

the infant, if a suitable home is available which can meet the infant's needs[.]; and

10. Offer the person services, medical care, or a referral for services, as appropriate.

3A:18-[1.10]**1.9** Police officers, **firefighters, emergency medical responders**, and hospital staff gather information, record in police, **fire department, or ambulance** incident report and infant's medical chart

(a) To assist the Division of Child Protection and Permanency in planning for the care of the safe haven infant, the police, **firefighter, emergency medical responder**, or hospital staff shall gather and record identifying and non-identifying information about the infant, if voluntarily provided by the person who brought the infant to, and left the infant at, the police station, **fire department, ambulance**, or hospital emergency department.

(b) In accordance with N.J.A.C. 3A:18-1.6(a), before gathering or recording any information, the police officer, **firefighter, emergency medical responder**, or hospital employee shall advise the person who brought the infant to the police station, **fire department, ambulance**, or hospital emergency department of his or her right to remain anonymous pursuant to N.J.S.A. 30:4C-[15.7g]**15.7.g**.

(c) If the parent or other person who brought the infant to the police station, **fire department, or ambulance** demonstrates a willingness to provide background or health information, a police officer, **firefighter, or emergency medical responder** shall record the information, to the extent such information is voluntarily provided, in the police, **fire department, or ambulance** incident report and shall share the information with a hospital employee. A hospital employee shall record background or health information in the infant's medical chart, if provided by the police officer, **firefighter, emergency medical responder**, or when provided by the parent or other person who brought an infant directly to the hospital, to the extent such information is voluntarily provided. The information to record includes, but is not limited to, the following:

1.-11. (No change.)

3A:18-[1.11]**1.10** Action taken by the Division upon receipt of a referral of a safe haven infant

(a) (No change.)

(b) Upon receipt of a referral from the Safe Haven for Infants Hotline pursuant to N.J.A.C. 3A:18-1.4(c)2i, the Division representative shall:

1.-5. (No change.)

6. Request a copy of the infant's medical chart, including any written identifying and non-identifying information about the safe haven infant recorded therein pursuant to N.J.A.C. 3A:18-[1.10]**1.9**;

7. Request a copy of the police, **fire department, or ambulance** incident report, if the safe haven infant was brought to a police station, **fire department, or ambulance** before being transported to the hospital; and

8. File for a termination of parental rights in accordance with N.J.A.C. 3A:21, Termination of Parental Rights, and pursuant to [the Act at] N.J.S.A. 30:4C-[15.1b(3)]**15.1.b(3)**, no later than 21 days after assuming care, custody and control of the infant, if no parent or relative has come forward by that date who is willing and able to care for the infant, except as specified at N.J.A.C. 3A:18-[1.13]**1.12**.

3A:18-[1.12]**1.11** Division not required to search for or identify parents or reunify birth family

(a) (No change.)

(b) If the Division becomes aware of the identity of the infant's parent, birth family or the person who brought the infant to, and left the infant at, the police station, **fire department, ambulance**, or hospital emergency department [pursuant to the Act], a Division representative shall consult the Deputy Attorney General to determine a course of action, as specified at N.J.A.C. 3A:18-[1.13]**1.12**.

3A:18-[1.13]**1.12** Actions taken when identification of safe haven infant's parent or family is determined

(a) If the Division becomes aware of the identity of a safe haven infant's parent, birth family, or the person who brought the infant to, and left the infant at, the police station, **fire department, ambulance**, or

hospital emergency department before the parental rights of the infant's parent or parents are terminated, the Division representative shall consult the Deputy Attorney General in order to make a determination, on a case-by-case basis, whether to attempt to contact the parent or parents or to notify members of the birth family of the existence of the safe haven infant, to thereby work with the parent or parents or family in developing a permanent plan for the infant, or to pursue another course of action. When making a determination, the factors to consider shall include, but shall not be limited to, the following:

1.-2. (No change.)

3. The intent or apparent intent of the parent, or other person acting on behalf of the parent, who brought the infant to the police station, **fire department, ambulance**, or hospital emergency department under the protections provided by [the Act] N.J.S.A. 30:4C-15.7.e;

4.-5. (No change.)

3A:18-[1.14]**1.13** Police officers, **firefighters, emergency medical responders**, and hospital staff acting in good faith immune from liability

Each police officer, **firefighter, emergency medical responder**, and the governmental jurisdiction or private organization employing that police officer, **firefighter, or emergency medical responder** and each employee of a hospital emergency department and the hospital employing that individual shall incur no civil or criminal liability for any good faith acts or omissions performed [in accordance with the Act,] pursuant to N.J.S.A. 30:4C-[15.7f]**15.7.f**.

COMMUNITY AFFAIRS

(a)

DIVISION OF CODES AND STANDARDS

Emergency Shelters for the Homeless

Proposed Readoption with Amendments: N.J.A.C. 5:15

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 55:13C-5.

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

Proposal Number: PRN 2017-122.

Submit written comments by September 15, 2017, to:

Kathleen Asher
Department of Community Affairs
PO Box 800
Trenton, New Jersey 08625
Fax Number: (609) 984-6696
E-mail: kathleen.asher@dca.nj.gov

The agency proposal follows.

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the rules governing emergency shelters for the homeless, N.J.A.C. 5:15, were scheduled to expire on June 11, 2017. As the Department of Community Affairs (Department) submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to December 8, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department has reviewed these rules and finds that they continue to be necessary for the purpose for which they were adopted and is, therefore, proposing that they be readopted with two amendments.

Subchapter 1 sets forth that the public officer appointed by a municipality is responsible for the administration and enforcement of this chapter and that, if no public officer has been appointed, the Bureau of Rooming and Boarding House Standards has that responsibility in the municipality. The public officer is responsible for the licensure, regulation, and inspection of emergency shelters for the homeless.

Subchapter 2 provides definitions.

Subchapter 3 sets forth the requirements for services to be provided to residents, as well as admission and discharge criteria. It requires facilities with children to provide sleeping areas, access to three meals a day, and referral services for medical and mental health care, as well as employment counseling. The subchapter also includes recordkeeping and staffing requirements.

Subchapter 4 sets forth the requirements for building maintenance, furnishing, equipment, and fire safety. Also included are requirements for housekeeping and maintenance of the facilities and for the providing of clean bedding and linens. The rules also provide for minimum square footage requirements for dining, leisure, and sleeping areas, as well as minimum bathroom facilities, and for "hospitality rooms" in which families may socialize and meet visitors.

At N.J.A.C. 5:15-1.5, Construction and alteration; change of use, the Department proposes an amendment to paragraph (c)4 that would replace the outdated reference to the BOCA National Building Code with reference to the Uniform Construction Code. This change in reference is not substantive in nature, but reflects the Department's need to maintain updated standards to protect the health of the people using such structures. The reference to "A-3" assembly uses is proposed for deletion as "similar assembly use" captures the intent.

The proposed amendment at N.J.A.C. 5:15-4.2, Building standard requirements, would require that buildings modified for use as emergency homeless shelters after May 1, 1989, comply with the applicable requirements of the Uniform Construction Code. The proposed amendment to N.J.A.C. 5:15-4.2(a) and the proposed deletion of a portion of subsection (b) align these rules with the rehabilitation subcode of the Uniform Construction Code, N.J.A.C. 5:23-6, which Chapter 15 predates.

As the Department 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.

Social Impact

There are approximately 123 emergency shelters licensed under this chapter. They have a combined licensed capacity of approximately 5,403 residents. Readoption of this chapter would allow continuation of rules written to ensure that such shelters are operated in a way that protects the health, safety, and welfare of those for whom they provide the only housing available.

The rules would continue to have a positive impact upon the lives of persons residing in emergency shelters. Since the intent of the rules is to facilitate the continued existence of properly-operated shelters, they have a beneficial effect on those who have no other emergency housing alternatives and would, therefore, otherwise be forced to stay either in the streets or in facilities unsuitable for such use, such as transportation terminals. The proposed amendments to N.J.A.C. 5:15-1.5 and 4.2 provide a benefit because they ensure the standards in place for the structures used as homeless shelters are aligned with the standards in place in the Uniform Construction Code.

This chapter does not apply to facilities that are subject to inspection or licensing by the Department of Human Services, the Department of Children and Families, or the Department of Corrections, to licensed rooming or boarding houses, or to residential health care facilities.

Economic Impact

The Bureau of Rooming and Boarding House Standards administers the emergency shelter inspection and licensing program as an adjunct to its much larger rooming and boarding house program. There is no separate funding for emergency shelter licensing and inspection.

The rules are, in most cases, enforced by designated municipal officials. The Bureau of Rooming and Boarding House Standards serves as the enforcing agency in those cases in which either the municipality fails to designate a responsible official or the shelter is itself operated by the municipality. Since the number of shelters is relatively small, and most are licensed and inspected locally, the cost of the program to the State is minimal. Readoption of the rules would therefore not be expected to have any significant economic impact. Because the proposed amendments to N.J.A.C. 5:15-1.5 and 4.2 are technical in nature, they are not anticipated to have an economic impact. The proposed amendment at N.J.A.C. 5:15-4.2 references the need for shelters to

comply with the applicable requirements of the Uniform Construction Code and the Uniform Fire Code.

The cost of bringing a shelter into compliance with the rules varies depending on the size and nature of the shelter and the degree to which it is already in compliance with these very basic requirements. The annual fee for a license would continue to be \$10.00.

Federal Standards Statement

No Federal standards analysis is required because the rules are not proposed for readoption with amendments under the authority of, or in order to implement, comply with, or participate in any program established under Federal law or a State law that incorporates or refers to Federal law, standards, or requirements.

Jobs Impact

The Department does not anticipate any creation or loss of jobs as a result of the rules proposed for readoption with amendments.

Agricultural Industry Impact

The Department does not anticipate any impact upon the agricultural industry as a result of the rules proposed for readoption with amendments.

Regulatory Flexibility Analysis

There are no for-profit businesses engaged in sponsoring homeless shelters in New Jersey. Most, if not all, of the nonprofit entities that sponsor such shelters would qualify as "small businesses" under the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Compliance with the rules should not require any such "small business" to hire professional services that they would not otherwise find it necessary to retain, except that the services of a qualified design professional would be needed for the preparation of plans and specifications for any required building modifications, in accordance with the State Uniform Construction Code. The rules include reporting, recordkeeping, and compliance requirements that are necessary for the protection of the health, safety, and welfare of the residents of the facilities. These include, but are not limited to, a daily census, records of individual emergencies and special medical needs or conditions, records of incidents of endangerment, and records of financial transactions. Except as otherwise provided in N.J.A.C. 5:15-1.9, these requirements must be enforced regardless of the size or form of organization of the sponsor.

The rules allow all shelter sponsors, be they "small businesses" or not, to avail themselves of the waiver provision at N.J.A.C. 5:15-1.9 that would allow a sponsor to obtain a waiver or modification upon a showing that strict compliance would cause undue hardship to facility residents and that their safety would not be unduly jeopardized if the request was granted. Furthermore, N.J.A.C. 5:15-1.9(b)4 provides that no plan for an alternative may be rejected unless the local public officer or the Bureau, as the case may be, determines that funding is available to bring the facility into compliance with the rule, but the sponsor cannot, or will not, apply for it.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments concern the maintenance and inspection of emergency shelters for the homeless. It would be most unlikely to have any impact upon housing production costs or to affect affordability of housing in New Jersey.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments concern the maintenance and inspection of emergency shelters for the homeless. It would be most unlikely to have any impact upon housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 5:15.

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

SUBCHAPTER 1. ADMINISTRATION AND ENFORCEMENT

- 5:15-1.5 Construction and alteration; change of use
 - (a)-(b) (No change.)
 - (c) A new or amended certificate of occupancy shall be required in the event of any change of use other than the following:
 - 1.-3. (No change.)
 - 4. The use of a building, or portion thereof, that is an auditorium, gymnasium, or similar [A-3] assembly use as defined in the [BOCA National Building Code] **Uniform Construction Code, N.J.A.C. 5:23**, as a Class II shelter as defined in N.J.A.C. 5:15-1.6(b)2.
 - (d) (No change.)

SUBCHAPTER 4. FACILITY REQUIREMENTS

- 5:15-4.2 Building standard requirements
 - (a) A building newly constructed after May 1, 1989, **or an existing structure modified for use as a shelter after May 1, 1989**, shall be in compliance with the Uniform Construction Code for **Group R-1** [use, group] occupancy, if residency is for less than 30 days or R-2 if residency is for 30 days or more.
 - (b) A shelter existing on May 1, 1989, [or an existing structure modified for use as a shelter after May 1, 1989,] shall conform to the requirements of the Uniform Fire Code (N.J.A.C. 5:70-4) for R-1 use group structures, if residency is for less than 30 days, or for R-2 if residency is for 30 days or more.
 - (c) (No change.)

(a)

DIVISION OF CODES AND STANDARDS
Standards for Licensure of Residential Health Care Facilities Not Located With, and Operated By, Licensed Health Care Facilities
Proposed Redoction with Amendments: N.J.A.C. 5:27A

Proposed New Rule and Repeal: N.J.A.C. 5:27A-17.4
Proposed New Rules: N.J.A.C. 5:27A-19

Authorized By: Charles A. Richman, Commissioner, Department of Community Affairs.

Authority: N.J.S.A. 26:2H-5 and 30:11A-3; and Reorganization Plan No. 002-2005.

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

Proposal Number: PRN 2017-129.

Submit written comments by September 15, 2017, to:

Kathleen Asher
 Department of Community Affairs
 PO Box 800
 Trenton, New Jersey 08625
 Fax number: (609) 984-6696
 E-mail: kathleen.asher@dca.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, the Standards for Licensure of Residential Health Care Facilities Not Located With, and Operated By, Licensed Health Care Facilities, N.J.A.C. 5:27A, were scheduled to expire on June 11, 2017. As the Department of Community Affairs (Department) filed this notice of redoction prior to that date, the expiration date is extended 180 days to December 8, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Department has reviewed the rules and finds that they continue to be necessary for the purpose for which they were adopted and is, therefore, proposing that they be readopted.

The rules proposed for redoction are intended to protect the health, safety, and welfare of residents of residential health care facilities under the jurisdiction of the Department of Community Affairs pursuant to

Reorganization Plan 002-2005. Residential health care facilities located with, and operated by, a licensed health care facility remain subject to the jurisdiction of the Department of Health. Residential health care facilities were moved to the jurisdiction of the Department of Community Affairs because, as a practical matter, these facilities are very similar to rooming and boarding houses. As a result, some proposed amendments aim to create an equal regulatory treatment for both facilities.

A residential health care facility provides food, shelter, supervised health care, and related services in a homelike setting, to four or more persons, 18 years of age or older, who are unrelated to the owner or administrator.

The chapter proposed for redoction includes 18 subchapters, which are as follows: Definitions and Qualifications; Licensure Procedures; Physical Plant for Construction, Renovations, and Additions; Physical Environment for Existing Residential Health Care Facilities; General Requirements; Administration; Resident Care Policies; Personal Care Services; Dietary Services; Health Services; Medications; Recreational Services; Emergency Services and Procedures; Resident Records; Resident Rights; Housekeeping, Sanitation, Safety, and Maintenance; Infection Prevention and Control Services; Survey Procedures; and Enforcement Remedies. There are also three appendices, which are as follows: Guidelines for Inappropriate Behavior and Resident to Resident Abuse; Daily Food Guide; and Recommendations for Pet Therapy.

The proposed amendments would update the language to correct errors, revise enforcement practices to address violations, and align the rules with N.J.A.C. 5:27, Regulations Governing Rooming and Boarding Houses. Three proposed amendments are made to update the rules to accurately reflect current practices. The proposed amendment to N.J.A.C. 5:27A-14.2(a)19iv, which currently allows residents to provide monies from the Home Energy Assistance Program to the facility, deletes the phrase “may, but,” because doing so is illegal. At N.J.A.C. 5:27A-15.3(b)4, the proposed amendment would change the word “feet” to “inches” to accurately reflect the measurement requirements of the section. The proposed amendment to N.J.A.C. 5:27A-2.1(i) would update the inspection fee to reflect the change in frequency and payment from a biennial inspection fee of \$450.00 to an annual inspection fee of \$225.00.

The proposed amendment to N.J.A.C. 5:27A-2.4(a) would add a reference to the Uniform Construction Code, regarding when a building is ready for occupancy. At N.J.A.C. 5:27A-17.2, an amendment is proposed to require the Department to cite specific rules in written summary reports of deficiency findings.

At N.J.A.C. 5:27A-9.2 and 16.4, phone numbers that are out-of-service or inapplicable are proposed to be deleted.

At N.J.A.C. 5:27A-1.3, proposed amendments would remove the definition for “epidemic,” which appears nowhere in the rules and remove the word “basic” from “basic physical plant services,” to align the definition with the language used throughout the rules. The proposed amendment to N.J.A.C. 5:27A-3.3(d)1 would replace the word “then” with “than” and the proposed amendment to N.J.A.C. 5:27A-3A.2(b) would change the word “insure” to “ensure.”

At N.J.A.C. 5:27A-15.3(a)11, the proposed amendment would add a hyphen for the phrase “high-level disinfection.” The proposed amendment to N.J.A.C. 5:27A-16.4(g) would replace the word “contagious” with “communicable” to match the definition and language used throughout the chapter. The proposed amendment to N.J.A.C. 5:27A-18.10(d) clarifies the requirement for residential health care facilities placed on provisional licenses to “conspicuously” post the provisional license within the facility.

The rules for residential health care facilities were recodified to the Department of Community Affairs from the Department of Health in 2005, necessitating that some requirements be adjusted to align with N.J.A.C. 5:27, Regulations Governing Rooming and Boarding Homes, since residents of residential health care facilities are similar to those residing in boarding homes. The proposed deletion and replacement of N.J.A.C. 5:27A-10.1(a)2 would require facilities to maintain a daily record of the type and amount of medication taken by a resident and the time at which such medication was taken. This would eliminate the need for N.J.A.C. 5:27A-10.1(a)3, which states that the Department may