

The Water Pollution Control Act rules also set forth the procedures for assessment, payment, and settlement of civil administrative penalties for violations of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Act Concerning Pretreatment of Industrial Wastewater, N.J.S.A. 58:11-64 et seq., and the New Jersey Underground Storage of Hazardous Substances Act, N.J.S.A. 58:10A-21 et seq.

HEALTH

(a)

PUBLIC HEALTH SERVICES BRANCH SPECIAL CHILD HEALTH AND EARLY INTERVENTION SERVICES EARLY IDENTIFICATION AND MONITORING PROGRAM

Notice of Readoption Birth Defects Registry

Readoption: N.J.A.C. 8:20

Authority: N.J.S.A. 26:2-103.1 through 103.9, particularly 103.9; 26:2-185 through 188; and 26:8-40.20 through 40.26, particularly 40.26.

Authorized By: Cathleen D. Bennett, Commissioner, Department of Health.

Effective Date: September 8, 2017.

New Expiration Date: September 8, 2024.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the Commissioner of the Department of Health (Department) hereby readopts N.J.A.C. 8:20, which was to expire on October 20, 2017.

N.J.A.C. 8:20 establishes, at Subchapter 1, Live Births, definitions of terms the subchapter uses, and standards for reporting birth defects in newborns to the Department; and at Subchapter 2, Autism, the purpose and scope of the subchapter, definitions of terms the subchapter uses, and standards for reporting autism diagnoses to the Department.

The Department is developing rulemaking that would revise and update N.J.A.C. 8:20. However, the rulemaking in development will not be implemented in time to prevent the expiration of existing N.J.A.C. 8:20. The Commissioner has reviewed N.J.A.C. 8:20 and determined that the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which the Department originally promulgated it, as amended and supplemented over time, and should be readopted. Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 8:20 is readopted and shall continue in effect for seven years.

HIGHER EDUCATION

(b)

SECRETARY OF HIGHER EDUCATION Residency Requirements for Tuition Purposes at Public Colleges and Universities

Adopted Amendment: N.J.A.C. 9A:5-1.1

Proposed: July 3, 2017, at 49 N.J.R. 1788(a).

Adopted: September 7, 2017, by Rochelle Hendricks, Secretary of Higher Education, Office of the Secretary of Higher Education.

Filed: September 7, 2017, as R.2017 d.184, **without change**.

Authority: N.J.S.A. 18A:62-4.

Effective Date: October 2, 2017.

Expiration Date: March 14, 2021.

Summary of Public Comment and Agency Response:

COMMENT: Jean Public stated “no illegal immigrant who has sneaked into this country unlawfully should be able to attend New Jersey state universities at any time. They should be deported from this country. They do not belong in the USA at all and making American taxpayers pay for such unlawful people is absolutely wrong. They should be deported to their own country. We have laws on entering this country. Rewarding such unlawful sneaks is absolutely illegal”.

RESPONSE: The commenter’s remarks are not consistent with the proposed amendment. The proposed amendment extends the State of New Jersey’s residency requirements to U.S. military personnel or their dependents who are living in New Jersey and attending public institutions of higher education in New Jersey institutions.

Federal Standards Statement

The adopted amendment provides a definition of a “dependent” that is consistent with Federal law 38 U.S.C. § 3679(c), however it is not subject to a Federal standards analysis under Executive Order No. 27 (1994) and N.J.S.A. 52:14B-22 et seq., because the Office of the Secretary of Higher Education’s regulation of residency requirements for tuition purposes at public colleges and universities is consistent with N.J.S.A. 18A:62-4.1.

Full text of the adoption follows:

SUBCHAPTER 1. ELIGIBILITY FOR STATE RESIDENT TUITION

9A:5-1.1 State domicile required

(a)-(g) (No change.)

(h) United States military personnel and their dependents who are living in New Jersey and are attending public institutions of higher education in New Jersey shall be regarded as residents of the State for the purpose of determining tuition.

1. As used in this subsection, a dependent means an individual who is eligible for covered individual status under 38 U.S.C. § 3679(c).

INSURANCE

(c)

DEPARTMENT OF BANKING AND INSURANCE DIVISION OF INSURANCE

Dental Services

Dental Plan Organizations

Expense Limitation

Adopted Amendment: N.J.A.C. 11:10-1.9

Proposed: June 5, 2017, at 49 N.J.R. 1315(a).

Adopted: August 31, 2017, by Richard J. Badolato, Commissioner, Department of Banking and Insurance.

Filed: August 31, 2017, as R.2017 d.180, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:48C-18.1 et seq.,

17:48D-1 et seq., 17B:26-44.4 et seq., and 17B:27-51.10a et seq.

Effective Date: October 2, 2017.

Expiration Date: August 1, 2018.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

A Federal standards analysis is not required because the requirements contained in the adopted amendment are the same as those imposed by Federal law at Pub. L. 111-148.

Full text of the adoption follows:

SUBCHAPTER 1. DENTAL PLAN ORGANIZATIONS

11:10-1.9 Expense limitation

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

(f) For purposes of determining the expense limitation pursuant to N.J.S.A. 17:48D-14, Federal fees, taxes, and/or assessments that are required by the Federal Patient Protection and Affordable Care Act, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act, Public Law 111-152 are excluded from the calculation of premiums.

LAW AND PUBLIC SAFETY

(a)

DIVISION ON CIVIL RIGHTS**Multiple Dwelling Reports****Readoption with Amendments: N.J.A.C. 13:10**

Proposed: April 17, 2017, at 49 N.J.R. 717(a).

Adopted: August 30, 2017, by Craig Sashihara, Director, Division on Civil Rights.

Filed: September 6, 2017, as R.2017 d.182, **without change**.

Authority: N.J.S.A. 10:5-8 and 10:5-12.

Effective Dates: September 6, 2017, Readoption;
October 2, 2017, Amendments.

Expiration Date: September 6, 2024.

Summary of Public Comment and Agency Response:

The official comment period ended June 16, 2017. **The Division on Civil Rights received no comments.**

Federal Standards Statement

A Federal standards analysis is not necessary because the rules readopted with amendments are not intended to implement or comply with any programs established under Federal law or under a State statute that incorporates or refers to Federal law.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:10.

Full text of the adopted amendments follows:

SUBCHAPTER 2. REPORTING

13:10-2.3 Form and contents of report

(a) The report shall be submitted on forms approved by the Attorney General and said forms shall be available on the website of the Division on Civil Rights (www.NJCivilRights.gov).

(b) (No change.)

13:10-2.7 Late filing penalties

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

(f) The Director of the Division on Civil Rights may, in his or her discretion, waive all or part of the penalties incurred with the late filing of a report or reports for good cause shown, so long as such waiver would not compromise the purpose of the reports as set forth in N.J.A.C. 13:10-2.1. An owner of a multiple apartment development may apply to the Director of the Division on Civil Rights for a waiver or relaxation of the penalties incurred because of the late filing or failure to file a report or reports. Such request shall be made in writing, and shall set forth, with specificity, the owner's reasons for late filing or failure to file. If applicable, documentation supporting the request should be included. The Director may consider such factors as the owner's previous filing history, the owner's promptness in filing the report upon notice of delinquency, DCR resources expended on addressing the delinquency, and any exceptional circumstances related to the delinquency (which may include an owner's undue hardship, economic or otherwise).

(b)

DIVISION OF CONSUMER AFFAIRS**STATE BOARD OF MEDICAL EXAMINERS****Definitions; Standards for Declaration of Brain Death; Pronouncement of Death****Adopted Amendments: N.J.A.C. 13:35-6A.2, 6A.3, 6A.4, and 6A.7**

Proposed: January 3, 2017, at 49 N.J.R. 50(a).

Adopted: April 5, 2017, by the State Board of Medical Examiners, George Scott, D.P.M., D.O., President.

Filed: August 31, 2017, as R.2017 d.181, **without change**.

Authority: N.J.S.A. 45:9-2 and P.L. 2013, c. 185.

Effective Date: October 2, 2017.

Expiration Date: May 3, 2018.

Summary of Public Comments and Agency Responses:

The official comment period ended March 4, 2017. The Board received two comments from the following individuals:

1. Michael J. Solomon, MD

2. Anthony L. D'Ambrosio, MD, FAANS, President, New Jersey Neurosurgical Society

1. COMMENT: A commenter supports the amendments to the New Jersey Declaration of Death Act but is concerned that these amendments do not address provisions in the act that allow a family member to require a hospital to maintain a body for religious reasons. The commenter believes that this provision requires doctors and hospitals to continue treatment after brain death has been determined. The commenter recommends that the act be amended to require that a patient's religious beliefs be established through clear and convincing evidence before continued treatments are required under this provision.

RESPONSE: The suggestion made by the commenter could only be effected by an amendment of N.J.S.A. 26:6A-5, which in turn would require legislative action. The Board does not have any authority to amend its rules in the manner suggested by the commenter, and takes no position on the commenter's suggestion.

2. COMMENT: A commenter supports the amendments to N.J.A.C. 13:35-6A.2, 6A.3, 6A.4, and 6A.7 and basing a declaration of death on the exercise of a physician's best medical judgment. The commenter also supports allowing pediatric critical care specialists to declare death in those under the age of two months.

RESPONSE: The Board thanks the commenter for his support.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal laws or standards applicable to the adopted amendments.

Full text of the adoption follows:

SUBCHAPTER 6A. DECLARATIONS OF DEATH UPON THE BASIS OF NEUROLOGICAL CRITERIA

13:35-6A.2 Definitions

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

...

13:35-6A.3 Requirements for physicians authorized to declare death on the basis of neurological criteria

(a) A physician performing a clinical brain death examination shall be plenary licensed and shall hold the following qualifications, dependent on the age of the patient upon whom a declaration of brain death is to be made:

1. Age below two months: When declarations of brain death are to be made upon children below two months of age, the examining physician shall be a specialist in neonatology, pediatric neurology, pediatric critical care medicine, or pediatric neurosurgery.

2.-3. (No change.)