

ii. The completed agreement shall be submitted to the fiscal agent and approved by the Division of Medical Assistance and Health Services.

iii. The pharmacy provider or vendor of EMC services shall submit electronic media claims under an approved submitter identification number and comply with EMC requirements contained in the EMC Manual, Appendix E, incorporated herein by reference.

iv. For the purposes of this subchapter, all electronically submitted claims, including POS claims, shall commonly be referred to as EMC claims; or]

[3.] (a) [Enter] **An approved pharmacy provider shall enter** into an agreement with a point-of-sale (POS) intermediary **in accordance with the requirements of N.J.A.C. 10:167A-1.27** or directly provide a similar telecommunication network approved by DMAHS to submit claims to the fiscal agent for adjudication. POS claims require an electronic format, which complies with the EMC National Council Prescription Drug Program standards[, Version 5.1, as amended and supplemented, incorporated herein by reference. The Council's address is 9240 East Raintree Drive, Scottsdale, Arizona 85260-7518, or <http://www.ncdpd.org>].

[i.] 1. (No change in text.)

[(b) A properly completed claim form or a properly formatted electronic media claim (EMC) may be submitted to the fiscal agent, or transmitted by an approved POS intermediary or provider established telecommunication network to the fiscal agent for claims adjudication.

1. A single claim form shall be completed manually or by computer or an EMC claim shall be transmitted in the approved EMC format for each PAAD prescription dispensed. See N.J.A.C. 10:51, Appendix D, incorporated herein by reference, Fiscal Agent Billing Supplement for instructions concerning the completion and submission of the specified claim form, and N.J.A.C. 10:51, Appendix E, incorporated herein by reference, regarding the proper EMC claim format;

2. All claim forms and EMC claims must contain the National Drug Code (NDC) of the actual drug dispensed. The 11-digit NDC has three components. The first five digits are the manufacturer's labeler code, the next four digits are the product code, and the final two digits are the package size code. For claim submission, leading zeros shall be included in all fields. For example, 00003-0234-01.

i. The dispenser shall always report the actual labeler code and drug product code of the drug dispensed. The package size code reported on the claim.

3. All PAAD pharmacy claims submitted to the fiscal agent for payment consideration shall be adjudicated based on the outcome of established POS and PDUR edits, regardless of the mode of claim submission.]

10:167A-1.26 PAAD beneficiary identification

(a) (No change.)

(b) The PAAD program shall issue to all PAAD eligibles a Validation Identification [Care] **Card**. The document shall contain the patient's name, PAAD identification number, effective date, and expiration date.

(c) (No change.)

10:167A-1.27 Point of sale (POS) claims adjudication system

(a) PAAD pharmacy claims [may] **shall** be submitted through a POS system and adjudicated by the State's fiscal agent on-line and in real-time. [The POS system is an alternative to other methods of claim submission, including magnetic tape, diskette and paper claims.] The pharmacist [would] **shall** be required to enter pharmacy claim detail data into a computer or POS device and transmit this data to the fiscal agent over a dedicated telephone line. Regardless of the method of claim submission, all claims will go through all New Jersey Medicaid Management Information System (NJMMIS) claims processing edits and the claims will be processed to determine their payment disposition (for example, paid or denied).

**1. Pharmacy services provided to nursing facility and residential care residents utilizing 24 hour unit-dose or modified unit-dose delivery systems are precluded from the POS system.**

(b) In order for a PAAD-approved pharmacy provider, in accordance with N.J.A.C. 10:167A-1.5, to submit pharmacy claims through a POS system, the provider shall enter into an agreement with a POS intermediary or shall directly provide a similar telecommunications

network approved by the [New Jersey] Division [of Medical Assistance and Health Services].

1.-2. (No change.)

3. The Division shall consider the following in evaluating an application:

i.-iv. (No change.)

v. The applicant's adherence to the requirements of [the Health Care Financing Administration] **CMS**.

(c) A POS participating pharmacy or intermediary [must] **shall** supply the computer hardware or POS device and required software to generate electronic media claims (EMC) in a format consistent with POS standards adopted by the PAAD program.

(d) (No change.)

(e) All PAAD pharmacy providers [choosing to submit claims through the POS system,] shall submit claims in the [approved electronic] **EMC** format, and transmit these claims on-line for adjudication by the fiscal agent's POS computer system.

[1. Pharmacy services provided to nursing facility and residential care residents utilizing 24 hour unit-dose or modified unit-dose drug delivery systems are precluded from the POS system.]

(f) Claim data requirements for [electronic media claims (JEMCs)] generated by POS participating pharmacies include:

1.-12. (No change.)

(g)-(j) (No change.)

(k) Pharmacies are required to interact with prescribers [and/or] **and** beneficiaries at POS to resolve matters related to on-line messages resulting [from] **from** claim adjudication by the fiscal agent.

10:167A-1.29 Medical exception process (MEP)

(a) For pharmacy claims with service dates on or after May 3, 1999, that exceed DUR Board standards, the PAAD program shall utilize the medical exception process (MEP) to allow the override of a claim denial, when medically necessary.

1. (No change.)

2. All pharmacy claims shall be subject to the MEP regardless of claims media, except that claims from [institutionalized beneficiaries] **long-term care facility providers** shall be exempt from the PDUR and MEP until notice is issued otherwise.

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

10:167A-1.30 Drug rebate program

Reimbursement for legend drugs shall be limited to manufacturers who have entered into a PAAD rebate agreement, **including an agreement to pay rebates on claims for which PAAD is a secondary payer**, with the Department of Human Services through the Division of Medical Assistance and Health Services pursuant to N.J.A.C. 10:51-1.22.

## CHILDREN AND FAMILIES

(a)

### OFFICE OF LICENSING

#### Manual of Requirements for Family Child Care Registration

#### Proposed Redooption with Amendments: N.J.A.C. 10:126

#### Proposed Repeal and New Rule: N.J.A.C. 10:126-6.13

Authorized By: Allison Blake, Ph.D., L.S.W., Commissioner,  
Department of Children and Families.

Authority: N.J.S.A. 30:5B-16 et seq.

Calendar Reference: See Summary below for exception to rulemaking calendar requirements.

Proposal Number: PRN 2016-165.

Submit comments in writing by December 2, 2016, to:

Pamela Wentworth, M.S.W., L.S.W.

Office of Policy and Regulatory Development

Department of Children and Families  
 PO Box 717  
 Trenton, New Jersey 08625-0717 or  
[rules@dcf.state.nj.us](mailto:rules@dcf.state.nj.us)

The agency proposal follows:

#### Summary

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

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10:122 was scheduled to expire on August 25, 2016. As the Office of Licensing has filed this notice with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to February 21, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department has reviewed these rules and has determined that they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated, as required by Executive Order No. 66 (1978).

N.J.A.C. 10:126 regulates those family child care providers who wish to be registered. This is a voluntary registration program for those who wish to provide child care in their homes for no more than five children. The program is operated by sponsoring organizations, which are contracted for this purpose by the Department of Human Services.

This chapter has been in effect since 1988, pursuant to the authorizing statute's 1987 enactment.

N.J.A.C. 10:126-1.1 states the legal authority for the chapter, for the Department of Children and Families and for sponsoring organizations.

N.J.A.C. 10:126-1.2 states the definitions of terms used in the chapter.

N.J.A.C. 10:126-1.3 states the approval requirements for sponsoring organizations.

N.J.A.C. 10:126-1.4 states what records the Office of Licensing and sponsoring organizations shall make available to the public and what records remain confidential.

N.J.A.C. 10:126-2.1 states what agencies are eligible to become a sponsoring organization.

N.J.A.C. 10:126-2.2 states who shall have the administrative responsibility of a sponsoring organization.

N.J.A.C. 10:126-2.3 states reporting requirements for sponsoring organizations.

N.J.A.C. 10:126-2.4 states what records a sponsoring agency shall maintain and provide to the Office of Licensing on request.

N.J.A.C. 10:126-2.5 states the process for handling complaints against a sponsoring organization.

N.J.A.C. 10:126-3.1 states the general staff requirements of a sponsoring organization.

N.J.A.C. 10:126-3.2 states the types and responsibilities of staff employed by a sponsoring organization.

N.J.A.C. 10:126-3.3 states the staff qualifications for a sponsoring organization.

N.J.A.C. 10:126-3.4 states the staff training requirements for a sponsoring organization.

N.J.A.C. 10:126-4.1 states the evaluation process for an evaluation of family child care provider applicants.

N.J.A.C. 10:126-4.2 states the training requirements for providers and applicants.

N.J.A.C. 10:126-4.3 states what is necessary to issue a Certificate of Registration to a provider.

N.J.A.C. 10:126-4.4 states when a temporary Certificate of Registration is issued to a provider.

N.J.A.C. 10:126-4.5 states information on the collection of registration fees from providers.

N.J.A.C. 10:126-4.6 states how complaints against providers are handled by the sponsoring organization.

N.J.A.C. 10:126-4.7 states the sponsoring organization's monitoring requirements for providers.

N.J.A.C. 10:126-4.8 states the requirements for technical assistance by the sponsoring organization to the provider.

N.J.A.C. 10:126-4.9 states what is contained in the sponsoring organization's Information to Parents Statement and what the sponsoring

organization shall do when a child is identified as having a developmental delay or disability.

N.J.A.C. 10:126-4.10 states the sponsoring organization's role in the referral procedures.

N.J.A.C. 10:126-4.11 states the sponsoring organization's responsibility to provide information to the public.

N.J.A.C. 10:126-5.1 states provider eligibility requirements.

N.J.A.C. 10:126-5.2 states what is included on an applicant's completed application form.

N.J.A.C. 10:126-5.3 states the procedures for a Child Abuse Record Information background check for an applicant or provider.

N.J.A.C. 10:126-5.4 states information regarding issuing a Certificate of Registration to a provider.

N.J.A.C. 10:126-5.5 states information about issuing a temporary Certificate of Registration.

N.J.A.C. 10:126-5.6 states when the payment of the registration fee is due.

N.J.A.C. 10:126-5.7 states the procedure to renew a Certificate of Registration.

N.J.A.C. 10:126-5.8 states the process used by a sponsoring organization to deny an application or suspend, revoke, or refuse to renew a provider's Certificate of Registration.

N.J.A.C. 10:126-5.9 states what the Department of Children and Families may do to protect children in a family child care home.

N.J.A.C. 10:126-5.10 states reporting requirements for providers.

N.J.A.C. 10:126-5.11 states requirements for providers to keep certain records.

N.J.A.C. 10:126-6.1 states the maximum number of children allowed who can be cared for at any one time.

N.J.A.C. 10:126-6.2 states the maximum number of children of different ages who may be cared for in a family child care home.

N.J.A.C. 10:126-6.3 states the requirements for the physical environment of the home.

N.J.A.C. 10:126-6.4 states the required emergency procedures for a family child care home.

N.J.A.C. 10:126-6.5 states general safety standards.

N.J.A.C. 10:126-6.6 states the requirements for outdoor space used by children in family child care homes.

N.J.A.C. 10:126-6.7 states the requirements for transportation and trips.

N.J.A.C. 10:126-6.8 states the health examination and immunization requirements for children in family child care homes.

N.J.A.C. 10:126-6.9 states the requirements on caring for sick children.

N.J.A.C. 10:126-6.10 states procedures relative to an injury to a child while in care.

N.J.A.C. 10:126-6.11 states the requirements for environmental sanitation and personal hygiene.

N.J.A.C. 10:126-6.12 states the requirements for activities for children in child care.

N.J.A.C. 10:126-6.13 states the rest and sleep requirements for children.

N.J.A.C. 10:126-6.14 states requirements for food and nutrition for children in child care.

N.J.A.C. 10:126-6.15 states requirements for bottle and cup feeding.

N.J.A.C. 10:126-6.16 states requirements for toilet training and diaper changing.

N.J.A.C. 10:126-6.17 states requirements specific to school age children.

N.J.A.C. 10:126-6.18 states requirements specific to children with special needs.

N.J.A.C. 10:126-6.19 states the requirements for supervision of children in family child care homes.

N.J.A.C. 10:126-6.20 states requirements related to guidance and discipline.

N.J.A.C. 10:126-6.21 states the provider's responsibility to communicate with the parent.

N.J.A.C. 10:126-6.22 states requirements specific to night time child care.

Throughout the chapter, the Office proposes to replace terms joined with a “/” with either the two individual terms joined with either “and” or “or” or the single term, as appropriate, along with other technical, grammatical changes.

At N.J.A.C. 10:126-1.2, the Department is proposing to add new definitions for the previously undefined terms “developmentally appropriate,” “distance learning,” “lockdown,” “reside,” and “shelter in place.” The Department is also proposing to eliminate the unnecessary definition of the term “shall” because it is used in accordance with its plain meaning. Grammatical changes are also proposed in the definition of “supervision.”

The Department proposes to replace at N.J.A.C. 10:126-1.4(a)5, (b)9, and (c)1 and 2, 2.3(a), 2.5(b) and (e), and 5.10(a) references to “the State Child Abuse and Neglect Law” with a more specific references to the statutes at N.J.S.A. 9:6-8.10a, which governs confidentiality of child abuse and neglect investigative information and N.J.S.A. 9:6-8.10, which governs the reporting of suspected child abuse or neglect, as relevant. The precise citation improves the clarity of these provisions. Also in N.J.A.C. 10:126-1.4, the Department proposes to replace slashes with “and” and “or” respectively to improve clarity.

The Department proposes at N.J.A.C. 10:126-2.1(b)2 and 2.4(a)1v and vi, to change the possessive form of “Department of Human Services” from “Department of Human Services’” to “Department of Human Services’s” to conform with the generally accepted style rules of the American Psychological Association. In the latter subsection, the Department is also proposing to make the word “policy” plural.

The Department proposes at N.J.A.C. 10:126-2.2(f) and (f)1, to remove two unnecessary usages of “or” to clarify the meaning of both provisions.

The Department proposes at N.J.A.C. 10:126-2.3(a) and 5.10, to replace a number of citations to statutes in N.J.S.A. Title 9 with a more precise reference to N.J.S.A. 9:6-8.10. This is the relevant citation.

The Department proposes new N.J.A.C. 10:126-2.3(d) to require that sponsoring organizations track and document all injuries and deaths as part of their quarterly report. The information is a critical part of any evaluation of center safety and necessary for effective oversight of family child care homes.

The Department proposes new N.J.A.C. 10:126-3.2(b) to require that sponsoring agencies contracting to oversee operations in multiple counties have a designated site manager for each county. Sponsoring organizations are contracted to have exclusive oversight of a given county and no county in the State can be effectively or safely overseen by less than one manager.

The Department proposes at N.J.A.C. 10:126-3.3 to clarify that designees for sponsoring agency directors or administrators must also meet the qualifications imposed by this chapter, that experience used in lieu of credentials must be gained via “full-time” employment, and that experience in human services must be in a group program for children under 13 years of age. This change was advocated for by regulated providers to ensure consistency with the requirements in place for child care inspectors enforcing N.J.A.C. 10:122.

The Department proposes to amend N.J.A.C. 10:126-4.1(c)1 to clarify that the “application” referred to is the “provider application designated by the Office of Licensing” to ensure that it is adequately distinguished from other applications used by sponsoring organizations.

The Department proposes new N.J.A.C. 10:126-4.1(c)3 to add required CARI check completions for household members to material that sponsoring organizations must evaluate before issuing a Certificate of Registration. This ensures a thorough review of required CARI check completions.

The Department is proposing that CPR certification documentation be reviewed for substitute providers at recodified N.J.A.C. 10:126-4.1(c)7, in addition to applicants and alternate providers. This ensures that all potential caretakers are certified in CPR. The Department further proposes that required CPR and first aid training at recodified N.J.A.C. 10:126-4.1(c)8v include an in-person component. This ensures that the requirement matches proposed requirements in N.J.A.C. 10:122, and ensures staff are well equipped to perform first aid and CPR functions based on in-person demonstration of abilities and evaluation by a trained instructor.

The Department proposes new N.J.A.C. 10:126-4.1(d) to stipulate that persons who fail to submit required documentation within six months of the initial application will be presumed to have withdrawn their application. This helps ensure applications are current, and filters out those applicants who are no longer interested, and have not responded to outreach by the sponsoring organization.

The Department is proposing to increase the pre-service training requirement at N.J.A.C. 10:126-4.2(a) from eight hours to 20 hours. Coupled with a change in subsection (b) to allow CPR and first aid in the pre-service requirement, this ensures that substantive child care training can also be included, and is consistent with the intent of the Family Day Care Provider Registration Act, N.J.S.A. 30:5B-16 et seq. Federal Child Care Development Block Grant standards have added 10 additional subject matter areas to pre-service training requirements, and the additional time better accommodates those new subject areas.

The Department is proposing to add the words “an overview” to the description of pre-service training in N.J.A.C. 10:126-4.2(b) because providers requested that the acceptability of providing such an overview was permissible. The Department proposes to amend N.J.A.C. 10:126-4.2(b)5 to include in the pre-service training curriculum “developmentally appropriate feeding practices.” The intent of the existing nutrition training requirement is to ensure that child care providers are prepared to feed children in their care; the increased specificity on this requirement will ensure that the training covers not just nutrition, but nutrition and appropriate feeding practices tailored to the specific populations being served.

To conform to changes in N.J.A.C. 10:126-6.12 and to improve clarity, the Department proposes at N.J.A.C. 10:126-4.2(b)6 to specify that training should be on “developmentally appropriate” program activities. At paragraph (b)9, the Department proposes to include in the training on reducing the risk of Shaken Baby Syndrome (SBS), a component on recognizing potential signs and symptoms of abusive head trauma. Child care providers are a significant line of defense against SBS related fatalities, and the State has a vital interest in ensuring their awareness of the signs and symptoms of abusive head trauma, so that they are equipped to recognize and report its occurrence. Although shaking an infant has the potential to cause neurologic injury, blunt impact or a combination of shaking and blunt impact cause injury as well. Abusive head trauma is a broader medical terminology that is inclusive of all mechanisms of injury, including shaking.

The Department proposes to amend N.J.A.C. 10:126-4.2(b)10 to include a component on safe sleep practices in the training component on Sudden Infant Death Syndrome (SIDS). The encouragement of safe sleep practices has been recommended by the American Academy of Pediatrics and the Administration on Children and Families at the Federal Department of Health and Human Services as the most effective way to prevent SIDS.

The Department is proposing to add a number of new training requirements at N.J.A.C. 10:126-4.2(b)12, 14, 15, 16, 19, and 20. These include prevention and response to emergencies due to food and allergic reactions, care plan implementation for children with special needs, prevention and control of infectious diseases, building a physical premises safety, emergency and natural disaster response and planning, and precautions when transporting children. Though these trainings are part of a non-exhaustive list of components that may be included in pre-service training, and are, therefore, not required for all providers, the Department hopes that their inclusion in the list will encourage regulated sponsoring organizations to include them in their pre-service training. Each of these areas has been observed by the Department as an area where provider knowledge could be improved, particularly because advancements in these fields has been rapid. The inclusion of natural disaster planning and physical premises safety are part of the Department’s ongoing effort to ensure adequate preparations are made in advance of future natural disaster events like Super Storm Sandy.

The Department proposes to add new N.J.A.C. 10:126-4.2(b)21 and 22 to specify that required CPR and first aid training may be included in the pre-service training requirement.

The Department proposes to amend the heading of N.J.A.C. 10:126-4.6 to “Complaints against a provider,” rather than “Complaints and violations,” to better reflect the content of the section. The Department

proposes to amend N.J.A.C. 10:126-4.6 to require that sponsoring organizations investigate and determine the validity of any alleged violation of this chapter by a provider within 10 days of receipt. Standardizing the response time ensures a prompt and consistent response to public complaints Statewide, and ensures that issues are identified expeditiously.

The Department proposes to delete existing N.J.A.C. 10:126-4.6(c), because it is redundant with N.J.A.C. 10:126-5.8(a). To ensure consistent and more uniform enforcement of rules and response to complaints, the Department further proposes to amend recodified N.J.A.C. 10:126-4.6(c), to require that complaint investigation reports be completed using forms promulgated by the Office of Licensing, and adding new N.J.A.C. 10:126-4.6(d), to require that providers be notified of those results within 15 days of the report's finalization.

In accordance with requirements of the Federal Child Care Development Block Grant, the Department proposes to add new N.J.A.C. 10:126-4.7(c), requiring that sponsoring organizations conduct unannounced monitoring inspections on an annual basis.

The Department proposes new N.J.A.C. 10:126-4.9(a)12, specifying that providers who keep weapons in their home must inform parents that those weapons are on the premises and also explain precautions taken to ensure that those weapons are inaccessible to children. This change is compelled by a public interest in parents being aware of any potential dangers on the premises when making child care decisions, and ensures transparency in the provision of these services.

At N.J.A.C. 10:126-4.9(b)3, the Department proposes to update the name of the Department of Health, which was previously the Department of Health and Senior Services, pursuant to P.L. 2012, c. 17.

To eliminate ambiguity in the existing requirement requiring members of a provider household to be subject to CARI check, the Department proposes to amend N.J.A.C. 10:126-5.2(a)10, to clarify that persons visiting the home on a frequent intermittent basis or remaining there for a period in excess of 15 days be treated as members of the household and subject to the same requirement. The Department also proposes to add N.J.A.C. 10:126-5.11(c)16 to require that providers maintain detailed logs of visitors and volunteers during operating hours, so that sponsoring agencies are aware of persons frequently visiting who may need to be treated as household members.

The Department is proposing to extend certain health requirements pertaining to family child care providers to others present in the household during operating hours. These include the statement from a health care provider that the person is free from communicable diseases, as required at N.J.A.C. 10:126-5.2(b) and Mantoux test, as required by N.J.A.C. 10:126-5.2(c) and (d).

To ensure that sponsoring organizations are afforded necessary access to a facility to ensure the absence of hazards that may impact upon the safety of the child care facility, the Department proposes to amend N.J.A.C. 10:126-5.2(f)2 to require that inspectors be afforded access to all areas on the premises, including those areas not designated for child care purposes.

The Department is proposing to amend N.J.A.C. 10:126-5.3 to require Child Abuse Registry checks for all persons providing services at and regularly visiting the home. This is consistent with the requirement in statute at N.J.S.A. 30:5B-25.3.

To allow family child care providers maximum flexibility if and when they choose to relocate, the Department proposes to amend N.J.A.C. 10:126-5.4(f)5 to allow for a temporary certificate of registration to be issued by the sponsoring organization, if a provider is in substantial compliance with the requirements of this chapter and there are no imminent threats to the health or safety of children in care. This change addresses concerns that long delays in the resumption of child care operations harm both the economic viability of a provider's business and the business's clients' access to child care. If a provider, following relocation is in full compliance, the Department proposes new paragraph (f)6, which would direct the issuance of a new regular certificate.

The Department proposes new N.J.A.C. 10:126-5.7(c)3 to require that CARI consents be submitted 45 days prior to renewal of a certificate. This ensures adequate time to process the CARI checks without a lapse in the validity of the license.

The Department proposes to amend N.J.A.C. 10:126-5.7(e) to add criteria for the evaluation of distance learning courses for satisfaction of pre-training requirements under this chapter. An increasing proportion of training requirements are being satisfied via distance learning, but the quality of such programs can vary significantly. Providing criteria for the acceptability of a given program allows the Department to ensure expectations of quality are met without too strictly limiting the options available to providers.

The Department is also proposing to eliminate paragraphs at N.J.A.C. 10:126-5.8(a)4, 5, and 7. The provisions of these paragraphs are redundant of the overall mandate in N.J.A.C. 10:126-5.8(a)1, pertaining to compliance with the provisions of this chapter, and the Department believes they are, therefore, unnecessary.

Recognizing that an increasing number of injuries are being treated in non-hospital settings, including, for example, urgent care facilities, the Department proposes to amend N.J.A.C. 10:126-5.10(b)1 to require that providers report injuries to sponsoring agencies when a child is treated in one of those facilities, rather than simply requiring the report when care is provided by a hospital.

The Department proposes to amend N.J.A.C. 10:126-5.11(f), to require that logs include not just the duration of each child's stay at the facility, but the arrival and departure times as well. Family child care providers are strictly limited in the number of children who may be cared for simultaneously; logs detailing arrival and departure times allow sponsoring agencies and the Department to verify the number of children in care at any given time. In addition, such records provide a valuable resource in investigation of abuse or neglect complaints or the management of emergency situations requiring evacuation.

The Department proposes to amend the heading of N.J.A.C. 10:126-6.3 from "Physical environment" to "Building and equipment" to better reflect the content of the section. The Department proposes new N.J.A.C. 10:126-6.3(a)7i to require that furniture, appliances, or equipment that pose a tipping hazard be appropriately secured. Toppling furniture has injured tens of thousands of children and killed scores in recent years, according to data from the U.S. Consumer Product Safety Commission. In addition, the Department proposes new N.J.A.C. 10:126-6.3(a)7ii and iii to require that safety and drowning hazards be eliminated or made safe.

The Department is proposing to add a requirement at N.J.A.C. 10:126-6.4(b)7 that providers sheltering in place due to an emergency situation provide information on their sheltering-in-place plans to local law enforcement. As demonstrated during Super Storm Sandy and subsequent emergency situations, it is critical for emergency management and law enforcement authorities to be aware of any facility providing care to children, to allow for the coordination of relief and reunification efforts.

The Department proposes to require at N.J.A.C. 10:126-6.4(c) that providers conduct drills for lockdown and shelter-in-place situations, in addition to already required fire and evacuation drills. Each type of emergency response requires different actions on the part of the adults and children in the home. To clarify the minimum expectation for the currently required fire drills, the Department proposes new N.J.A.C. 10:126-6.4(c)1 through 6 to require that providers conduct drills on every shift if multiple shifts of care are provided, that providers demonstrate in fire drills an ability to evacuate children within three minutes, that outdoor assembly areas be located a safe distance from the home, that providers have an alert system to warn of emergencies, that there is a plan for monthly evacuation and relocation drills, and twice annual shelter-in-place and lockdown drills. These requirements are consistent with national standards and recommendations.

The Department proposes to add new N.J.A.C. 10:126-6.4(c)7 to require that providers prepare for emergency lockdown or shelter-in-place situations by maintaining a 72-hour supply of food, water, medications, first aid, and safety equipment on site. This is consistent with the published recommendations of the Federal Emergency Management Agency.

To ensure that providers are adequately prepared for natural disaster situations in which electrical service may be interrupted, the Department proposes to amend the requirement for smoke detectors at N.J.A.C., 10:126-6.4(d)1, to require that those smoke detectors connected to the home's electrical supply be equipped with a functioning battery backup.

The Department proposes to expand a requirement for protective barriers around wood burning stoves at N.J.A.C. 10:126-6.4(d)4, to also require barriers around pellet and coal burning stoves and fireplaces. These are functionally identical to wood burning stoves, and present the same safety hazard to children in care.

The Department proposes to prohibit, through the amendments proposed at N.J.A.C. 10:126-6.4(d)5, the use of portable electric space heaters while children are in care. Portable liquid fuel burning heating appliances are already prohibited by this chapter. The Consumer Product Safety Commission (CPSC) estimates that from 2008 to 2010, portable electric heaters were involved in approximately 1,200 fires per year. Portable electric heaters are high-wattage appliances that have the potential to ignite nearby combustible materials like curtains, beds, sofas, paper, clothing, and flammable liquids. If ignition results from a heater left on and unattended, a major fire could result.

The Department proposes new N.J.A.C. 10:126-6.4(d)6 to require that hot radiators and heating pipes be covered in rooms occupied by children. The intent of this change is to prevent burns.

The Department also proposes new N.J.A.C. 10:126-6.4(d)7i and iii to require that egress doors from family child care homes be readily operable from the egress side without the operation of a key and be free of obstruction, inclusive of ice and snow, respectively. The Department notes that doors requiring a key before exit can occur can unduly delay evacuation and endanger lives.

The Department proposes to replace a reference in N.J.A.C. 10:126-6.4(d)7v to the International Building Code to more appropriately reference the New Jersey Uniform Construction Code.

In an effort to address recurrent injuries attributable to falls down stairs, the Department proposes new N.J.A.C. 10:126-6.5(a)3i and ii to require gates at the top and bottom of each stairway in homes providing care to infants and toddlers and at the top of stairs that gates be hardware mounted, respectively.

At the request and encouragement of the regulated community, the Department proposes to add language to N.J.A.C. 10:126-6.5(a)6, to give a non-exhaustive list of examples of "other weapons" that must be secured in the home. The current regulation imposes the requirement on firearms and "other weapons" without providing illustration of what is meant by the latter term. This level of clarity, it is hoped, will aid providers in complying with this paragraph.

The Department proposes new N.J.A.C. 10:126-6.5(a)10 to prohibit the use of trampolines in family child care homes. Trampoline jumping poses a high risk of injury for children. The activity can result in strains, sprains, fractures, and other injuries — including potentially serious head and neck injuries. The risk of injury is so high that the American Academy of Pediatrics (AAP) 9/24/12 Policy Statement strongly discourages the use of trampolines at home. Individuals less than six years accounted for 22 to 37 percent of individuals with a trampoline-related injury, and younger children are more prone to bone injury.

The Department proposes in new N.J.A.C. 10:126-6.6(c), to prohibit the use of spa pools, hot tubs, and wading pools by children in care. The use of wading pools in home child care settings could facilitate the transmission of infections among children and cause serious disease. Guidelines for out-of-home child care programs jointly developed by the American Academy of Pediatrics and the American Public Health Association and published by the National Center for Education in Maternal and Child Health state that "small portable wading pools shall not be permitted" because they do not permit adequate control of sanitation and safety and provide a superior means of transmission of infectious diseases." Coinciding with the proposal of this requirement, the Department proposes to remove references to the prohibited pools from N.J.A.C. 10:126-6.6(b). Subsection (b) is further proposed for amendment to make clear that local ordinances applicable to swimming pools must be adhered to. The current phrasing of this requirement lacks subject-verb agreement that may have undermined the clarity of the requirement.

The Department is proposing to remove the reference in N.J.A.C. 10:126-6.6(e) to "The State Bicycle Helmet Law." There is no titled act or law by this name in New Jersey. The statutory reference, already included in the same section, is not proposed for removal and suffices.

At N.J.A.C. 10:126-6.6(g)2, as proposed for recodification, the Department is proposing to delete the words "shall ensure" because they are redundant of the same phrase, applicable to the paragraph, in subsection (g).

The Department is proposing to add a requirement at N.J.A.C. 10:126-6.8(b) that providers maintain on file a Universal Child Health Record (Department of Health Form CH-14) for all children not enrolled in school. This ensures that health and immunization information is provided in a standardized way, equivalent to the means used by schools, to prevent the spread of preventable disease.

To conform to requirements in the Federal Child Care Development Block Grant, the Department proposes to add new N.J.A.C. 10:126-6.8(h), setting forth a grace period to allow homeless children or children in resource care additional time to obtain necessary immunizations.

As a measure intended to guard against the unchecked spread of contagious and preventable diseases, the Department proposes several additional requirements for hand washing at N.J.A.C. 10:126-6.11. Hand washing is an effective way to limit exposure and spread of infectious diseases. Further, proposed new subsection (i) contains standards related to the washing of certain toys.

The Department proposes new N.J.A.C. 10:126-6.12(b)2i to stipulate that infants in care have an age appropriate amount of supervised "tummy time" daily. This is consistent with the recommendations of the American Academy of Pediatrics. Supervised, awake tummy time is recommended daily to facilitate development and minimize the occurrence of positional plagiocephaly (flat heads). The Department also proposes new N.J.A.C. 10:126-6.12(b)ii to require that infants have developmentally appropriate outdoor activities on a daily basis, weather permitting. The Department considers this a clarification, as other children in care are already required to be afforded daily outdoor time.

The Department proposes to repeal and replace existing N.J.A.C. 10:126-6.13, with a cross reference to the corresponding section in Chapter 122, N.J.A.C. 10:122-6.4. Doing so ensures consistency in center- and family-based child care. By adding the cross reference, the Department also proposes to prohibit the use of stackable cribs in family child care homes. The National Resource Center for Health and Safety in Child Care and Early Education recommends against the use of these cribs, and they are already prohibited in center-based care. Infants who fall from several feet or more can have an intracranial hemorrhage (that is, serious bleed inside of the skull). There is a potential for injury as a result of either latch malfunction or a caregiver/teacher who slips or falls while placing or removing a child from a crib. It is best practice to place an infant to sleep in a safe sleep environment at a level that is close to the floor. By the cross reference, the Department also proposes to prohibit the swaddling of infants in care. The National Resource Center for Health and Safety in Child Care and Early Education, the AAP, and the American Public Health Association, say swaddling is not necessary or recommended in child care settings.

The Department is proposing to amend N.J.A.C. 10:126-6.14(a)3 to clarify that "another source" of food must be licensed, certified, or otherwise legally permitted to provide food services in the municipality in which the center operates. In order to mirror the requirement in rules governing center-based care, and to ensure that no child goes without food while in a registered family child care home, the Department proposes new N.J.A.C. 10:126-6.14(a)4, to require that providers who choose to have parents provide food also have a supply of food on hand to feed children whose parents forget or fail to send food for the day.

The Department proposes to require, at N.J.A.C. 10:126-6.14(d), that clean, sanitary, and potable drinking water be available to children at all times. There is a substantial public interest in ensuring that children have access to drinking water that is free of contaminants while in care.

The Department is proposing to revise the rules at N.J.A.C. 10:126-6.18, regarding plans for children with special needs. To ensure that providers have adequate information to meet the child's needs, the amendments require an up-to-date plan, rather than simple recommendations, and that the plan would include specific elements outlined in new N.J.A.C. 10:126-6.18(a)2, including contact information for the child's medical providers, medication schedule, allergies, dietary restrictions, activity and environmental accommodations, symptoms to be

observed for, and emergency procedures. The Department is particularly interested in mitigating potentially dangerous outcomes that may result from providers being less than fully prepared to deal with special needs, and this amendment would ensure that each provider is made fully aware of all necessary information.

The Department proposes amendments at N.J.A.C. 10:126-6.19(a), to require that caretakers be near enough to children cared for to respond when needed. The intent of this change is to ensure the safety of children in care.

Proposed new N.J.A.C. 10:126-6.19(f)2 requires that substitute, alternate, and assistant providers be fully made aware of critical information about the child care operation and children in care. These provisions close a previous oversight in this chapter that could potentially have left children in the care of persons not prepared to provide such care.

At N.J.A.C. 10:126-6.19(h), the Department is proposing to revise the rule to specify that providers may neither smoke nor consume alcohol during operating hours or while supervising children. The current rule unintentionally limited these prohibitions only to periods when the providers were supervising or within sight of children.

At N.J.A.C. 10:126-6.19(l), the Department is proposing to change references to subsection (h) of the same section to refer instead to subsection (k). The Department believes a previous amendment to this chapter failed to amend this reference, and resulted in the reference to the subsection on release of children to impaired parents to incorrectly reference an unrelated section on smoking and alcohol consumption by providers. This amendment would correct the reference to refer again to the subsection on release of children to impaired parents.

Proposed new N.J.A.C. 10:126-6.21(g)1 requires that providers adopt a social media policy to govern the disclosure of information and images on social media by the provider. The Department is increasingly aware of and notified by parents of concerns over the unauthorized posting of information on social media. Though this change imposes no restrictions, it requires the adoption and dissemination of a policy.

#### **Social Impact**

The Department believes that the rules proposed for readoption with amendments, a repeal, and a new rule will have a positive impact on the children placed in registered family child care homes and their parents. On June 1, 2016, there were 2,013 registered family child care homes in the State, able to provide care to more than 12,000 children.

The proposed amendments, repeal, and new rule increase the measures taken to care for each child's health, safety, well-being, and development. The proposed amendments, repeal, and new rule increase the information that the provider is required to give the parents. This increase of information exchanged benefits both the parent and the child.

The amendments proposed to increase staff training and supervision of new staff will also benefit the children by promoting their safety and development.

#### **Economic Impact**

The rules proposed for readoption with amendments, a repeal, and a new rule do not impose any additional expenses for parents who are purchasing child care.

The Department anticipates that some of the proposed amendments will have minimal economic impact on registered family child care providers. New pre-service training requirements may impose some additional costs, though these are anticipated to be minimal and offset by the benefits provided to the children in care.

The rules proposed for readoption with amendments, a repeal, and a new rule are in agreement with the Child Care Development and Block Grant, 42 U.S.C. §§ 9857 et seq., which provides Federal financial participation in certain state child care expenses.

#### **Federal Standards Statement**

The rules proposed for readoption with amendments, a repeal, and a new rule do not exceed Federal requirements. They assist the State to meet the requirement of the Child Care Development and Block Grant, 42 U.S.C. §§ 9857 et seq.

#### **Jobs Impact**

The Department anticipates that the rules proposed for readoption with amendments, a repeal, and a new rule will not result in the generation or loss of any jobs.

#### **Agriculture Industry Impact**

The rules proposed for readoption with amendments, a repeal, and a new rule do not have an impact on the agriculture industry in New Jersey.

#### **Regulatory Flexibility Analysis**

All family child care providers and sponsoring organizations are small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments, a repeal, and a new rule require reporting, recordkeeping, and other compliance requirements on all registered family child care providers, provider applicants, and sponsoring organizations.

Among the required recordkeeping for sponsoring organizations are N.J.A.C. 10:126-1.4(b), recodified 2.3(d), 2.4(a), 4.1(f), recodified 4.6(c), and 4.7(e). These regulations require that the sponsoring organization keep administrative records and records on providers, that certain records are available for public review, and that records be kept on violation reports, complaints, injuries, and deaths of children in family child care, and monitoring visits.

Providers and provider applicants are also required to keep records at N.J.A.C. 10:126-4.1(c), 5.7(e), 5.11, 6.4(c), 6.8(b) and (c), 6.9(c), 6.19(f), and 6.21(g). The topics of the required records include each child in care, training hours and courses, reports to the sponsoring organization, child health and immunization information, and safety drills. The providers' reporting requirements are at N.J.A.C. 10:126-5.10.

The Department cannot estimate the cost of either initial or ongoing compliance with the rules proposed for readoption with amendments, a repeal, and a new rule. Different centers will need to do different things in order to meet the requirements of this chapter. All recordkeeping and reporting can be completed without outside consultation or expense by providers or sponsoring agencies.

The Department believes that the reporting, recordkeeping, and compliance requirements set forth in this chapter are necessary to protect the health, safety, well-being, and development of children. The Department does not propose that any registered family child care providers or sponsoring organizations, as defined, are exempt from this chapter.

#### **Housing Affordability Impact Analysis**

The Department does not anticipate that the rules proposed for readoption with amendments, a repeal, and a new rule will have any impact on the affordability of housing or on the average costs of housing because the rules pertain to the registration of family child care homes.

#### **Smart Growth Development Impact Analysis**

The rules proposed for readoption with amendments, a repeal, and a new rule have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to the registration of family child care homes.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:126.

**Full text** of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:126-6.13.

**Full text** of the proposed amendments and new rule follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 10:126-1.2 Definitions

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

...

**“Developmentally appropriate” means an approach to caregiving that considers the cognitive, physical, and emotional needs of a child, in addition to the child’s age.**

“Distant learning” means education that takes place via electronic or digital media linking instructors and students who are not together in a classroom.

“Lockdown” means occupants of the home are directed to remain confined to a room or area with specific procedures to follow regarding locking of doors, closing of windows, and shades, seeking cover, etc. This procedure is implemented when a criminal element is believed to be on the premises and officials expect that these measures will minimize the risk of exposure of the occupants to the criminal element.

“Night [Time Care] time care” means child care provided in the evening [and/or] or overnight between the hours of 8:00 P.M. and 6:00 A.M.

“Reside” means to be in a residence, to dwell permanently or continuously, and to occupy a place as one’s legal domicile.

“Shall” denotes a provision of this chapter that a sponsoring organization or a family child care provider must meet to qualify for approval or a Certificate of Registration, respectively.]

“Shelter-in-place” means occupants in the building seek shelter in the home from an external threat, such as a weather-related situation or chemical spill.

“Supervision” means having awareness of and responsibility for the ongoing activity of each child, knowledge of activity requirements, children’s needs, and accountability for their care. Adequate supervision requires the provider, substitute provider, provider assistant [and/or] or alternate provider, if any, to be awake and [having] have immediate access to children as needed.

#### 10:126-1.3 Approval requirements for sponsoring organizations

(a)-(i) (No change.)

(j) An authorized representative of the Office of Licensing may make an announced or unannounced visit at any time during the sponsoring organization’s normal operating hours to inspect the sponsoring organization [and/or] or review files, reports, or records to determine its compliance with provisions of this chapter [and/or] or to investigate a complaint.

(k)-(m) (No change.)

#### 10:126-1.4 Public access to records

(a) The Office of Licensing shall make the following items in its files available for public review:

1.-4. (No change.)

5. Completed complaint investigation reports, except for child [abuse/neglect] abuse or neglect investigations or other information restricted from public access under the requirements of [the State Child Abuse and Neglect Law] N.J.S.A. 9:6-8.10a or other State law; and

6. (No change.)

(b) The sponsoring organization shall make the following items in its files available for public review:

1. Applications for Certificates of Registration and related [materials/documentation] materials and documentation;

2.-8. (No change.)

9. Completed complaint investigation reports, except for child [abuse/neglect] abuse or neglect investigations or other information restricted from public access under the requirements of [the State Child Abuse and Neglect Law] N.J.S.A. 9:6-8.10a or other State law; and

10. (No change.)

(c) The Office of Licensing and the sponsoring organization shall keep confidential and not part of the public record the following:

1. Records, reports, or correspondence that pertain to child [abuse/neglect] abuse or neglect investigations that are restricted from public access under the requirements of [the State Child Abuse and Neglect Law] N.J.S.A. 9:6-8.10a or other State law;

2. Records, reports, correspondence, or forms containing names [and/or] or any other information pertaining to children, parents, or

providers that are restricted from public access under the requirements of [the State Child Abuse and Neglect Law] N.J.S.A. 9:6-8.10a or other State law;

3. Records, reports, correspondence, or forms containing names of enrolled children [and/or] or their parents;

4.-5. (No change.)

6. Any items that deal with reports of inspections [and/or] or complaint investigations that are still in progress;

7.-9. (No change.)

## SUBCHAPTER 2. ADMINISTRATION OF SPONSORING ORGANIZATIONS

### 10:126-2.1 Sponsoring organization eligibility

(a) (No change.)

(b) A family child care sponsoring organization, in order to secure, maintain, or renew a contract to provide registration services, shall:

1. (No change.)

2. Meet the contracting requirements of the Department of Human Services, as specified in the Department of Human Services’s Contract Policy and Information Manual and Cost Reimbursement Manual and all applicable requirements of the Manual of Requirements; and

3. (No change.)

### 10:126-2.2 Administrative responsibility

(a) (No change.)

(b) A publicly operated sponsoring organization shall have an advisory board or committee that offers advice and counsel to the sponsoring organization on the fiscal and administrative operation of the family child care registration program.

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

(f) The sponsoring organization may subcontract for the provision of services to providers [and/or] and provider applicants. The sponsoring organization shall ensure that:

1. An agency under subcontract complies with all applicable requirements of the Manual of Requirements in the delivery of services to providers [and/or] and provider applicants;

2.-3. (No change.)

(g) (No change.)

### 10:126-2.3 Reporting requirements

(a) The sponsoring organization or any staff member shall verbally notify [verbally] the Department’s State Central Registry at 1-877- NJ-ABUSE (1-877-652-2873) immediately, whenever there is reasonable cause to believe that a child has been subjected to [abuse/neglect] abuse or neglect by a provider or any other person, pursuant to [the State Child Abuse and Neglect Law [N.J.S.A. 9:6-[8.9,] 8.10[, 8.13 and 8.14].

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

**(d) The sponsoring organization shall track and document all reported injuries and deaths of children while in the provider’s care as required in N.J.A.C. 10:126-5.10(b)1 and 2, as part of the DCF, Office of Licensing Sponsoring Organization Quarterly Report on Family Child Care Registration.**

[(d)] (e) (No change in text.)

### 10:126-2.4 Sponsoring organization records

(a) The sponsoring organization shall maintain in files located at its office the following records:

1. Administrative records:

i.-iv. (No change.)

v. A copy of the sponsoring organization’s insurance [policy/policies] policies, as specified in the Department of Human Services’s Contract Policy and Information Manual;

vi. Financial records, as specified in the Department of Human Services’s Contract Policy and Information Manual;

vii.-xi. (No change.)

2. (No change.)

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

### 10:126-2.5 Complaints against a sponsoring organization

(a) (No change.)

(b) The Office of Licensing will notify the sponsoring organization of the results of the complaint investigation within 15 working days after the report of the Office of Licensing's investigation has been finalized. Such notification shall include the results of the investigation, in keeping with the New Jersey Open Public Records Act (N.J.S.A. 47:1A-1 to 4), with the exception of any information not permitted to be disclosed under [the State Child Abuse and Neglect Law (N.J.S.A. 9:6-8 et seq.)] **8.10a** or other State law.

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

(e) A description of the complaint allegations and the substantiation or non-substantiation of each allegation shall be included in the Office of Licensing's records and shall be available for public review upon completion of the investigation by the Office of Licensing, with the exception of any information not permitted to be disclosed under [the State Child Abuse and Neglect Law] **N.J.S.A. 9:6-8.10a** or other State law.

(f) (No change.)

### SUBCHAPTER 3. STAFF REQUIREMENTS FOR SPONSORING ORGANIZATIONS

#### 10:126-3.2 Types and responsibilities of staff

(a) (No change.)

**(b) Each sponsoring organization shall have an on-site manager for each Department of Human Services (DHS) contracted county who is responsible for the daily operation for family child care registration in that county. The executive director or administrator may serve as the on-site manager.**

Recodify existing (b)-(d) as **(c)-(e)** (No change in text.)

#### 10:126-3.3 Staff qualifications

(a) The executive [director/administrator] **director or administrator and designee, if applicable**, designated in N.J.A.C. 10:126-3.2(a) shall possess the following:

1. (No change.)

2. Three years of managerial [and/or] or supervisory experience in the field of human services, child care services, child development, education, nursing, social work, or business.

(b) Staff members responsible for provider evaluation, monitoring, support, technical assistance, and training shall possess the following:

1. (No change.)

2. A high school diploma or General Education Development (GED) diploma and three years of **full-time** experience **providing or administering human services in a group program for children under the age of 13 or three years of full-time experience** in the fields of [human services, child care services,] child development, education, nursing, or social work.

### SUBCHAPTER 4. SERVICE REQUIREMENTS FOR SPONSORING ORGANIZATIONS

#### 10:126-4.1 Evaluation of family child care provider applicants

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

(c) The sponsoring organization's evaluation of each applicant shall include a review of:

1. The **provider application form, designated by the Office of Licensing;**

2. (No change.)

**3. Child Abuse Record Information (CARI) background checks by the provider or applicant, the substitute provider, all members of the provider's household who are at least 14 years old, the provider assistant, and the alternate provider, if any, as specified in N.J.A.C. 10:126-5.3(a)1;**

Recodify existing 3.-6. as **4.-7.** (No change in text.)

[7.] **8.** Documentation for the applicant, **substitute provider**, and alternate provider, if any, of current certification in Cardiopulmonary Resuscitation (CPR) and completion of a first aid course taken every three years if there is no expiration date.

i. Cardiopulmonary Resuscitation (CPR) training shall be certified through one of the following: American Heart Association; American

Red Cross; National Safety Council: Infant and Toddler CPR (if care is limited to infants and toddlers), or Medic Pediatric Course[.];

ii.- iv. (No change.)

**v. The CPR and first aid training shall include an in-person learning component.**

**(d) Applicants who fail to submit all documentation within 90 days will be deemed to have withdrawn their application.**

Recodify existing (d)-(e) as **(e)-(f)** (No change in text.)

#### 10:126-4.2 Training of family child care providers

(a) The sponsoring organization shall provide [eight] **20** hours of pre-service training for each provider or applicant and alternate provider prior to the issuance of a [regular] Certificate of Registration.

(b) The sponsoring organization shall ensure that the pre-service training includes **an overview and** information regarding, but is not limited to, the following subjects:

1.-4. (No change.)

5. Nutrition **and age-appropriate feeding;**

6. [Program] **Developmentally appropriate program** activities;

7.-8. (No change.)

9. Reducing the risk [of] **and recognizing potential signs and symptoms of Abusive Head Trauma and Shaken Baby Syndrome;**

10. Preventing Sudden Infant Death Syndrome **and using safe sleeping practices, as recommended by the American Academy of Pediatrics (AAP);**

11. (No change.)

12. **Prevention of and response to emergencies due to food and allergic reactions as specified in N.J.A.C. 10:126-6.14(i)1 and 2;**

[12.] **13.** (No change in text.)

14. **Care plan implementation for children with special health care needs;**

15. **Prevention and control of infectious diseases (including immunization), as specified in N.J.A.C. 10:126-6.8, 6.9, and 6.11;**

16. **Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury, such as electrical hazards, bodies of water, and vehicular traffic, as specified in N.J.A.C. 10:126-6.3 through 6.6.**

[13.] **17.** Understanding New Jersey's family child care registration [regulations] **rules;** [and]

[14.] **18.** Understanding sponsoring organization operations, policies, and procedures[.];

19. **Emergency preparedness and response planning for emergencies resulting from a natural disaster or a man-made caused event in the family child care home, as specified in N.J.A.C. 10:126-6.4;**

20. **Appropriate precautions when transporting children, if applicable, as specified in N.J.A.C. 10:126-6.7;**

21. **Cardiopulmonary Resuscitation (CPR); and**

22. **First Aid.**

(c)-(h) (No change.)

#### 10:126-4.6 Complaints [and violations] **against a provider**

(a) When the sponsoring organization receives a complaint of alleged violation(s) of the Manual of Requirements by a provider, other than child [abuse/neglect] **abuse or neglect**, the sponsoring organization shall investigate the complaint **within 10 working days to determine whether the complaint is substantiated** and shall require the provider to abate any violations found. The sponsoring organization shall advise complainants that complaints may be made anonymously. The sponsoring organization's investigation shall include an inspection of the home whenever such an inspection is necessary to substantiate the complaint.

(b) If, during the course of investigating an allegation of child [abuse/neglect] **abuse or neglect**, the Department determines that in order to protect the children it is necessary for the Department to remove children from a provider's home, the sponsoring organization shall suspend the Certificate of Registration, if the Office of Licensing recommends such action.

(c) When the sponsoring organization proposes to deny an application or to suspend, revoke or refuse to renew a Certificate of Registration, the sponsoring organization shall follow the procedures specified in N.J.A.C. 10:126-5.8.]



[(d)] (c) The sponsoring organization shall maintain on file documentation of complaints against providers [and of denials, suspensions, revocations, and nonrenewals of Certificates of Registration], **and a Complaint Investigation Report designated by the Office of Licensing documenting the findings of the complaint.**

**(d) The sponsoring organization shall notify the provider of the results of the complaint investigation in writing within 15 working days after the report of the investigation has been finalized.**

10:126-4.7 Monitoring of family child care providers

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

**(c) The sponsoring organization shall conduct annual, unannounced monitoring inspections prior to renewing the Certificate.**

Recodify existing (c)-(d) as **(d)-(e)** (No change in text.)

10:126-4.9 Information to parents

(a) The sponsoring organization shall supply to providers sufficient copies of a written Information to Parents Statement designated by the Office of Licensing for the parents of all enrolled children. The Information to Parents Statement shall indicate that:

1.-9. (No change.)

10. Parents may request that the sponsoring organization provide technical assistance to the parent or the provider, and referrals to appropriate community resources; [and]

11. The provider shall notify the parents in writing when a substitute or alternate provider will be caring for the children, unless there is an emergency on a particular day, in which case the provider shall verbally notify the parent[.]; **and**

**12. The provider shall notify parents if weapons are present and explain precautions taken to ensure that they are inaccessible to the children.**

(b) When an enrolled child has been identified as or is suspected of having a developmental delay or disability, the sponsoring organization shall:

1.-2. (No change.)

3. Refer the parent of a child under 13 years of age with special health care needs to the New Jersey Department of Health [and Senior Services], Special Child Health and Early Intervention Services Program at (609) 777-7778 for information about programs and services.

#### SUBCHAPTER 5. PROVIDER REGISTRATION AND OPERATION PROCEDURES

10:126-5.2 Application for registration

(a) An applicant for an initial or renewal Certificate of Registration shall submit to the sponsoring organization a completed application form, which shall include:

1.-9. (No change.)

10. A disclosure of the presence or absence of criminal convictions by the provider applicant, the substitute provider, all members of the provider's household, **and any individual who frequents the home on an intermittent basis**, who are at least 14 years old, and the alternate provider and the provider assistant, if any, **and any individual who expects to remain in the home longer than 15 consecutive days, or on a frequent intermittent basis.**

i.-ii. (No change.)

(b) An applicant for an initial or renewal Certificate of Registration shall also submit to the sponsoring organization a health care provider's statement(s) for the applicant, the alternate provider and the provider assistant, if any, [and] the substitute provider, **and any household member(s) who are present during the care of enrolled children**, as applicable, verifying the applicant, the alternate provider, the provider assistant, [and] the substitute provider, **and any household member(s)**, are in good health, free from communicable disease, and able to care for children. Such statement(s) shall be based on a medical examination conducted within the six months immediately preceding the submission of the application.

(c) An applicant for an initial Certificate of Registration shall also submit to the sponsoring organization written proof of the results of either (c)1 or 2 below for the applicant, the alternate provider, [and] the

provider assistant, **and any household member(s) who are present during the care of enrolled children**, if any:

1.-2. (No change.)

(d) The provider, the alternate provider, [and] the provider assistant, **and any household member(s) who are present during the care of enrolled children** shall obtain additional Mantoux tests when required by the Office of Licensing based on a recommendation by the New Jersey Department of Health [and Senior Services].

(e) (No change.)

(f) The provider applicant shall permit and participate in an announced or unannounced evaluation of the applicant's home by the sponsoring organization. The evaluation shall include:

1. (No change.)

2. Access to all areas **on the premises** not designated for use by enrolled children, to observe whether any hazards to children exist, **including, but not limited to, the basement, the attic (if accessible), the storage shed, garage, and carport.**

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

10:126-5.3 Child Abuse Record Information background check procedures

(a) Prior to the issuance or renewal of a Certificate of Registration, the applicant or provider shall obtain written consent from the applicant or provider, substitute provider, provider assistant and alternate provider, if any, [and] all members of the applicant's or provider's household who are at least 14 years of age, **and any other staff members who are or will be working at the home on a regular basis**, for the [Office of Licensing] **Department** to conduct a Child Abuse Record Information (CARI) background check to determine whether an incident of child abuse or neglect has been substantiated against any such person.

1. Each person specified in (a) above shall complete a signed consent form provided by the [Office of Licensing] **Department** that indicates the identifying information necessary to conduct a CARI background check, including the person's name, address, date of birth, sex, race, and Social Security number. Pursuant to the Federal Privacy Act of 1974 (P.L. 93-579), the [Office of Licensing] **Department** will advise each such person that the disclosure of his or her Social Security number is voluntary, and that the Social Security number will only be used for the purpose of conducting a CARI background check.

2.-3. (No change.)

(b) (No change.)

(c) The sponsoring organization shall submit the completed consent forms specified in (a)1 above to the [Office of Licensing] **Department** upon receipt of the forms from the applicant or provider. The [Office of Licensing] **Department** will conduct a search of its records for child abuse and neglect incidents for which the perpetrator was afforded an opportunity to appeal the substantiation. Within 30 working days of receipt of the completed forms from the sponsoring organization, the [Office of Licensing] **Department** will inform the sponsoring organization in writing as to whether a substantiated incident of child abuse or neglect by any person specified in (a) above has been found. If such an incident has been found, the [Office of Licensing] **Department** will inform the sponsoring organization in writing of the name of the perpetrator.

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

10:126-5.4 Issuance of a Certificate of Registration

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

(f) If the provider changes residence:

1. -4. (No change.)

5. A new **Temporary** Certificate of Registration shall be issued by the sponsoring organization if the [new residence meets all] **provider is in substantial compliance with the applicable requirements of the Manual of Requirements, and provided there are no serious imminent hazards to the health, safety, and well-being of children.**

**6. A new Regular Certificate of Registration shall be issued if the provider is in full compliance with all applicable requirements of the Manual of Requirements.**

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

## 10:126-5.7 Renewal of a Certificate of Registration

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

(c) No later than 45 days prior to the expiration of the current Certificate of Registration, the provider shall submit to the sponsoring organization:

1. A completed application form, as specified in N.J.A.C. 10:126-5.2(a); [and]

2. Health care provider's statement(s) for the provider, the alternate provider, and the provider assistant, if any, as specified in N.J.A.C. 10:126-5.2(b)[.]; **and**

**3. Written consent(s) for Child Abuse Record Information (CARI) background checks by the provider or applicant, the substitute provider, all members of the provider's household who are at least 14 years old, the provider assistant, and the alternate provider, if any, as specified in N.J.A.C. 10:126-5.3(a)1;**

(d) (No change.)

(e) Prior to the renewal of a Certificate of Registration, the provider and alternate **provider** shall provide documentation of attendance at 20 hours of in-service training other than first aid or CPR training, provided or approved by the sponsoring organization, during the last three-year registration period.

**1. Distance learning training will be allowed up to a maximum of 10 hours of in-service training if the following criteria are met:**

**i. The training addresses a required topic and is accomplished through instruction and interaction between an instructor or the ability to contact the instructor by phone or e-mail to discuss training materials; and**

**ii. The provider maintains a record of the course curriculum and all documentation validating completion of the course.**

**2. Credit bearing courses offered by an accredited college or university that address required topics will be accepted, as long as the provider documents that credit was earned and can provide accreditation of the college program.**

## 10:126-5.8 Denials, suspensions, revocations, nonrenewals, and provider appeal procedures

(a) The sponsoring organization may deny an application for a Certificate of Registration or suspend, revoke, or refuse to renew a Certificate of Registration for good cause, including:

1. Failure to comply with the provisions of the Family Day Care Provider Registration Act [and/or] **or** the requirements of the Manual of Requirements;

2. (No change.)

3. Any conduct [and/or] **or** activity [which] **that** adversely affects or presents a serious hazard to the health, safety, and general well-being of an enrolled child, or [which] **that** otherwise demonstrates unfitness by a provider to operate a family child care home; **or**

[4. Refusal to furnish the sponsoring organization or Department of Children and Families with records;

5. Refusal to permit a parent of an enrolled child or an authorized representative of the sponsoring organization or Department of Children and Families to gain admission to the family child care home during normal operating hours;]

[6.] **4.** (No change in text.)

[7. Refusal by any person specified in N.J.A.C. 10:126-5.3(a) to consent to a Child Abuse Record Information background check; or

8. A Child Abuse Record Information background check that reveals an incident of child abuse or neglect that has been substantiated against any person specified in N.J.A.C. 10:126-5.3(a).]

(b)-(j) (No change.)

## 10:126-5.10 Provider reporting requirements

(a) The provider shall verbally notify the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) immediately whenever there is reasonable cause to believe that a child has been or is being subjected to any kind of child [abuse/neglect] **abuse or neglect** by any person, pursuant to [the State Child Abuse and Neglect Law [N.J.S.A. 9:6-[8,9.] 8.10[, 8.13 and 8.14].

(b) The provider shall report the following incidents to the sponsoring organization as soon as possible, but by no later than the beginning of the sponsoring organization's next working day:

1. Any injury that results in the admittance of a child to a hospital **or when care is provided by any medical facility** while in the provider's care;

2.-6. (No change.)

(c) (No change.)

## 10:126-5.11 Provider record requirements

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

(c) The provider shall maintain an individual record for each child in care. This record shall include:

1.-13. (No change.)

14. Authorization for a child to use a pool or other body of water, if applicable, as specified in N.J.A.C. 10:126-6.6(d); [and]

15. A record of any accidents and injuries sustained by a child, as specified in N.J.A.C. 10:126-6.10(d)[.]; **and**

**16. A record of visitors and volunteers in the home during the scheduled operating hours.**

(d)-(e) (No change.)

(f) The provider shall ensure that daily attendance records are maintained for children, which identify the hours of the children's attendance each day, **including the time the child arrives and departs from the home.**

(g) (No change.)

## SUBCHAPTER 6. SAFETY, HEALTH, AND PROGRAM REQUIREMENTS FOR PROVIDERS

10:126-6.3 [Physical environment] **Building and equipment**

(a) The provider shall ensure that:

1.-6. (No change.)

7. Play equipment, materials, and furniture for indoor and outdoor use are of sturdy and safe construction, non-toxic, easy to clean, and free of hazards that may be injurious to young children[.];

**i. Furniture, appliances, or equipment with tipping hazards, such as chests, bookshelves, and televisions are secured;**

**ii. Any hazardous equipment is made inaccessible to children or removed until rendered safe or replaced; and**

**iii. Bathtubs, buckets, and other containers of water are emptied immediately after use;**

8.-11. (No change.)

## 10:126-6.4 Emergency preparedness

(a) (No change.)

(b) In the event of an evacuation, shelter-in-place, or lockdown, the registered family child care provider shall notify the appropriate local law enforcement agency or emergency management office of:

1.-6. (No change.)

**7. The plan for shelter-in-place;**

Recodify existing 7.-8. as **8.-9.** (No change in text.)

(c) The provider shall practice fire, **shelter-in-place, lock-down,** and evacuation drills with each child [on a monthly basis] **from all exit locations at varied times of day and during varied activities, including nap-time.** Documentation of the fire, **shelter-in-place, lock-down,** and evacuation drills shall include **type of drill simulated,** date, start time, total amount of time taken to evacuate the home **for the evacuation drill, total amount of time taken after warning is issued to direct movement of providers and children to location for shelter-in-place and lock-down drills,** and the number of children and providers present **for each drill.**

**1. When multiple shifts of care are provided, such drills must be conducted monthly during each shift of care;**

**2. The provider shall ensure that all children present are evacuated from the home within three minutes during each fire drill;**

**3. Outdoor assembly areas shall be located a safe distance from the home as to avoid interference with fire department operations in the event of a fire;**

**4. The provider shall have a warning system (for example, loud bell or whistle), to alert staff members and children of emergency or drill;**

**5. The provider shall implement and document a monthly practice for the evacuation and relocation drills;**

**6. The provider shall implement and document two shelter-in-place and two lockdown drills per year; and**

**7. The provider shall maintain a 72-hour emergency supply, including food, water, medications (if applicable), first aid, and other safety equipment, as needed, to allow for the protection of the health and safety of children, in the event parents are unable to pick up their children due to a disaster. Food supplies shall be non-perishable and of sufficient quantity for all children for an overnight stay.**

(d) The provider shall ensure that:

1. At least one working smoke detector is installed on each floor of the home. **If smoke detectors operate from electric power within the home, such detectors must have a battery powered back-up energy source;**

2.-3. (No change.)

4. **Wood or wood pellet, coal burning stoves, and fireplaces** have protective barriers and are not accessible to children;

5. **Portable electric space heaters and portable** liquid fuel-burning heating appliances are not in use when children are in care;

**6. Radiators and pipes located in rooms occupied by children are covered when the heating system is in use; and**

[6.] **7. Stairways, hallways, and exits from rooms and from the home are unobstructed, except for safety barriers.**

i. (No change.)

**ii. Egress doors from the residence shall be readily operable from the egress side without the operation of a key.**

**iii. A means of egress shall be free of obstructions that would prevent its use, including the accumulation of ice and snow.**

[ii.] **iv.** (No change in text.)

[iii] **v.** The provider shall not allow rest and sleep in a basement unless there are two approved means of egress that meet the [International Building Code] **provisions of the New Jersey Uniform Construction Code (NJUCC )** and the New Jersey Uniform Fire Code as specified in N.J.A.C. 5:70.

Recodify existing iv.-vi. as **vi.-viii.** (No change in text.)

Recodify existing 7.-9. as **8.-10.** (No change in text.)

10:126-6.5 General safety

(a) The provider shall ensure that:

1.-2. (No change.)

3. Safety barriers are installed to prevent children from falling from stairs, ramps, balconies, porches (when used for child care activities), elevated play areas, and any areas that subject children to falls[.];

**i. Gates shall be provided at the top and bottom of each stairway, as appropriate, in areas of the home where infants and toddlers are in care;**

**ii. Gates at the top of the stairs shall be hardware mounted to the wall for stability;**

4.-5. (No change.)

6. All firearms, other weapons **(such as bb guns, paintball guns, hunting knives, bows, swords, and martial arts weapons),** and ammunition are stored in locked areas out of the reach of children;

7. (No change.)

8. Unfinished areas of the home including, but not limited to, attics, basements, and additions shall not be used for the care of children; [and]

9. Portable fans shall be kept out of reach of children[.]; **and**

**10. The use of trampolines by enrolled children is prohibited, and shall be inaccessible to the children during operating hours.**

10:126-6.6 Outdoor space

(a) (No change.)

(b) Swimming pools, [wading pools, hot tubs, whirlpools] and other containers and natural bodies of water at the family child care home shall be physically inaccessible to children, except when they are supervised as specified in [(c)] **(d)** below and [document that] all local ordinances that apply to a swimming pool or natural bathing area [have been met] **must be adhered to.**

**(c) Spa pools, hot tubs, and wading pools shall be inaccessible to children and their use shall be prohibited.**

[(c)] **(d)** The following supervision requirements shall apply whenever enrolled children use a pool or other container or body of water at the family child care home or any other location:

1. For pools and other bodies of water that are 24 inches or more in depth:

i.-ii. (No change.)

iii. [Maintain] **The provider shall maintain** a ring buoy with a rope, extension pole, or other device that can be used to rescue a swimmer in distress;

2.-3. (No change.)

[(d)] **(e)** The provider shall obtain written consent from the parent(s) of each enrolled child before the child uses a pool or other body of water as specified in [(c)] **(d)** above.

[(e)] **(f)** (No change in text.)

[(f)] **(g)** The provider shall ensure that outdoor equipment, such as swings, slides and climbing apparatus:

1. (No change.)

2. Are in good repair and [shall ensure] that:

i.-iii. (No change.)

[(g)] **(h)** (No change in text.)

10:126-6.7 Transportation and trips

(a) Whenever the provider transports enrolled children, the provider shall comply with all applicable State laws and/or rules regarding:

1. The use of infant seats, child passenger restraint systems, and seat belts pursuant to [New Jersey Motor Vehicle Commission Law (N.J.S.A. 39:3-76.2a)] **et seq.;**

2.-3. (No change.)

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

10:126-6.8 Health examinations for children

(a) (No change.)

**(b) For each child not enrolled in a public school or private school, the provider shall maintain on file at the center a Universal Child Health Record (Department of Health Form CH-14), or its equivalent, updated annually, and a care plan for children with special health care needs, as specified in N.J.A.C. 10:126-6.18(b)1, if applicable.**

[(b)] **(c)** A record of the health examination shall be provided by the child's parent to the provider upon or within one month following admission to the home. The record shall include:

1.-2. (No change.)

3. An up-to-date immunization record in accordance with the recommended immunization schedule established by the Advisory Committee on Immunization Practice of the Center for Disease Control and Prevention, as provided by the New Jersey Department of Health [and Senior Service] at N.J.A.C. 8:57-4. The immunization record shall be appropriate to the child's age or shall document that the child is under a prescribed medical program to obtain immunizations and a timetable for doing so; and

4. (No change.)

Recodify existing (c)-(d) as **(d)-(e)** (No change in text.)

[(e)] **(f)** The immunization exemption may be suspended during the existence of a health emergency, as determined by the Commissioner of the State Department of Health [and Senior Services].

[(f)] **(g)** (No change in text.)

**(h) Children who are in foster care or experiencing homelessness as defined by the McKinney-Vento Act should receive child care services while parents or guardians are taking necessary actions to comply with immunization requirements. Upon, or within one month following, admission to the home, the parents or guardians shall have an up-to-date immunization record or provide a written plan for catching up with immunizations, if applicable.**

10:126-6.9 Sick children

(a) (No change.)

(b) The provider shall follow policies and procedures recommended by the sponsoring organization if the provider chooses to:

1. Care for sick children in the home; [and/or] **or**

2. (No change.)

(c) The provider shall inform the parents of all enrolled children when any person in the home has a communicable disease as indicated by the New Jersey Department of Health [and Senior Services] **as requiring such notification (a list of the communicable diseases and the reporting**

requirements can be found on New Jersey Department of Health [and Senior Services web site] **website** at [www.state.nj.us/health](http://www.state.nj.us/health). The sponsoring organization shall make such information available to the providers.

10:126-6.11 Environmental sanitation and personal hygiene

(a) The provider shall ensure that children wash their hands with soap and running water as follows:

**1. Upon arrival for the day;**

Recodify existing 1.-2. as **2.-3.** (No change in text.)

[3.] **4.** Immediately after coming into contact with blood, saliva, and other body secretions [and/or] or fluids; and

[4.] **5.** (No change in text.)

(b) (No change.)

(c) The provider and all other adults caring for children in the home shall wash their hands with soap and running water immediately:

**1. Upon arrival for the day and after breaks;**

[1.] **2.** Before and after preparing or serving food or beverages;

**3. Before and after eating or feeding a child;**

**4. Before and after brushing or helping a child brush teeth;**

**5. Before and after giving medication or applying an ointment or cream in which a break in the skin (for example, sores, cuts, or scrapes) may be encountered;**

**6. Before and after playing with children in water (including swimming);**

[2.] **7.** [After] **Before and after** diapering a child;

Recodify existing 3.-4. as **8.-9.** (No change in text.)

[5.] **10.** After contact with blood, diarrhea, vomit, or other body secretions [and/or] or fluids; and

[6.] **11.** (No change in text.)

(d)-(h) (No change.)

**(i) Toys that children have placed in their mouths or that are otherwise contaminated by body secretion or excretion should be set aside until they are cleaned by hand with water and detergent, rinsed, sanitized, and air-dried or in a mechanical dishwasher.**

10:126-6.12 Activities for children

(a) (No change.)

(b) The provider shall supply safe toys, play equipment, and creative materials to ensure each child the opportunity to participate in a variety of activities appropriate for the ages, interests, and number of children present.

1. (No change.)

2. Programs for infants and toddlers shall include the applicable items for (b)1 above, and a daily routine adapted to the individual needs of each infant and toddler that fits, as much as possible, into the schedule set up by the parent.

**i. Infants shall have age-appropriate, supervised tummy time at least twice a day; and**

**ii. Infants shall have developmentally appropriate outdoor activities and/or carriage/stroller rides daily, weather permitting.**

3. (No change.)

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

10:126-6.13 Rest and sleep

**Providers shall comply with the rest and sleep requirements set forth at N.J.A.C. 10:122-6.4, including provisions related to safety standards for cribs and sleeping surfaces.**

10:126-6.14 Food and nutrition

(a) The provider shall ensure that all enrolled children receive nutritious meals that have been prepared by:

1.-2. (No change.)

**3. Another source, such as a caterer who is licensed, registered, certified, or otherwise approved, as appropriate by the local or county health department or State Department of Health, as applicable.**

**4. If the provider chooses to have parents provide food, the provider shall have a supply of food at the home for any child whose parent forgets.**

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

(d) [Drinking] **Clean and sanitary drinking** water shall be made available to the children at all times.

10:126-6.18 Children with special needs

(a) (No change.)

(b) When the provider enrolls a child with special needs:

1. The provider shall request that the parent provide [written recommendations from the child's physician] **a written up-to-date special needs care plan completed by the child's primary health care provider** or any other person who has evaluated or treated the child **with input from the parent or guardian** regarding the specialized care or accommodations that a child with special needs requires; [and]

**2. The special needs care plan shall include the following:**

**i. A list of the child's diagnosis;**

**ii. Contact information for the primary care provider and any relevant specialists;**

**iii. Medications to be administered on a scheduled basis;**

**iv. Medications to be administered on an emergent basis with clearly stated parameters of signs and symptoms that warrant giving the medication written in plain language;**

**v. Procedures to be performed;**

**vi. Any allergies;**

**vii. Dietary modifications;**

**viii. Activity modifications;**

**ix. Environmental modifications;**

**x. Stimulus that initiates or precipitates a reaction or series of reactions (triggers to avoid);**

**xi. Symptoms for caregivers to observe; and**

**xii. Emergency response plan, if the child has an emergency.**

[2.] **3.** (No change in text.)

10:126-6.19 Supervision

(a) The provider shall be responsible for supervising the children and ensuring their safety at all times[.], **including awareness and responsibility for the ongoing activity of each child. The provider shall be near enough to respond when redirection or intervention strategies are needed.** Children who are asleep shall be within hearing and easy access of the provider, alternate provider, provider assistant, or substitute provider.

(b)-(e) (No change.)

(f) If the provider cannot be present, the designated substitute or the alternate provider, if any, as specified in N.J.A.C. 10:126-5.2(a)6, shall assume the provider's responsibility for supervision of the children.

1. (No change.)

**2. Prior to caring for children, the provider shall provide and document orientation training to newly hired substitute provider(s) and the alternate provider, if any, including the following:**

**i. The provider's policies and procedures;**

**ii. The names and ages of all enrolled children;**

**iii. Any special needs or health concerns of enrolled children;**

**iv. Any nutrition needs of enrolled children;**

**v. The planned program of activities;**

**vi. The location of emergency contact information;**

**vii. Procedures for emergency preparedness; and**

**viii. Mandatory reporting of child abuse and neglect.**

[2.] **3.** (No change in text.)

(g) (No change.)

(h) No provider, **alternate provider, substitute provider, assistant provider, if any,** nor any other person in the home or while transporting children shall:

1. Consume alcoholic beverages when supervising children or [within sight of children] **during operating hours;** or

2. Smoke [within sight of children or] while supervising children **or during operating hours.**

(i)-(k) (No change.)

(l) The provider shall call the Department's State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873) if:

1. The provider's attempts to prevent the child's release to an impaired person, as specified in [(h)1] **(k)1** above, are unsuccessful; or

2. The provider's attempts to make alternative arrangements for the child's care, as specified in [(h)2] (k)2 above, are unsuccessful[,] and the provider [can not] cannot continue to care for the child in the home.

10:126-6.21 Communicating with parents

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

(g) **The provider shall develop and follow a written policy on the use of social media including, but not limited to, social networking sites, websites, the use of e-mail, text messages, and/or other electronic means of communication with staff, household members who are present during the family child care home's operating hours, and parents.**

1. **The social media policy shall include:**

i. **The types of social media that are used at the family child care home;**

ii. **The methods and devices the provider and staff will use for parent communication;**

iii. **Guidelines for appropriate conduct by staff members including, but not limited to, what methods will be used to ensure private e-mails, phone numbers, addresses, and other personal information pertaining to enrolled children are not shared or posted; and**

iv. **Guidelines for parents.**

2. **The provider shall distribute a copy of the social media policy to the parent or guardian of each enrolled child and each staff member and secure and maintain on file, a record of each parent's or guardian's and staff member's signature attesting to receipt of the policy.**

## CORRECTIONS

(a)

### THE COMMISSIONER

#### Use of Body Imaging Scanning Equipment

**Proposed Amendments: N.J.A.C. 10A:1-2.2, 10A:3-5.5, and 10A:31-1.3 and 8.8**

**Proposed New Rule: N.J.A.C. 10A:31-8.3**

Authorized By: Gary M. Lanigan, Commissioner, Department of Corrections.

Authority: N.J.S.A. 30:1B-6, 30:1B-10, 30:4-123.47C, 30:4-151, 2A:154-3 and 4, 2C:1-1 et seq., 2C:58-15, 10:5-3, 52:17B-169, and 52:27EE-26; and P.L. 2015, c. 213.

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

Proposal Number: PRN 2016-163.

Submit written comments by December 2, 2016, to:

Kathleen Cullen  
Administrative Rules Unit  
Office of the Commissioner  
New Jersey Department of Corrections  
PO Box 863  
Trenton, NJ 08625-0863  
or via e-mail: [ARU@doc.nj.gov](mailto:ARU@doc.nj.gov)

The agency proposal follows:

#### Summary

The Department of Corrections (Department) proposes to add a definition of body imaging scanning equipment at N.J.A.C. 10A:1-2.2 and 10A:31-1.3, based on the definition set forth in P.L. 2015, c. 213 (herein referred to as The Bill). In compliance with The Bill, new N.J.A.C. 10A:3-5.5(c) is proposed, pertaining to the use of body imaging scanning equipment to search inmates in State correctional facilities. This subsection sets forth parameters for the operation of body imaging scanning equipment, as well as related training requirements, safety precautions, and circumstances under which searches with body imaging scanning equipment are permitted. Training requirements pertaining to

the use of body imaging scanning equipment are proposed at new N.J.A.C. 10A:3-5.5(d) through (f).

In compliance with The Bill, new N.J.A.C. 10A:31-8.3 is proposed, pertaining to the use of body imaging scanning equipment to search arrestees, detainees, and inmates in adult county correctional facilities. This rule sets forth parameters for the operation of body imaging scanning equipment, as well as related training requirements, training certifications, safety precautions, and circumstances under which searches with body imaging scanning equipment are permitted. Training requirements and certifications pertaining to the use of body imaging scanning equipment are proposed at N.J.A.C. 10A:31-8.3(c), (d), and (e).

The Department also proposes to recodify existing N.J.A.C. 10A:31-8.2, Search of inmates and facilities, and 8.3, Search of inmates, as N.J.A.C. 10A:31-8.1 and 8.2, respectively, with no change in text. As a result of the recodifications, a change is proposed to a cross-reference at N.J.A.C. 10A:31-8.8, from N.J.A.C. 10A:31-8.2 to 8.1.

The Department of Corrections has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

#### Social Impact

The proposed amendments and new rule provide direction for the use of body imaging scanning equipment as an added search mechanism and enhanced safety and security tool in correctional facilities where such equipment may be deployed and include safeguards for the operation of such equipment within the manufacturers' recommended guidelines. The proposed amendments and new rule are anticipated to have an overall positive social impact as they involve the safe operation of a non-invasive search tool that will enhance the safe and secure operation of correctional facilities.

#### Economic Impact

Should the Department of Corrections or county correctional facilities choose to deploy body imaging scanning equipment as an enhancement to existing search tools, there will be added costs for the equipment itself, for development and delivery of staff training on the safe operation of the equipment, for mechanisms to track inmate and corrections staff radiation exposure, for ongoing equipment maintenance, manufacturer recommended upgrades, manufacturer recommended safety options, manufacturer recommended safety enhancements, etc.

The proposed amendments and new rule will not have a direct economic impact on the public. The economic impact will be borne by the Department of Corrections or county correctional facilities choosing to deploy body imaging scanning equipment.

#### Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments and new rule are not subject to any Federal standards. P.L. 2015, c. 213 applies to the State and county correctional facilities and the use of body imaging scanning equipment.

#### Jobs Impact

The proposed amendments and new rule will cause neither the generation nor the loss of any jobs.

#### Agriculture Industry Impact

The proposed amendments and new rule shall have no impact on the agriculture industry.

#### Regulatory Flexibility Statement

The proposed amendments and new rule do not impose reporting, recordkeeping, or compliance requirements on small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments and new rules impose training, reporting, and safety requirements on the Department of Corrections and/or county correctional facilities should they deploy body imaging scanning equipment, none of which qualify as a small business.

#### Housing Affordability Impact Analysis

The proposed amendments and new rule shall have no impact on housing affordability. The proposed amendments and new rule concerning the use of body imaging scanning equipment affect inmates,