

**HEALTH**

**HEALTH SYSTEMS BRANCH**

**DIVISION OF CERTIFICATE OF NEED AND LICENSING**

**Hospital Licensing Standards**

**Proposed Amendments: N.J.A.C. 8:43G-1.2 and 4.1**

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

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

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

Proposal Number: PRN 2025-030.

Submit written comments electronically by June 6, 2025, to [www.nj.gov/health/legal/ecomments.shtml](http://www.nj.gov/health/legal/ecomments.shtml) or by regular mail postmarked by June 6, 2025, to:

Kimberly E. Jenkins, Director  
Office of Legal and Regulatory Compliance  
Office of the Commissioner  
New Jersey Department of Health  
PO Box 360  
Trenton, NJ 08625-0360

The agency proposal follows:

**Summary**

The Health Care Facilities Planning Act (Act), N.J.S.A. 26:2H-1 et seq., requires the Department of Health (Department) to develop standards and procedures relating to the licensing of health care facilities and the institution of additional health care services to ensure the efficient and effective delivery of health care services. N.J.A.C. 8:43G implements the Act by establishing the standards for licensure of and the provision of services by hospitals in New Jersey. Further, N.J.S.A. 26:2H-12.8, Rights of persons admitted to a general hospital, sets forth the minimal rights of hospital patients.

The Department is proposing amendments at N.J.A.C. 8:43G-1.2 and 4.1 in response to its experience during the COVID-19 public health emergency (PHE) with respect to patients' ability to be accompanied by support persons during their hospitalizations. During the public health emergency that Governor Murphy declared on March 9, 2020, in response to the PHE) both the Center for Medicare and Medicaid (CMS) and the State of New Jersey required hospitals to allow support persons to accompany patients in hospital settings, in some form.

In New Jersey, the Department required hospitals to allow a support person to accompany a patient during labor, delivery, and the entire postpartum hospital stay. See New Jersey Department of Health, Executive Directive No. 20-020 "Support Person in Labor and Delivery Settings" (issued March 29, 2020, revised June 29, 2020, and replaced and superseded October 21, 2020,) available at [https://www.nj.gov/health/legal/covid19/6-29-20\\_ExecutiveDirectiveNo20-020\\_LaborDelivery.pdf](https://www.nj.gov/health/legal/covid19/6-29-20_ExecutiveDirectiveNo20-020_LaborDelivery.pdf). Moreover, during the PHE, the Department issued a guidance memorandum directing hospitals to allow a designated support person to accompany an individual with a disability during hospitalization. See New Jersey Department of

Health, Guidance Memorandum, “Support Person Permitted for a Patient with a Disability” (issued April 25, 2020), available at [https://www.nj.gov/health/legal/covid19/4-25-2020\\_SupportPersons\\_forPatientsWithDisabilities.pdf](https://www.nj.gov/health/legal/covid19/4-25-2020_SupportPersons_forPatientsWithDisabilities.pdf), and superseded by New Jersey Department of Health, Waiver, “Support Person(s) Permitted for a Patient with a Disability” (issued May 12, 2020), available at [https://www.nj.gov/health/legal/covid19/5-12-2020\\_SupportPersons\\_forPatientsWithDisabilities.pdf](https://www.nj.gov/health/legal/covid19/5-12-2020_SupportPersons_forPatientsWithDisabilities.pdf).

CMS also encouraged hospitals to permit reasonable access to support person(s) for patients with disabilities. See CMS, Guidance Memorandum, “Hospital Visitation – Phase II Visitation for Patients who are Covid-19 Negative” (June 26, 2020), available at <https://www.cms.gov/files/document/covid-hospital-visitation-phase-ii-visitation-covid-negative-patients.pdf>.

These accommodations were well-received by hospital patients and the public. As a result of the feedback received, the Department proposes to establish rules extending the right to this accommodation to all hospital patients. Therefore, the Department is proposing amendments to require hospitals to allow a support person to accompany a hospital patient throughout the patient’s treatment, in areas where communication between hospital staff, professionals, and patients would normally take place. A support person is an essential member of a patient’s healthcare team and can provide support and encouragement to the patient and assist with the patient’s communication with hospital staff during the patient’s treatment.

The Department proposes to amend N.J.A.C. 8:43G-1.2 to add a definition of the new term “support person” to mean a person who is 18 years of age or older whom a patient selects, and whom a hospital must allow to accompany the patient in both the

emergency department and during hospitalization, in areas where communication between hospital staff, professionals, and patients would take place, and during public health emergencies. A support person is to adhere to hospital policies and procedures other than visitation hours.

The Department also proposes to amend N.J.A.C. 8:43G-4.1, which establishes patient rights. The Department proposes to reorganize subsection (a) and as subsections (a) and (b). The Department proposes to add new paragraph (b)24 to identify the right of a patient to name and be accompanied by a support person as a patient right. The proposed amendments would not detract from any patient rights already granted at N.J.A.C. 8:43G-4.1. Instead, the proposed amendments would acknowledge an additional right on behalf of patients pursuant to this section.

The enforcement mechanisms for this new patient right would be the same as those that apply to nonadherence to other patient rights. Those sanctions would normally include monetary penalties issued pursuant to N.J.A.C. 8:43E-3.4, but can include the full panoply of enforcement remedies available pursuant to N.J.A.C. 8:43E-3.1.

The proposed amendments would require a support person to be an individual who is 18 years of age or older. Further, a patient may name more than one individual as a support person; but only one individual can be the patient's primary support person. A hospital must ensure that the primary support person has 24-hour access to the patient and must treat the primary support person as the main contact for the patient's providers, other than the patient. Other support persons are to have 24-hour

access to the patient, but hospitals are not to treat them as contacts for the patient's health care providers.

As the Department has provided a 60-day public comment period for 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**

The Department expects a positive social impact to result from the proposed amendments at N.J.A.C. 8:43G. The proposed amendments at N.J.A.C. 8:43G would affect all New Jersey hospitals and the patients they serve.

Patients receiving treatment and their families would realize a positive social benefit from the proposed amendments. By requiring a hospital to allow a support person to accompany a hospital patient, the support person can be a source of encouragement, strength, and guidance for the patient during a hospitalization.

The Department expects that the public would react favorably to the proposed amendments because they give hospitalized patients an additional right, that is, the right to have a support person present to help the patient during hospitalization, which is typically a time of uncertainty and stress.

The Department anticipates that hospitals would react favorably to the proposed amendments. A support person can be an invaluable source of encouragement and guidance for patients and can serve as an intermediary to assist with communication between the patient and hospital staff.

### **Economic Impact**

The Department has reviewed the proposed amendments and foresees minimal economic impact resulting from the implementation of the proposed amendments. The only foreseeable economic impact would be to hospitals, which would experience a minimal increase in required recordkeeping, in that a hospital would need a signed consent form from a patient prior to discussing a patient's personally identifiable information within hearing of the support person. In addition, a hospital that does not respect the right of a patient to have a support person accompany the patient might incur financial sanctions for noncompliance. The Department anticipates that neither hospital patients nor the public would realize an economic impact resulting from the proposed amendments.

#### **Federal Standards Statement**

The proposed amendments are not being proposed pursuant to the authority of, or in order to implement, comply with, or participate in, any program established pursuant to Federal law or any State statute that incorporates or refers to any Federal law, standard, or requirements. Therefore, a Federal standards analysis is not required.

#### **Jobs Impact**

The Department does not anticipate that the proposed amendments would result in the generation or loss of jobs in the State.

#### **Agriculture Industry Impact**

The proposed amendments would not have an impact on the agriculture industry in New Jersey.

#### **Regulatory Flexibility Statement**

None of the State's hospitals are considered "small businesses" within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because each hospital employs more than 100 persons full time; therefore, a regulatory flexibility analysis is not required.

### **Housing Affordability Impact Analysis**

The proposed amendments will have no impact on the affordability of housing in New Jersey and would evoke no change in the average costs associated with housing because the proposed amendments would address a patient's right to be accompanied by a support person while hospitalized.

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

The proposed amendments would have no impact on smart growth and would not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because the proposed amendments would address a patient's right to be accompanied by a support person while hospitalized.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The Department proposes to allow a support person to accompany a patient while in the emergency room and during hospitalization in areas where communication between hospital staff, professionals, and patients would normally take place. The Department has evaluated these proposed amendments and determined that they will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

## SUBCHAPTER 1. GENERAL PROVISIONS

### 8:43G-1.2 Definitions

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

...

**“Support person” means a person who is 18 years of age or older whom a patient selects to accompany the patient both in an emergency department and during hospitalization, in areas where communication between hospital staff, professionals, and patients would normally take place.**

**1. A support person may or may not be the patient’s next of kin or guardian or legally authorized decision-maker through an advance directive, as authorized by law.**

**2. If the patient loses decision-making capacity, a support person is not authorized to make decisions on behalf of the patient, unless that person is the patient’s next of kin, guardian, or legally authorized decision-maker through an advance directive.**

**3. A hospital shall disclose a patient’s personal identifiable information to a support person only after the patient or the patient’s legally authorized decision-maker provides written consent for the intended disclosure.**

**4. A patient may name more than one support person but shall designate only one such person as the primary support person.**



**5. A hospital shall ensure that:**

**i. Notwithstanding visitation hours that ordinarily would apply, a patient's primary support person shall have 24-hour access to the patient in areas where communication between hospital staff, professionals, and patients would normally take place;**

**ii. In addition to direct communication with a patient and the patient's legally authorized representative (if any), or when such direct communication with the patient is not possible due to the patient's diminished capacity, the hospital shall treat the primary support person as the main contact for the patient's providers;**

**iii. Notwithstanding visitation hours that ordinarily would apply, a patient's other support persons shall have 24-hour access to the patient in areas where communication between hospital staff, professionals, and patients would normally take place, provided that the hospital is not to treat a non-primary support person as a contact for the patient's health care providers; and**

**iv. A hospital shall permit a patient's support persons to accompany the patient during a public health emergency.**

**6. A support person shall adhere to hospital policies and procedures, other than visitation hours that ordinarily would apply.**

...

**SUBCHAPTER 4. PATIENTS RIGHTS**

**8:43G-4.1 Patient rights**

(a) [Every New Jersey hospital patient shall have the following rights, none of which shall be abridged by the hospital or any of its staff. The] **A** hospital administrator shall [be responsible for developing] **ensure the development** and [implementing] **implementation of** policies to protect patient rights and to respond to questions and grievances pertaining to patient rights. [These rights shall include at least the following]

**(b) Every New Jersey hospital patient shall have at least the following rights, none of which a hospital or any of its staff shall abridge:**

1.-23. (No change.)

**24. To be accompanied by a support person both in the emergency department and during hospitalization, in areas where communication between hospital staff, professionals, and patients would normally take place.**

Recodify existing 24.-31. as **25.-32.** (No change in text.)