

i. In Section [614.8] **614.10**, Common exhaust systems for clothes dryers located in multistory structures, item 7, insert “, if provided,” after the word “and”.

ii.-iii. (No change.)

7.-9. (No change.)

SUBCHAPTER 4. ENFORCING AGENCIES; DUTIES; POWERS; PROCEDURES

5:23-4.26 Certification of building elements

(a) Building elements shall be certified in accordance with the following provisions:

1. Building elements, such as fire walls, fire separation walls, wall panels, pre-stressed/prefabricated floor or roof panels, and pre-engineered structural frames, built in accordance with the New Jersey Uniform Construction Code, may be approved by (a) i or ii below:

i.-ii. (No change.)

iii. If applicable, Fabricator Approval per Section [1704.2.2] **1704.2.5.1** of the building subcode is required for Class 1 buildings in addition to (a) i or ii above.

SUBCHAPTER 5. LICENSING OF CODE ENFORCEMENT OFFICIALS

5:23-5.3 Types of licenses and certifications

(a) Rules concerning code enforcement licensure and certification categories are:

1. Technical licenses: Subject to the requirements of this subchapter, persons may apply for and may be licensed in the following specialties:

i.-vi. (No change.)

vii. Mechanical inspector: Mechanical inspectors are authorized to carry out field inspection and plan review work for all work under the mechanical subcode in **existing** structures of Group R-3, **R-4**, or R-5. Only a person already holding a valid inspector’s license may apply for a mechanical inspector’s license.

2.-3. (No change.)

4. Special inspector certifications: Subject to the requirements of this subchapter, persons may apply for and may be certified in the following specialties:

i. Structural welding special inspector: Structural welding special inspectors are authorized to carry out field inspections pursuant to sections [1704.3.1] **1705.2.1**, **1705.2.2**, and **1705.3.1** of the building subcode.

ii. Structural steel and bolting special inspector: Structural steel and bolting special inspectors are authorized to carry out field inspections pursuant to section[s 1704.3.2 and 1704.3.3] **1705.2.1** of the building subcode.

iii. Concrete placement special inspector: Concrete placement special inspectors are authorized to carry out field inspections pursuant to section [1704.4] **1705.3**, **except section 1705.3.1**, section [1704.9] **1705.7** and Table [1704.4] **1705.3**, rows **1, 2, 3, 4, 5, 6, 7, 8, 10, 11**, and 12 of the building subcode.

iv. Reinforced concrete special inspector: Reinforced concrete special inspectors are authorized to carry out field inspections pursuant to section [1704.4] **1705.3**, **except section 1705.3.1**, section [1704.9] **1705.8** and Table [1704.4] **1705.3**, rows **1, 2, 3, 4, 5, 6, 7, 8, 10, 11**, and 12 of the building subcode.

v. Prestressed concrete special inspector: Prestressed concrete special inspectors are authorized to carry out field inspections pursuant to section [1704.4] **1705.3**, **except section 1705.3.1** and Table [1704.4] **1705.3**, rows **1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11**, and 12 of the building subcode.

vi. Structural masonry special inspector: Structural masonry special inspectors are authorized to carry out field inspections pursuant to section [1704.5 and section 1704.11] **1705.4** of the building subcode.

vii. Spray-applied fireproofing special inspector: Spray-applied fireproofing special inspectors are authorized to carry out field inspections pursuant to section [1704.10] **1705.14** of the building subcode.

viii. Exterior insulation finish system (EIFS) special inspector: EIFS special inspectors are authorized to carry out field inspections pursuant to section [1704.12] **1705.16** of the building subcode.

SUBCHAPTER 12. ELEVATOR SAFETY SUBCODE

5:23-12.8 Alterations, minor work, ordinary elevator maintenance

(a) For the purposes of this subchapter, alteration of an elevator device means any change to equipment other than minor work as provided in (b) below and ordinary maintenance, as defined in N.J.A.C. 5:23-[2.7(b)6] **2.7(c)6**. Alteration of an elevator device shall comply with the applicable requirements of Section 8.7 and Appendix L of the most recent edition of ASME A17.1, referenced in the building subcode, or with the applicable requirements of the most recent edition of ASME A18.1, or ASME A90.1 referenced in the building subcode.

(b) (No change.)

HUMAN SERVICES

(a)

DIVISION OF DEVELOPMENTAL DISABILITIES

Life-Threatening Emergencies

Proposed Readoption with Amendments: N.J.A.C. 10:42A

Proposed Repeal: N.J.A.C. 10:42A-2.2

Authorized By: Elizabeth Connolly, Acting Commissioner,
Department of Human Services.

Authority: N.J.S.A. 30:6D-5.1 et seq., specifically 30:6D-5.6.

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

Proposal Number: PRN 2017-024.

Submit written comments by April 21, 2017, electronically to

DDD-CO.LAPO@dhs.state.nj.us, or by regular mail or
facsimile to:

Carol Jones

Administrative Practice Officer

Division of Developmental Disabilities

PO Box 726

Trenton, NJ 08625-0726

Fax: (609) 631-2214

The agency proposal follows:

Summary

The Division of Developmental Disabilities (Division) proposes to readopt N.J.A.C. 10:42A, Life-Threatening Emergencies, with amendments. Chapter 42A implements “Danielle’s Law,” P.L. 2003, c. 191. Danielle’s Law requires staff members working with persons with developmental disabilities or traumatic brain injury to contact 911 in the event of a life-threatening emergency.

The Department of Human Services (Department) adopted Chapter 42A effective August 1, 2005, and readopted the chapter effective January 28, 2011. The chapter was scheduled to expire on January 28, 2018, pursuant to N.J.S.A. 52:14B-5.1. As the Division has filed this notice of readoption with the Office of Administrative Law prior to that date, the expiration date of the chapter is extended 180 days to July 28, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division has reviewed this chapter, and has found that with the proposed amendments, the rules are reasonable, necessary, and proper for the purpose for which they were originally promulgated.

The proposed amendments are primarily designed to address confusion that has arisen since rules were originally adopted, while continuing to protect individuals by requiring that 911 be called for life-threatening emergencies. By incorporating the definition of life-threatening emergency into N.J.A.C. 10:42A-2.1, the amendments reinforce that the prudent person standard applies when the situation arises, and not based upon the ultimate outcome. A proposed amendment

would delete the specific examples of a life-threatening emergency. These specific examples are not contained within the enabling legislation; deleting them will reduce confusion by once again reinforcing that the central guideline to be used when situations arise is “whether a prudent person could reasonably believe that immediate intervention is necessary” to protect lives from “the immediate threat or actual occurrence of a potentially fatal injury, impairment to bodily functions or dysfunction of a bodily organ or part,” as is required by law.

Another proposed amendment provides that if a person experiences chronic seizure activity, the person’s licensed medical practitioner may issue a prescription or standing order describing when 911 need not be called because the person’s seizure activity is not life-threatening. This amendment will address ongoing concerns expressed by families, agencies, and local emergency services that 911 calls are sometimes unnecessarily made for individuals with chronic seizure activity. An amendment is also proposed to clarify that when a person is receiving end-of-life care, 911 need not be called for circumstances arising from end-of-life issues, and to reference Practitioner Orders for Life Sustaining Treatment (POLST), which were not in use in New Jersey when the rules were last adopted. The proposed amendments would also remove the requirement that agencies submit training procedures to the Division, and instead provide that agencies train staff utilizing curriculum developed by the Division. Lastly, the proposed amendments update language for consistency and to reflect current Division practices.

A summary of the rules proposed for readoption with amendments follows.

Subchapter 1. General Provisions

N.J.A.C. 10:42A-1.1 sets forth the purpose of the rules, which is to provide guidelines for direct care staff who serve persons with developmental disabilities or traumatic brain injury. The rules require staff to call the 911 emergency telephone service in a life-threatening emergency.

N.J.A.C. 10:42A-1.2 outlines the scope of the chapter. This chapter applies to facilities for persons with developmental disabilities or traumatic brain injury.

N.J.A.C. 10:42A-1.3 provides the definitions used in the chapter. The Division proposes to amend the definition of “Assistant Commissioner” to remove “chief executive officer” and the reference to “Division Director” to be consistent with other rules. The Division also proposes to delete the definition of “medical professional,” as this term is not used within the chapter. A definition for “Practitioner’s Order for Life Sustaining Treatment (POLST)” is proposed to be added. Legislation to implement POLST became effective in December 2011. Like Do Not Resuscitate (DNR) Orders, these should be presented to emergency staff responding to a 911 call.

The Division also proposes to add a definition for the term “under contract.” At the time that the chapter was originally adopted, the Division funded services for individuals through traditional contracts with providers. Since that time, the Division has also funded services for individuals being served by providers who have been approved by the Division to provide disability services, but do not have a traditional contractual relationship with the Division. The addition of the definition for “under contract” clarifies that the chapter applies to these providers.

The definition of “contested matter” is proposed for amendment to correct a cross-reference.

Subchapter 2. Reporting Requirements

N.J.A.C. 10:42A-2.1 sets forth the general standards applicable to the requirement to call 911 in the event of a life-threatening emergency. The Division proposes to amend this section by incorporating the definition of “life-threatening emergency” to reinforce that the prudent person standard applies, not based upon the final outcome, but rather when the situation arises.

The Division also proposes to delete a provision requiring a staff member to call 911 if he or she is unsure whether a medical condition has become life-threatening, as this provision has caused confusion in the stakeholder community and may have unintentionally led to unnecessary calls to 911. The standard to be applied is what a prudent person could reasonably believe under the circumstances.

Another proposed amendment would provide that, like a DNR Order, a POLST does not relieve the duty to call 911, but must be provided to responding emergency personnel. The Division also proposes to amend this section to clarify that circumstances arising from a terminal condition for which a person is receiving hospice or palliative care shall not be considered a life-threatening emergency.

The Division proposes to add a provision regarding individuals who experience chronic seizure activity. The section currently includes seizures that are “unusual, prolonged or multiple” as an example of a life-threatening emergency. The Division has received numerous expressions of concern from families, agencies, and others that because some individuals regularly experience lengthy or multiple seizures, 911 was being called in circumstances that were not life-threatening, leading to unnecessary emergency room visits. The proposed amendment would allow a person’s licensed medical practitioner to provide a prescription or standing order to the facility defining when 911 should not be called because the person’s seizure is not a life-threatening emergency. To avoid any real or perceived conflict, the medical practitioner may not be employed by the facility where the person resides.

The Division also proposes to amend this section to delete the requirement that facilities submit procedures and provide training to the Division, and instead require that facilities provide training to all staff members through curriculum developed by the Division. Division-developed curriculum is currently in use. Community Care Residences licensed under N.J.A.C. 10:44B would be trained by the Division, as is current practice.

This section currently requires facilities to provide an annual certification that all staff have been trained regarding the requirement to call 911, at the time of the annual licensing inspection or contract renewal for facilities that are not licensed. The Division proposes to replace that requirement with the requirement that each facility covered by the chapter shall maintain documentation of the completion of staff training and provide it to the Department or Division upon request. This amendment makes clear that all staff must be trained, and that documentation of the training must be maintained at all times, for production during licensing inspection, audits, or at any other time. This amendment also reflects that the Division is in the process of transitioning from a contract-based system to a fee-for-service system in which annual contract renewals will not occur.

The Division also proposes to amend this section to clarify that facilities are to maintain a copy of the unusual incident report as the record of all 911 calls or failures to make a 911 call.

N.J.A.C. 10:42A-2.2 provides that when a life-threatening emergency is detected, a 911 call shall be made immediately, and that if a staff member is not certain if the situation is a life-threatening emergency, then a 911 call shall be made. This section also contains a list of examples of life-threatening conditions. The Division proposes to repeal this section, which has caused confusion in the stakeholder community and likely unintentionally led to unnecessary emergency room visits for individuals, with repercussions for the individuals, their families, the facilities, local emergency services organizations, and hospitals, by turning the focus away from the specific factual circumstances present in a particular situation. The standard to be applied is whether “a prudent person could reasonably believe that immediate intervention is necessary,” as contained in the definition of life-threatening emergency and in the language the Division proposes to add to N.J.A.C. 10:42A-2.1(a).

Subchapter 3. Monitoring

N.J.A.C. 10:42A-3.1 provides that the Department will maintain a record of incidents that require staff to contact 911. The section also sets forth penalties for violations and the process for the direct care staff to appeal the penalty.

The Department proposes to add language to clarify that the Assistant Commissioner may ask the Department to conduct further investigation before rendering a decision.

As the Division 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

The rules proposed for readoption with amendments will have a positive impact on individuals served by the Division. The rules affirm the importance of staff at facilities for individuals with developmental disabilities or traumatic brain injury obtaining emergency assistance in the event of life-threatening emergencies. The amendments will address confusion that has arisen within the community while preserving the requirement that 911 be called for life-threatening emergencies. The rules proposed for readoption with amendments also provide for consistent and proper training for staff regarding Danielle's Law. The rules proposed for readoption with amendments will also have a positive social impact by clarifying that 911 need not be called for circumstances related to end-of-life issues where the individual is receiving palliative or hospice care.

Economic Impact

The Division expects limited economic impact as a result of the rules proposed for readoption with amendments. The proposed amendments should reduce some financial burden to local communities caused by unnecessary emergency response costs and to families for emergency room insurance co-payments, where applicable.

The rules proposed for readoption with amendments creates no additional economic burden for service providers. If a staff member violates Danielle's Law, he or she is subject to fines, as set forth in the enabling legislation.

Federal Standards Statement

The rules proposed for readoption with amendments are not subject to any Federal requirements or standards. Pursuant to State law, the rules proposed for readoption with amendments require staff working with persons with developmental disabilities or traumatic brain injury to dial 911 in the event of a life-threatening emergency. Therefore, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for readoption with amendments would neither generate nor cause the loss of any jobs in the State. Some provider agencies have terminated the employment of direct care staff who violate Danielle's Law. However, no overall reduction in the workforce is expected because the staffing ratios for client care must be maintained.

Agriculture Industry Impact

The rules proposed for readoption with amendments would have no impact on agriculture in the State of New Jersey.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments apply to facilities providing services to Division-eligible clients; some of these facilities may be small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for readoption with amendments do impose some recordkeeping and compliance requirements, as discussed in the Summary above. However, the rules will not impose significant costs for facilities and no professional services are required to be employed. Due to the statutory requirement to call 911 in the event of a life-threatening emergency and the importance of recordkeeping and compliance, a lesser requirement or exemption cannot be provided to agencies that qualify as small businesses.

Housing Affordability Impact Analysis

Because the rules proposed for readoption with amendments concern life-threatening emergencies for individuals served by the Division and persons with traumatic brain injury, there is an extreme unlikelihood that the rules will evoke a change in the average costs associated with housing or with the affordability of housing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments concern life-threatening emergencies for individuals served by the Division and persons with traumatic brain injury. Therefore, there is an extreme unlikelihood that the rules will evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The Division does not

anticipate the rules proposed for readoption with amendments will have any impact upon the achievement of smart growth or the implementation of 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. 10:42A.

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

SUBCHAPTER 1. GENERAL PROVISIONS

10:42A-1.3 Definitions

For the purpose of this chapter, the following terms shall have the following meanings [defined herein]:

"Assistant Commissioner" means the [chief executive officer] **Assistant Commissioner** of the Division of Developmental Disabilities[, formally entitled Division Director].

...

"Contested matter" means an adversarial proceeding, including any licensing proceeding, in which the legal rights, duties, obligations, privileges, benefits, or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency by decisions, determinations, or orders, addressed to them or disposing of their interests, after opportunity for an agency hearing. (N.J.S.A. [52:148-2(b)] **52:14B-2**; N.J.A.C. 1:1)

"Contract employee" means a person who works directly with persons with developmental disabilities or traumatic brain injury and **is under contract[s]** directly] with the Department of Human Services or is an employee of a private agency that **is under contract[s]** with the Department of Human Services.

...

"Life-threatening emergency" means a situation in which a prudent person could reasonably believe that immediate intervention is necessary to protect the life of a person receiving services at a facility for persons with developmental disabilities or traumatic brain injury or to protect the lives of other persons at the facility or agency, from an immediate threat or actual occurrence of a potentially fatal injury, impairment to bodily functions, or dysfunction of a bodily organ or part. [Some examples of life-threatening emergencies are listed at N.J.A.C. 10:42A-2.2.]

["Medical professional" means a physician, physician's assistant, advanced practice nurse or registered nurse.]

...

"Practitioner's Order for Life Sustaining Treatment (POLST)" means a form of standardized medical order signed by a physician or advanced practice nurse that comports with New Jersey State laws and rules.

...

"Under contract" means a provider under a written agreement with the Division or a provider approved by the Division to provide disability services to individuals who are eligible to receive services from the Division.

SUBCHAPTER 2. REPORTING REQUIREMENTS

10:42A-2.1 General standards

(a) All staff shall be responsible to [immediately] call 911 in [the event of a life-threatening emergency] **a situation in which a prudent person could reasonably believe that immediate intervention is necessary to protect the life of a person receiving services at a facility for persons with developmental disabilities or traumatic brain injury, or to protect the lives of other persons at the facility or agency, from an immediate threat or actual occurrence of a potentially fatal injury, impairment to bodily functions, or dysfunction of a bodily organ or part, except as provided in (b) below.**

(b) (No change.)

[(c) If a staff member is unsure whether a medical condition such as an elevated temperature, seizure or other condition has become a life-threatening emergency, he or she shall call 911.]

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

[(e)] (d) When the person suffering the life-threatening emergency has a DNR Order **or POLST** in effect, existence of [a] the DNR Order

or POLST does not relieve the staff member from the requirement to call 911. Staff shall call 911 if there is a life-threatening emergency [related to the person's terminal condition] but provide a copy of the DNR Order or POLST to emergency staff responding to the 911 call. **Circumstances arising from a terminal condition for which a person is receiving hospice or palliative care shall not be considered a life-threatening emergency.**

(e) If a person experiences chronic seizure activity, that person's licensed medical practitioner, who is not employed by the facility where the person resides, may provide a prescription or standing order to the facility defining when 911 should not be called because the person's seizure activity is not a life-threatening emergency.

(f)-(g) (No change.)

(h) Each facility covered by [these rules] **this chapter**, except those facilities licensed under N.J.A.C. 10:44B, Standards for Community Care Residences for the Developmentally Disabled, shall[:] **provide training in life-threatening emergencies to all staff members through curriculum developed by the Division. Facilities licensed under N.J.A.C. 10:44B shall be trained by the Division.**

1. By August 31, 2005, submit to Department for approval, a procedure to require that a 911 call immediately be made in the event of a life-threatening emergency. That procedure shall cover all facilities licensed by the Department or under contract with the Division;

2. Train all staff members in such procedures;

3. Unless such procedures are disapproved by the Department, by September 30, 2005, submit to the Department a certification by the chief executive officer (CEO) or executive director that all staff have been trained in its procedure; and

4. If a Department notifies a facility that its procedure requires modification, within 30 days of receipt of such notification, the facility shall submit the modification to the Department and, within 60 days of receipt of such notification, the facility shall submit to the Department a certification by the chief executive officer (CEO) or executive director that all staff have been trained in the modified procedure.

(i) By September 30, 2005, all individuals licensed under N.J.A.C. 10:44B, Standards for Community Care Residences for Individuals with Developmental Disabilities, shall be trained by the Department in the requirements of these rules.

(j) After the initial certification of training under (h) above, each facility shall submit an annual certification by the CEO or Executive Director that all staff have been trained in the procedures to call 911 as follows:

1. For facilities licensed under N.J.A.C. 10:44A, Standards for Community Residences for Individuals with Developmental Disabilities, N.J.A.C. 10:44C, Standards for Community Residences for Persons with Head Injuries, or N.J.A.C. 10:47, Standards for Private Licensed Facilities for Persons with Developmental Disabilities, the certification shall be submitted for review at the time of the annual licensing inspection. Licensing staff shall be responsible to review the training records at the time of the annual inspection. The certification shall cover all facilities licensed by the Department or under contract with the Division;

2. For developmental centers, the certification shall be provided to the Director annually by August 1. The Office of Quality Management within the Division shall be responsible to monitor the training; and

3. For facilities that are not licensed but are under contract with the Division, the certification shall be provided to the Assistant Commissioner at the time of the renewal of the contract. The Office of Quality Management within the Division shall be responsible to monitor the training.

(k) Procedures for calling 911 and reporting life-threatening emergencies shall be incorporated into the standard training curriculum for the facility.

(l) For individuals licensed under N.J.A.C. 10:44B, Standards for Community Residences for Individuals with Developmental Disabilities, documentation of completion of training shall be provided to the Department at the time of the annual licensing inspection.

(m) The facility shall keep a record of every 911 call made and every failure to make a 911 call in the event of a life-threatening emergency.]

(i) Each facility covered by this chapter shall maintain documentation of completion of staff training and provide it to the Department or Division upon request.

[(n)] (j) Every 911 call and every failure to make a 911 call in the event of a life-threatening emergency shall be reported to the Department as an unusual incident and the facility shall maintain a [record of all such calls and failures to make such a call] **copy of the unusual incident report.**

[10:42A-2.2] Life-threatening emergencies

(a) When a life-threatening emergency is detected, a 911 call shall be made immediately. If a staff member is not certain if the situation is a life-threatening emergency, then a 911 call shall be made immediately. Examples of life-threatening emergency shall include, but not be limited to:

1. Unconsciousness;
2. Persistent chest pain or discomfort;
3. Not breathing or having trouble breathing;
4. No signs of circulation;
5. Severe bleeding; or
6. Seizures that are unusual, prolonged or multiple, last more than five minutes, result in injury or occur in someone who is pregnant or diabetic.]

SUBCHAPTER 3. MONITORING

10:42A-3.1 Enforcement

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

(d) The Assistant Commissioner shall determine whether a staff member has violated Danielle's Law, N.J.S.A. 30:6D-5.3. **The Assistant Commissioner may ask the Department to conduct further investigation before rendering a decision.**

(e)-(p) (No change.)

(a)

CATASTROPHIC ILLNESS IN CHILDREN RELIEF FUND COMMISSION

Catastrophic Illness in Children Relief Fund Program

Proposed Readoption with Amendments: N.J.A.C. 10:155

Authorized By: Catastrophic Illness in Children Relief Fund Commission, Claudia L. Marchese, Esq., Executive Director.

Authority: N.J.S.A. 26:2-148 et seq., specifically 26:2-159.

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

Proposal Number: PRN 2017-023.

Submit written comments by April 22, 2017, to:

Claudia L. Marchese, Esq., Executive Director
 Catastrophic Illness in Children Relief Fund Commission
 Department of Human Services
 PO Box 728
 Trenton, NJ 08625-0728
 E-mail: claudia.marchese@dhs.state.nj.us

The agency proposal follows:

Summary

N.J.A.C. 10:155 was scheduled to expire on January 5, 2017. As the Catastrophic Illness in Children Relief Fund Commission ("CICRFC" or "Commission") submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date is extended 180 days to July 4, 2017, pursuant to N.J.S.A. 52:14B-5.1.c(2). In accordance with the sunset provision of Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the Commission has evaluated its rules at N.J.A.C. 10:155 and has determined that they are necessary, reasonable, and proper for the purpose for which they were originally promulgated