within 30 days after the completion of a hearing, including the taking of all oral and written evidence, all parties shall be notified of the commissioner's final decision and order which adopts or modifies the contested notice, action, ruling or order.

xiii. Contents of commissioner's final decision which is adverse to a party: A final decision and order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact, and conclusions of law, separately stated. Findings, if set forth in statutory language shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

xiv. Date of decision; copies: The date of delivery or mailing shall be marked on the face of the commissioner's final decision and order.

xv. Transcripts of hearing record: Parties may record hearings. If a written transcript is made by a party, copies must be furnished to all other parties and filed with the commissioner within 30 days after the conclusion of the oral hearing. Transcripts of the hearing examiner's tape recording of the hearing may be obtained upon request and at the expense of the requesting party.

xvi. Appeal from commissioner's final decision: Appeal from any commissioner's final decision and order must be made within 45 days from the date of service. Appeal is made to the Appellate Division of the Superior Court, pursuant to R. R. 2:2-3.]

5:23-5.9 Examinations

(a) [The commissioner shall order examinations] **Examinations shall be held, at least [once] twice annually, to establish eligibility for the following licenses: building inspector R.C.S., building inspector I.C.S., electrical inspector I.C.S., fire protection inspector I.C.S. and plumbing inspector I.C.S. Applicants for these licenses shall demonstrate competence through [an examination] the National Certification Program Construction Code Inspector Tests administered by the Educational Testing Service for the department.**

(b)-(h) (No change.)

(i) [Rules concerning the conduct of examinations are:
 1. Every examination shall be so conducted as to assure all applicants an equal opportunity to demonstrate their qualifications and abilities. The department shall institute procedures and take precautionary measures or other necessary action to prevent:
 i. Unauthorized persons from securing questions or other material to be used in a test in advance, unless the same are available for all applicants;
 ii. The identification by an examiner or any other person, where identity is concealed, of papers or work of an applicant in a test before the papers or work of all applicants in such test have been rated;
 iii. The use of any unauthorized source of information or other material as of aid in answering the questions or performing the work assigned in any test while taking an examination;
 iv. Impersonation of an applicant in any test, either in person or by the improper exchange of applicant numbers or in any other manner.] **Examinations shall be conducted in accordance with the rules and procedures established by the Educational Testing Service.**

(j)-(l) (No change.)

(m) [Rules concerning the preservation of examination records are:

1.] The following records pertaining to every examination shall be preserved:

- [i]1. A copy of the public announcement;
- [ii. A description of each test or measure of fitness employed in the examination together with the standards used in rating them, the date of the test and the minimum scores required, if any;
- [iii.]2. The resulting list of grades;
- [iv.]3. Applications, including those of applicants who were examined and those who were rejected;
- [v. Applicants' test papers and if feasible, other test materials, recordings or transcriptions made in oral examinations and any appraisal record sheets made by examiners in any test or parts thereof;
- vi.]4. Such other records or information in the custody of the department as may be pertinent.

5:23-5.11 Revocation of licenses and alternative sanctions

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

(c) Conviction in connection with the practice as a licensed code enforcement official or inspector **shall** constitute[s] grounds for revocation or suspension of a license. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a [felony] **crime** is deemed to be a conviction within the meaning of this section. The department may order the license suspended or revoked or may decline to issue a license if the time for appeal has elapsed or if the judgment of conviction has been affirmed on appeal, or if an order granting probation is made suspending the imposition of the sentence irrespective of a subsequent order allowing a person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

(d) **In any case involving the failure of a licensee to properly enforce a technical provision of an adopted subcode the department, prior to revoking or suspending the license, assessing a civil penalty or issuing a letter of warning, reprimand or censure, shall submit the issue of the most appropriate sanction to an advisory peer review committee.**

1. Such advisory peer review committees shall be appointed by the Chief of the Bureau of Construction Code in each discipline and shall consist of at least three persons holding an H.H.S. license in such discipline.

2. The function of the advisory peer review committee shall be to determine what sanction, if any, would be appropriate if it were assumed that the facts were as presented by the Bureau.

3. Proceedings of the advisory peer review committee shall be non-adversaries in nature and shall be confidential.

ENVIRONMENTAL PROTECTION

(a)

DIVISION OF WATER RESOURCES

Flood Hazard Area Delineations Flood Delineations Along the Nescochaque Creek (Albertson Brook)

Proposed Amendment: N.J.A.C. 7:13-1.11

Authorized By: Robert E. Hughey, Commissioner,
Department of Environmental Protection.

Authority: N.J.S.A. 13:1D-1 et seq. and 58:16A-50 et seq.

A public hearing concerning this rule will be held on August 11, 1982 at 10:00 A.M. at:

Hammonton Town Hall
3rd and Central Avenue
Hammonton, New Jersey 08037

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Clark Gilman
Bureau of Flood Plain Management
Division of Water Resources
CN 029
1911 Princeton Avenue
Trenton, New Jersey 08625

The Department of Environmental Protection thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-268.

The agency proposal follows:

Summary

This proposed amendment provides for the application of rules and regulations concerning the development and use of land in designated floodways to portions of the Nescochaque Creek (Albertson Brook). Regulations of delineated flood hazard areas are designed to preserve flood carrying capacity and to minimize the threat to the public safety, health and general welfare.

Social Impact

This proposed delineation applies added flood protection to the following areas within the Atlantic Basin: Town of Hammonton and the Township of Mullica, both within Atlantic County; and the Township of Waterford, Camden County.

Economic Impact

This proposed amendment will have only a minor economic impact. The area subject to this proposed flood hazard area delineation is relatively undeveloped. Few existing structures will be affected by this amendment. The proposed delineation would more clearly define the flood hazard area thus resulting in less requirements for flood insurance. Minor reductions of property value could result by restricting future development in the floodway and requiring elevated construction designs in flood fringe areas. However, minor property value diminution would be offset by the

savings to governmental bodies and private homeowners due to little or no future rehabilitation and rescue expenditures from flood damage in the delineated area.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

7:13-1.11 Delineated floodways

(a) (No change.)

(b) A list of delineated streams in the Atlantic Basin follows:

The flood hazard area of the Nescochaque Creek (Albertson Brook) from its confluence with the Mullica River upstream to the Extension of the Fleming Pike, a distance of approximately 10.2 miles within the Town of Hammonton and the Township of Mullica, Atlantic County and the Township of Waterford, Camden County.

OFFICE OF ADMINISTRATIVE LAW NOTE: A map delineating the flood hazard area described in this notice was submitted as part of the Department's notice of proposed rule. This map can be inspected at:

Bureau of Flood Plain Management
Division of Water Resources
1911 Princeton Avenue
CN 029
Trenton, New Jersey 08625

or

Office of Administrative Law
Administrative Filings
88 East State Street
CN 301
Trenton, New Jersey 08625

HEALTH

(a)

HEALTH ECONOMICS SERVICES

Procedural and Methodological Regulations

Proposed Amendments: N.J.A.C. 8:31B-3

Authorized By: Shirley A. Mayer, M.D., M.P.H.,
Commissioner, Department of Health (with approval
of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-1 et seq., as amended.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

James R. Hub, Director
Health Economic Services
State Department of Health
CN 360, Room 600
Trenton, New Jersey 08625

FOR THE RIM METHODOLOGY ONLY, relevant comments on the proposed rule may be submitted on or before September 17, 1982.

The Department of Health thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-278.

The agency proposal follows:

Summary

The Proposed 1983 Procedural and Methodological Regulations contain few significant changes to 1982. The major changes are:

1. Introduction of Relative Intensity Measure (RIM) for Nursing. During 1983, implementation will involve the issuance of management reports based on RIMs. Use of RIMs as the allocation statistic in place of patient days for rate setting is projected for implementation on January 1, 1984.

2. The introduction of a totally incentive accept option. The 1983 accept status will grant for the hospital an automatic one percent increase of the unequalized non-physician standard for each inlier DRG. Hospitals will still be able to appeal the uncompensated care amount and the Capital Facility Allowance. The 1983 conditional accept status will be identical to the 1982 "accept" category. The 1983 non-accept category allows hospitals to reject their rates, and appeal all items but requires the rates to be based on the efficiency standard (median cost per case), rather than the Incentive Standard (mean cost per case).

3. Elimination of the second Capital Facilities Allowance option. This is consistent with the intention stated in the 1982 Regulations. Thus, hospitals will now receive reimbursement only for debt service principal and interest payment and the replacement fund instead of receiving reimbursement for depreciation and interest.

The regulations previously adopted established the process by which the Commissioner of Health determines rates to be proposed to the New Jersey Hospital Rate Setting Commission, and how hospitals implement and respond to the rates. The Commission shall make final determination.

Social Impact

The proposed amendment, consistent with Chapter 83, P.L. 1978, establishes the implementations of the RIMs methodology as a cost allocation mechanism which will enable the identification of nursing resource consumption as it varied from patient to patient. RIMs will provide a Nursing Management Report for Nursing Administrators that is a valuable tool for the efficient management of nursing resources.

Second, it is believed that the one percent totally accept option will create more prospectivity in the rate setting system and encourage hospitals to concentrate their efforts to operate within their approved revenues instead of seeking increases through the appeals process.

Third, since 1980 the hospitals have had the opportunity to receive reimbursement for prospective depreciation and interest. While option two allows hospitals to satisfy depreciation and interest expenses, it fails to ensure that replacement funds will be available when the facility is fully depreciated and in need of replacement.

The elimination of option two will lead to better prospective financial planning in health care facilities.

Economic Impact

The implementation of the RIMs methodology will result in the identification of more appropriate nursing cost per case which may alter individual DRG payment rates.

Acceptance by hospitals of the one percent totally accept option will enable facilities to receive full and reasonable reimbursement at the beginning of the rate year and avoid the appeals process.

The utilization of option one of the Capital Facility Allowance will result in the accumulation of 20 percent replacement costs towards the acquisition of a new plant. This option will save the payors and inhabitants of New Jersey thousands of dollars in interest expense.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

8:31B-3.2 Derivation of Preliminary Cost Base

- (a) (No change.)
1.-6. (No change.)

¹For hospitals on a fiscal year beginning other than January 1, the rate year will be the [1982-1983] **1983-1984** fiscal year. A PCB for fiscal year hospitals will be proposed to the Commission at least 30 days prior to the hospital's "fiscal" rate year. [The Commissioner shall propose rates under the alternate methodology subsequent to January 31.]

8:31B-3.11 Same Day [Surgical Units] Surgery

Same Day Surgery is considered an alternative mode of health care delivery which the Department of Health considers to be efficient and worthy of encouragement. Same Day Surgery [Units are] is intended to lower the cost of health care delivered to those patients [who are otherwise appropriately classified as inpatients, by providing such care through a more efficient mode of delivery.] **who require surgery that is performed in a fully equipped operating room (i.e., one capable of providing general anesthesia), but who are discharged on the same day that the surgery was performed.** Hospitals shall report to the Commissioner in writing the existence, removal or other change in status of [such units] **same day surgery programs** and a description of the type of procedures performed [in such units] and a list of the effected DRGs no later than [December 15] **November 15** of the year prior to the issuance of the Proposed Schedule of Rates or adjusted Rate Order. Hospitals found by the Commissioner to have duly designated [units] **programs** may petition the Commission for an adjustment to their Schedule of Rates in accordance with N.J.A.C. 8:31B-3.51 through 3.62.

8:31B-3.16 Current Cost Base

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

(d) **Hospital's actual cost reports cannot be substituted or rearranged once the Department has determined that the actual cost submission is suitable for entry into the data base. In no case will a hospital be allowed to revise the cost reports of a base year that have been used to establish reimbursement for two or more years. Hospitals may then only revise their cost reports prior to the closing of the data base before the first and second years that the data is used to establish rates. Rearrangement of data after the first year but before the second year will not be used to recalculate first year rates.**

8:31B-3.17 Financial elements reporting/audit adjustments

- (a) (No change.)

(b) All reported financial information shall be reconciled by the hospital to the hospital's audited financial statement. In addition, having given adequate notice to the hospital, the Department of Health may perform a [detailed on site review] **cursory or detailed on site review at the Department's discretion** of all financial information and statistics to verify consistent reporting of data and extraordinary variations in data relating to the development of the Preliminary Cost Base. Any [audit] adjustments made subsequent to the [reporting] **financial review** [(including Medicare and New Jersey State Department of Health audits)] **(including Medicare audits and New Jersey State Department of Health reviews)** shall be brought to the attention of the the Commissioner by the hospital, the Department of Health, appropriate fiscal intermediary or payor where appropriate, pursuant to N.J.A.C. 8:31B-3.63 through 3.70 or N.J.A.C. 8:31B-3.71 through 3.86, and shall be applied proportionately to the Preliminary Cost Base and Schedule of Rates (and to the extent pragmatic, applied to fixed and variable financial elements) at the time of the reconciliation to the Schedule of Rates. (See N.J.A.C. 8:31B-3.71 through 3.86.) All such adjustments shall be determined retroactively to the first payment on the Schedule of Rates and shall be applied prospectively. Any additional discrepancies determined beyond final reconciliation

will be reflected in the hospital's current Schedule of Rates, if the impact is greater than \$50,000 for each **individual discrepancy** or one percent of the hospital's total gross revenue.

8:31B-3.19 Patient care cost finding: Direct costs per case, physician and non-physician

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

¹Patient days will be employed as the Measures of Resource Use to allocate MSA, PED, PSA, and OBS nursing costs until **1984, at which time** [such time as valid and reliable.] Relative Intensity Measures (RIMs) from the Case-Mix Nursing Performance Study will be used [become available]. A RIM is a Measure of Resource Use which is derived from nursing activity, and is used to distribute reported general nursing costs based upon the relationship between nursing activity and costs. While [If] patient days are used, [then] the MSA, PED, PSA, and OBS centers will be combined into ACU, and ICU, CCU, and BCU will be combined into ICU. All other routine centers will remain as above. **Effective 1984, patients that are cared for in the ICU, CCU, or NNI will have the Special Care Unit Days used as the cost calculation for Measure of Resource Use for the Length of Stay (LOS) in the Special Care Unit and the appropriate Relative Intensity Measure (RIM) equation will be utilized for all additional days.**

²**Effective 1984, Patient Specific Attributes, as identified in Appendix X will replace the total LOS statistics. These characteristics captured from discharge abstracts include clinical characteristics and Length of Stay which have been demonstrated by research to account for variations in the consumption of nursing activity.**

²³Inpatient clinic visits shall be treated as separate outpatient clinic patients.

8:31B-3.22 Standard costs per case

- (a) (No change.)

(b) **1983** Classification of Teaching (Major, Minor) and Non-Teaching Hospitals.

- 1.-5. (No change.)

6. In 1984, recognition of degree of teachingness will replace the three categories of teaching.

(c) Determination of labor equalization factor to calculate statewide standard costs per case:

- 1.-4. (No change.)

5. Labor costs shall be adjusted to statewide averages by first grouping all non-physician direct patient care labor costs (after fringe benefit costs have been distributed) into eight labor categories as follows:

i. Registered Nursing: Includes non-physician salaries reported in Routine, [ANS,] CCA, DEL, DIA and ORR cost centers.

- ii.-viii. (No change.)

6.-7. (No change.)

(d) Calculation of standards:

- 1.-2. (No change.)

3. For 1984, the Department will develop a standard on a DRG by DRG basis for all hospitals. This standard will represent the incentive standard for non-teaching hospitals and will be increased as a function of the number of residents in ACGME or AOA accredited residencies for all hospitals with teaching functions. Essentially each standard will be hospital specific on the basis of the equation;

Standard DRG = (Non-Teaching Standard) + x (Residents/Case).

4. The equation in (d)³ above is the result of regression analysis comparing average cost per case for each DRG and the

number of residents/case for all hospitals and will be used in the determination of a reasonable cost per case.

8:31B-3.23 Reasonable Direct Costs Per Case

- (a) Inpatient:
 - 1. (No change.)
 - 2. **The 1983 rates shall be an adjusted Rate Order and the payment rates, in effect, will be adjusted by an Economic Factor.**
- (b)-(c) (No change.)

8:31B-3.24 Reasonable indirect patient care costs

- (a) (No change.)
- (b) The reasonable amount of indirect costs (exclusive of skilled nursing apportionment) will be determined for those hospitals that will receive an initial PCB. The General Service Related centers will be screened to determine disincentive or incentive amounts. Disincentive amounts will be screened in the Physician and Teaching Related Centers. The screening methodology will [be based upon those hospitals in the 1981 sample, or other appropriate sample of hospitals thereafter.] **compare 1979 actual cost data.** Such screens will be applied to the indirect cost centers defined below by cost center (or combined cost center) with the exception of sales and real estate taxes, outside collection costs and purchased employee health insurance, through comparison with limits relative to the median cost per unit of service. The incentive amounts for the General Service Related centers will be one-half the difference between a hospital's actual cost and 90 percent of the median unit cost. The remaining indirect cost centers will be included in the Preliminary Cost Base at the base year level as adjusted by the economic factor. Appeals of these indirect cost centers will be subject to the provisions of N.J.A.C. 8:31B-3.53 through 3.57.
- (c) (No change.)
- (d) Cost centers subject to screening:

Cost Centers	Peer Group	Unit of Service	Reas. Cost Limit
(A&G + FIS) Administrative & General & Fiscal	teaching/minor teaching Non-teaching	Adjusted Admissions ²	1.1
(PLT) Plant	Statewide	Total PLT Square Feet	1.1
(PCC) Patient Care Coordination	teaching/minor teaching non-teaching	Adjusted Admissions	1.1
(RSD) Residents	teaching/minor non-physician non-teaching	Full time Equivalent in RSD	1.1
(PHY) Physicians	Non-physician	teaching/minor teaching non-teaching	Full time Equivalent in PHY 1.1
(RSD) Residents	Physician	teaching/minor teaching non-teaching	Full time Equivalent in RSD 1.1
(PHY) Physicians and	Physician	teaching/	Full time 1.1

minor teaching non-teaching
Equivalents in PHY and EDR

(EDR)
Education & Research

¹The amount of Indirect Costs apportioned to SNF is determined by multiplying total Indirect Patient Care Costs by the ratio of: Direct SNF costs plus SNF Patient Care General Service costs allocated to Direct SNF costs (using allocation statistics reported to the Department of Health) to Direct Cost plus total Patient Care General Service costs allocated to Direct Costs.

²An adjusted admission, as defined by the American Hospital Association, is admissions multiplied by total gross revenue divided by inpatient gross revenue.

8:31B-3.27 Capital facilities

- (a) (No change.)
 - 1. (No change.)
 - i.-ii. (No change.)
 - iii. The Capital Facilities Formula Allowance is calculated as follows:

(1) As a measure of the scope of Capital Facilities projected to be needed by a hospital when its present facilities are no longer usable, the number of target beds for hospitals receiving a Preliminary Cost Base and Schedule of Rates will be based on the following: until such time as alternate formulas are adopted by the Health Care Administration Board:

(A) For Pediatric and Obstetric Services (for facilities with 1,000 or more deliveries) target beds equal:
 $(1.33) \times (\text{Most Recent Actual Year Licensed Beds}) \times (\text{Most Recent Actual Year Occupancy Rate})^{[1]}$

For facilities with less than 1,000 deliveries no target beds will be included unless the criteria is waived by the New Jersey State Department of Health due to accessibility issues. However, in no case will waivers be considered for facilities with less than 500 deliveries.

(B) For all other services target beds equal:
 $(1.175 \times \text{Most Recent Actual Year Licensed Beds} \times \text{Most Recent Actual Year Occupancy Rate})$

(2) The number of target beds is multiplied by an estimated current construction cost per square foot. This amount shall be the average construction cost per square foot, times gross square feet per bed, determined in the [Dodge Research Report: Hospital/Health Care Building Costs] **Dodge Construction System Costs**, adjusted for location of the hospital (as updated annually).^[2]

(3) (No change.)

(4) The available portion of the fund target, determined in accordance with N.J.A.C. 8:31B-4.13 through 4.25 is subtracted from the result of (a) iiii (3) above, (i.e., the Fund Target). Any excess of the Plant Fund balance over the Fund Target is to be offset against the Current Cost Base in rate determination. Any excess of the Fund Target over the Internally Generated Plant Fund Balance is the allowance for replacements and renovations to be included in a hospital's Schedule of Rates over its remaining useful life.

iv. The yearly Capital Facilities Allowance is computed per information provided by the Uniform Cost Reporting Regulation as [the higher of:]

[(1)] The current yearly amount of capital indebtedness of the hospital, excluding any portion associated with major moveable equipment, plus the deficiency of the Plant Fund (and any funds

designated by the hospital's board for the CFFA) against the Fund Target, divided by the adjusted remaining useful life of the hospital[;].

[(2) The prospective year's depreciation and interest expense.]

[v. For building replacement or major renovations, regardless of which of the above options (a or b) is higher in any given year, the maximum amount reimbursed through the Capital Facilities Allowance shall be the higher of one of the alternatives summed over the applicable number of years. The 1982 rate year is the last year for Option 2.]

2. (No change.)

[¹For all hospitals receiving 1981 rates under Chapter 83, the most recent actual year is 1979.]

[²][Dodge Research Report: Hospital/Health Care Building Costs] **Dodge Construction System Cost**, McGraw Hill Cost Information systems, 1221 Avenue of the Americas, New York, New York 10020.

8:31B-3.32 [Reserved] **Hospital-operated long-term care facilities**

(a) **Any licensed skilled nursing facility, intermediate care facility, or long term care facility owned and operated by a hospital (whether a distinct part of the hospital facility, adjacent to the hospital, or free-standing) shall be reimbursed as follows:**

1. **A routine services rate shall be established by applying the then-prevailing New Jersey Title XIX nursing home reimbursement methodology to a hypothetical facility assumed to be of 30 beds, operating at 95 percent occupancy, in a median salary region, paying no property taxes, with unit staffing and a level of case-mix of SNF:25 percent; ICF-A:65 percent, ICF-B:10 percent, for which all costs were at or above the appropriate reasonableness limit. The Capital Facilities component of that rate shall be established at the median of such rates in non-hospital facilities.**

2. **This hypothetical per diem rate, to be called the hospital Long-Term Care rate, shall be included in the Schedule of Rates of any hospital operating such a facility, and shall constitute the charge for routine services for any patient in the facility. Hospitals may bill separately for all ancillary services recognized as separately billable under the New Jersey Title XIX program at the same charges applied to other hospital patients.**

8:31B-3.33 Alternate methodology

(a) DRG rates will be established for hospitals without adequate **1979** billing data by utilizing the hospital's **1981** actual [case-mix from patient abstracts in the current cost base year, current cost base year cost and revenue information reported to the Department of Health. Payment rates will be established utilizing the Efficiency Standard calculated in accordance with N.J.A.C. 8:31B-3.5. The 1982 unequalized labor market Efficiency Standard will constitute the hospital's payment rate for the DRGs that meet the following criteria:] **costs and 1981 actual case-mix from the Uniform-Bill Patient summaries.**

[1. Ten or more cases in the hospital's base year;

2. Statewide Coefficient of Variation of less than .65 for the applicable peer group.]

[(b) For those direct patient care costs not included in the calculation of standards the hospital's actual costs as adjusted by the economic factor will be included in Preliminary Cost Base. Said payment rates will serve as interim rates until such time that valid UB-PS data is available to determine the hospital's actual cost per case. Adjustments to direct patient care costs will only be made subsequent to the determining and approval of the hospital's actual cost per case. Such review shall be available under either Accept or Not Accept options described in N.J.A.C. 8:31B-3.51 through 3.62.]

(b) **Reasonable indirect patient care costs will be based on 1979 actual costs and determined in accordance with Section 8:31B-3.24.**

8:31B-3.38 Derivation from Preliminary Cost Base

(a) (No change.)

(b) Revenue requirements: Definition and calculation.

1.-2. (No change.)

3. Pursuant to N.J.A.C. 8:31B-3.42 through 3.45 hospitals must submit charge masters and revenue budgets to the Commissioner for review and approval no less than [15] **30** working days prior to the date on which any of the above are to become effective. Notice of proposed changes to, and implementation dates of, revenue budgets (including mark-up factors) and charge masters shall be sent by the hospital to the major third party payors within the same time frames as described above. This information shall also be made available by the hospital to any other payor upon request. Any significant inconsistencies between the Commissioner's estimates, payors estimates and the hospital's estimates of net revenue to be generated shall be discussed with the hospital and brought to the attention of the Commission by the Commissioner for resolution. Should the Commissioner not inform the Commission and the hospital of any objections to the hospitals proposal, the hospital's revenue estimates are to be implemented at the termination of 30 working day period without further notice. The Commissioner shall notify payors no less than 10 working days prior to implementation of any changes to the hospital's Schedule of Rates, mark-up factors, payor factors, charge masters, etc.

4. (No change.)

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

8:31B-3.43 Adjustment of charges

(a) (No change.)

(b) The hospital may, [at its discretion,] **subject to analysis and approval by the Department**, adopt [a variance of plus or minus 25 percent applied] **the following plus or minus variances applied** to its charge to Direct cost ratio for any specific revenue center: 50 percent during the initial 12 months under the Chapter 83 reimbursement system; 25 percent during the second 12 months; five percent thereafter. The hospital must notify the Commissioner of any charges adjusted throughout the rate year which alter overall estimates of net revenue to be collected.

(c) (No change.)

8:31B-3.45 Uniform bill – case mix determination – financial reports

(a) Hospitals shall submit to the Department through the UB-PS Intermediary(ies) and within 90 days of the end of the calendar quarter, information on all inpatients discharged for the quarter containing final diagnosis and such other patient specific information as set forth in the Rule on Hospital Reporting of Uniform Bill-Patient Summaries. The net cost to the hospital of any information provided to the Department by a UB-PS Intermediary for a hospital under a memorandum of understanding developed under N.J.A.C. 8:31B-2.1 of the Rule on Hospital Reporting of Uniform Bill-Patient Summaries shall be considered by the Commission in the Preliminary Cost Base established for the hospital. Beginning with the first quarter of [1983] **1985** hospitals shall also submit Uniform Bill-Patient Summaries on all outpatients containing final diagnosis or reason for visit (as defined by the Department), for each outpatient. Included with such reporting shall be a statement of gross revenue by revenue center for patients discharged in the quarter (including in-house accounts of the previous period but excluding in-house accounts of the current quarter) for inpatient, emergency service, clinic, home health, outpatient dialysis, ambulatory surgery, same day psychiatry, and private referred patients.

(b)-(c) (No change.)

8:31B-3.51 Notification appeal and review

(a) Notification by hospitals: Within [60] **45** working days of receipt of the Proposed Schedule of Rates issued pursuant to N.J.A.C. 8:31B-3.2 through 3.15, hospitals shall notify both the Commissioner and the Commission, in writing, of their decision to:

1. Accept: Acceptance is contingent upon approval by the Commission of the Schedule of Rates. Subject to approval, acceptance waives the right of the hospital to appeals set forth under N.J.A.C. 8:31B-3.53 through 3.54. Following Commission approval, rates accepted shall be implemented as set forth in N.J.A.C. 8:31B-3.42 through 3.45. [Hospitals may appeal the following items:] **Rates accepted shall include an additional one percent of the unequalized non-physician standard for each inlier DRG.**

i.-iii. (No change.)

iv. Revenue Adjustments as discussed in N.J.A.C. 8:31B-[3.41] **3.56.**

v. (No change.)

2. **Conditional accept: Conditional acceptance is contingent upon approval by the Commission of the Schedule of Rates. Subject to approval, conditional acceptance waives the right of the hospital to appeals set forth under N.J.A.C. 8:31B-3.53 through 3.54. Following Commission approval, rates conditionally accepted shall be implemented as set forth in N.J.A.C. 8:31B-3.42 through 3.45. Rates conditionally accepted shall not include the additional one percent of the unequalized non-physician standard for each inlier DRG. Hospitals may appeal the following items:**

[2.] 3. Not accept:

i. A hospital not accepting the Proposed Schedule of Rates or adjusted Rate Order shall submit exceptions, within [60] **45** working days of receipt of the Proposed Schedule of Rates. Any hospital not accepting the Proposed Schedule of Rates **will be issued a Revised Proposed Schedule of Rates based upon the efficiency standard and** will be subject to review the entire Preliminary Cost Base, and thus at risk for all operating costs and revenue adjustments. **Rates not accepted shall not include the additional one percent of the unequalized non-physician standard for each inlier DRG.**

ii. (No change.)

8:31B-3.53 Operating costs: Retrospective exceptions

Exceptions may be addressed to matters not adequately accounted for by using audited actual costs from the current cost base year to determine an institution's Current Costs, Preliminary Cost Base, or Schedule of Rates. Except for changes in an institution's teaching classification or changes in employee health insurance coverage to or from self-insurance which are supported by adequate documentation, all such exceptions shall be [considered pursuant to SHARE Guidelines, Methodology for Alternate Rate,] **justified by a full presentation of the dollar value of the cost, the dollar value of the benefits and a complete explanation of any other benefits resulting from the program which cannot be given a dollar value,** as appropriate, except where palpable injustice would result due to existing contractual arrangements, lack of adequate notice, pending appeals, and the like. However, start-up costs for approved Certificates of Need may be evaluated in [light of SHARE Guidelines,] **accordance with N.J.A.C. 8:31B-3.53 and 3.54,** or evaluated in accordance with N.J.A.C. 8:31B-3.63 through 3.70 as appropriate.

8:31B-3.54 Operating costs: Prospective exceptions

(a) Issues concerning intensity and management changes proposed for the initial rate period shall be grouped according to the subsections set forth below and evaluated as follows:

1.-2. (No change.)

3. All proposed management or intensity changes other than those considered in (a)1 above, and any other exceptions not considered in N.J.A.C. 8:31B-3.53 through 3.57, shall be [determined

according to SHARE Guidelines, Methodology for Alternate Rates, as applicable and appropriate, except that no automatic adjustment for management increase shall be made.] **justified by a full presentation of the dollar value of the cost, the dollar value of the benefits and a complete explanation of any other benefits resulting from the program which cannot be given a dollar value.** With respect to any detailed review, appeal or application arising under this paragraph, the entire Preliminary Cost Base shall be reviewed, and case-mix material developed in accordance with N.J.A.C. 8:31B-3.5, including but not limited to the lowest cost per case, Efficiency Standard (median hospital) and mean cost per case, and shall be made available upon request to all parties directly affected by these regulations in order to, among other things: rebut or support presumptions of reasonableness set forth in [1980 SHARE Guidelines,] **these regulations;** rebut or support an appellant's exceptions; and to judge effectiveness and efficiency with respect to the health care delivery system, taken as a whole. In all such cases the Commission shall determine whether or not it is appropriate that proposed management or intensity changes be financed out of an adjustment to the Schedule of Rates, or out of incentive monies in excess of cost, the development of potential efficiencies at the given institution, or from other sources.

8:31B-3.55 Capital facilities

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

(d) **Pursuant to N.J.A.C. 8:31B-4.66 (e) of the 1983 Financial Elements [At] any time during the first year of operations under the Chapter 83 reimbursement system,** a hospital may petition the Commission for the inclusion in their Preliminary Cost Base of interest expense associated with purchase of major moveable equipment and/or an adjustment to working capital provided for in N.J.A.C. 8:31B-3.40.

8:31B-3.57 Same Day [Surgical Units] Surgery

(a) Hospitals may appeal the reasonableness of their DRG rates due to trim point exclusion of those patients **who have undergone same day surgery** [treated in Same Day Surgical Unit] as defined in N.J.A.C. 8:31B-3.11. Where appropriate, the Commission shall establish a reasonable charge for **same day surgical services** [the Same Day Surgical Units]. The ancillary charges and the Same Day Surgical services constitute the reasonable payment for Same Day Surgical services. The Same Day Surgical charges will be comprised of an incentive reward for the provision of Same Day Surgical services, as approved by the Commission. Additionally, the Commission will adjust the inpatient DRG cost per case to reflect the effect of **those hospitals not performing same day surgery** [the non-Same Day Surgical hospitals] on the standard cost per case.

(b) The Commission of the Commissioner may inquire why hospitals that do not **provide same day surgical services** [have a Same Day Surgical Unit] are not providing **these services** [this service] and the Commission may make appropriate adjustments to the inpatient DRG rates in such hospitals.

8:31B-3.66 Commission fees

(a) A charge of [\$.50] **one dollar (\$1.00)** per adjusted admission as defined by the American Hospital Association, for each adjusted admission in the year of the current cost base, shall be assessed each institution for which the Commission determines a preliminary cost base [prior to January 1, 1983].

(b) (No change.)

8:31B-3.72 Periodic adjustments

(a) (No change.)

1. (No change.)

2. Other adjustments:

i. (No change.)

ii. Any hospital, payor reconciliation or audit adjustments which may be required due to [audits] **financial reviews of [1978] 1979**

actual costs or reconciliation [of 1980 rates] shall be implemented automatically in accordance with this section and by the Commissioner.

- (1) (No change.)
- 3. (No change.)

8:31B-3.75 Schedule of rates reconciliation

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

- 1. (No change.)
- 2. Hospital gross revenue related to patient care: The hospital's actual rate year charge to Direct Cost ratio shall be calculated for each revenue center. Next, the hospital's approved rate year total charge to total Direct Cost ratio shall be calculated. Each revenue center ratio will be compared to the total approved ratio, adjusted by the discretionary subsidy of plus or minus [50 percent (25 percent after the initial twelve months of the Schedule of Rates)] **50 percent during the initial 12 months under the Chapter 83 reimbursement system; 25 percent during the second 12 months; and five percent thereafter**, plus any additional subsidy previously approved by the Commission. Any difference by revenue center (either positive or negative) shall be divided in half and multiplied by total rate year approved net revenue for the revenue center and deemed excess subsidized revenue.
- 3.-4. (No change.)

8:31B-3.79 Use of findings

- (a) (No change.)
- (b) Atypical cases:
 - 1. (No change.)
 - 2. Adjustment of Payment: Outliers:
 - i. (No change.)
 - ii. Inappropriate level of care:
 - (1) (No change.)

(2) Reimbursement will be made for each eligible patient at the statewide weighted average per diem rate of Medicaid participating long-term care facilities [as determined on January 1 and July 1 of each calendar year.] **in effect as of January 1 and July 1 of each year.** The statewide weighted average per diem rate will be calculated by multiplying the Medicaid Skilled Nursing Facility (Level 3) payment rates of **each nursing home in effect** [effective each] January 1 and July 1 by the total Medicaid patient days of **the nursing home as reported on the most recent cost report (a 12-month period)** [paid for the preceding 12 month period.] The total dollars will then be divided by the total **actual** Medicaid patient days **to arrive at the weighted average per diem.**

- iii. (No change.)

OFFICE OF ADMINISTRATIVE LAW NOTE: Appendices IX and X were filed as part of this proposal but are not reproduced herein. Copies of these appendices can be obtained from:

Health Economic Services
State Department of Health
CN 360, Room 600
Trenton, New Jersey 08625

or

Office of Administrative Law
Administrative Filings
88 East State Street
CN 301
Trenton, New Jersey 08625

HUMAN SERVICES

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Long Term Care Services Manual Cost Study, Rate Review Guidelines and Reporting System for Long Term Care Facilities

Proposed Amendment: N.J.A.C. 10:63-3.2

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4D-6a(4)(a) and N.J.S.A. 30:4D-7 and 7b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, New Jersey 08625

Any comments submitted are available for public review at the above address. Copies of the proposed rule are available for review at the Local Medicaid Assistance Units.

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-265.

The agency proposal follows:

Summary

This proposed rule concerns an element of the cost study for long term care (LTC) facilities, and may effect their per diem reimbursement by the Medicaid program.

The Medicaid program will no longer recognize (for reimbursement purposes) the lease costs that are the result of a related party transaction. A related party is defined in the text below. The purpose of this rule is to allow reimbursement of the related party lease costs that are representative of the actual expenses of the LTC facility, and to disallow those (lease costs) that are not representative (of actual expenses).

Social Impact

There should be no social impact on Medicaid recipients, who will continue to receive care and services in LTC facilities.

There should be no social impact on LTC facilities. If there is any impact, it will be financial, not social.

Economic Impact

There will be no economic impact on Medicaid recipients, since they are already required to contribute (from their available income) toward the cost of their care.

The economic impact on LTC facilities will vary, depending on their lease arrangements. It will primarily effect proprietary LTC facilities.

It is anticipated that there will be a savings to the Medicaid

program of approximately \$1,250,000 annually. This figure includes both Federal and State funding.

Full text of the proposal follows (additions indicated in boldface thus).

10:63-3.2 Rate components

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

(c) All lease costs incurred as a result of related party transactions, will be excluded for reimbursement purposes.

1. A "related party" is defined in the "CARE" guidelines under Schedule F as:

i. A corporation, partnership, trust or other business entity:

(1) Which has an equity interest of 10 percent or more of the facility;

(2) Which has an equity interest of 10 percent or more in any business entity which is related by the definition in (c)1i(1) above or which has an equity interest of 10 percent or more in any business entity related by (c)1i(2) of this section; or

(3) In which any party who is a related party by any other definition (above or below) has an equity interest of 10 percent or more and which has a significant business relationship with the home.

ii. An individual:

(1) Who has a beneficial interest of 10 percent or more in the net worth of the home; or

(2) Who has a beneficial interest of 10 percent or more in an entity related by (c)1i(2) or (3) above; or

(3) Who is a relative of an individual who is related by the definition in (c)1ii(1) or (2) above;

(4) Whose beneficial interest is cumulative, if it relates to spouse, parent or children.

(d) In related lease transactions, the rent paid to the lessor by the provider is not allowable as cost. The provider, however, would include in its costs the property expenses of ownership of the facility. Generally, these would be costs such as depreciation, interest on the mortgage, real estate taxes and other expenses attributable to the leased facility. The effect is to treat the facility as though it were owned by the provider. The treatment of these non-allowable costs is consistent with Federal regulations as they apply to costs to related organizations.

OFFICE OF ADMINISTRATIVE LAW NOTE: As part of this notice of proposed rule, the Department submitted Schedule F (Data Concerning Related Parties and Selected Employees). This schedule is not reproduced in this notice, but can be obtained from:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, New Jersey 08625

or

Office of Administrative Law
Administrative Filings
CN 301
Trenton, New Jersey 08625

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Long Term Care Services Manual Cost Study, Rate Review Guidelines and Reporting System for Long Term Care Facilities

Proposed Amendment: N.J.A.C. 10:63-3.10

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4D-6a(4)(a) and N.J.S.A. 30:4D-7 and 7b.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Administrative Practice Officer
Division of Medical Assistance
and Health Services
CN 712
Trenton, New Jersey 08625

Any comments submitted are available for public review at the above address. Copies of the proposed rule are available for review at the Local Medicaid Assistance Units.

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-266.

The agency proposal follows:

Summary

This proposed rule concerns an element of the cost study for long term care (LTC) facilities, and may effect their per diem reimbursement by the Medicaid program.

Reimbursement to LTC facilities for buildings and land through the Capital Facilities Allowance (CFA) will be based on the lower of either the actual interest rate on financing or the Medicare rate of return in effect at the inception of operations. The purpose of this rule is to screen financing costs to insure that the LTC facilities' return is based on comparison of actual financing costs to the screening limit.

Social Impact

There should be no social impact on Medicaid recipients, who will continue to receive care and services in LTC facilities.

There is also no social impact on LTC facilities. If there is any impact, it will be financial, not social.

Economic Impact

There will be no economic impact on Medicaid recipients, since they are already required to contribute (from their available income) toward the cost of their care.

The economic impact on LTC facilities will vary, depending on their financing arrangements for buildings and land.

It is anticipated that there will be a savings to the Medicaid program of approximately \$800,000 annually. This figure includes both Federal and State funding.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

10:63-3.10 Buildings

(a)-(j) (No change.)

(k) For existing LTCFs, the State will not increase the CFA rate in future years should the Medicare return on equity rate increase. Should this rate decrease by more than the reasonable cost of refinancing, both the interest rate and the amortization rate will be reduced. [The same adjustments will be made should financing through a State authority be made available at lower interest rates.] **Should financing through a governmental authority be available or obtained by a qualified facility, the CFA rate will be adjusted as necessary based upon the lower or the previously established Medicare return on equity rate or the available financing rate.**

(l) For new LTCF's, or for additions to existing LTCF's, the amortization rate will be established based upon the **lower of the latest Medicare return on equity rate published at the inception of operations[.], or the governmental financing rate available to a qualified facility.** The provisions of [subsection] (k) above [of this section] will apply in subsequent years.

(m) (No change.)

(n) With respect to new LTCF's and significant additions to existing LTCF's, the [CFA will be applied to their] appraised value will be determined based upon price levels at the time the construction is completed.

(a)**DIVISION OF YOUTH AND FAMILY SERVICES****Adoption Assistance and Child Welfare Act of 1980****Requirements and State Plan on Services to Families and Children****Proposed New Rules: N.J.A.C. 10:131****Proposed Repeal: N.J.A.C. 10:91**

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.

Authority: N.J.S.A. 30:4C-4 and 30:1-12.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Bernice L. Manshel
Division of Youth and Family Services
Office of Program Support
One S. Montgomery Street
CN 717
Trenton, New Jersey 08625

The Division of Youth and Family Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-263.

The agency proposal follows:

Summary

The proposed new rule provides information regarding the New Jersey Child Welfare Services Program conducted under Title IV-B of the Social Security Act and provides public information regarding the availability of the State Child Welfare Services Plan and updates thereto in accordance with the Federal law as amended. Additionally, as now required by Federal law (The Adoption

Assistance and Child Welfare Act of 1980, P.L. 96-272) the proposed new rule sets forth the specific goals established by State Law as to the maximum number of children who will remain in foster care for more than 24 months for each fiscal year commencing with FY 1983.

The Child Welfare Services Program has been conducted under Title IV-B of the Social Security Act. Historically, the program has provided Federal grants to establish, extend, and strengthen child welfare services in the states. Grants are made to state agencies on the basis of a plan developed jointly by the Administration for Children, Youth, and Families/Children's Bureau (ACYF/CB) and the State agency. Under Title IV-B, formula grants are allocated to states for providing and improving child welfare services to children and their families in need of services without regard to income.

The State Plan previously in force was developed in 1969 and amended in 1975, with a budget submitted annually. Federal leadership and joint State-Federal planning under the Child Welfare Service Program were lacking for several years.

Wide recognition of the need to strengthen the child welfare services system led the Administration and Congress to pass P.L. 96-272 amending Title IV-B and closely related areas of AFDC-Foster Care maintenance and adoption subsidies. These amendments resulted in increased State and Federal joint planning of services to strengthen families and improve children's lives.

N.J.A.C. 10:91 is being proposed for repeal because these rules are outdated, or they exist elsewhere in the Code, or they will be covered by proposed new N.J.A.C. 10:131.

Social Impact

The State Child Welfare Services planning process has the potential of advancing the State's goals and objectives in the area of child welfare services. The process is a vehicle for the State to evaluate its strengths and weaknesses in this context particularly in the areas of child welfare services designed to prevent out-of-home placement, to prevent child abuse and neglect, and to reunify children in out-of-home placement with their families. Establishing goals for the number of children remaining in foster care in excess of 24 months formalizes the Divisions's commitment to preserving and strengthening families while at the same time it provides a framework within which to realize this goal.

The repeal of N.J.A.C. 10:91 will have no social impact because the rules are outdated, or they exist elsewhere in the Code, or they will be covered by proposed new N.J.A.C. 10:131.

Economic Impact

In response to changes in the Federal law including the providing of greater state flexibility in the provision of child welfare services, the economic impact of our State's planning process can only be positive. Establishing goals for the number of children remaining in placement more than 24 months will assist in determining if the foster care system is meeting expectations or should be reassessed. At the same time, Federal funds may become available to support the increasing costs attendant to maintaining children in their own homes.

The repeal of N.J.A.C. 10:91 will have no economic impact because these rules are outdated, or they exist elsewhere in the Code, or they will be covered by proposed new N.J.A.C. 10:131.

Full text of the proposed new rule follows (full text of the proposed repeal can be found in the New Jersey Administrative Code).

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CHAPTER 131
ADOPTION ASSISTANCE AND CHILD WELFARE
ACT OF 1980 REQUIREMENTS

SUBCHAPTER 1. TITLE IV-B STATE PLAN: CHILD
WELFARE SERVICES

10:131-1.1 State Child Welfare Services Plan
New Jersey developed a three-year State Child Welfare Services Plan for Fiscal Years 1981-1983, which was updated in fiscal year 1982. The bulk of the State Plan is a needs analysis, while the bulk of the update is a status report. Copies of the State Child Welfare Services Plan and Updates may be obtained from:

Division of Youth and Family Services
Office of Program Support
One South Montgomery Street
CN 717
Trenton, New Jersey 08625

SUBCHAPTER 2. GOALS FOR CHILDREN REMAINING IN
FOSTER CARE IN EXCESS OF 24
MONTHS

10:131-2.1 State child welfare services permanency planning
The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) mandates that specific goals be established by State law before October 1st for each fiscal year commencing with FFY 1983 as to the maximum number of children who will remain in foster care for more than 24 months. This requirement is consistent with the intent of the legislation to improve services provided to children and their families, therefore reducing the number of children removed from their families and increasing the number of children returned to their families from out-of-home placement. This requirement is also consistent with the goal of the Division of Youth and Family Services, under N.J.S.A. 30:4C-1 et seq., to provide all children with permanency planning, therefore minimizing the number of children in temporary out-of-home placement.

10:131-2.2 State child welfare services goals
New Jersey has established that no more than 2,150 children will remain in foster care for more than 24 months during Federal fiscal year 1983 and thereafter. The Division of Youth and Family Services will make every effort within available resources to ensure that services are provided to maintain children in their own homes and to reunify children in out-of-home placement with their families as quickly as possible.

(a)

**NEW JERSEY COMMISSION FOR THE
BLIND AND VISUALLY IMPAIRED**

**Rehabilitation Services
Rehabilitation Services State Plan (1979)**

Proposed Amendment: N.J.A.C. 10:98

Authorized By: Mrs. Norma F. Krajczar, Executive Director, Commission for the Blind and Visually Impaired.
Authority: N.J.S.A. 30:6-1, 30:6-11, 30:6-15.1 and 30:6-15.2.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

G. Thomas Riti, Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

The Department of Human Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-264.

The agency proposal follows:

Summary

The Rehabilitation Act of 1973, as amended, cites as a requirement the submission of a State Plan for Vocational Rehabilitation Services. The State Plan for Vocational Rehabilitation Services has some mandatory features and some which are state options. Its purpose is primarily to assure that the vocational rehabilitation program under Title I in each state will have certain basic purposes and features in all participating states and at the same time, within these bounds, permit state variations responsive to individual state needs, initiatives and preferences.

In order for a state to be eligible for grants for any fiscal year from the allotment of funds under Title I of the Act, it shall submit for such fiscal years a State Plan for Vocational Rehabilitation Services meeting Federal requirements. Prior to 1979 a State Plan was required annually. Since 1979, a three-year plan has been required. The state must amend its State Plan whenever necessary to reflect any material change in a phase of state law, organization, policy, or agency operations which affects the administration of the State Plan. This submission amends the narrative "Methods of Expanding and Improving Services to the Severely Handicapped and a new Table of Organization reflecting current changes."

Social Impact

This rule will effect blind and visually-impaired citizens of the State of New Jersey. It will enable them to become self-sufficient and contributing members of society, thereby eliminating dependency upon State, Federal, and local agencies as well as on their families.

Economic Impact

Blind and visually-impaired persons will become taxpayers rather than tax consumers on the Federal and State level. This will impact on the populace on the State and Federal level by making additional tax dollars available. Total program costs will be in the amount of approximately four million dollars (\$4,000,000) covering all aspects of this program. Total number of clients served in the past Federal fiscal year was 3,111. Blind and visually-impaired persons will become self-sufficient and contributing members of society, thereby eliminating dependency upon State, Federal and local agencies as well as their families.

Copies of the full text of the proposal can be obtained from:

New Jersey Commission for the Blind
and Visually Impaired
1100 Raymond Boulevard
Newark, New Jersey 07102

or

Office of Administrative Law
88 East State Street
CN 301
Trenton, New Jersey 08625

OFFICE OF ADMINISTRATIVE LAW NOTE: The Rehabilitation Services State Plan is referenced but not reproduced in the New Jersey Administrative Code.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Adoptions Adoption Subsidy

Proposed Repeal: N.J.A.C. 10:121-2 Proposed New Rule: N.J.A.C. 10:121-2

Authorized By: George J. Albanese, Commissioner,
Department of Human Services.
Authority: N.J.S.A. 30:4C-45, -46, -47, -48, -49, 30:4C-31,
and P.L. 96-272.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Department of Human Services
Division of Youth and Family Services
One South Montgomery Street
CN 717
Trenton, New Jersey 08625

The Division of Youth and Family Services thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-271.

The agency proposal follows:

Summary

The New Jersey subsidized adoption law established by L. 1973, c. 81 became effective in June of 1973. In accordance with its provisions, benefits have been paid to some two thousand families who have adopted hard-to-place children. Eligibility for such subsidy payments requires, among other things, that the needs of the child be beyond the economic ability and resources of the adoptive family. The Federal Adoption Assistance and Child Welfare Act, P.L. 96-272, was enacted in June 1980. Among other things, the law establishes a new Title IV-E of the Social Security Act and provides Federal financial participation in the cost of adoption subsidies for certain categories of children. While no Federal regulations have yet been promulgated concerning this statute, the Department of Health and Human Services had determined that in the cases of children whose subsidies are eligible for Federal financial participation, a state may not have a financial means test as a condition of eligibility for subsidy. The categories of children whose subsidy payments will be eligible for 50 percent Federal reimbursement are those who were receiving or were eligible for Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI). Title IV-E is to be effective no later than October 1, 1982, unless the Federal law is amended. These regulations, therefore, establish requirements consistent with P.L. 96-272 for eligible cases in order to ensure the availability of Federal funding to the state. At present, approximately one in five children in foster care, if otherwise hard-to-place, would be eligible for Federal financial participation. At the same time, the Division is replacing its existing State program regulations with ones with greater clarity and specificity. These regulations set forth the conditions under which a child will be considered hard-to-place, establish a process for determining the amount of subsidy and specify a format for the written Adoption Assistance Agreement with the adoptive parents. Additional safeguards are provided for by annual or periodic reviews of continued eligibility and a process for hearings concerning such eligibility. Reference is made to the

State Medicaid program, as applicable to adoption subsidy cases, and provision is made for data collection to evaluate implementation of the program.

Social Impact

The Division's primary goal for all children who cannot return to their biological parents is to secure permanency for them through adoption. The adoption subsidy programs are meant to assist in achieving that goal.

The financial eligibility requirements for adoption subsidy are revised annually, based upon the Moderate Standard Income Scale computed for New Jersey by the United States Bureau of Labor Statistics. Currently, the level is \$28,195 for a family of four. While the majority of adoptions through the Division in recent years have been by foster parents who generally have been eligible for subsidy according to financial standards, the elimination of any financial requirements for adopting certain children should improve their chance for selection and permanency. Greater specificity concerning which children are considered hard-to-place and whose adoption may be subsidized under the State's programs, should increase public awareness concerning the program and enhance chances for permanency for all children under State guardianship.

Economic Impact

The State will receive 50 percent Federal reimbursement in the cost of subsidies for certain categories of children whose subsidies might otherwise have been fully funded at State and county expense. However, the State will be required to extend full Medicaid coverage to all of these cases at 50 percent cost to the State, although such coverage is usually extended to about one in every two subsidy cases. Any increase in adoptions should have a positive impact on administrative and maintenance costs for those children.

Full text of the proposal follows. **Delete** in its entirety the text of N.J.A.C. 10:121-2 as it appears in the New Jersey Administrative Code.

SUBCHAPTER 2. ADOPTION SUBSIDY

10:121-2.1 Definitions

For the purposes of these regulations, the following definitions shall apply.

"Adoptive Family for hard-to-place child eligible for FFP" means any legally married couple, single person or married person who has lived separate or apart from his or her spouse for a continuous period of at least 18 months, who agree to adopt a hard-to-place child eligible for FFP and who meet conditions which include but are not limited to:

1. Age: The adoptive parent(s) must attain the age of 18 before the adoption has been finalized. There is no maximum age requirement. The adoptive parent(s) shall be at least 10 years older than the person(s) sought to be adopted.

2. Religion: The adoptive parent(s) are not required to be affiliated with or practicing members of any religion. They are required only to be capable of raising the child or children in a decent, moral environment.

3. Residence: The adoptive parent(s) must be residents of New Jersey and/or any other state with which cooperative agreements have been arranged.

4. Income: Adoptive parent(s), with the addition of a State adoption subsidy, must have sufficient financial resources to provide for the basic health, education, and general well-being and normal development of the adopted child or children and must demonstrate an ability to manage family financial resources efficiently and in such a way as to meet the basic cost of raising the child or children in a suitable way.

5. Health: Adoptive parent(s) must be in reasonably good physical and emotional health, as attested to by an examination by a physician, if necessary. Also, they must be free from any physical or mental illness or disability which would jeopardize the normal health, education, and well-being of the adopted child or children.

6. Suitability: The adoptive parent(s) must be able to provide for the normal development of the adopted child or children and provide for the general health, education, and well-being of the adopted child or children.

"Adoptive Family for a hard-to-place child not eligible for FFP" means any legally married couple, or any individual person where the person is single or married but having lived separate and apart from his or her spouse for a continuous period of at least 18 months, who agree to adopt a hard-to-place child not eligible for FFP and who meet the adoption eligibility requirements as established by the Division, except for the financial ability to adopt. These requirements shall include, but not be limited to those listed in the definition, "Adoptive Family for a hard-to-place child eligible for FFP" (see 1 through 6 above).

"Board rate" means the rate paid to the foster family for the child currently or that which would have been paid for the child if the child was in foster care, excluding clothing allowances and any other payments.

"Child" means any person under the age of 18.

"Child eligible for Federal Financial Participation" (hereinafter "child eligible for FFP") means any child whose adoption subsidy is eligible for partial Federal Funding through Title IV-E of the Social Security Act as amended because at the time adoption proceedings were initiated the child was eligible for AFDC, AFDC-Foster Care or SSI or would have been eligible had application been made.

"Child not eligible for Federal Financial Participation" (hereinafter "child not eligible for FFP") means any child whose adoption subsidy is not eligible for Federal Funding through Title IV-E of the Social Security Act as amended.

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"Hard-to-place child" means any child for whom the State of New Jersey has the legal right to place for adoption but who is reasonably expected not to be or has not been placed for adoption due to the nonavailability of a prospective adoptive home for any of the following reasons:

1. Any medical or dental condition which will require repeated or frequent hospitalization, treatment, or follow-up care;

2. Any physical handicap, by reason of physical defect or deformity, whether congenital or acquired by accident, injury, or disease, which makes or may be expected to make a child totally or partially incapacitated for education or for remunerative occupation;

3. Any substantial disfigurement, such as the loss or deformation of facial features, torso or extremities;

4. A diagnosed personality or behavioral problem, psychiatric disorder, serious intellectual incapacity or brain damage which seriously affects the child's ability to relate to his peers or authority figures, including mental retardation or developmental disability;

5. Is one of a group of two or more siblings (including half-siblings) and it is considered necessary that the group be placed together;

6. Is 10 years old or older;

7. Is a child over five years of age who is a member of an ethnic group which is substantially over-represented in foster care in relation to the average of other ethnic groups; or

8. The child is in foster care and the most appropriate adoption plan would be adoption by the foster parents with whom he is living.

10:121-2.2 Payments for the care and maintenance of a hard-to-place child (adoption subsidy)

(a) The Division may make payments for the care and maintenance of a hard-to-place child to the person(s) with whom the child has

been placed for adoption or by whom the child has been adopted when such payments are applied for prior to adoption according to such forms and procedures as may be established by the Division.

(b) Payments shall be made only pursuant to a written Adoption Assistance Agreement between the Division and the adoptive parent(s), which shall include:

1. The date on which the agreement is entered and the stipulation that the agreement shall remain in effect regardless of the state of which the adoptive parent(s) are residents at any given time;

2. The first name and birthdate of the child for whom the payment is to be made;

3. The condition(s) of the child which make the child hard-to-place;

4. The needs of the child being adopted;

5. The amount of adoption subsidy to be paid and the board rate upon which the amount of payment is based;

6. The additional assistance or services to be provided by the State, and how the costs for these items are to be met;

7. Provisions for the protection of the interest of the child in cases where the adoptive parent(s) and child move to another state while the agreement is effective;

8. How the adoptive parent(s) shall notify the Division of changes in the needs of the child or circumstances of the adoptive family that would affect the eligibility for, or amount of, adoption subsidy;

9. How adoptive parent(s) shall be notified of any changes in the amount of adoption subsidy and how they may request changes in the adoption assistance agreement; and

10. Such other provisions as the Division may require.

(c) Except where it would be against the best interest of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort will be made to place the child with appropriate adoptive parents without providing an adoption subsidy.

(d) The written agreement covering subsidy payments shall remain in effect until the child's 18th birthday, provided that the adoptive parent remains legally responsible for the support of the child and that the child continues to receive support from such parents. On an annual basis the Division will determine that the adoptive parents continue to be legally responsible for the support of the child eligible for FFP and that the child continues to receive support from the adoptive parents or the subsidy payments will be terminated.

(e) For a child eligible for FFP, the income of the adoptive parent shall not be considered by the Division in determining whether or not to enter into such an agreement. For a child not eligible for FFP, the income of the adoptive parent shall be considered by the Division in determining whether or not to enter such an agreement.

(f) The amount of monthly payment for care and maintenance will be 80 percent of the applicable board rate, except as provided in (g) below.

(g) An exception may be made to (f) above if the needs of a child eligible for FFP are such that strict compliance with the 80 percent limitation would result in the child not being adopted. Such exception must be agreed to, in writing, by the Division and the adoptive parent. The exception must specify that the child is eligible for FFP and that the child has a severe, permanent physical or mental handicap which existed or was identified prior to the date of the entry of judgement of adoption, or that the child is legally free for adoption and has been in Foster Care with the prospective adoptive parents for 18 months or longer and has developed significant emotional ties such that separation would be against the child's best interest. Additionally, it must specify why strict compliance with the 80 percent limitation would result in the child not being adopted, and that the subsidy payment shall not be higher than 100 percent of the applicable board rate.

(h) For a child eligible for FFP, the amount of the adoption subsidy shall be set after taking into consideration the circumstances of the adopting parents and the needs of the child being adopted, and the

amount may be readjusted periodically with the concurrence of the adopting parents depending upon changes in such circumstances.

(i) For a child not eligible for FFP, the eligibility for and amount of the payment shall be subject to annual review and change.

(j) For a child eligible for FFP, so long as such a child is categorically eligible for Medicaid under Title XIX of the Social Security Act, N.J. Medicaid coverage will be provided.

(k) For a child not eligible for FFP, so long as such a child is categorically eligible for Medicaid under Title XIX of the Social Security Act, the Division may provide N.J. Medicaid. This determination shall be made on the basis of consideration of factors which includes but is not limited to the nature and extent of any physical or mental condition which existed prior to the date of entry of the judgement of adoption.

(l) Any child eligible for adoption subsidy is eligible for legal subsidy directly related to the adoption and approved by the Division prior to the adoption.

(m) Expenses resulting from a condition which qualified the child for adoption subsidy and which are not covered by third-party liability or Medicaid may be covered by the Division if specified in the agreement.

10:121-2.3 Data collection and evaluation

Data will be gathered and maintained on the income level of the adoptive parents receiving subsidy and the amount of the subsidy, and such data will be evaluated annually to determine cost effectiveness.

10:121-2.4 Variations

The requirements and standards prescribed in this rule may be subject to exceptions in specific cases where the Division determines that strict compliance, if required, would result in the undue hardship or jeopardize the health, safety and welfare of the prospective adoptive parent or child, the adoptive parent or child, or the public generally; except that no variation may exceed the limitations provided in either State law for a child not eligible for FFP or Federal law for a child eligible for FFP.

10:121-2.5 Administrative hearings

(a) Any person aggrieved by the decision of the Division not to make an adoption subsidy payment pursuant to this section, or a decision to make such payment in an inadequate or inappropriate amount contrary to the provisions of this section, or failure of the Division to determine with reasonable promptness any application filed with the Division under this section, shall be entitled to an administrative hearing when an application for a hearing is filed with the Division's Administrative Hearings Unit within 15 calendar days of such decision or failure to act by the Division.

(b) The Division's Administrative Hearings Unit will transmit requests for hearings which comply with the provisions in (a) above to the Office of Administrative Law which will conduct all such hearings as contested case hearings pursuant to the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.) and the Uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1).

(c) Following receipt of the Initial Decision for the Office of Administrative Law and the expiration of the applicable comment periods, the Director shall issue a Final Decision which accepts, rejects, or modifies the Initial Decision. A copy of the Final Decision will be served on all parties of record.

10:121-2.6 Adoption Resource Exchange

The Division shall list its hard-to-place children as defined in N.J.A.C. 10:121-2.1 in the Adoption Resource Exchange Bulletin or in such other manner as deemed appropriate on a continuing basis. Copies of the bulletin or other such list are available upon request from the Division.

INSURANCE

(a)

DIVISION OF ADMINISTRATION

Insurance Licensees

Notification of Change of Address; Service of Process

Proposed New Rule: N.J.A.C. 11:1-14

Authorized By: Joseph F. Murphy, Commissioner,
Department of Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17:1-8.6, 17:22-6.16 and 17B:22-27.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

W. Morgan Shumake
Executive Director of Insurance
Department of Insurance
CN 325
Trenton, New Jersey 08625

The Department of Insurance thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-270.

The agency proposal follows:

Summary

The proposed rules require insurance licensees to provide the Commissioner of Insurance through written notice to the License Division, with prompt notification of any change in either residence or business address. Licensees must submit this notice to the License Division by using certified mail with return receipt requested.

With respect to process issued pursuant to the Commissioner's statutory authority, the rules also specify that service of such process may be achieved through mailing documents by certified mail to the licensee's current residence and business addresses as reflected by the records of the License Division.

Social Impact

The inability to locate and contact a licensee, either because of inaccurate address information or, with respect to service of process in particular, the inaccessibility of the licensee, hinders the progress of Departmental investigations and resulting administrative proceedings. Additionally, it impedes the efficient handling of routine consumer complaints and the expeditious performance of such License Division functions as the issuance of renewal licenses.

By placing upon licensees an affirmative obligation to apprise the Department of address changes and by utilizing certified mail for the purpose of effecting service of process, the proposed rules are expected to enhance the Department's ability to operate efficiently thus enabling it to better protect the public.

Economic Impact

The cost to licensees of providing proper address information to the License Division will be relatively small.

The Department of Insurance will not require additional

personnel to enforce the regulation and the streamlining effect of the rules should result in savings.

Full text of the proposal follows.

SUBCHAPTER 14. INSURANCE LICENSEES

11:1-14.1 Application

This subchapter applies to any person, partnership, corporation or other entity licensed by the Commissioner of Insurance as an agent, broker or solicitor.

11:1-14.2 Notification of change of address

(a) All licensees of the Department of Insurance must provide the Commissioner of Insurance with written notification of any change of residence or business address within 20 calendar days of the address change.

(b) All address change notifications shall be sent by certified mail, with return receipt requested, to the License Division, New Jersey Department of Insurance, 201 East State Street, CN 325, Trenton, New Jersey 08625.

(c) Non-compliance with this section constitutes violation of N.J.S.A. 17:22-6.16(a) and (h) and 17B:22-27(a)(1) and 12.

11:1-14.3 Service of process

(a) Any process issued pursuant to the statutory authority of the Commissioner of Insurance, including but not limited to subpoenas, orders, and orders to show cause, may be served upon a licensee by sending said process by certified mail, with return receipt requested, to the current residence address and a current business address of the licensee.

1. For the purposes of this section, any current residence or business address shall mean the last such address filed by the licensee with the License Division of the Department of Insurance.

OFFICE OF ADMINISTRATIVE LAW NOTE: Assuming that this rule is first duly promulgated in accordance with N.J.A.C. 1:30-4.5, the Department of Insurance intends to make this subchapter operative 60 days after adoption by the Commissioner.

LAW AND PUBLIC SAFETY

(a)

BOARD OF BARBER EXAMINERS

**General Rules and Regulations
Price Posting**

Proposed New Rules: N.J.A.C. 13:27A

Authorized By: Board of Barber Examiners, Vito J. Micele,
Executive Secretary.
Authority: N.J.S.A. 45:4-54.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Vito J. Micele
Executive Secretary
Board of Barber Examiners
1100 Raymond Boulevard, Room 512
Newark, New Jersey 07102

The Board of Barber Examiners thereafter may adopt this proposal

without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-273.

The agency proposal follows:

Summary

The proposed regulations will require each individual possessing a barber shop license pursuant to N.J.S.A. 45:4-50.1 et seq. to post in a conspicuous place a list of prices which will be charged for services rendered.

Social Impact

This regulation will provide patrons of barber shops with advance notice of uniform charges for the services to be rendered, thereby protecting consumers from arbitrary and excessive prices.

Economic Impact

The costs of enforcement of the proposed regulation are minimal, since routine inspections of all licensed barber shops are already conducted. The cost of compliance by licensees is also minimal.

Full text of the proposal follows.

**CHAPTER 27A
GENERAL RULES AND REGULATIONS**

SUBCHAPTER 1. GENERAL PROVISIONS

13:27A-1.1 Price posting

(a) It shall be mandatory for all licensed barber shops to post a list of prices for all services rendered. The list of prices shall be posted in a conspicuous location easily readable by all consumers in the licensed barber shop.

1. It shall be the responsibility of the barber shop owner(s) in whose name(s) the shop license is issued to insure that this mandatory list of prices is posted in the licensed barber shop.

(b)

**BOARD OF CERTIFIED PUBLIC
ACCOUNTANTS**

**General Rules and Regulations
Applications for Original Examination**

Proposed Amendment: N.J.A.C. 13:29-1.6

Authorized By: New Jersey State Board of Certified Public
Accountants, Elliott Pachtman, President.
Authority: N.J.S.A. 45:2B-8(b) and 45:2B-6(g).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

John J. Meade, Executive Secretary
State Board of Certified Public
Accountants
1100 Raymond Boulevard, Room 507-A
Newark, New Jersey 07102

The Board of Certified Public Accountants thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-274.

The agency proposal follows:

Summary

The proposal eliminates the provisions which have been superseded by statute and practice. In addition, it eliminates the unnecessary requirement that the applicant must furnish the Board with three affidavits from persons who attest to an applicant's good moral character before qualifying to take the licensing examination.

The proposal eliminates unnecessary requirements in view of the statute and recent practice of the Board. It amends one portion of the regulation on account of the recent implementation of the inspection of each candidate's criminal history record in conjunction with the State Police. The absence of a criminal history record serves as adequate basis for concluding that an applicant is of good moral character.

Social Impact

The proposal will decrease the administrative burden upon both the licensee and the Board.

Economic Impact

The proposal will produce no economic burdens upon the applicant or the Board. To the contrary, it will reduce the Board's economic burdens by eliminating an unnecessary administrative function.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

13:29-1.6 Applications for original examination

(a) Applications for original examination must be accompanied by the following data [, and . all fees must be paid by certified check or money order]:

1. (No change.)
2. Satisfactory evidence of good moral character, [furnished by three persons, in duplicate and legal affidavit form;] **as may be determined by the Board.**

3. (No change.)
(b) (No change.)

[(c) Applicants who furnish evidence, in duplicate and legal affidavit form, of having had three years' diversified experience in public accounting in the office of a certified public accountant, or firm, of which one member is a certified public accountant, shall be entitled to admission to the examination in practical accounting. The Board will not accept experience obtained in private employment in lieu thereof. This experience must be obtained on a full-time basis in regular employment. Employment less than seven hours per day will not qualify. The Board will consider employment if rendered on the basis of a seven-hour day and each full day will be computed on a five-day week, 52 weeks per year. Evidence of the experience mentioned in this subsection must be furnished by the employer in detail.

(d) In lieu of the three years' experience required in subsection (c) of this section, the Board may, in the exercise of its discretion, accept ten years' or more experience obtained by Internal Revenue agents employed in the Field Division of the Internal Revenue Service. The applicant must have attained the classification of Grade Eleven at the time he becomes eligible to sit for the examinations. Any part of a period of three years' experience obtained in the employ of a certified public accountant, or firm, of which one member is a certified public accountant, may be considered as part of ten years' experience with the Internal Revenue Service.

(e) In lieu of the three years' experience required in subsection (c) of this section, the Board may, in the exercise of its discretion, accept ten years' or more experience obtained by a public accountant who has been regularly engaged exclusively in the practice of public accounting with an established office for said practice. The experience must be on a full-time basis supported by documentary evidence of said practice.

(f) The Board may, in the exercise of its discretion, except service in the Armed Forces of the United States for experience credit on the basis of one month's credit for each six months service, with a maximum credit of eight months.

(g) The Board may, in the exercise of its discretion, evaluate any and all accounting and auditing experience obtained by any applicant and give credit for said experience toward the three years' experience required in this section; provided, however, the credit shall in no event exceed 15 months. An applicant who is given such credit cannot also obtain credit for services rendered in the Armed Forces.]

(a)

BOARD OF MASTER PLUMBERS

General Rules and Regulations Requirement of Pressure Seal

Proposed New Rule: N.J.A.C. 13:32-1.8

Authorized By: Board of Master Plumbers, John S. LeMaire, Executive Secretary.
Authority: N.J.S.A. 45:14C-7.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

John S. LeMaire
Executive Secretary
Board of Examiners of
Master Plumbers
744 Broad Street, Room 1009
Newark, New Jersey 07102

The Board of Examiners of Master Plumbers thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-276.

The agency proposal follows:

Summary

The proposed regulation will require each licensee of the Board of Examiners of Master Plumbers to obtain and use a pressure seal on all applications for plumbing permits. Use of this seal by any person other than the licensee will be considered to be a fraudulent and deceptive practice. Any licensee who willfully or negligently permits such misuse or himself misuses another's licensee's seal will be subject to disciplinary action. The Board may also refuse to issue a license at any time in the future to unlicensed users. The Board shall retain in its files for verification purposes an example of each plumber's seal on every license renewal.

Social Impact

The proposed regulation will provide consumers, local inspectors and subcode officials a means to quickly and easily verify that plumbing work is being performed by a licensee of the Board of Examiners of Master Plumbers, subject to disciplinary proceedings before the Board and the requirement that the appropriate bond be secured. Additionally, licensed plumbers will be protected from the fraudulent use by unlicensed contractors of their names and license numbers.

Economic Impact

The cost for the issuance of the seal will be borne by each licensee. Periodic verification by the Board will have a minimal economic impact since the seal is to be impressed on all renewal applications and no additional paperwork is required.

Full text of the proposal follows.

13:32-1.8 Requirement of pressure seal defined

(a) At the time of the issuance of the license or as soon thereafter as deemed appropriate, the Board of Examiners of Master Plumbers shall furnish a seal to every State-licensed master plumber. The cost of the seal shall be paid for by the State-licensed master plumber to whom it is issued. The seal shall be used exclusively by the State-licensed master plumber in the conduct of his practice. A licensee who willfully or negligently allows an unlicensed and unauthorized person to use his seal shall be subject to such penalties and sanctions as shall be imposed by the Board pursuant to authority granted by N.J.S.A. 45:14C-1 and N.J.S.A. 45:1-14 et seq. The State-licensed master plumber is required to impress the said seal upon all applications for plumbing permits by the appropriate duly licensed State inspection agency.

(b) Use of a seal by any person other than the State licensed master plumber to whom it was issued shall be deemed to be the use or employment of dishonesty, fraud, deception, misrepresentation or false pretense. Such conduct may be grounds for the suspension or revocation of the license of the unauthorized user if he is already licensed by the Board. With respect to an unlicensed user, such conduct shall be grounds for the refusal to issue a State license at any point in the future.

(c) An example of such pressure seal shall be duly impressed upon the master plumber's application for license renewal.

(a)

BOARD OF MORTUARY SCIENCE

**License and Registration Generally
License Renewals**

Proposed Amendment: N.J.A.C. 13:36-4.1

Authorized By: Board of Mortuary Science, Maurice W. McQuade, Executive Secretary.
Authority: N.J.S.A. 45:7-37 and 45:7-38.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Maurice W. McQuade
Executive Secretary
Board of Mortuary Science
1100 Raymond Boulevard, Room 331
Newark, New Jersey 07102

The Board of Mortuary Science thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-275.

The agency proposal follows:

Summary

License renewals are now centralized in the Division of Consumer Affairs and that office determines professional license

renewal dates to meet computer processing requirements. In line with the Division's direction, the Board of Mortuary Science has been utilizing a renewal date of March 1 for several years. The proposed amendment will bring the Board's regulations into compliance with the established centralized procedure by changing the renewal date indicated in N.J.A.C. 13:36-4.1 from September 1 to the date determined by the Division.

Social Impact

The proposed amendment will have no social impact because it is merely a technical change with no actual operative effect.

Economic Impact

The proposed amendment will have no economic impact because it is merely a technical change with no actual operative effect.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

13:36-4.1 License renewals

All applications for license renewal shall be filed with the Board on or before the first day of **March or such other date established for renewal by the Division of Consumer Affairs** [September]. If the licensee fails to receive such renewal application on or before **30 days prior to the renewal date** [August 1] he shall notify the Board in writing and request that the Board forward him the necessary form.

(b)

OFFICE OF THE STATE ATHLETIC COMMISSIONER

**Rules Governing Boxing, Wrestling and Sparring Exhibitions and Performances
Licensure and Permit Granting
Requirements**

Proposed Recodification: N.J.A.C. 13:46-1.2, 1.3 and 1.4 recodified as N.J.A.C. 13:46-1A.1, 1A.2 and 1A.3

Proposed Amendments: N.J.A.C. 13:46-1.1, 4.1, 4.2, 4.4, 4.5, 4.6, 4.7, 4.10, 4.11, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.24, 4.27 and 4.36

Proposed Repeal: N.J.A.C. 13:46-4.22

Authorized By: Office of the State Athletic Commissioner, Jersey Joe Walcott, Chairman.
Authority: N.J.S.A. 5:2-5.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Jersey Joe Walcott, Chairman
Office of the State Athletic Commissioner
143 East State Street, CN 500
Trenton, New Jersey 08608

The Office of the State Athletic Commissioner thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-277.

The agency proposal follows:

Summary

Suchapter 4 has been amended in a variety of particulars to underscore the broad authority of the Commissioner to grant or deny licenses and permits to those participating in boxing or wrestling programs and exhibitions and the detailed information upon which the Commissioner may base those decisions. Of special note are the revisions to N.J.A.C. 13:46-4.1 and 4.2l, which embody in rule form prior agency practice by which the Commissioner in issuing licenses and permits may consider determinations and recommendations made by nationally recognized boxing associations whose voting membership is comprised of representatives of the various governmental athletic commissions. The Commissioner has chosen associations of this character because a voting membership from governmental regulatory agencies will be more likely than one of some other composition to choose rankings and make other decisions in an unbiased fashion. Specifically named are the World Boxing Association, the World Boxing Council, the North American Boxing Federation and the United States Boxing Association. The rule amendments stress that the Commission nonetheless retains full authority to make decisions irrespective of the determinations and recommendations of such associations.

Other portions of the amendment clarify existing rule language in order to avoid ambiguity.

Social Impact

The State Athletic Commission will be better able to identify those persons to whom licenses and permits should properly be issued and those boxing programs which will best serve the public interest and the interest of the sport of boxing.

Economic Impact

The only discernible economic impact which may result from the adoption of these rule amendments is due to the clarification of the requirement that a promoter obtain a permit for a fee for each boxing program produced.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

SUBCHAPTER 1. [BOXING WEIGHTS AND CLASSES] DEFINITIONS

13:46-1.1 Definitions

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

["Club" means any person, club, corporation, organization or association licensed under the act to conduct, hold or give professional boxing matches or exhibitions.]

"Program" means the total of all boxing or wrestling matches presented on a particular occasion.

"Promoter" means [a licensed club.] any person, club, corporation, organization or association licensed under the act to conduct, hold or give programs or exhibitions.

. . .

Recodify N.J.A.C. 13:46-1.2, 1.3 and 1.4 as N.J.A.C. 13:46-1A.1, 1A.2 and 1A.3 without change in text. Subchapter 1A will be called "Boxing weights and classes".

SUBCHAPTER 4. LICENSES AND PERMITS

13:46-4.1[General requirement] **General licensing requirement**

No person, club, corporation or association shall hold, [or] conduct **or participate in** boxing bouts or wrestling exhibitions or sparring exhibitions in the State of New Jersey without first having obtained [either] a license [or a permit] from the State Athletic

Commissioner. **The Commissioner, in the exercise of the discretion to grant or deny a license, may consider any determinations, standards or recommendations made by a nationally recognized boxing association whose voting membership is composed of representatives of governmental agencies regulating boxing. Any such determinations, standards or recommendations made may include, but not be limited to, an concerning the moral character of the applicant. A nationally recognized boxing association shall include, but not be limited to, the World Boxing Association, the World Boxing Council, the North American Boxing Federation and the United States Boxing Association.**

13:46-4.2 Application

Any application for a [club] **promoter** license shall be submitted to the Commissioner for consideration.

13:46-4.4 [List of partners] **List of associated persons**

[Failure to file a complete list of partners with an application shall be considered sufficient reason to refuse issuance of the license. In case the list is falsified and a license issued, the license will be rescinded upon discovery of the falsification.] **Every application for a license shall have attached to it a complete list of those persons associated with the applicant. If the applicant is a partnership, the list shall state the names of all partners, and if the applicant is a corporation, the list shall state a officers and directors and all shareholders owning or controlling 10 percent or more of the stock. Failure to file such a complete list of associated persons with the application shall be considered sufficient reason to refuse issuance of the license. If the list of associated persons or any other information required by the act or by these rules is falsified and a license is issued, the license shall be revoked.**

13:46-4.5 Building inspector's certificate

[All] **Every** application[s] for [club] license[s] shall have attached to the same the certification from the building inspector of the municipality in which the [club] **license-holder** intends to operate.

13:46-4.6 Fees

- (a) The fee for a [boxing club] **promoter** license is \$100.00
(b)-(c) (No change.)

13:46-4.7 Period of validity

[Club licenses are] **A license shall be valid for a period of one year from date of issuance.**

13:46-4.10 Matchmaker

Each licensed [boxing club] **promoter** shall designate a matchmaker whose fee shall be \$25.00, and whose license shall run [currently] **concurrently** with the issuance of [a] the [club] **license and bond.**

13:46-4.11 Payment with application

All applications for [boxing club] **promoter** licenses shall be accompanied by a certified check to cover the entire fee, including the matchmaker's license.

13:46-4.13 Suspension bulletins

[Clubs] **Promoters** and their matchmakers will take notice of the suspension bulletins sent out by the Commissioner and shall not permit any person under suspension to take any part whatsoever as a participant or in arranging or conducting [matches,] **programs** or work during the period of suspension.

13:46-4.14 Transfer of functions

A licensed [club] **promoter** shall not transfer its functions into the vicinity of another licensed promoter.

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13:46-4.15 Sale or transfer of license

[Club] [1] Licenses are not to be bartered, sold or exchanged. Any transfer of a license shall first be approved by the Commissioner.

13:46-4.16 Forms provided

Blank application forms for [club] licenses shall be provided by the State Athletic Commission.

13:46-4.17 Revocation for nonuse

If a promoter [or a club] has been granted a license for boxing or wrestling [shows,] **programs** and the promoter [or club] does not hold a boxing or wrestling [show] **program** for a period of 60 days the license of said promoter [or club] may be revoked.

13:46-4.18 Display of certificate

The license certificate issued by the Commissioner shall be enclosed in a suitable wooden or metal frame[, in order] **such** that the whole of the certificate may be seen therein[,] and shall be posted and at all times displayed in a conspicuous place in the box office of the [club] **promoter** so licensed.

13:46-4.19 Promoter responsibility

All [persons, clubs, corporations or associations holding licenses] **licensees** shall be held absolutely responsible to the Commissioner for all [matches] **programs** or exhibitions held, given or conducted by said [persons, clubs, corporations or associations.] **licensees**.

13:46-4.20 Financial interest in participants

No [club, corporation or person] **promoter** shall have, either directly or indirectly, any financial interest in any boxer or wrestler competing on premises owned or leased by the [corporation, club or person] **promoter** or in which such [club, corporation or person] promoter is otherwise interested.

13:46-4.21 [Notification by promoter] **Application for permit**

[(a) All persons, clubs, corporations or associations holding licenses to conduct, hold or give boxing matches or wrestling exhibitions must submit to the Commissioner, in writing, five days before each and every match or exhibition, the names of all contestants or participants.

(b) No boxing show will be sanctioned unless such notification includes signed contracts of boxers and managers in all matches so listed. Contracts for the same shall have the bona fide addresses of contestants.]

(a) **No promoter shall hold any boxing, wrestling or sparring program unless the promoter shall hold a valid license issued under the act and under these rules, unless at least two weeks before the holding of the program the promoter shall have notified the Commissioner of its being scheduled and unless at least 10 days before the date of the proposed program the promoter shall have been issued by the Commissioner a written permit to hold it.**

(b) **No permit shall be issued unless the promoter shall have first submitted to the Commissioner in writing the names of all contestants for that match which constitutes the main event of the program and that match immediately preceding the main event.**

(c) **No permit shall be issued unless the promoter shall have submitted to the Commissioner signed contracts of boxers and manage in those matches described in (b) above. The contracts shall have the bona fide addresses of the contestants.**

(d) **The Commissioner, in the exercise of the discretion to grant or deny a permit, may consider any determinations, standards or recommendations made by a nationally recognized boxing association whose voting membership is composed of representatives of governmental agencies regulating boxing. Any such determinations, standards or recommendations made may include, but not be limited to,**

rankings of boxers and choice or match. A nationally recognized boxing association shall include, but not be limited to, the World Boxing Association, the World Boxing Council, the North American Boxing Federation and the United States Boxing Association. Nevertheless, the Commissioner shall retain full authority to grant or deny a permit irrespective of determination or recommendations by such an association.

13:46-4.22 [Permit issuance] **(Reserved)**

[Permits for single shows other than licensed clubs may be issued at the discretion of the Commissioner.]

13:46-4.24 [Permit fee; guarantee] **Guarantee**

[(a) The permit for a single boxing show other than a AUU show is \$100.00 and shall be paid in advance before issuance.

(b) In connection with such permits, the Commissioner may require posting of a suitable sum of money as a guarantee of fulfillment of all obligations attendant upon the promotion. This guarantee fund shall be remitted upon satisfactory conclusion of the promotion.

13:46-4.27 Criteria for license issuance **to promoters**

(a) The State Athletic Commissioner may grant a license to conduct boxing or wrestling promotions to an applicant if in his judgment the financial responsibility, experience, character and general fitness of the applicant, including in the case of corporations its, officers and stockholders, are such that the participation of such applicant will be consistent with the public interest, convenience or necessity and with the best interests of boxing or wrestling generally.

(b) If an applicant is an out-of-State legal resident, the Commissioner shall exercise his discretion in the granting or withholding of the license, employing for guidance [the experience of an active licensure of the applicant in his State of legal residence.] **the conduct of the applicant in his State of legal residence during his licensure there.**

13:46-4.36 Refund of license fees

Refunds will not be granted to any person for fees paid for [club] **promoter** licenses, including matchmaker's licenses, when such [a] person fails to complete the application requirements considered and approved by the Commissioner.

TRANSPORTATION

(a)

TRANSPORTATION OPERATIONS

Restricted Parking and Stopping Routes US 22 and 38

Proposed Amendments: N.J.A.C. 16:28A-1.13 and 1.27

Authorized By: David W. Gwynn, Chief Engineer,
Transportation Operations and Local Aid.
Authority: N.J.S.A. 27:1A-5, 1A-6, 39:4-138.1, 39:4-139
and 39:4-199.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Charles L. Meyers
Administrative Practice Officer
Department of Transportation
1035 Parkway Avenue
Trenton, New Jersey 08625

The Department of Transportation thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-267.

The agency proposal follows:

Summary

These proposals will establish "no parking" zones along Route US 22 in Lebanon Borough, Hunterdon County at established bus stops and Route 38 in Maple Shade Township, Burlington County where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

Social Impact

These amendments will restrict parking along the routes indicated, provide for the efficient flow of traffic, enhance the safety of passengers on/off loading on buses and protect the safety and well-being of the populace.

Economic Impact

The Department will incur direct and indirect costs for its workforce and the placement of signs. Costs are dependent upon mileage, personnel and equipment requirements.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

16:28A-1.13 Route US 22

(a) 1.-5. (No change.)

(b) The certain parts of State highway Route US 22 described in (b) of this section are designated and established as "no parking" zones where parking is prohibited at all times. In accordance with the provisions of N.J.S.A. 39:4-199 permission is hereby granted to erect appropriate signs at the following established bus stops:

1. Along the northerly (westbound) side in Lebanon Borough, Hunterdon County:

i. Near side bus stop:

(1) Cokesbury Road (105 feet).

2. Along the southerly (eastbound) side in Lebanon Borough, Hunterdon County:

i. Far side bus stop:

(1) Cokesbury Road (105 feet).

3. All bus stops are to be the length specified above, measured from the curb line of the intersecting street, or the prolongation of the curb line of the street which intersects.

16:28A-1.27 Route 38

(a) The certain parts of State highway Route 38 described [herein below shall be, and hereby] **in (a) of this section** are designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. (No change.)

2. No stopping or standing in Maple Shade Township, Burlington County:

i. Along Buttonwood Avenue - both sides:

(1) Between Route 38 and Rudderow Avenue.

(b) (No change.)

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Gaming Equipment Cards; Physical Characteristics

Proposed Amendment: N.J.A.C. 19:46-1.17

Authorized By: Casino Control Commission, Theron G. Schmidt, Executive Secretary.

Authority: N.J.S.A. 5:12-63(c).

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

Michael A. Santaniello
Deputy Director - Operations
Financial Evaluation and Control
Casino Control Commission
3131 Princeton Pike Office Park
Building No. 5, CN 208
Trenton, New Jersey 08625

The Casino Control Commission thereafter may adopt this proposal without further notice (see: N.J.A.C. 1:30-3.5). The adoption becomes effective upon publication in the Register of a notice of adoption.

This proposal is known as PRN 1982-272.

The agency proposal follows:

Summary

In general, the proposed amendment increases the controls over the use of cards in the game of baccarat. This proposal would require that a casino which uses cards that have a logo which is visible through the face of the dealing shoe, or have any pattern other than a repetitive design visible through the face of the dealing shoe, must insert new cards after each shoe is dealt in the game of baccarat.

Social Impact

The proposal will have no social impact because it does not affect the public and is merely an internal casino procedure.

Economic Impact

Some negative economic impact may be felt by casino operators since the required changing of cards results in an increased number of cards used during the gaming day.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

19:46-1.17 Cards; physical characteristics

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

(f) [The design to be placed on the backs of cards used by a casino shall be submitted to the chairman for approval prior to use of such cards in gaming activity.] If the design on the backs of cards used by a casino has a logo visible through the face of the dealing shoe or has any pattern other than a repetitive design visible through the face of the dealing shoe, then the casino utilizing those cards in the game of baccarat shall insert new decks of cards into the game after each shoe of cards has been dealt.

(g)-(h) (No change.)

RULE ADOPTIONS**BANKING****(a)****DIVISION OF CONSUMER COMPLAINTS,
LEGAL AND ECONOMIC RESEARCH****Advertising
Plain Language****Adopted Repeal: N.J.A.C. 3:2-2**

Proposed: May 17, 1982 at 14 N.J.R. 454(a).
 Adopted: June 30, 1982 by Michael M. Horn,
 Commissioner, Department of Banking.
 Filed: June 30, 1982 as R.1982 d.213, **without change**.

Authority: N.J.S.A. 56:12-8.

Effective Date: July 19, 1982.

COMMUNITY AFFAIRS**(b)****DIVISION OF HOUSING****Uniform Construction Code
Remitting and Reporting of Training Fees****Adopted Amendment: N.J.A.C. 5:23-4.8**

Proposed: May 17, 1982 at 14 N.J.R. 456(a).
 Adopted: June 30, 1982 by John P. Renna, Commissioner
 of Community Affairs.
 Filed: July 2, 1982 as R.1982 d.220, **without change**.

Authority: N.J.S.A. 52:27D-124.

Effective Date: July 19, 1982.

Note: Due to the recodification of N.J.A.C. 5:23 which became effective subsequent to the date of publication of the proposal, the amended section, formerly N.J.A.C. 5:23-4.8(c), is now N.J.A.C. 5:23-4.19.

ENVIRONMENTAL PROTECTION**(c)****DIVISION OF WATER RESOURCES****Flood Hazard Area Delineations
Flood Delineations Along the Upper Mullica
River (Atsion Branch)****Adopted Amendment: N.J.A.C. 7:13-1.11**

Proposed: April 19, 1982 at 14 N.J.R. 367(b).
 Adopted: June 11, 1982 by Robert E. Hughey,
 Commissioner, Department of Environmental
 Protection.
 Filed: June 23, 1982 as R.1982 d.209, **without change**.

Authority: N.J.S.A. 13:1D-1 et seq. and 58:16A-50 et
 seq.

Effective Date: July 19, 1982.

(d)**DIVISION OF FISH, GAME AND
WILDLIFE****Fish and Game Council
1982-83 Game Code****Adopted Amendments: N.J.A.C. 7:25-5**

Proposed: May 3, 1982 at 14 N.J.R. 402(b).
 Adopted: June 8, 1982 by Fish and Game Council, Anthony
 DiGiovanni, Acting Chairman.
 Filed: June 29, 1982 as R.1982 d.212, **with substantive
 and technical changes** not requiring additional public
 notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 13:1B et seq. and 23:1-1 et seq.

Effective Date: July 19, 1982.
 Operative Date: August 1, 1982.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

7:25-5.[22]23 Firearms and missiles, etc.

(a) Except during the firearm deer seasons no person shall have in his possession in the woods, fields, marshlands or on the water any shell or cartridge with missiles of any kind larger than No. 4 fine shot. This shall not preclude a properly licensed person from hunting woodchuck with a rifle during the woodchuck season.

Waterfowl hunters may possess and use shotgun shells loaded with BB steel fine shot or No. 2 or smaller lead fine shot and properly licensed persons hunting for raccoon or opossum with hounds or engaged in trapping for furbearing animals may possess and use a .22 caliber rifle and .22 short caliber cartridge only for the purpose of killing raccoon, or opossum or legally trapped furbearing animals other than muskrat. ***[and properly licensed persons hunting for squirrel during the period of January 24, 1983 through February 12, 1983 may possess and use a .22 caliber rifle and a .22 short caliber cartridge or a muzzle loading rifle of .40 caliber or smaller in that portion of:**

1. Passaic, Morris, Somerset, Mercer, Hunterdon, Warren and Sussex counties lying within a continuous line beginning at the intersection of Rt. 513 and the New York State line; then south along Rt. 513 to its intersection with Rt. 80; then west along Rt. 80 to its intersection with Rt. 206; then south along Rt. 206 to its intersection with Rt. 202 at Somerville; then southwest along Rt. 202 to its intersection with Rt. 31; then south along Rt. 31 to its intersection with Rt. 546; then west along Rt. 546 to the Delaware River; then north along the east bank of the Delaware River to the New York State line; then east along the New York State line to the point of the beginning at Lakeside; and in that portion of;

2. Salem, Gloucester, Camden, Burlington, Mercer, Monmouth, Ocean, Atlantic, Cape May and Cumberland counties lying within a continuous line beginning at the intersection of Rt. 295 and the Delaware River; then east along Rt. 295 to its intersection with the New Jersey Turnpike; then east along the New Jersey Turnpike to its intersection with Rt. 40; then east along Rt. 40 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Rt. 536; then east along Rt. 536 to its intersection with Rt. 206; then north along Rt. 206 to its intersection with the New Jersey Turnpike; then northeast along the New Jersey Turnpike to its intersection with Rt. 195; then east along Rt. 195 to its intersection with Rt. 571; then southeast along Rt. 571 to its intersection with the Garden State Parkway; then south along the Garden State Parkway to its intersection with Rt. 9 at Somers Point; then south along Rt. 9 to its intersection with Rt. 83; then west along Rt. 83 to its intersection with Rt. 47; then north along Rt. 47 to its intersection with Dennis Creek; then south along the west bank of Dennis Creek to its intersection with Delaware Bay; then northwest along the east shore of Delaware Bay and the Delaware River to the point of the beginning.]*

(b)-(c) (No change from proposal.)

[(c)](d) It shall be legal to use a .22 caliber rifle and .22 caliber short cartridge only for hunting raccoon and opossum with hounds and for killing legally trapped animals other than muskrat on State Wildlife Management Areas. ***[It shall be legal to use a .22 caliber rifle and .22 caliber short cartridge and muzzle loading rifles of .40 caliber or smaller to hunt squirrels at the times designated on those wildlife management areas falling within the north and south squirrel hunting zones.]***

[(d)](e) Except as specifically provided below for waterfowl hunters, semi-wild and commercial preserves, muzzle loader deer hunters and trappers, from December [7-12] **6 through 11** inclusive, it shall be illegal to use any firearm of any kind other than a shotgun. Persons hunting deer shall use a shotgun not smaller than 20 gauge or larger than 10 gauge with the ***standard*** hollow base rifled slug or hollow base slug shotgun shell or a shotgun not smaller than 12 gauge nor larger than 10 gauge with the buckshot shell. It shall be illegal to have in possession any firearm missile except the 20, 16, 12 or 10 gauge hollow base rifle slug or hollow base slug shotgun shell or the 12 or 10 gauge buckshot shell. (This does not preclude a person legally engaged in hunting or semi-wild or commercial preserves for the species under license from being possessed solely of shotgun and nothing larger than No. 4 fine shot, nor a person engaged in hunting waterfowl only from being possessed solely of shotgun and nothing larger than No. 2 lead fine

shot or BB steel shot. A legally licensed trapper possessing a valid rifle permit may possess and use a .22 rifle and short rimfire cartridge only while tending his trap line).

- 1.-3. (No change from proposal.)
- (f)-(n) (No change from proposal.)

7:25-5.[28]29 White-tailed deer (*Odocoileus virginianus*) special permit season, regular firearms only, either sex

(a)-(j) (No change from proposal.)

(k) No change from proposal, **HOWEVER**, there was a change in the 1982 Either-Sex Regular Firearm Permit Quotas as follows:

[1981] 1982 EITHER-SEX REGULAR FIREARM PERMIT QUOTAS

Deer Mgt. Zone No.	Anticipated Either-Sex Day Harvest		Permit Quota Either-Sex		Portions of Counties Involved
	[1981]	1982	[1981]	1982	
16	85	117	582*	[1170]* *582*	Ocean, Monmouth

(l)-(m) (No change from proposal.)

7:25-5.[29]30 White-tailed deer (*Odocoileus virginianus*) special permit, firearms only, either sex, Great Swamp

(a)-(f) (No change from proposal.)

(g) Procedures for applying for a Great Swamp Special Deer Permit will be the same as outlined for the Special Deer Permit [.24(h) of this Code] (see N.J.A.C. 7:25-5.25(h)) with the exception that applicants for a Great Swamp Special Deer Permit must indicate ["Great Swamp"] **Zone 38** on the application card in the space reserved for deer management zone number *, and **juvenile hunters are not eligible for a permit for Great Swamp***.

(h)-(i) (No change from proposal.)

HIGHER EDUCATION

(a)

BOARD OF HIGHER EDUCATION

Licensing and Degree Standards For Out-of-State Institutions Review Procedures

Adopted Amendments: N.J.A.C. 9:1-6.1 and 6.4

Proposed: April 19, 1982 at 14 N.J.R. 372(a).
 Adopted: June 18, 1982 by Board of Higher Education,
 T. Edward Hollander, Chancellor and Secretary.
 Filed: July 1, 1982 as R.1982 d.219, **without change**.

Authority: N.J.S.A. 18A:3-14.

Effective Date: July 19, 1982.

(a)**BOARD OF HIGHER EDUCATION****County Colleges
Auditing and Accounting Standards****Adopted Amendments: N.J.A.C. 9:4-3.1 and
3.10**

Proposed: April 15, 1982 at 14 N.J.R. 318(a).
 Adopted: June 18, 1982 by Board of Higher Education,
 T. Edward Hollander, Chancellor and Secretary.
 Filed: July 1, 1982 as R.1982 d.218, **with substantive
 changes** not requiring additional public notice and
 comment.

Authority: N.J.S.A. 18A:64A-7(b).

Effective Date: July 19, 1982.

Full text of the changes between proposal and adoption follows
 (additions to proposal shown in boldface with asterisks ***thus***;
 deletions from proposal shown in brackets with asterisks ***[thus]***).

9:4-3.10 Work load data

(a) (No change from proposal.)

(b) (No change from proposal.)

**(c) The following rules and guidelines shall apply specifically
 to the classification of enrollments for enrollment audits and
 State aid requests under P.L. 1981 c.329.**

1.-5. (No change from proposal.)

**6. In preparing the audited schedule of credit hour
 enrollments and equivalent credit hours by differential
 category as required by this section, the audit firm must adhere
 to the following:**

i.-x. (No change from proposal.)

**xi. All certifications required in (c) of this section shall be
 included in *[a letter of certification]* *an opinion letter* to the
 Department of Higher Education that shall accompany the
 schedule of credit hour and equivalent credit hour enrollments
 by differential category.**

HUMAN SERVICES**(b)****DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES****Pharmacy Manual
Protein Replacement****Adopted New Rules: N.J.A.C. 10:51-1
(Appendix E)**

Proposed: May 3, 1982 at 14 N.J.R. 418(b).
 Adopted: June 18, 1982 by George J. Albanese,
 Commissioner, Department of Human Services.
 Filed: June 23, 1982 as R.1982 d.211, **without change**.

Authority: N.J.S.A. 30:4D-6(b)(6) and 30:4D-7 and 7b.

Effective Date: July 19, 1982.
 Operative Date: August 1, 1982.

(c)**DIVISION OF MEDICAL ASSISTANCE
AND HEALTH SERVICES****Long Term Care Services Manual
Rehabilitation Potential and Goals****Adopted Amendment: N.J.A.C. 10:63-1.2**

Proposed: May 3, 1982 at 14 N.J.R. 420(a).
 Adopted: June 15, 1982 by George J. Albanese,
 Commissioner, Department of Human Services.
 Filed: June 23, 1982 as R.1982 d.210, **without change**.

Authority: N.J.S.A. 30:4D-6(a)(4)(a) and b(12); 30:4D-7
 and 7b.

Effective Date: July 19, 1982.
 Operative Date: August 1, 1982.

(d)**DIVISION OF PUBLIC WELFARE****Food Stamp Manual
Revised Standard Deductions, Maximum
Allowable Net and Gross Income Standards
and Monthly Coupon Allotment Formula****Adopted Emergency Amendments and
Concurrent Proposal: N.J.A.C. 10:87-12.1,
12.3, 12.4 and 12.6**

Emergency Amendment Adopted: June 24, 1982 by George
 J. Albanese, Commissioner, Department of Human
 Services.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c): June
 30, 1982.

Emergency Amendments Filed: July 1, 1982 as R.1982
 d.217.

Authority: N.J.S.A. 30:4B-2, 7CFR 273.9(d)(6)(ii) and
 (iv), 7 CFR 273.9 the Food Stamp Act of 1977, as
 amended (7 USC 2014) and the Omnibus Budget
 Reconciliation Act (P.L. 97-35) 7 CFR
 273.10(a)(1)(iii).

Emergency Amendments Effective Date: July 1, 1982.
 Emergency Amendments Expiration Date: August 30,
 1982.

Interested persons may submit in writing, data, views or
 arguments relevant to the proposal on or before August 18, 1982.
 These submissions, and any inquiries about submissions and
 responses, should be addressed to:

G. Thomas Riti, Director
 Division of Public Welfare
 CN 716
 Trenton, New Jersey 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of these emergency amendments are being proposed for readoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The readopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The proposal is known as PRN 1982-284.

The agency emergency adoption and concurrent proposal follows:

Summary

The Department of Human Services is mandated by Federal law and regulations to implement an updated standard utility allowance (SUA) and telephone allowance to reflect changes in the cost of utilities. Additionally, the Department is required to revise the maximum allowable net and gross income standards to reflect the annual Federal adjustment of income eligibility limits which takes into account changes in the cost of living. The monthly coupon allotment formula is being amended to comply with a Federal regulation change regarding the proration of initial month's benefits.

Social Impact

The increase in the uniform telephone allowance and decrease in the standard utility allowance (SUA) for the summer months of 1982 will not adversely affect Food Stamp households claiming these standard deductions as these new allowances reflect actual changes in utility costs. Households with utility costs higher than the SUA may have actual expenses used in the eligibility and benefit computation. The increase in income eligibility limits will increase the number of households participating in the program.

Economic Impact

The adjustment in food stamp benefits due to the change in the SUA will be offset because of the decrease in heating costs during summer months. The increase in income eligibility limits will expand the number of households eligible to receive benefits. The changes will not impact significantly on State and county welfare agencies administering the program, but will bring additional Federal funds into the State for those households not eligible to participate in this Federally funded program.

Full text of the emergency adoption and concurrent proposal follows (additions shown in boldface **thus**; deletions shown in brackets [thus]).

10:87-12.1 Income deduction table

TABLE
 Income Deductions

Standard Deduction	\$ 85.00
Child Care/Shelter Deduction	\$115.00
Uniform Telephone Allowance	[\$7.96] \$8.36
Standard Utility Allowance	[\$333.00] \$179.00

10:87-12.3 Maximum allowable net income standards

TABLE III

Household Size	Maximum Allowable Net Income
1	Maximum Allowable Income \$[360] 390
2	[475] 519
3	[590] 647
4	[705] 775
5	[820] 904
6	[935] 1032
7	[1050] 1160
8	[1165] 1289
9	[1280] 1418
10	[1395] 1547
Each additional member	[+ 115] + 129

10:87-12.4 Maximum allowable gross income standards

TABLE IV

Household Size	Maximum Allowable Gross Income
1	Maximum Allowable Income [467] \$507
2	[617] 674
3	[766] 841
4	[916] 1008
5	[1065] 1175
6	[1215] 1342
7	[1364] 1508
8	[1514] 1675
9	1842
10	2009
Each additional member	[+ 150] + 167

10:87-12.6 Monthly coupon allotment

(a) The formula for determining the monthly coupon allotment follows.

1. Benefit determination without the tables: To determine the benefit households shall receive:

- i.-iii. (No change.)
- iv. If the computation results in an allotment of \$1.00, \$3.00 or \$5.00, round up to \$2.00, \$4.00 or \$6.00, respectively **except when prorating the initial month's benefits. If prorating the initial month's benefits, the actual full month's allotment of \$1.00, \$3.00 or \$5.00 shall be used to prorate;**
- v. (No change.)

(a)

DIVISION OF PUBLIC WELFARE

**Medicaid Only Program
 New Eligibility Computation Amounts**

**Adopted Emergency Amendments and
 Concurrent Proposal: N.J.A.C. 10:94-5.4,
 5.5 and 5.6**

Emergency Amendment Adopted: June 24, 1982 by George J. Albanese, Commissioner, Department of Human Services.

Gubernatorial approval (see N.J.S.A. 52:14B-4(c)): June 30, 1982.

Emergency Amendment Filed: July 1, 1982 as R.1982 d.216.

Authority: N.J.S.A. 44:7-87 and Section 1902(a) of the Social Security Act.

Emergency Amendment Effective Date: July 1, 1982.
Emergency Amendment Expiration Date: August 30, 1982.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

G. Thomas Riti, Director
Division of Public Welfare
CN 716
Trenton, New Jersey 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for re-adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. The re-adopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The proposal is known as PRN 1982-283.

The agency emergency adoption and concurrent proposal follows:

Summary

These amendments align certain dollar amounts used to determine program eligibility for the Medicaid Only Program for the aged, blind, and disabled with those effective on July 1, 1982 applicable to the Supplemental Security Income (SSI) Program. This alignment is required by Section 1902(a) of the Social Security Act. The Medicaid "Cap" for persons in Title XIX facilities is set at 300% of the Federal SSI benefit.

Social Impact

The increase in standards and income computation amounts used in the eligibility process theoretically expands the population of potentially eligible persons; however, based on past experience, no increase in caseload because of this revision is anticipated. Specifically, while the increase in the Medicaid "Cap" expands the number of persons potentially eligible, the limited number of Medicaid beds available precludes an increase in the number of persons who would actually receive medical assistance under that standard.

Economic Impact

Past experience with such increases has proven that there will be no or insignificant economic impact on the public or State government caused by this amendment.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]).

10:94-5.4 Includable income
(a) (No change.)
1.-11. (No change.)

12. Support and maintenance furnished in-kind (community cases): Support and maintenance encompasses the provision to an individual of his/her needs for food, clothing, and shelter at no cost or at a reduced value. Persons determined to be "living in household of another" in accordance with N.J.A.C. 10:94-5.6 shall not be considered to be receiving in-kind support and maintenance as the income eligibility levels have been reduced in recognition of such receipt. Persons not determined to be "living in household of another" who receive in-kind support and maintenance shall be considered to have unearned income in the amount of:

\$[108.33]**114.77** for an individual

\$[152.33]**162.13** for a couple
i. (No change.)
13. (No change.)
(b) (No change.)

10:94-5.5 Deeming of income
(a)-(c) (No change.)

(d) A table for deeming computation amounts follows:

TABLE A
Deeming Computation Amounts

1. Living allowance for each ineligible child	\$[132.30] 142.15	
2. Remaining income amount	Head of Household \$[132.35] 142.15	Receiving Support and Maintenance \$[88.24] 94.77
3. Spouse to Spouse Deeming-Eligibility Levels		
a. Residential Health Care	\$[540.80] 570.20	
b. Eligible individual living alone with ineligible spouse	\$[553.80] 587.60	
c. Living alone or with others	\$[412.80] 451.40	
d. Living in household of another	\$[302.70] 322.33	
4. Parental Allowance-Deeming to Child(ren)		
Remaining income is:	1 Parent	Parent & Spouse of Parent
a. Earned only	\$[529.40] 568.60	\$[794.00] 852.80
b. Unearned only	\$[264.70] 284.30	\$[397.00] 426.40
c. Both earned and unearned	\$[264.70] 284.30	\$[397.00] 426.40

10:94-5.6 Income eligibility standards
(a)-(b) (No change.)
(c) (No change.)
1.-4. (No change.)
5.

TABLE B

Variations in Living Arrangements	Medicaid Eligibility Income Standards	
	Individual	Couple
I. Residential Health Care Facility	\$[408.50] 428.10	\$[804.50] 843.70
II. Living Alone or with others	[300.50] \$309.30	[421.50] \$445.50
III. Living Alone with Ineligible Spouse	[421.50]	

	445.50	
[IV. Living with Others]	[280.50]	[414.50]
[V.]IV. Living in Household of Another	[214.50]	[351.50]
	\$227.60	\$371.10
[V.]IV. Title XIX Approved Facility:	[794.10†]	
	\$852.90†	

Includes persons in acute general hospitals, skilled nursing facilities, intermediate care facilities (level A, B, and INCFMR) and licensed special hospitals (Class A, B, C) and Title XIX psychiatric hospitals (for persons under age 21 and age 65 and over) or a combination of such facilities for a full calendar month.

†Gross income (I.E., income prior to any income exclusions) is applied to this Medicaid "Cap".

(d)-(g) (No change.)

(a)

DIVISION OF PUBLIC WELFARE

Service Programs For Aged, Blind or Disabled SSI Payment Levels

Adopted Emergency Amendments and Concurrent Proposal: N.J.A.C. 10:100-1.23

Emergency Amendment Adopted: June 24, 1982 by George J. Albanese, Commissioner, Department of Human Services.

Gubernatorial Approval (see N.J.S.A. 52:14B-4(c)): June 30, 1982.

Emergency Amendment Filed: July 1, 1982 as R.1982 d.215.

Authority: N.J.S.A. 44:7-87 and Section 1618(a) of the Social Security Act.

Emergency Amendment Effective Date: July 1, 1982.

Emergency Amendment Expiration Date: August 30, 1982.

Interested persons may submit in writing, data, views or arguments relevant to the proposal on or before August 18, 1982. These submissions, and any inquiries about submissions and responses, should be addressed to:

G. Thomas Riti, Director
 Division of Public Welfare
 CN 716
 Trenton, New Jersey 08625

This amendment was adopted on an emergency basis and became effective upon acceptance for filing by the Office of Administrative

Law (see N.J.S.A. 52:14B-4(c) as implemented by N.J.A.C. 1:30-4.4). Concurrently, the provisions of this emergency amendment are being proposed for re-adoption in compliance with the normal rulemaking requirements of the Administrative Procedure Act N.J.S.A. 52:14B-1 et seq. The re-adopted rule becomes effective upon acceptance for filing by the Office of Administrative Law (see N.J.A.C. 1:30-4.4(d)).

The proposal is known as PRN 1982-282.

The agency emergency adoption and concurrent proposal follows:

Full text of the changes between proposal and adoption follows (additions to the proposal shown in boldface **thus**; deletions from proposal shown in brackets [thus]).

Summary

Section 1618(a) of the Social Security Act requires that the State maintain supplemental payment levels in the SSI Program. This revision to the N.J.A.C. reflects new payment levels in the Program, including the Federal cost-of-living increase effective July 1, 1982. The revision to the living arrangement categories reflects the Federal Court decision in **Acevedo v. Harris**.

Social Impact

This revision provides an increase in payment levels to eligible low income aged, blind, and disabled persons and therefore enables them to maintain a measure of parity with the increased cost-of-living.

Economic Impact

The increase in State expenditures over existing levels is estimated to be \$240,000. Increased cost to county government is estimated at \$80,000.

10:100-1.23 SSI payment schedule

(a) The following is the SSI payment schedule and related levels:

New Jersey Supplemental Security Income Payment Levels

Living Arrangement Categories	Payment Level
	[7/1/81]7/1/82

Eligible Couple Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence	[\$50/397.00†] \$50/426.40†
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Residential Health Care Facilities and certain residential facilities for children and adults	[\$804.50] \$843.70
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[Living Alone, or in a business arrangement, or in a commercial establishment or living with others but not member of a "household", or a member of a household with ownership or rental responsibility and paying more than their pro rata share of household expenses]	[\$421.50]
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[Living with Others (Includes

householder receiving pro rata share or more of "household" expenses from other members of the household who have no ownership or rental responsibility)] [§414.50]

Living Alone or with Others \$445.50

Living in Household of Another, Receiving Support and Maintenance [§351.50] **\$371.10**

Eligible Individual

Licensed Medical Facility (Hospital, Skilled Nursing Facility or Intermediate Care Facility) Publicly operated community residence of 16 or less [§25/264.70†] **\$25/284.30†**

Residential [h]Health Care Facilities and certain residential facilities for children and adults [§408.50] **\$428.10**

[Living Alone, or in a business arrangement, or in a commercial establishment, or living with others but not member of a "household" or a member of a household with ownership or rental responsibility and paying more than his pro rata share of household expenses.] [§300.50]

Living Alone or with Others

Living with Ineligible Spouse (No other individuals in household) [§421.50] **\$445.50**

[Living with others (Includes householder receiving pro rata share or more of "household" expenses from other members of the household who have no ownership or rental responsibility)] [§280.50]

Living in Household of Another, Receiving Support and Maintenance [§214.50] **\$227.60**

†The lower figure applies when Medicaid payments with respect to an individual equal an amount over 50 percent of the cost of services provided in a month.

(a)

DIVISION OF YOUTH AND FAMILY SERVICES

Children's Shelter Facilities and Homes Manual of Standards

Adopted Amendments: N.J.A.C. 10:124
Adopted Repeal: N.J.A.C. 10:130

Proposed: February 1, 1982 at 14 N.J.R. 125(a).
Adopted: June 29, 1982 by George J. Albanese,
Commissioner, Department of Human Services.

Filed: July 6, 1982 as R.1982 d.222, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 30:1-14 and 15, 30:4C-4 and 2A:4-42 et seq.

Effective Date: July 19, 1982.
Operative Date: September 1, 1982.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface **thus**; deletions from proposal shown in brackets [thus]).

- 10:124-1.1 Legal authority
 - (a) This chapter is promulgated pursuant to N.J.S.A. 30:1-[15] **14 and 15**, N.J.S.A. 30:4C-4 and N.J.S.A. 2A:4-42 et seq.
 - (b) (No change from proposal.)
 - (c) Under N.J.S.A. 2A:4-42 et seq., the Department of Human Services is mandated to inspect, evaluate and "specify" (approve) shelter facilities and/or homes that:
 - 1. (No change from proposal.)
 - 2. Provide board, lodging or care primarily for adjudicated juvenile status offenders, as defined by State law, who are awaiting court disposition or post-disposition action.
 - (d)-(g) (No change from proposal.)

10:124-1.2 Definitions
The following words and terms, when used in this chapter, have the following meanings.

"Children's shelter home" or "shelter home" means any public or private residence that provides 24-hour-a-day residential care to five or fewer children in a non-physically restrictive environment for a period of time usually not exceeding 30 days. **Shelter homes shall not include the Division of Youth and Family Services emergency foster shelter homes.**

- 10:124-1.3 Population served by shelter facilities and homes
 - (a) A shelter facility or home [shall] provides care for children who are:
 - 1. Abused; **and/or**
 - 2. Abandoned; **and/or**
 - 3. Dependent; **and/or**
 - 4. Neglected; **and/or**
 - 5. In need of temporary emergency care; **and/or**
 - 6.-7. (No change from proposal.)

- 10:124-1.4 Capacity and location of shelter facilities and homes
 - (a) Capacity:
 - 1. (No change from proposal.)
 - 2. Shelter home: A home which provides care for a maximum of five children[.], **including the shelter home parent's children.**
 - (b) (No change from proposal.)

- 10:124-1.5 Approval requirements
 - (a)-(b) (No change from proposal.)
 - (c) If a shelter facility or home meets all applicable provisions of this chapter, **the Bureau shall issue** a letter of approval. [shall be issued by the Bureau.]
 - (d)-(g) (No change from proposal.)
 - (h) An authorized representative of the Bureau may at any time **make an announced or unannounced** visit and inspect the shelter facility or home and/or review files, reports or records to determine its compliance with this chapter and/or to investigate a complaint.
 - (i) (No change from proposal.)

- 10:124-1.7 Public access to Bureau records for [children's] shelter facilities and homes
(a)-(b) (No change from proposal.)

10:124-2.1 Statement of purpose

A shelter facility or a shelter home coordinator shall maintain on file a written statement of purpose for the shelter facility or home(s). The statement of purpose shall be reviewed by the shelter facility staff members or shelter home parents and shall include a description of policies, purpose(s), objectives, services offered, eligibility requirements and financial agreements for the care and treatment of children, in accordance with provisions of this chapter.

10:124-2.2 Intake and admissions procedures

(a) Each child placed in a shelter facility or home shall receive a medical examination within 72 hours of placement, unless the child received a medical examination within 30 days prior to placement[.] and a written copy of the results of such examination is provided and kept on file. However, when the shelter facility or shelter home parent suspects that a child is ill or carrying a contagious disease, s/he shall be examined immediately upon admission.

(b) (No change from proposal.)

(c) Upon the child's admission, the shelter facility or the shelter home coordinator shall obtain pertinent factual and identifying information including, as a minimum, the following:

- 1.-2. (No change from proposal.)
3. Name, address, phone number of the father, mother, foster parent(s) or legal guardian(s), if different from above;
- 4.-7. (No change from proposal.)
8. Name of the placing agency, if any [, authorizing the child's placement];
- 9.-10. (No change from proposal.)

11. Child's medical history, chronic conditions, past serious illnesses, allergies, special diet[; and].

[12. Whenever a child is in need of emergency medical or surgical care, a consent form for such care shall be signed by the parent(s).]

[(d) Upon admission to a shelter facility or home, any potentially dangerous property in the child's possession shall be removed; however, the child shall not be "frisked" or "strip-searched" by a staff member(s) or shelter home parent(s). A child suspected of being in possession of a weapon shall be searched by a law enforcement officer.]

[(e)](d) Following admission[.] to a shelter facility or home, each child shall be:

- 1.-5. (No change from proposal.)

10:124-2.3 Reporting requirements

(a) The shelter facility or shelter home coordinator shall notify the Bureau within 24 hours after any of the following changes and events:

- 1.-2. (No change from proposal.)
3. [Serious d]Damage to the premises of the shelter facility or home caused by fire, accident or the elements; or
4. [Serious i]Injury requiring hospitalization or action(s) resulting in the death of a child which occurred while the child was on the premises of the shelter facility or home or while in the care of shelter facility staff member(s) or shelter home parent(s).

(b) The shelter facility or shelter home coordinator shall notify the Bureau in writing at least 30 days prior to any of the following proposed changes and events:

1. (No change from proposal.)
2. Name or administration of the shelter facility; [or]
3. Administrative[, social service, medical or child care] staff members of the shelter facility[.]; or
4. Proposed change in the capacity of the shelter facility or home.

(c) A shelter facility or home shall notify the Division immediately if it is believed that a child has been or is being

abused or neglected by staff, residents or any other person, as required by the Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13 and 8.14). Copies of the law and information about it are available from the Division, upon request.

10:124-2.4 Records

(a) General requirements for shelter facilities and homes:

1.-3. (No change from proposal.)

(b) Children's records for shelter facilities and homes: The shelter facility or shelter home coordinator shall keep on file a written record for each child, which shall be retained for at least one year following the discharge of the child. The record shall include:

1.-3. (No change from proposal.)

4. Documentation regarding the opening of a child's mail at a shelter facility, as specified in N.J.A.C. 10:124-[12(c)] 4.13(c).

(c) Staff records for shelter facilities:

1. The shelter facility shall keep on file a written record of every staff member working at the shelter facility.

2.-3. (No change from proposal.)

(d) Administrative records for shelter facilities: Every shelter facility shall keep on file for at least one year the following written records:

1. (No change from proposal.)

2. A copy of the shelter facility's insurance coverage including:

i. (No change from proposal.)

ii. Fire insurance[.];

3. Transportation records, if the shelter facility provides transportation, as specified in N.J.A.C. 10:124-6.[1(d)]4;

4.-6. (No change from proposal.)

7. A record of in-service training programs for staff members, as specified in N.J.A.C. 10:124-3.6(b);

[7.]8. (No change in text from proposal.)

[8.]9. A medication log book, as specified in N.J.A.C. 10:124-4.1[(e)](d);

[9.]10. [A behavior management room log book, as specified in N.J.A.C. 10:124-4.10(g)4;] A record of signed parental consent or a record of the attempt to obtain such consent when a child is in need of medical or surgical care;

[10.]11. A record of policies and procedures regarding discipline and control, as specified in N.J.A.C. 10:124-[10(a)]4.11(a);

[11.]12. A record of all incidents/accidents, recorded on an incident/accident report form, [including] explaining all details of the incident/accident and any action(s) taken by the staff administration;

[12.]13. A record of a listing of approved visitors for each child, as specified in N.J.A.C. 10:124-4.1[1]2(c);

[13.]14. (No change in text from proposal.)

15. A record of scheduled recreational activities, as specified in N.J.A.C. 10:124-4.7(a).

[14.]16. A record of menus of food served to the children for a period of not less than the past 30 days; [and]

[15.]17. A record of signed parental consent for a child participating in fund raising, publicity, photographing and audio or audiovisual activities related to the shelter facility[.]; and

18. A list of the current membership of the governing body/citizens board, as specified in N.J.A.C. 10:124-3.7(d).

(e) Shelter home coordinator administrative records: The shelter home coordinator shall keep on file for at least one year the following:

- 1.-4. (No change from proposal.)

10:124-3.1 Basic information

(a) (No change from proposal.)

(b) A shelter facility staff member, shelter home coordinator or shelter home parent's following action(s) shall constitute grounds for possible suspension or termination from the job:

1.-3. (No change from proposal.)

(c) Every shelter facility shall have:

1. An administrator who shall be responsible for the actual

operation and management of the shelter facility[;]. **S/he shall also designate staff to be in charge at all times during his/her absence;**

2. (No change from proposal.)

3. Licensed medical, licensed dental and psychological personnel[,] on either a staff or consultation basis, **including community providers**, who shall be responsible for insuring that the medical, dental and psychological needs of the children are met;

4. Child care workers who shall be responsible for providing daily care and supervision of the children[;]. **Child care workers shall not be guards and shall be oriented and trained to work with children in a non-coercive manner;**

5.-6. (No change from proposal.)

(d) A shelter facility may utilize volunteers and/or college students provided that the following requirements are met:

1. (No change from proposal.)

2. A volunteer **and/or college student** may serve in a staff position provided that s/he:

i. (No change from proposal.)

ii. Signs a statement agreeing to meet **and perform** the specific duties and responsibilities of the position; and

iii. Has the time necessary to serve in the position on a regular basis[; and].

[3. A college student may be utilized to supplement and enhance program services but shall not serve in a staff position.]

10:124-3.2 Health requirements for shelter facility staff

(a) Tuberculin testing requirements:

1. Prior to or upon [employment] **working for or with a shelter facility**, each staff member [of a shelter facility] who comes in contact with the children for at least one full day a week shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin and submit to the shelter facility written proof of the results of the test.

2. If the Mantoux tuberculin test result is insignificant (0 to 9 mm of induration), no further testing shall be required. The Bureau [of] or shelter facility shall have the authority at any time in the future to require a staff member to retake the Mantoux tuberculin test, if there is reason to believe or suspect that the staff member may have contracted tuberculosis.

3. (No change from proposal.)

4. Any [person] **staff member** who fails to submit to or to receive satisfactory results from the tuberculin testing requirements, as described in (a)1 through 3 above, shall be prohibited from having contact with the children at the shelter facility.

(b) Prior to [employment] **working for or with a shelter facility**, and at least once every three years thereafter, each staff member [of a shelter facility] who comes in contact with the children for at least **the equivalent of** one full day a week shall submit a written statement from a physician that s/he is in good health and free from chronic or recurrent communicable disease. The initial statement shall be based on an examination conducted within the six months immediately preceding such person's association with the shelter facility.

(c) (No change from proposal.)

10:124-3.3 Qualifications for shelter facility staff

(a) Administrator: The administrator of the shelter facility shall:

1. (No change from proposal.)

2. Have a master's degree from an accredited graduate school in one of the areas of study in the human services field, and two years of professional experience in the human services field, one year of which shall have been in a supervisory or administrative position; or[;]

3. (No change from proposal.)

(b) (No change from proposal.)

(c) Child care staff: All child care workers of a shelter facility shall:

1. Have a bachelor's **or associate** degree from an accredited college or university; or

2. Have a high school or high school equivalency diploma and [at least] one year of work experience involving the supervision of children in the human services field; or

3. (No change from proposal.)

10:124-3.4 Qualifications for shelter home coordinator and shelter home parent

(a) (No change from proposal.)

(b) Shelter home parent: A shelter home parent shall:

1. Be financially [st]able to provide food, shelter and clothing for the shelter home family;

2.-5. (No change from proposal.)

10:124-3.5 Staff/child ratios for shelter facilities

(a) A minimum of two staff members shall be on duty at the shelter facility when children are present[;], **except during sleeping hours when the shelter facility shall meet the requirements as specified in (b)1ii below.**

(b) Each shelter facility shall provide minimum staff/child ratios based on the number of children in residence at the shelter facility as stated below:

1. (No change from proposal.)

ii. During sleeping hours, [there shall be a minimum of two child care workers on duty at the shelter facility.] **shelter facilities with an average daily population of three or fewer children shall have a minimum of one awake child care worker on duty. Shelter facilities with an average daily population of more than three children shall have a minimum of two child care workers**, one of whom shall be awake and responsible for the supervision of the children.

2. Social services:

i. (No change from proposal.)

ii. Shelter facilities with **a capacity of 12 or fewer children** [in residence] may provide for [the] **social services** [of not more than two social service workers] on a part-time basis. The total of social service hours provided shall amount to not less than 20 hours of service per week.

iii. In shelter facilities with a capacity of 12 or fewer children, the administrator may serve as a part-time social service worker providing s/he possesses the qualifications for the position.

10:124-3.6 Staff development and evaluation for shelter facilities

(a) The shelter facility shall have a written annual [staff] evaluation [and on-going in-service training programs for all staff members.] **for each staff member.**

(b) The shelter facility shall have continuing in-service training programs for all staff members. A record of such programs shall be kept on file.

Renumber (b) and (c) as (c) and (d).

10:124-3.7 Governing body/citizens board for shelter facilities

(a) (No change from proposal.)

(b) A shelter facility staff member shall not serve as a **voting** member of the governing body/citizens board for that shelter facility.

(c) (No change from proposal.)

(d) The shelter facility shall keep on file a list of the current membership of the governing body/citizens board.

10:124-4.1 Health

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

[(d) Non-prescription medication shall be administered to a child by shelter facility staff members or shelter home parents only when authorized by a physician or nurse.]

Renumber (e)-(h) as (d)-(g).

[(i)](h) The shelter facility or home shall [furnish or arrange for the provision of] **provide** personal hygiene items for all children.

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[(j)](i) (No change in text from proposal.)

10:124-4.2 Clothing and personal belongings

(a) The shelter facility or shelter home coordinator shall insure that each child in care has adequate, clean, well-fitting and attractive clothing as required for health, comfort and physical well-being and as appropriate to age, [sex] **gender**, individual needs, community standards and season.

(b)-(c) (No change from proposal.)

10:124-4.3 Food and nutrition requirements for shelter facilities and homes

(a) The shelter facility or home shall provide or arrange for the provision of three nutritious meals a day (breakfast, lunch and dinner) and snacks[, as selected] from food that is **selected**, stored, prepared and served in a sanitary and palatable manner.

(b) [Meals shall be at regularly scheduled times but there shall not be more than 14 hours between the evening meal and the morning meal.] **The shelter facility or home shall not force-feed or otherwise coerce a child to eat against his/her will, except by order of a physician.**

(c) (No change from proposal.)

(d) **Individualized diets and feeding schedules that are submitted to the shelter facility or home by the child's physician(s) shall be followed.**

10:124-4.4 Rest, bedroom and sleep

(a) Space requirements for shelter facilities:

1. (No change from proposal.)

2. Any bedroom containing single beds and occupied by more than one child shall provide a minimum of 70 square feet of floor space for the first child and 50 square feet of floor space for each additional child, including space [which] **that** is occupied by furniture.

3. Any bedroom containing bunk beds or any combination of single beds and bunk beds shall provide 50 square feet of floor space for each child, including space [which] **that** is occupied by furniture.

4.-5. (No change from proposal.)

(b) (No change from proposal.)

10:124-4.6 Social services requirements for shelter facilities

(a) **The shelter facility shall have a social services program that includes such services as:**

1. **Individual and/or group counseling;**
2. **Coordination of contacts between the child and his/her family; and**
3. **Liaison services with community provider agencies.**

10:124-4.[6]7 Recreation

(a) The shelter facility shall provide a balanced recreational program, including athletics, social and leisure time activities[.] **and shall keep on file a written monthly schedule of recreational activities.**

(b)-(c) (No change from proposal.)

10:124-4.[7]8 Religion requirements for shelter facilities and homes

(a) Every child shall be afforded the opportunity to participate in religious activities and services in accordance with his/her own faith [.] **or with that of his/her parent(s).**

(b) (No change from proposal.)

(c) [Transportation] **The shelter facility or home shall [be] arrange[d] for or directly provide[d] transportation for any child who wishes to attend religious activities and services.**

(d) [Children may be encouraged] **The shelter facility or home shall not coerce or require children to participate in religious activities [but they shall not be coerced or required to do so.] but may encourage them to do so.**

10:124-4.[8]9 Work and employment

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

10:124-4.[9]10 Routines and house rules for shelter facilities

(No change from proposal.)

10:124-4.[10]11 Discipline and control

(a)-(e) (No change from proposal.)

(f) A shelter facility [may] **shall not** isolate a child [who poses a danger to self or others or is destructive of property] in a behavior management room. [Such a room may only be used when staff members' efforts to bring the child's behavior under control are unsuccessful.

(g) A shelter facility may use a behavior management room, provided that:

1. The child shall not remain in the room for more than two consecutive hours or for more than four hours in a 24 hour period;

2. The behavior management room shall be unlocked;

3. A staff member shall have visual contact with a child placed in a behavior management room at all times; and

4. The use of a behavior management room shall be recorded in a behavior management room log book, which shall contain the following information:

i. The name of the child placed in the room and the name of the staff member placing the child;

ii. The date and time the child was placed in and permitted to leave the room;

iii. The reason for placement; and

iv. The emotional state/attitude of the child at the time of the placement; and

5. In addition to maintaining a behavior management log book an incident/accident report form shall be completed for each use of a behavior management room.]

10:124-4.[11]12 Visitation

(a) [A] **The shelter facility shall establish regular[ly scheduled] visiting hours for approved visitors. In addition, [to the regularly scheduled hours] the shelter facility shall make provision for visitation [shall be permitted] for approved visitors unable to visit [the shelter facility] during the regular visiting hours.**

(b)-(d) (No change from proposal.)

10:124-4.[12]13 Mail and telephone communications

(a) (No change from proposal.)

(b) Incoming and outgoing mail for or from any child at the shelter facility or home shall not be **withheld or** read by any shelter facility staff member or shelter home parent.

(c) A shelter facility staff member may open parcels and letters **only if s/he [suspected of] suspects that the contents contain[ing] contraband [provided it is done] and then only** in the presence of the child **sending or receiving the parcel or letter** and another staff member. A record shall be maintained in the child's file documenting the specific reason why [the] **such** mail was opened **and the results.** The record shall be dated and signed by the shelter facility administrator or his/her designate.

(d)-(f) (No change from proposal.)

(g) **Telephone calls made or received by a child shall not be monitored.**

10:124-4.14 Firearms/weapon prohibition

(a) **The shelter facility shall not maintain any firearm, chemical or other weapon within or on the grounds of the shelter facility.**

(b) **The shelter facility shall prohibit any staff member or child to possess any firearm, chemical or other weapon within or on the grounds of the shelter facility.**

(c) **Any firearm, chemical or other weapon maintained in the shelter home shall be locked and stored in a location inaccessible to the children in care.**

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10:124-4.15 Search and seizure requirements for shelter facilities

(a) Search procedure for a weapon(s):

1. A shelter facility staff member shall be permitted to frisk search (surface search of outer clothing) a child only when there is reasonable suspicion that the child is in possession of a weapon(s).

2. A shelter facility staff member shall be prohibited from reaching into a child's pockets unless the frisk search indicates that there is reasonable belief that the child is in possession of a weapon(s).

3. The shelter facility shall complete and keep on file an incident/accident report for every incident involving the frisk searching of a child.

(b) Search procedure for illegal drugs or contraband:

1. A shelter facility staff member shall be prohibited from frisk searching a child who is suspected of possessing illegal drugs or contraband.

2. A shelter facility staff member who has reasonable suspicion that a child is in possession of illegal drugs or contraband shall request that the child voluntarily empty a garment pocket(s), a bag, a purse or other such items within a child's possession or control. If the child complies with the request, the shelter facility staff member shall inspect all items that are in plain view. The staff member shall be prohibited from conducting an exploratory search of another garment pocket(s) or other compartment(s) of a bag or a purse without the voluntary permission of the child.

3. If a child refuses a voluntary request to empty a garment pocket(s), a bag, a purse or other such item, the shelter facility staff member shall summon a law enforcement officer to conduct a lawful search of the child.

(c) A shelter facility staff member shall be prohibited from strip searching a child for any reason.

10:124-5.1 [Local government code enforcement approval for shelter facilities] Local government physical facility requirements for shelter facilities

[(a) Shelter facilities in existence and operation as such before or on January 1, 1977 shall comply with the following:

1. Any shelter facility in existence and operation as such before or on January 1, 1977, shall submit to the Bureau a copy of the building's certificate of continued occupancy issued by the municipality in which it is located, stating that the building is approved to operate as a shelter facility in accordance with local government code requirements in effect prior to implementation of N.J.A.C. 5:23, the State Uniform Construction Code (hereinafter referred to as the UCC), on January 1, 1977.

2. In addition to (a)1 above, the shelter facility shall submit a copy of the municipal or county health inspection approval for the building, based on an inspection conducted within the preceding 12 months. The local or county health official shall certify that the facility meets all local or county health codes and Chapter 12 of the State Sanitary Code (N.J.A.C. 8:24-1), and poses no health hazard to the children served.

3. In lieu of submitting a certificate of continued occupancy, the shelter facility shall submit to the Bureau a copy of municipal fire and building inspection approvals, based upon inspections conducted within the preceding 12 months.

4. Prior to every subsequent approval by the Bureau, any shelter facility that had previously submitted the building's certificate of continued occupancy, shall be required to submit only a copy of the current local or county health inspection approval, as specified in (a)2 above.

5. If the municipality in which the shelter facility is located has enacted an ordinance governing the maintenance of buildings, including shelter facilities, the shelter facility shall submit to the Bureau a statement from the municipal enforcing agency certifying that the shelter facility is in compliance with such ordinance.

(b) Shelter facilities beginning operation as such after January 1, 1977 shall comply with the following:

1. Any shelter facility that seeks to begin operation as such after January 1, 1977[,] shall submit to the Bureau a copy of the building's certificate of occupancy issued by the municipality in which it is located, stating that the building is approved to operate as a shelter facility in accordance with provisions of the UCC.

2. The shelter facility shall submit to the Bureau a copy of the municipal or county health inspection approval for the building, as specified in (a)2 above.

3. Prior to every subsequent approval by the Bureau, the shelter facility shall submit only a copy of the current local or county health inspection approval.

4. If the municipality in which the shelter facility is located has enacted an ordinance governing the maintenance of buildings, including shelter facilities, the shelter facility shall submit to the Bureau a statement from the municipal enforcing agency certifying that the shelter facility is in compliance with such ordinance.

(c) The shelter facility shall submit to the Bureau a copy of a new certificate of occupancy issued by the municipality in which it is located, reflecting the shelter facility's compliance with the provisions of the UCC upon completion of the following:

1. Changes the building's use group to one other than the one prescribed on its original certificate of occupancy; or

2. Makes a major alteration or renovation, as defined by the UCC, of the building or premises in which the shelter facility is located; or

3. Increases the floor area or the number of stories to the building or premises in which the shelter facility is located.]

(a) An applicant seeking approval to open and operate a shelter facility for the first time as such shall:

1. For newly constructed buildings, buildings whose construction code use group classification would change from that which it had been or existing buildings that require major alteration or renovation, submit to the Bureau a copy of the building's certificate of occupancy issued by the municipality in which it is located, reflecting the shelter facility's compliance with the provisions of the State Uniform Construction Code (N.J.A.C. 5:23), hereinafter referred to as UCC, for the following use groups:

i. Use group R-1 for buildings accommodating more than 20 residents; or

ii. Use group R-2 for buildings accommodating from six to 20 residents;

2. For buildings not newly constructed whose construction code use group classification is already R-1 or R-2 and which has not had major alterations or renovations to make it suitable for use as a shelter, submit to the Bureau a copy of the building's certificate of occupancy issued by the municipality in which it is located, at the time the building was originally constructed or approved for use in the R-1 or R-2 use groups, or a certificate of continued occupancy issued by the municipality in which it is located, reflecting the shelter facility's compliance with the municipality's construction code requirements that were in effect at the time it was originally constructed or converted to use group R-1 or R-2; and

3. Submit to the Bureau a copy of the municipal or county health inspection approval for the building, based on an inspection conducted within the preceding 12 months. The local or county health official shall certify that the facility meets all local or county health codes and Chapter 12 of the State Sanitary Code (N.J.A.C. 8:24-1), and poses no health hazard to the children served.

(b) An applicant seeking renewal of the approval to operate a shelter facility shall:

1. Submit to the Bureau a copy of the municipal or county health inspection approval for the building, as specified in N.J.A.C. 10:124-5.1(a)3; and

2. If the municipality in which the shelter facility is located has

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enacted an ordinance governing the maintenance of buildings, including shelter facilities, submit to the Bureau a statement from the municipal enforcing agency certifying that the shelter facility is in compliance with such ordinance.

(c) The shelter facility shall submit to the Bureau a copy of a new certificate of occupancy issued by the municipality in which it is located, reflecting the shelter facility's compliance with the provisions of the UCC whenever it takes any of the following actions:

1. Changing the building's use group to one other than the one prescribed on its original certificate of occupancy; or

2. Making a major alteration or renovation, as defined by the UCC, of the building or premises in which the shelter facility is located; or

3. Increasing the floor area or the number of stories to the building or premises in which the shelter facility is located.

10:124-5.2 State government physical facility requirements for shelter facilities

(a) (No change from proposal.)

(b) Shelter[s] facilities shall be classified according to the type of construction designated by the UCC.

(c) Limitations on the use of upper and lower levels:

1. (No change from proposal.)

2. In UCC-designated buildings of Type [III]3 and Type [IV]4A construction, children shall not be permitted above the third floor.

3. In UCC-designated buildings of Type 4B construction, children shall not be permitted above the second floor.

(d) Exit requirements:

1. (No change from proposal.)

2. Doors:

i. The exit access travel distance in a room shall not be greater than [50]100 feet. (Buildings equipped with a fire suppression system may have an exit access travel distance of [100]150 feet.)

ii.-iv. (No change from proposal.)

3. Stairways:

i.-ii. (No change from proposal.)

iii. Exterior stairways:

(1) Exterior stairways conforming to the interior stairway requirements, as noted in (d)3ii above, shall be acceptable as required exits in facilities not exceeding [three] five stories in height.

(2) (No change from proposal.)

iv. (No change from proposal.)

4. (No change from proposal.)

(e) Fire protection:

1.-3. (No change from proposal.)

[4. Boilers carrying more than 15 lbs. of pressure per square inch, and having a rating in excess of 100 square feet of heat transfer surface, shall be enclosed in a minimum of a two hour fire-rated material.]

Renumber 5.-10. as 4.-9.

[11.]10. Commercial stoves, if utilized, shall have an automatic extinguishing system installed [to comply with the requirements of the National Fire Protection Association (N.F.P.A. Number 96)].

[12. All staff members shall be trained in the use and operation of the fire extinguishers.]

Renumber 13.-16. as 11.-14.

(f)-(h) (No change from proposal.)

(i) Heating:

1. (No change from proposal.)

[2. In the event that an existing heating unit needs replacement, the shelter facility shall install a new heating unit and shall insure that the heating capacity is calculated in accordance with the current edition of the American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHARE) guide and data book.]

(j)-(q) (No change from proposal.)

10:124-5.4 Life-safety requirements for shelter facilities and homes

(a) Emergency information: the shelter facility or home shall post in a prominent location written emergency information, including the following:

1.-5. (No change from proposal.)

6. The location of written authorization from parent(s) for [emergency] medical care for each child.

(b)-(c) (No change from proposal.)

(d) Fire/evacuation drills[:] and training

1.-2. (No change from proposal.)

3. The shelter facility staff members shall be trained in the use and operation of fire extinguishers.

[(e) Firearms/weapon prohibition:

1. The shelter facility shall not maintain any firearm, chemical or other weapon within or on the grounds of the shelter facility.

2. The shelter facility shall prohibit any staff member or child to possess any firearm, chemical or other weapon within or on the grounds of the shelter facility.

3. Any firearm, chemical or other weapon maintained in the shelter home shall be locked and stored in a location inaccessible to the children in care.]

[(f)](e) (No change in text from proposal.)

10:124-6.1 [General

(a)] Vehicle requirements[:]

[1.](a) (No change in text from proposal.)

[2.](b) (No change in text from proposal.)

[3.](c) (No change in text from proposal.)

10:124-6.2

[(b)] Driver requirements[:]

[1.](a) (No change in text from proposal.)

[2.](b) (No change in text from proposal.)

10:124-6.3

[(c)] Safety practices[:]

[1.](a) (No change in text from proposal.)

[2.](b) (No change in text from proposal.)

[3.](c) (No change in text from proposal.)

[4.](d) (No change in text from proposal.)

[5.](e) (No change in text from proposal.)

[6.](f) (No change in text from proposal.)

10:124-6.4

[(d)] Transportation records[:]

[1.](a) (No change in text from proposal.)

[2.](b) (No change in text from proposal.)

10:124-6.5

[(e)] Insurance[:]

[1.](a) (No change in text from proposal.)

[2.](b) If the shelter facility transportation services are provided by a private individual or firm under contract or other arrangement, the shelter facility shall maintain a file copy of the individual's or firm's insurance coverage in the amounts specified in [(e)1] (a) above and make a copy of such coverage available to the Bureau upon request.

10:124-6.[2]6 Special Regulations

(a) (No change in text from proposal.)

[(a)]1. (No change in text from proposal.)

[(b)]2. (No change in text from proposal.)

[(c)]3. (No change in text from proposal.)

LAW AND PUBLIC SAFETY

(a)

BOARD OF MEDICAL EXAMINERS

General Administrative Regulations Pronouncement of Death

Adopted Amendments: N.J.A.C. 13:35-6.5

Proposed: January 18, 1982 at 14 N.J.R. 90(a).

Adopted: March 10, 1982 by Board of Medical Examiners,
Edwin H. Albano, M.D., President.

Filed: June 30, 1982 as R.1982 d.214, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-3.5).

Authority: N.J.S.A. 45:9-2.

Effective Date: July 19, 1982.

Full text of the changes between proposal and adoption follows (additions to proposal shown in boldface with asterisks ***thus***; deletions from proposal shown in brackets with asterisks ***[thus]***).

13:35-6.5 Pronouncement of death [at a home medical or non-medical facility]

(a) The official pronouncement of a death is a medical determination and is ***[the]* *a*** primary responsibility of the decedent's attending physician or designated covering physician.

(b) A Certificate of Death shall be prepared and completed by a physician. The factual data set forth in the Certificate shall be based, to the greatest extent possible, upon the personal knowledge of the physician preparing the Certificate. The physician may, however, exercise reasonable professional judgment and incorporate in the Certificate factual assertions ascertained by another health care professional, as set forth below.

[(b)]*(c) Upon notification of an apparent death, the attending physician ***[(or designated covering physician)]*** shall proceed without inordinate delay to the location of the presumed decedent and shall make the proper determination and pronouncement of the death *** * [except that:]***

[(b)1.]* *(d) Where the apparent death has occurred outside a licensed hospital and the attending or covering physician has been notified but is unable to go to the location to make the determination and pronouncement, said physician may specify another physician or ***may arrange with*** a professional nurse (R.N.) or ***[an emergency medical technician or]* *a*** paramedic certified by the Board of Medical Examiners to attend the presumed decedent and make the determination and pronouncement. In every such instance, a written record *** * [(which may be contained within a police report)]***, shall be prepared describing the circumstances and identifying the physician and ***any other*** person designated ***as above*** to perform the death pronouncement responsibility. Such report shall be promptly communicated orally to the attending physician for use in preparation of the death certificate. A copy of the report shall be provided to the physician as soon as practicable.

[(b)2.]* *(e) Where the probable death has occurred outside a licensed hospital and the attending or covering physician is known but cannot be reached after exercise of reasonable diligence, or no attending physician is known, then any physician, professional nurse or certified emergency medical technician or paramedic may

proceed to the scene and make the determination and pronouncement of death. A written record shall be prepared as set forth in ***[(b)1]* *(d)*** above. Following pronouncement of death, the information shall be promptly communicated to the physician for preparation of the death certificate and a copy of the report provided as soon as practicable. If no attending physician is known, the death shall be immediately reported to the County Medical Examiner.

Re-number (b)3, (c) and (d) as (f), (g) and (h).

[(c)]* *(i) In cases of death within the jurisdiction of the county medical examiner, the examiner shall without inordinate delay require the proper and established means for the determination and pronouncement of death ***[as set forth in (b) above]***, and shall arrange for the removal of the body and completion of the death certificate.

[(f)]* *(j) Any violation of the foregoing rule by a licensee or by any person, association or corporation may be considered as the basis for disciplinary proceedings or other sanctions as permitted by law pursuant to N.J.S.A. 45:1-14 et seq., ***and*** 45:9-1 et seq.

(k) Nothing contained in this section shall be deemed to impose an obligation upon any person not licensed by the Board of Medical Examiners to pronounce death.

(b)

ATTORNEY GENERAL

Plain Language Fee for Contract Review

Adopted New Rule: N.J.A.C. 13:45A-18.1

Proposed: May 17, 1982 at 14 N.J.R. 464(a).

Adopted: July 2, 1982 by Irwin I. Kimmelman, Attorney
General of the State of New Jersey.

Filed: July 6, 1982 as R.1982 d.221, **without change.**

Authority: N.J.S.A. 56:12-8(f).

Effective Date: July 19, 1982.

MISCELLANEOUS NOTICES

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Notice to Our Readers

Beginning with the September 7, 1982 Register, the agency's reasons for any changes to a proposed rule made upon adoption of the rule will appear as part of the notice of changes and adoption. A summary by the agency of comments received with respect to the proposal and of its responses to those comments will also appear with the notice of adoption.

The publication of this material is in compliance with N.J.S.A. 52:14B-4(a)(4), as implemented by N.J.A.C. 1:30-4.1(a)5 and 6.

ENVIRONMENTAL PROTECTION

(b)

THE COMMISSIONER

State Certifications of Draft NPDES Permits

Public Notice

Robert E. Hughey, Commissioner of the Department of Environmental Protection, pursuant to the "New Jersey Water Pollution Control Act," N.J.S.A. 58:10A-1 et seq., is authorized to assess compliance of a surface water discharge with State law pertaining to discharges to the waters of the State. The Department is requested by the United States Environmental Protection Agency, as required by section 401 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., to certify that a discharge, as described in a draft National Pollutant Discharge Elimination System permit, will not violate the requirements of State law.

The Department publishes public notice of certifications in the DEP Bulletin. Copies of the Bulletin may be obtained by calling (609) 292-3178 or writing to the Documents Distribution Center, P.O. Box 1390, Trenton, New Jersey 08625.

INDEX OF PROPOSED RULES

The *Index of Proposed Rules* contains rules which have been proposed in the New Jersey Register between July 9, 1981 and July 6, 1982, and which have not been adopted and filed by July 6, 1982. The index does not contain rules proposed in this Register and listed in the *Table of Rules in This Issue*. These proposals will appear in the next *Index of Proposed Rules*.

A proposed rule listed in this index may be adopted no later than one year from the date the proposal was originally published in the Register. Failure to timely adopt the proposed rule requires the proposing agency to re-submit the proposal and to comply with the notice and opportunity-to-be-heard requirements of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.) as implemented by the Rules for Agency Rulemaking of the Office of Administrative Law (N.J.A.C. 1:30).

The *Index of Proposed Rules* appears in the second issue of each month, complementing the *Index of Adopted Rules* which

appears in the first Register of each month. Together, these indices make available for a subscriber to the Code and Register all legally effective rules, and enable the subscriber to keep track of all State agency rulemaking activity from the initial proposal through final promulgation.

The proposed rules are listed below in order of their Code citation. Accompanying the Code citation for each proposal is a brief description of its contents, the date of its publication in the Register, and its Register citation.

The full text of the proposed rule will generally appear in the Register. If the full text of the proposed rule was not printed in the Register, it is available for a fee from:

Administrative Filings
CN 301
Trenton, New Jersey 08625

N.J.A.C. CITATION		PROPOSAL DATE	PROPOSAL NOTICE (N.J.R. CITATION)
ADMINISTRATIVE LAW—TITLE 1			
1:1-2.2	Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 486(a)
1:1-2.2	Public hearing: Contested cases and OAL jurisdiction	6-7-82	14 N.J.R. 674(a)
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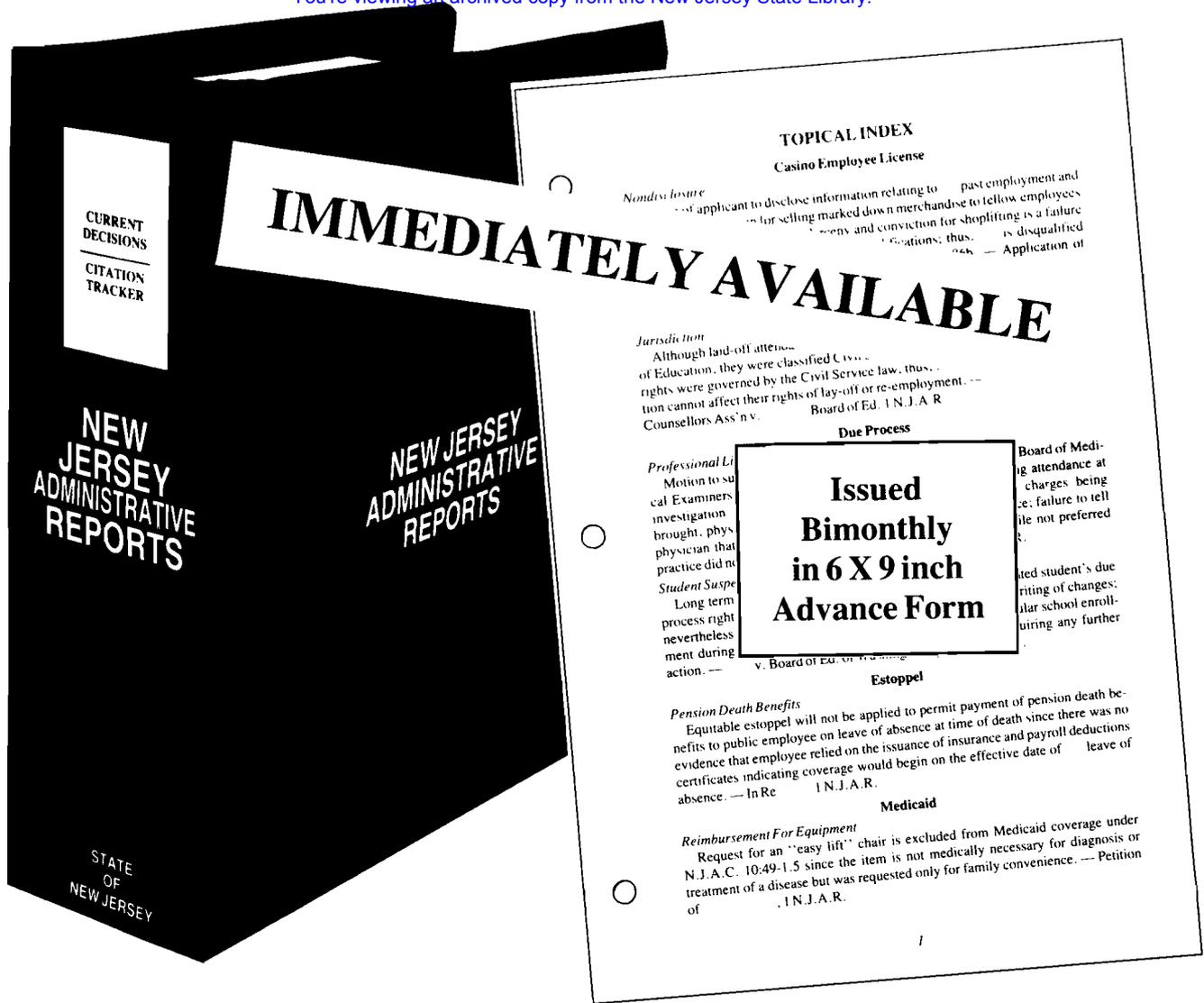
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