

i. For an institution, the information technology department or similarly named department that oversees the institution's technology-related tasks and maintains the institution's electronic network, shall be responsible for the administration of such electronic record systems and must include protections against modification and administrative safeguards that comply with all applicable State and Federal standards and laws, including the requirements at (f) below.

ii. For an individual provider, the provider shall use electronic signature software that complies with State and Federal standards and laws and contains, at a minimum, the features listed at (f) below.

(b) The electronic record shall be considered the original record for the purpose of maintaining the information required to fully disclose the kind and extent of services provided, as well as the medical necessity for those services. The electronic format shall conform to the requirements of all applicable Federal and State laws and regulations.

1. If the original electronic record is altered, the record shall show the original and altered versions, including the dates and author of the original and altered versions.

(c) Confidentiality requirements mandated by the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) and other applicable State and Federal statutes shall be applicable to electronic records.

(d) The content of the record shall meet all applicable requirements of the New Jersey Medicaid/NJ FamilyCare program to support the claim for payment. This shall include all requirements in this chapter and the applicable provider manual.

(e) The electronic record shall be accessible to the Department or the Department's authorized agent and must be able to be reproduced in paper form at the provider's expense. The Department or the Department's authorized agent may require a certification that the paper reproduction is an exact copy of the electronic record.

(f) The electronic signature method used by the provider shall, at a minimum, contain all of the following features:

1. Approved electronic signature methods require the use of encryption technology and must be password protected at the time the signature is generated.

2. Documents with electronic signature must maintain integrity through password-protected access of electronic signature on the user's computer. Group or shared passwords shall be prohibited.

3. Each specific user shall have password-protected access, therefore, the identity of the user signature on documents shall be sufficient to prove message integrity and prevent a third party from successfully denying the origin, submission, or delivery of the message and the integrity of its contents.

4. Verification of user signature shall be available upon request.

5. Transporting of data shall be accomplished in electronically protected format from the user to a third party. This maintains the integrity of the document and signature, to the extent fraudulent tampering does not occur.

(g) Acceptable electronic signatures shall contain date and timestamps and shall include printed statements indicating that the document has been electronically signed, followed by the practitioner's name and professional designation. The responsibility and authorship related to the signature should be clearly defined in the record. Example of an acceptable electronic signature: "Electronically Signed By: John Doe, M.D. 01/01/2024 @ 8:00 AM."

(h) Practitioners authorized to use electronic signatures shall be required to sign a statement acknowledging their responsibility and accountability for the use of their e-signature and confirming that they are the only individual who has access to, and who will use, their specific signature code. These statements shall be maintained by the organization and be made available to the Department or the Department's authorized agent upon request.

(i) Organizational policy shall define appropriate disciplinary actions for inappropriate actions, including, but not limited to, the use or sharing of unique identifiers or e-signatures.

(j) Organizational policy shall also address system access and monitoring, changes to records, and system support.

(k) Documents signed electronically shall be retained in conformity with the organization's definition of the legal health record and retention policy.

(l) A copy of an organization's policy and procedures related to the use of electronic records and/or the use of electronic signatures including, but not limited to, the requirements at (h), (i), (j), and (k) above, shall be provided to the Department or the Department's authorized agent upon request.

(a)

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

Psychiatric Adult Acute Partial Hospital and Partial Hospital Services

Provider Participation and Beneficiary Eligibility

Proposed Amendments: N.J.A.C. 10:52A-1.2, 2.1, 3.1, 3.2, 4.5, 4.11, and 4.12

Authorized By: Sarah Adelman, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:4D-1 et seq., and 30:4J-8 et seq.

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

Proposal Number: PRN 2024-130.

Submit comments by January 3, 2025, to:

Margaret M. Rose
Attn: N.J.A.C. 10:52A
Division of Medical Assistance and Health Services
Office of Legal and Regulatory Affairs
PO Box 712, Mail Code #26
Trenton, NJ 08625-0712
Fax: (609) 588-7343
Email: Margaret.Rose@dhs.nj.gov
Delivery: 6 Quakerbridge Plaza
Mercerville, NJ 08619

The agency proposal follows:

Summary

The Department of Human Services (Department) is proposing amendments at N.J.A.C. 10:52A, Psychiatric Adult Acute Partial Hospital (APH) and Partial Hospital (PH) Services, which will address beneficiary eligibility requirements and provider participation requirements for these services. The proposed amendments are the result of recent Federal and industry changes.

The amendment addressing beneficiary eligibility reflects that a Global Assessment of Functioning (GAF) score will no longer be required as a determining factor for the medical necessity of the services. The GAF scale was removed from the Diagnostic Statistical Manual, Fifth Edition (DSM-V), because of a perceived lack of reliability and poor clinical utility. In reaction to that change, this requirement was deleted by the Medicaid/NJ FamilyCare program in December 2015, and communicated to providers through DMAHS Newsletter Volume 25, Number 13. This rulemaking updates the rule text to memorialize this change.

The proposed amendments concerning provider participation would require providers to obtain and use a National Provider Identification (NPI) number and applicable taxonomy codes for their specialty. The use of the NPI and taxonomy codes is a Federal requirement from the Centers for Medicare and Medicaid Services (CMS). Providers were notified of the Federal requirement to obtain an NPI and taxonomy code through DMAHS Newsletter Volume 16, Number 18.

Summary of General Amendments

Throughout the chapter, references to "Division of Mental Health Services (DMHS)" are being revised to read "Division of Mental Health and Addiction Services (DMHAS)" to reflect the current name of the agency and references to "Medicaid" are being revised to read "Medicaid/NJ FamilyCare" to reflect the current name of the program. An

amendment has been made to delete “Senior Services” from the name of the New Jersey Department of Health to reflect the agency’s current name.

Summary of Specific Amendments

At N.J.A.C. 10:52A-1.2, amendments to the definition of “Community mental health associate” are proposed to correct the address for the Addiction Professional Certification Board and to provide the organization’s website. The definition for “DSM-IV-TR” is proposed to correct the address of American Psychiatric Publishing, Inc., and to provide the company’s website. Additionally, definitions for the following new terms are added: “National Plan and Provider Enumerations System (NPPES),” “National Provider Identifier (NPI),” “Taxonomy code,” and “Type 2 NPI.”

Proposed new N.J.A.C. 10:52A-2.1(c) requires providers of APH and PH psychiatric services for adults to have an NPI, a valid taxonomy code, and to remain a provider in good standing by completing a provider revalidation when requested to do so by the Division of Medical Assistance and Health Services.

N.J.A.C. 10:52A-3.1(c)3 and 3.2(c)3, requiring a GAF score, are being deleted for the reasons described above.

At N.J.A.C. 10:52A-3.1(d), a proposed amendment clarifies that there are several ways for a beneficiary to access APH services, including referral from a screening center or emergency service, as a step down treatment from an inpatient facility, or if clinical need is justified by a psychiatrist or APN.

At N.J.A.C. 10:52A-4.5(b), a proposed amendment updates the name of the agent from which forms can be obtained to reflect the current DMAHS fiscal agent, “Gainwell Technologies Provider Services.”

At N.J.A.C. 10:52A-4.11(e), a proposed amendment requires providers to make all records available to an authorized representative of the Department.

N.J.A.C. 10:52A-4.12(c) is proposed for deletion because the GAF score is not required to be a part of the beneficiary’s plan of care, as discussed above, and, therefore, is not a consideration in discharge planning.

The Department has determined that the comment period for this notice of proposal will 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

In State Fiscal Year 2023, 22 enrolled providers provided fee-for-service APH and PH psychiatric services for adults to approximately 2,748 Medicaid/NJ FamilyCare beneficiaries.

The proposed amendments eliminating the GAF score will ensure that beneficiaries are being evaluated for the need for APH and PH services in the most appropriate manner. This will enable the providers to furnish the correct services to address the beneficiary’s symptoms with the most effective treatment methods.

The proposed amendments allowing treating psychiatrists or advanced practice nurses the option of referring beneficiaries for acute APH services as opposed to inpatient services will enable beneficiaries to receive necessary services in the least restrictive environment.

The amendment requiring the use of the NPI and appropriate taxonomy code(s) will enable the providers to accurately identify themselves and the services for which they are allowed to bill and will ensure that they received accurate reimbursement for the provision of these services.

Economic Impact

During State Fiscal Year 2023, the Department spent approximately \$12,898,156 (Federal and State share combined) to provide fee-for-service APH and PH psychiatric services for adults to approximately 2,748 adult Medicaid/NJ FamilyCare beneficiaries.

There will be no economic impact on the beneficiaries because Medicaid/NJ FamilyCare beneficiaries are not required to pay for services, except previously established cost-sharing and co-payments that are part of specified NJ FamilyCare plans; the proposed amendments do not change those requirements.

The proposed amendments are not expected to have an economic impact on Department expenditures for the provision of services to eligible Medicaid/NJ FamilyCare beneficiaries because there are no proposed changes to reimbursement amounts, and no change in service

utilization is expected. Likewise, no economic impact is expected on the providers. The proposed amendment eliminating the use of the GAF score will have no economic impact. The use of this assessment was discontinued in December 2015 and patients are evaluated using other assessment methods.

Maintenance of these rules to reflect the most recent Federal requirements will enable the Medicaid/NJ FamilyCare program to receive matching Federal funds for the provision of services to eligible beneficiaries.

Federal Standards Statement

42 U.S.C. § 1396d(a) requires a state Title XIX program to provide inpatient and outpatient hospital services to most eligibility groups. Inpatient and outpatient hospital services are optional services for the medically needy population; however, New Jersey has elected to provide these services to medically needy beneficiaries. Federal regulations at 42 CFR 440.2, 440.10, and 440.20 provide definitions of inpatient hospital services and outpatient hospital services.

Title XXI of the Social Security Act allows states to establish a children’s health insurance program for targeted low-income children. New Jersey elected this option through implementation of the NJ FamilyCare Children’s Program. 42 U.S.C. § 1397cc, provides broad coverage guidelines for the program. Section 2110 of the Act, 42 U.S.C. § 1397jj, defines hospital services for the children’s health insurance program.

The Department has reviewed the applicable Federal statute, rules, and regulations and has concluded that the proposed amendments do not exceed Federal standards. Therefore, a Federal standards analysis is not required.

Jobs Impact

The Department does not anticipate that the proposed amendments will result in the creation or loss of jobs in the State of New Jersey.

Agriculture Industry Impact

As the proposed amendments concern the provision of APH and PH psychiatric services for adults to Medicaid/NJ FamilyCare beneficiaries, the Department anticipates there will be no impact on the agriculture industry in the State of New Jersey.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not necessary because the affected hospitals are not considered small businesses pursuant to the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as they employ more than 100 full-time employees.

Housing Affordability Impact Analysis

As the proposed amendments concern the provision of APH and PH psychiatric services for adults to Medicaid/NJ FamilyCare beneficiaries, the Department anticipates there will be no impact on the affordability of housing nor will it have an impact on the average costs associated with housing.

Smart Growth Development Impact Analysis

As the proposed amendments concern the provision of APH and PH psychiatric services for adults to Medicaid/NJ FamilyCare beneficiaries, the Department anticipates there will be no impact on housing production in Planning Areas 1 and 2, or within designated centers, pursuant to the State Development and Redevelopment Plan, and will have no impact on smart growth.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it 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

10:52A-1.2 Definitions

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

...
 “Community mental health associate” means a community mental health associate as defined by the Addiction Professional Certification Board, Inc., located at [1200] **180A Tices Lane, Suite 205**, East Brunswick, [N.J.] NJ 08816. **The website of the Addiction Professional Certification Board, Inc., is <https://certbd.org/>.**

...
 “[DMHS] **DMHAS**” means the Division of Mental Health **and Addiction** Services within the New Jersey Department of Human Services.

“DSM-IV-TR” means the Diagnostic and Statistical Manual of Mental Disorders, incorporated herein by reference, as amended and supplemented, published by American Psychiatric Publishing, Inc., [1000 Wilson Boulevard, Suite 1825, Arlington, Virginia, 22209] **800 Maine Avenue, SW, Suite 900, Washington, DC 20024. The website of the American Psychiatric Publishing, Inc., is <https://www.appi.org/>.**

...
 “**National Plan and Provider Enumerations System**” (NPPEs) means the system that assigns NPIs, maintains and updates information about health care providers with NPIs, and disseminates the NPI Registry and NPPEs Downloadable File. The NPI Registry is an online query system that allows users to search for a health care provider’s information.

“**National Provider Identifier**” (NPI) means a unique 10-digit identification number issued to health care providers by the Centers for Medicare and Medicaid Services (CMS).

...
 “**Taxonomy code**” means a code that describes the provider or organization’s type, classification, and the area of specialization.

“**Type 2 NPI**” means a code that describes an organizational provider in the NPPEs system.

SUBCHAPTER 2. ENROLLING AS A PROVIDER

10:52A-2.1 Authority to provide services

(a) Each program site location, as described [in] at N.J.A.C. 10:52-1.3, at which APH or PH services are provided and which has been approved to be a [Medicaid] **Medicaid/NJ FamilyCare** provider by the Division’s Office of Reimbursement Services shall provide services and be reimbursed for those services pursuant to N.J.A.C. 10:49 and 10:52 and this chapter.

(b) Each program site location, as described [in] at N.J.A.C. 10:52-1.3, at which APH or PH services are provided, shall be approved to be a [Medicaid] **Medicaid/NJ FamilyCare** provider by the Division’s Office of Reimbursement Services and, additionally, shall either be licensed by the Commissioner of the Department of Human Services as a mental health program and have a purchase of services contract with the Division of Mental Health **and Addiction** Services, or be licensed by the Commissioner of the Department of Health [and Senior Services] as a health care facility.

(c) **In order to participate in the New Jersey Medicaid/NJ FamilyCare Program, an APH/PH services provider shall:**

- 1. Have a valid NPI number obtained from the NPPEs.**
- 2. Have a valid taxonomy code for APH/PH services obtained from the NPPEs.**
- 3. Remain a provider in good standing by successfully completing provider revalidation when requested by DMAHS.**

SUBCHAPTER 3. BENEFICIARY ELIGIBILITY REQUIREMENTS

10:52A-3.1 Eligibility for APH services

- (a)-(b) (No change.)
- (c) In order to be eligible for APH services, a beneficiary shall:

1. At the time of referral or as a result of psychiatric evaluation provided or arranged for, have at least one of the following primary DSM-IV-TR diagnoses on Axis I:

- i.-vi. (No change.)
- vii. A covered psychiatric disorder diagnosis consistent with codes, Axis I-V of the Diagnostic and Statistical Manual of Mental Disorders DSM-IV-TR, as amended and supplemented, including some 301.XX Axis II codes if the personality disorder is considered in the severe range and the beneficiary is at high risk of psychiatric hospitalization; **and**

2. Have disordered thinking or mood, bizarre behavior, or psychomotor agitation or retardation to a degree that interferes with activities of daily living or abilities to fulfill family, student, or work roles to such an extent that a structured intensive treatment program is needed and cannot adequately be addressed at a less restrictive level of care; the beneficiary also has a need for prescribed psychotropic medications or has a need for assistance with medication adherence[; and].

[3. Have a Global Assessment of Functioning (GAF) Scale score of between 30 and 60, as found in the DSM-IV-TR page 32.]

(d) In order to be eligible for APH services, a beneficiary [shall] **may** be referred by the local designated screening center or psychiatric emergency service as a diversion from hospitalization [or]; by an inpatient psychiatric facility [if the treating] **post discharge as a step-down treatment; or if a psychiatrist or APN clearly justifies acute clinical need.** Additionally, for a beneficiary to receive APH services, the beneficiary must receive, from the referring treatment team, a certification containing the clinical evidence necessary to support the referral, documenting the required specific conditions [contained in] **set forth at (c)1[,] and 2[, and 3] above.**

(e) In the case of a beneficiary who has previously been admitted to an APH program, in order to be eligible for APH services, the beneficiary shall be readmitted to an APH program only through a referral from the local designated screening center or psychiatric emergency service as a diversion from hospitalization or by an inpatient psychiatric facility if the treating psychiatrist or APN clearly justifies acute clinical need. Additionally, for a beneficiary to receive APH services, the beneficiary must receive, from the referring treatment team, a certification containing the clinical evidence necessary to support the referral, documenting the required specific conditions [contained in] **set forth at (c)1[,] and 2[, and 3] above.**

10:52A-3.2 Eligibility for PH services

- (a)-(b) (No change.)
- (c) In order to be eligible for PH services, a beneficiary shall at the time of referral:

1. Have a primary diagnosis as set forth [in] **at N.J.A.C. 10:52A-3.1(c)1; and**

2. Have impaired functioning, which necessitates learning critical skills in order to achieve valued community roles and community integration in at least one of the following domains on a continuing, intermittent basis for at least one year or have recently decompensated to a significantly impaired status:

- i.-v. (No change.)
- vi. Ability to acquire or maintain safe, affordable housing when at risk of requiring a more restrictive living situation[; and].

[3. Have a Global Assessment of Functioning (GAF) Scale scores of between 30 and 70, as set out in the DSM-IV-TR page 32.]

(d) In order to be eligible for PH services, a beneficiary shall be referred by the APH or be significantly impaired, such that a need for PH exists, and receive from the interdisciplinary treatment team certification containing the clinical evidence to justify the necessity for a beneficiary to receive PH services, documenting the beneficiary’s specific conditions [contained in] **set forth at (c)1[,] and 2 [and 3] above.**

SUBCHAPTER 4. PROGRAM REQUIREMENTS

10:52A-4.5 Prior authorization for APH services

- (a) (No change.)
- (b) When requesting prior authorization, Forms FD-07 and FD-07A, “Request for Authorization of Mental Health Services and/or Mental Health Rehabilitation Services” and “Request for Prior Authorization: Supplemental Information” shall be completed and forwarded to the

Medical Assistance Customer Center (MACC) that serves the county in which the services are rendered. (The forms may be obtained through the website www.njmmis.com or by contacting [Unisys Provider Relations] **Gainwell Technologies Provider Services** at 1-800-776-6334.) The “Brief Clinical History” and “Present Clinical Status” sections of the FD-07A “Request for Prior Authorization: Supplemental Information” form are particularly important and shall provide sufficient medical information to justify and support the proposed treatment request. A request for additional information may be made at the discretion of the [Medicaid] **Medicaid/NJ FamilyCare** reviewer if the reviewer believes that insufficient medical information has been provided for the Division to make a determination. Failure to comply with such a request may result in a result in a reduction or denial of requested services.

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

10:52A-4.11 Documentation requirements for APH and PH

(a)-(d) (No change.)

(e) Each provider shall make all records available for review by the Department or an authorized representative of the Department.

10:52A-4.12 Discharge planning for APH and PH

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

[(c) The discharge plan shall be implemented when the beneficiary’s functioning or symptomatology has improved as evidenced by scores on the Global Assessment of Functioning Scale.]

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

LAW AND PUBLIC SAFETY

(a)

DIVISION OF GAMING ENFORCEMENT

Casino Licenses

Proposed Amendments: N.J.A.C. 13:69C-1.1, 2.1, 2.2, 2.3, 2.4, 2.5, 2.8, 2.9, 3.2, 5.1, 5A.1, 5B.1, 8, 9.3, and 11.1

Proposed New Rule: N.J.A.C. 13:69C-2.10

Authorized By: Mary Jo Flaherty, Interim Director, Division of Gaming Enforcement.

Authority: N.J.S.A. 5:12-69, 70, and 76 and 5:12A-13a.

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

Proposal Number: PRN 2024-128.

Submit written comments by January 3, 2025, to:

Jordan Hollander, Deputy Attorney General
Division of Gaming Enforcement
140 E. Front Street
PO Box 047
Trenton, New Jersey 08625
or email to: RuleComments@njdge.gov

The agency proposal follows:

Summary

The proposed amendments and new rule at N.J.A.C. 13:69C would revise, clarify, and modernize certain licensing requirements for casinos and racetracks that host sports wagering facilities and activities pursuant to the Casino Control Act (Act), N.J.S.A. 5:12-1 et seq., and the Sports Wagering Act (SW Act), N.J.S.A. 5:12A-10 et seq.

In order to operate as an approved casino hotel facility in Atlantic City, a casino license must be obtained. The Division of Gaming Enforcement (DGE) investigates applications for casino licenses and reports thereon to the Casino Control Commission. Additionally, the DGE maintains extensive ongoing regulatory oversight over the operations and continued licensure of casino licensees. Similarly, in order for a New Jersey racetrack to host sports wagering facilities and activities, a sports wagering license must be obtained, as provided for in the SW Act. Pursuant to Section 13a of the SW Act, the DGE has the authority to

regulate racetrack sports wagering licensees to the same extent the DGE regulates casino licensees pursuant to the Act.

Although intervening minor amendments to these rules have occurred, the last large-scale revision and update to these requirements occurred in 2011, and the DGE has undertaken a review and submits these proposed amendments in order to revise, provide clarity, and otherwise modernize certain of the rules pertaining to casino license requirements. The rulemaking amends N.J.A.C. 13:69C-1.1, 2.1, 2.2, 3.2, 5.1, 5A.1, 5B.1, and 11.1 and adds proposed new N.J.A.C. 13:69C-2.10 to reflect DGE’s authority, pursuant to Section 13a of the SW Act, to impose casino licensing requirements, as appropriately determined by DGE, upon racetrack sports wagering licensees and applicants for sports wagering licenses. Specifically, proposed new N.J.A.C. 13:69C-2.2(e), (f), (g), and (h) set forth the requirements for persons required to be qualified in connection with a racetrack sports wagering license, which codify existing practice and follow from casino licensing requirements. The rulemaking amends N.J.A.C. 13:69C-2.3, 2.4, 2.5, 2.8, 2.9, and 8 to codify existing DGE practice and to explicitly provide for electronic submission of certain required filings pertaining to notifications of anticipated or actual changes in directors, officers, or equivalent qualifiers, notifications of new financial sources, notifications of new qualifiers of holding companies and new qualifying entities, notifications of the issuance or transfer of interests, notifications of the formation, dissolution, or transfer of a nonpublicly traded interest of certain entities, minutes of meetings of boards and committees, meeting schedules, governing documents, tax return filings, securities filings, and annual reports. Throughout the rulemaking, proposed amendments provide for the electronic submission of these types of information to the DGE by the regulated community. Moreover, the rulemaking amends N.J.A.C. 13:69C-2.5(a) to modernize the beneficial ownership reporting requirement by requiring notification to DGE immediately upon receipt of an electronic form filing, such as a Schedule 13G filed with the Securities and Exchange Commission. The rulemaking adds N.J.A.C. 13:69C-2.8(b), which will impose the same restrictions on the issuance or transfer of any security or ownership interest in a casino licensee or any nonpublicly traded subsidiary or holding company thereof to a racetrack sports wagering licensee or any nonpublicly traded subsidiary or holding company thereof. Moreover, proposed new N.J.A.C. 13:69C-2.10 similarly codifies existing practices and imposes upon the directors, officers, and other qualifying individuals of a racetrack sports wagering licensee or holding company thereof, the same qualification requirements and process as those for a casino licensee or holding company thereof.

N.J.A.C. 13:69C-8.1(b) is proposed for amendment to require a casino licensee or racetrack sports wagering licensee or applicant or holding company thereof to submit, on an annual basis, a schedule for its board and committee meetings in advance of the first meeting of the applicable year to which it pertains.

The rulemaking amends N.J.A.C. 13:69C-8.3 to require any casino licensee or racetrack sports wagering licensee in the event that it does not maintain a profit-sharing agreement to attest, in writing, to DGE on an annual basis that no such agreement is maintained, in addition to providing such agreement if one exists.

N.J.A.C. 13:69C-8.4, 8.5, 8.6, and 8.7 are proposed to be amended by replacing “or” with “and” to remove any potential ambiguity as to whether an applicant or licensee or a respective holding company, intermediary company, qualifying subsidiary, and entity qualifier thereof must file financial statements and projections, tax returns, securities filings, and annual reports with DGE. Existing N.J.A.C. 13:69C-8.8(a) is proposed for relocation as new N.J.A.C. 13:69C-8.7A, as the definitions in this subsection apply to all of Subchapter 8, not just N.J.A.C. 13:69C-8.8. The proposed amendments make a number of changes to existing N.J.A.C. 13:69C-8.8, which sets forth the requirements for compliance systems for casino licensees and racetrack sports wagering licensees and which were provisions first and newly promulgated in 2011. First, the rulemaking adds a definition of “material litigation.” The proposed definition does not include a monetary threshold and instead provides for a determination on a case-by-case basis as to whether a litigation or other regulatory agency investigation matter or notice of violation is material and may impact upon an applicant’s or licensee’s suitability for licensure pursuant the Act. The rulemaking also adds a definition of “foreign gaming” and modifies the