

HEALTH AND SENIOR SERVICES

SENIOR SERVICES AND HEALTH SYSTEMS BRANCH

HEALTH FACILITIES EVALUATION AND LICENSING DIVISION

OFFICE OF CERTIFICATE OF NEED AND

HEALTHCARE FACILITY LICENSURE

Licensing Standards for Home Health Agencies

Proposed Readoption: N.J.A.C. 8:42

Proposed Amendments: N.J.A.C. 8:42-1.2, 2.1, 2.2, 2.3, 2.5, 2.6, 3.2 ,
3.3, 7.3 and 13.1.

Authorized By: _____ Heather Howard, Commissioner,
Department of Health and Senior Services (with the approval of the Health
Care Administration Board).

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

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

Proposal Number: PRN 2008 -

Submit written comments by: _____, 2008 to:

Ruth Charbonneau, Director

Office of Legal and Regulatory Affairs

New Jersey Department of Health and Senior Services

PO Box 360

The official version of any departmental rulemaking activity (notices of proposal or adoption) are published in the *New Jersey Register* or *New Jersey Administrative Code*. Should there be any discrepancies between this document and the official version of the proposal or adoption, the official version will govern.

Trenton, New Jersey 08625-0360

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 8:42 is scheduled to expire on July 19, 2008. The Department of Health and Senior Services (the Department), is proposing to readopt with amendments N.J.A.C. 8:42, which contains licensing standards for the operation of home health agencies. The Department has reviewed N.J.A.C. 8:42 and has determined that the existing rules continue to be necessary, adequate, reasonable, efficient, understandable, and responsive to the purposes for which they were originally promulgated.

The Health Care Facilities Planning Act (the Act), N.J.S.A. 26:2H-1 et seq., requires the 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. The proposed readoption of N.J.A.C. 8:42 would implement the requirements of the Act by maintaining the rules for

licensure of home health agencies and the standards for the provision of services by home health agencies in New Jersey.

Home health care remains a growing segment of the health care industry nationwide, and has proven to be a viable and desirable alternative to institutional care in many cases. It has been used to shorten lengths of stay in acute care facilities, as well as for the prevention of long-term institutionalization. Thus, it is in the public interest to maintain these standards of quality assurance, minimum care requirements, and defined service offerings.

Home health agencies are licensed by the Department of Health and Senior Services to provide preventive, rehabilitative and therapeutic services to patients in their own home or place of residence. Home health agencies are required to provide at least nursing, homemaker-home health aide, and physical therapy services, and may provide additional services such as occupational therapy, speech-language and audiological services, social work services and dietary counseling. Such diversity is of obvious benefit to the affected patient population and it is noteworthy that New Jersey home health agencies differ in the number and variety of services offered. While some agencies provide only basic required services, others provide more comprehensive home care programs,

offering a broad range of services, which are centrally administered. The types of agencies subject to State licensure include voluntary (visiting nurse associations), governmental (county and local health departments), hospital-based, combination (visiting nurse association-health department) and proprietary. Patients in all age groups are served, including beneficiaries of Medicare and Medicaid, pursuant to Titles XVIII and XIX of the Social Security Act.

Following is a summary of the regulatory history of N.J.A.C. 8:42: Chapter 42, Home Health Agencies, became effective on May 26, 1976. 8 N.J.R. 182(c); 8 N.J.R. 282(a). Subchapter 2, Standards for Licensure and Inpatient Drug Treatment Facilities, became effective on December 9, 1976. 10 N.J.R. 330(c); 10 N.J.R. 484(b). Subchapter 3, Alcohol Abuse Treatment Facilities, became effective on July 5, 1979. 11 N.J.R. 233(c); 11 N.J.R. 331(c). The expiration date of Subchapter 3 was extended on December 31, 1979 and June 19, 1980. 11 N.J.R. 546(a); 12 N.J.R. 407(b). Chapter 42 was amended on February 1, 1980. 11 N.J.R. 545 (d); 12 N.J.R. 15(c). (12 N.J.R. 463(b); 12 N.J.R. 578(c); 13 N.J.R. 12(a); 13 N.J.R. 342(b)).

Pursuant to Executive Order No. 66 (1978) Subchapter 3, Alcohol Abuse Treatment Facilities, expired on June 30, 1981. Pursuant to

Executive Order No. 66 (1978), Subchapter 2, Standards for Licensure of Residential and Inpatient Drug Treatment Facilities, was readopted effective November 1, 1982. 14 N.J.R. 812(a); 14 N.J.R. 1214(a).

Chapter 42, Home Health Agencies, was amended on March 7, 1983. 14 N.J.R. 1273(a); 15 N.J.R. 336(a). Subchapter 2, Standards for Licensure of Residential and Inpatient Drug Treatment Facilities, was repealed on August 1, 1983. 15 N.J.R. 397(a); 15 N.J.R. 1248(a).

Pursuant to Executive Order No. 66 (1978), Chapter 42, Home Health Agencies, was readopted on March 18, 1985. 16 N.J.R. 3250; 17 N.J.R. 704(b). Pursuant to Executive Order No. 66 (1978), Chapter 42, Home Health Agencies, was readopted on August 17, 1987, with an operative date of October 17, 1987. 19 N.J.R. 2287(a); 19 N.J.R. 1547(a). Chapter 42, Home Health Agencies, was repealed and a new Chapter 42, Standards for Licensure of Home Health Agencies, was adopted effective August 17, 1992. 24 N.J.R. 2031 (a); 24 N.J.R. 2941(a).

On July 15, 1996, N.J.A.C.8:42-2.2 (b) was amended to increase the initial application and annual renewal fees for home health agencies from \$500.00 to \$2,000.00. 28 N.J.R. 2365(a); 28 N.J.R. 3556(a). At this time, N.J.A.C. 8:42-2.2(c) was also amended to add an application fee of \$1,000.00 for transfer of ownership of a home health agency, and N.J.A.C.

8:42-2.2(d) was amended to add an application fee of \$250.00 for the relocation of an agency. Ibid. Pursuant to Executive Order No. 66 (1978), Chapter 42, Standards for Licensure of Home Health Agencies, expired on August 17, 1997. On December 7, 1998, N.J.A.C. 8:42-2.2 was amended to impose a \$500.00 biennial inspection fee on home health agencies. 30 N.J.R. 3633(a); 30 N.J.R. 4221(b). Chapter 42, Licensing Standards for Home Health Agencies, was adopted as new rules without revisions on January 20, 1998. 29 N.J.R. 3802(a); 30 N.J.R. 345(a).

On August 21, 2000, various amendments were made to the chapter to reflect technical changes in the titles of certain agencies and boards, and to reflect certain changes in the practice of home health care. 32 N.J.R. 627(a); 32 N.J.R. 3064(a).

Chapter 42 was readopted effective July 1, 2003. 35 N.J.R. 65(a); 35 N.J.R. 3556(a).

On February 22, 2005, N.J.A.C. 8:42-3.1 and 11.2 were amended to require identification badges for homemaker-home health aides, consumer guides for patients regarding homemaker-home health aides, and to provide for the use of electronic signature consent forms for medical records. 36 N.J.R. 3239(a); 37 N.J.R. 591(a).

Following is a summary of the rules proposed for readoption and the proposed amendments:

The proposed amendment to N.J.A.C. 8:42-1.2 would add “Medicare-certified” to the definition of home health agency, and require that services would be provided on a visiting basis in a place of residence used as a patient’s home. The definition of home health agency would be amended to explain that the required services are only the minimum services that must be provided. The definition of home health agency would also be amended to provide that when used throughout the chapter, the term “agency” refers to home health agency. N.J.A.C. 8:42-2.1 (b) would be amended to provide that CN application form (Form CN-3) and instructions may be obtained in accordance with N.J.A.C. 8:33-4.2.

Technical amendments would be made to several sections of the chapter because two entities within the Department’s Division of Health Facilities Evaluation and Licensing have new names. N.J.A.C. 8:42-2.1, 2.2, 2.3(b), 2.5, 2.6, 3.2, 3.3 and 13.1 would be amended to replace all reference to the “Certificate of Need and Acute Care Licensure Program” with the program’s current name, “Office of Certificate of Need and Healthcare Facility Licensure.” In addition, N.J.A.C. 8:42-2.3(a) would be amended to replace all reference to “Inspections, Compliance and

Complaints,” the office that conducts facility surveys, with the program’s new name, “Office of Health Facilities Assessment and Survey.”

Proposed N.J.A.C. 8:42-7.3(d) would be amended to require home health agencies to provide a registered professional nurse who shall be available 24 hours a day, seven days a week, and who shall be required to contact a patient regarding clinical issues within one hour of the patient’s call to the agency.

Proposed N.J.A.C. 8:42-1.1 defines the scope and purpose of the chapter, and N.J.A.C. 8:42-1.2 sets forth the definitions of words and terms used in the chapter.

Proposed N.J.A.C. 8:42-2.1 would reference the certificate of need requirement for the provision of home health agency services. The proposal would amend N.J.A.C. 8:42-2.1 (b) to provide that CN application form CN-3 and instructions are available from the Office of Certificate of Need and Healthcare Facility Licensure through the methods specified in N.J.A.C. 8:33-4.2. CN application forms and instructions are available on the Department’s webpage (<http://nj.gov/health/forms>), attached as exhibits to N.J.A.C. 8:33, or by writing to the Office of Certificate of Need and Healthcare Facility Licensure (N.J.A.C. 8:33-4.2).

Proposed N.J.A.C. 8:42-2.2 would set forth the procedure for filing an application for licensure and the application fee. N.J.A.C. 8:42-2.2 would be amended to specify the methods by which the application form may be obtained. The form would be obtained on the Department's website, as an appendix to the chapter, or by writing to the Office of Certificate of Need and Healthcare Facility Licensure.

Proposed N.J.A.C. 8:42-2.3 would set forth the facility survey requirement. Proposed 8:42-2.4 would provide that a one-year license would be issued if the survey requirement is satisfied, that a license would be renewed annually, and that a license would be conspicuously posted in the facility. This section would also provide that a license is not assignable or transferrable, and may not be renewed if local rules, regulations and/or requirements are not met.

Proposed N.J.A.C. 8:42-2.5 would require that the facility notify certain parties when a license is revoked, suspended or not renewed, and N.J.A.C. 8:42-2.6 would provide procedures for waiver of the rules by the Department where waiver would not endanger the patient or the public.

Proposed N.J.A.C. 8:42-2.7 would provide that an action against a licensee would be conducted in accordance with N.J.A.C. 8:42-2.7, and N.J.A.C. 8:42-2.8 would be reserved.

Proposed N.J.A.C. 8:42-3.1 would specify the services to be provided by home health agencies and the information that must be provided to patients or their designees.

Proposed N.J.A.C. 8:42-3.2 would require that a facility disclose its ownership to the Department, and that no facility shall be owned or operated by any person convicted of a crime relating adversely to the person's capability of owning or operating the facility.

Proposed N.J.A.C. 8:42-3.3 would require facilities to submit all documents required by the rules to the Department, and proposed N.J.A.C. 8:42-3.4 would require that facilities follow certain policies and procedures and health screening for their staff. Proposed N.J.A.C. 8:42-3.5 would require that facilities establish a policy and procedure manual, that they designate a staff member to coordinate the reporting of child abuse and/or neglect, and that staff who provide patient care receive training at least annually regarding child abuse, sexual abuse, domestic violence, and abuse of an elderly or disabled adult. Proposed N.J.A.C.

8:42-3.6 would require a staff orientation and education plan, and would require facilities to ensure the continuity of care for patients by establishing staffing schedules, maintaining staff attendance records, and ensuring the availability of staff with equivalent qualifications when staff is absent.

Proposed N.J.A.C. 8:42-3.7 would specify the requirements for written agreements for subcontracting of services, and proposed N.J.A.C. 8:42-3.8 would require the facility to notify the Department immediately of certain events.

Proposed N.J.A.C. 8:42-3.9 would require facilities to post notice of the availability of certain information, and N.J.A.C. 8:42-3.10 would require facilities to comply with licensing board requirements for reporting of actions regarding the privileges of licensed health professionals. N.J.A.C. 8:42-3.11 would be reserved.

Proposed N.J.A.C. 8:42-4.1 would specify the responsibilities of a home health agency's governing authority. Proposed N.J.A.C. 8:42-5.1 would require the appointment of an administrator, and N.J.A.C. 8:42-5.2 would specify the responsibilities of the administrator. Proposed N.J.A.C. 8:42-5.3 would specify the responsibilities of the director or nursing.

Proposed N.J.A.C. 8:42-6.1 would require a home health agency to appoint an advisory group to evaluate and make policy recommendations, and N.J.A.C. 8:42-6.2 would require the facility to establish written policies governing patient care. Proposed N.J.A.C. 8:42-6.3 would require the agency to establish procedures regarding advance directives, and N.J.A.C. 8:42-6.4 would require the agency establish written policies and procedures governing pharmacy and supplies.

Proposed N.J.A.C. 8:42-7.1 would require a facility to provide nursing services to patients who need these services, and N.J.A.C. 8:42-7.2 would require an agency to have a written organizational chart and policies and procedures regarding the provision of nursing services.

Proposed N.J.A.C. 8:42-7.3 would specify nursing staff qualifications and responsibilities.

N.J.A.C. 8:42-7.4 would require nursing personnel to appropriately document a patient's health record.

Proposed N.J.A.C. 8:42-7.5 would specify standards for the provision of homemaker-home health aide services. N.J.A.C. 8:42-8.1 would require a facility to provide physical therapy services, and would allow a facility to

also provide occupational therapy and speech-language pathology services.

Proposed N.J.A.C. 8:42-8.2 would specify the responsibilities of rehabilitation personnel, and N.J.A.C. 8:42-8.3 would require physical therapists, occupational therapists or speech-language pathologists to appropriately document a patient's medical record.

Proposed N.J.A.C. 8:42-9.1 would provide that social work services may be provided directly or through written agreement, N.J.A.C. 8:42-9.2 would specify the social worker's responsibilities, and N.J.A.C. 8:42-9.3 would require a social worker to appropriately document a patient's medical record.

Proposed N.J.A.C. 8:42-10.1 would provide that dietary counseling services may be provided directly or through written agreement, while N.J.A.C. 8:42-10.2 would specify the dietitian's responsibilities, and N.J.A.C. 8:42-10.3 would require a dietitian to appropriately document a patient's medical record.

Proposed N.J.A.C. 8:42-11.1 and 11.2 would specify the policies and procedures that an agency must establish regarding medical records, and N.J.A.C. 8:42-12.1 would require the development and implementation of

an infection prevention and control program. Proposed N.J.A.C. 8:42-12.2 would specify the policies and procedures for the infection control program, and N.J.A.C. 8:42-12.3 would specify guidelines for the infection control measures.

Proposed N.J.A.C. 8:42-12.4 would require agencies to establish decontamination and sterilization protocols, and provide guidelines for their establishment. Proposed N.J.A.C. 8:42-12.5 would establish guidelines for the care and use of sterilizers, and N.J.A.C. 8:42-12.6 would establish guidelines for the collection, storage, handling and disposal of medical waste.

Proposed 8:42-12.7 would require a facility to develop protocols for identifying and handling high-risk bodies, and to complete a Department “Communicable Disease Alert” in applicable cases. Proposed N.J.A.C. 8:42-12.8 would require agencies to provide staff orientation and education regarding infection control practices.

Proposed N.J.A.C. 8:42-13.1 would specify the rights of home health agency patients, and would require facilities to establish and implement written policies and procedures regarding patient rights.

Proposed N.J.A.C. 8:42-14.1 would provide that the governing authority of the facility shall be responsible for the quality assurance program, and that the facility shall establish and implement a written plan for a quality assurance program for patient care. N.J.A.C. 8:42-14.2 would establish standards for the quality assurance program.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed new rules and amendments would specify the licensing requirements for all home health agencies, and would therefore impact these agencies and the senior citizens and other individuals they serve. There are 49 existing Medicare-certified home health agencies in New Jersey. In 2006, there were an estimated 112,784 patients age 65 and over seen by these agencies. In addition, in 2006 there were an estimated 41,712 patients under the age of 65 seen by these agencies.

As the number of senior citizens increases, and as the Department encourages alternatives to nursing homes, the need for additional or expanded home health agency services also increases.

The rules proposed for readoption would continue to benefit home health care patients, their families and caregivers, the provider agencies and health care professionals. The Department recognizes the social impact of the home health movement upon patient care in this State. For many patients, including those with both acute and chronic illnesses, home health care has been used as an alternative to institutionalization, including both long-term placement and hospitalization, and as a means of maintaining independent living status in the community. This method of service delivery has had a significant positive impact upon quality of life issues by allowing patients to receive necessary care while residing at home among family members.

As the home health industry continues to expand, the continued regulation of standards of care employed by home health agencies is necessary to protect the health, safety and welfare of patients. It is necessary that agencies employ staff who are qualified to provide services at the level of skill required; that agencies provide adequate continuity and coordination of services; and that adequate recordkeeping, administration and direction are provided to support patient care services. Under the current licensing standards proposed for readoption, the benefits to patients and their families from receiving home health care are manifold.

Patients who remain in their homes to receive care often respond better to treatment and recover more quickly. The psychological benefits associated with receiving care within the familiar home environment have been demonstrated to contribute significantly to convalescence. There is also a preventive aspect to home health care, in that the services provided, in some instances, help prevent disease, avert disability, and postpone or reduce the likelihood of institutionalization. For many patients, home care is less stressful than inpatient institutional care because feelings of isolation and dependence are reduced. Disruption of the patient's personal and family life is minimized due to the patient's ability to remain and receive care in the home. Additionally, the patient and family retain a sense of control over their situation. This applies in cases of long-term, acute and terminal illness when the patient is eligible for home health services.

Given the potential benefits to patients accruing from home health care, it is important that the agencies providing these services maintain high quality patient care.

The Department anticipates that the proposed new rules would have a beneficial social impact because they would ensure the provision

of high quality home health agency services. Therefore, the Department expects that the general public would react favorably to the proposal.

Economic Impact

The Department foresees minimal or no financial consequences of the readoption of the proposed rules for home health agencies. Since the current rules are in effect and the survey mechanism is functioning, no additional costs to the State would result. Also, because the proposed readoption of the rules seeks to maintain the current status of home health care licensing standards, the Department does not expect the industry would incur any additional expenses in continued compliance with the rules. The proposed readoption would not increase the current licensure fees (N.J.A.C. 8:42-2.2). Since home health agencies are already required to provide 24-hour-a-day nursing care, the requirement for a registered professional nurse to be available 24 hours a day to respond to a patient's call regarding clinical issues within one hour should not impose an excessive economic burden upon agencies.

For many individual patients, home health care reduces the incidence of disease and disability to persons at risk. When delivered by licensed home health care agencies, home health care can result in considerable savings over institutional alternatives. Many health care authorities

maintain that home health care is a less expensive method than institutionalization for the delivery of long-term care services, as well as for acute post-hospital care. There is no doubt that for many individuals and their families, the use of home health care reduces the drain on personal finances.

The widespread use of home health services is motivated by economic as well as humanitarian considerations. It is now feasible to provide in the patient's home many service modalities which were previously available only in acute-care settings. On a national level, escalating costs for both acute and long-term care services have led to increased use of home health care to reduce the length of a patient's institutional stay, either by postponing the need for institutional care or by allowing earlier discharge. Given increases in the elderly population, home health services are seen as a viable way to maintain some of the chronically ill and elderly population in their homes and forestall the need for costly institutional care.

The readoption of N.J.A.C. 8:42 would continue to allow sufficient flexibility in agency management and administration by permitting the development of policies and procedures best suited to an agency's circumstances, by allowing agencies to hire and allocate staff to best meet

patient care needs, and by allowing agencies to decide whether and in what way to provide certain services. This would allow the agencies to conserve resources by determining the most efficient deployment of services and personnel. Thus, it is beneficial to maintain flexibility in the qualifications of supervisory nursing personnel and the use of contracted nursing personnel under certain circumstances. Further, the use of professional staff members in patient assessment, treatment planning, and delivery of care promotes continuity and coordination of care to reduce duplication, overlap, and fragmentation of services while ensuring that patients receive all necessary services.

Therefore, the Department believes that the readoption of these rules would continue the positive economic impact that home health care has had upon the health care sector in this State.

Federal Standards Analysis

The rules proposed for adoption would impose standards on home health agencies in New Jersey that for the most part do not exceed the federal Medicare standards for home health agencies at 42 CFR Part 484. However, 42 CFR 484.14 requires that, as a condition of Medicare participation, home health agencies provide part-time or intermittent skilled nursing services, and that at least one other therapeutic service (physical,

speech, or occupational therapy; medical social services; or home health aide services) be made available on a visiting basis. Proposed N.J.A.C. 8:42-3.1 requires home health agencies to provide preventive, rehabilitative, and therapeutic services, including, but not limited to, nursing, homemaker-home health aide, and physical therapy services. Although this requirement exceeds the federal requirement because it requires both home-maker home health aide and physical therapy services, the Department believes that these are essential services that should be provided by home health agencies.

The proposed amendment to N.J.A.C. 8:42-7.3(d) requires that a home health agency have an RN available 24 hours a day to return a patient's call regarding clinical issues within one hour. Federal law does not require on-call coverage by an RN and does not require a patient's call to be returned within one hour. In order to ensure that a patient's needs are addressed appropriately and in a timely fashion, the Department believes that a plan for on-call coverage must include a return call from an RN within an hour of a patient's call.

Proposed N.J.A.C. 8:42-3.1(b) imposes a prohibition on full contracting of nursing services, and provides that the subcontracting of nursing services shall only be permitted under certain conditions. Federal

law does not limit the subcontracting of nursing services by home health agencies. The Department believes that the subcontracting of nursing services by home health agencies should only be permitted under limited circumstances in order to ensure continuity of care for patients.

The Department is unable to estimate the cost of providing two therapeutic services in addition to nursing services and 24/7 coverage by an RN, or any increase in costs because of the limitation on subcontracting of services. However, the Department believes that patient safety is paramount, and that the costs of these requirements are justified because they serve to ensure patient safety through the provision of high quality care.

The New Jersey Medicaid program was established by State legislation in conformity with the provisions of Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., and 42 C.F.R. 400 et seq. Participation in the Federal Medicaid program is a state option; however, once a state has elected this option, the state is required to meet all Federal Title XIX Medicaid requirements in order to qualify for Federal Title XIX (Medicaid) funding. The Federal requirements governing the administration, operation, eligibility and funding for the Medicaid program are contained in Title XIX of the Social Security Act and in Title 42 of the

Code of Federal Regulations. Except in limited situations, the Federal statutes and regulations governing the operation of the Medicaid program are general and intended to be guidelines and set minimum standards. The statute and the regulations anticipate that a State Medicaid program will develop its own regulations and statutes to implement the broad guidelines contained in the Federal statute and regulations. A review of the Federal requirements regarding administration of the Medicaid program, under which home health agencies receive at least a portion of their reimbursement, indicates that there is no rule proposed for readoption which exceeds Federal requirements.

Certification Pursuant to N.J.A.C. 1:30-5.1(c)4iii(4)

I certify that the foregoing federal standards analysis for the readoption with amendments of N.J.A.C. 8:42 permits the public to understand accurately and plainly the purposes and expected consequences of the proposed amendments.

Heather Howard, Commissioner
Department of Health and Senior
Services

Jobs Impact

The readoption of N.J.A.C. 8:42, as it continues current requirements, would not result in the generation or loss of jobs in New Jersey. The requirements of the rules themselves may be considered as having a positive impact on the generation of jobs as home health agencies must employ professional and other staff necessary to comply with these rules.

Agricultural Industry Impact

The proposed new rules and amendment would not have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed readoption and amendments would impose requirements on the licensed home health agencies in New Jersey. The state's 49 existing Medicare-certified home health agencies are all considered "small businesses" within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as would be most new applicants for licensure under the proposed readoption.

The readoption of N.J.A.C. 8:42 would maintain the current recordkeeping, reporting and other compliance requirements. Home health agencies are required to obtain both a certificate of need (CN) and

a license, for both of which they would incur administrative application costs. CN application cost is a one-time only fee of \$7,500. Initial license application fee is \$2,000; subsequent annual renewal fee is \$2,000; and biennial inspection fee is \$500. Agencies would have the option of, but would not be required to, employ outside professionals, at varying fees, to assist them in the licensure process. Home health agencies would be required to report certain events, such as service interruptions, and they must follow reporting requirements of professional licensing boards. The agencies would be required to have policies relating to various aspects of patient care, to advance directives, and to pharmacy and supplies. Minimal requirements for nursing care and for nursing entries in the medical/health records of patients would be imposed. Nursing, homemaker-home health aide and physical therapy services would have to be provided. Requirements pertaining to medical/health records, infection prevention and control, patient rights and quality assurance would be imposed. The cost of these requirements to the agencies would vary depending upon a number of factors, such as their size, location and staff resources. As the requirements imposed are necessary to provide safe, efficient and appropriate care, the costs are not considered inappropriately burdensome. The agencies must employ

various professional staff, such as nurses and social workers, at such cost as agreed to between the employer and employee. No lesser requirements or exceptions can be provided based upon business size in the interest of public health and safety.

Smart Growth Impact

The proposed new rules and amendment would not have an impact on the achievement of smart growth and 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. 8:42.

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

SUBCHAPTER 1. DEFINITIONS

8:42-1.2 Definitions

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

...

“Home health agency” or “agency” means a facility which is licensed by the [New Jersey State] Department [of Health and Senior

Services] to provide preventative, rehabilitative, and therapeutic services to patients on a visiting basis in [the patient's home or] a place of residence used as a patient's home. All home health agencies shall provide at a minimum nursing, homemaker-home health aide, and physical therapy services and are eligible for Medicare-certification.

...

SUBCHAPTER 2. LICENSURE PROCEDURE

8:42-2.1 Certificate of Need

(a) (No change.)

(b) Applications shall provide the information required by N.J.A.C.

8:33 and N.J.A.C. 8:33L. Application forms for a Certificate of Need (Form CN-3) and instructions for completion [may be obtained] are available

from[:

Director

Certificate of Need and Acute Care Licensure Program

New Jersey Department of Health and Senior Services

PO Box 360

Trenton, NJ 08625-0360] the Office of Certificate of Need and

Healthcare Facility Licensure through the methods specified in N.J.A.C.

8:33-4.2.

(c) (No change.)

8:42-2.2 Application for licensure

(a) Following acquisition of a Certificate of Need, any person, organization, or corporation desiring to operate a facility shall make application to the Commissioner for a license on forms prescribed by the Department in accordance with the requirements of this chapter. [Such forms may be obtained from] The application and instructions are available through the following methods:

1. Electronically at the Department's "Forms" webpage at <http://nj.gov/health/forms>;

2. Attached as exhibit A, which is incorporated herein by reference;

3. Upon written request to:

Director

Office of Certificate of Need and [Acute Care] Healthcare Facility

Licensure [Program]

New Jersey Department of Health and Senior Services

PO Box [360] 358

Trenton, NJ 08625-[0360]0358

(b) – (f) (No change.)

8:42-2.3 Surveys

(a) When the written application for licensure is approved and the building is ready for occupancy, a survey of the facility by representatives of the [Certificate of Need and Acute Care Licensure Program] Office of Health Facilities Assessment and Survey of the Department shall be conducted to determine if the facility adheres to the rules of this chapter.

1. (No change.)

2. The facility shall notify the Office of Certificate of Need and [Acute Care Licensure Program] Healthcare Facility Licensure of the Department when the deficiencies, if any, have been corrected, and the [Certificate of Need and Acute Care Licensure Program will] Office of Health Facilities Assessment and Survey shall schedule one or more resurveys of the facility prior to issue of license.

(b) No health care facility shall accept patients until the facility has the written approval and/or license issued by the Office of Certificate of Need and [Acute Care] Healthcare Facility Licensure [Program] of the Department.

(c) (No change.)

8:42-2.5 Surrender of License

The facility shall directly notify each patient, the patient's physician, and any guarantors of payment concerned at least 30 days prior to the voluntary surrender of a license, or as directed under an order of revocation, refusal to renew, or suspension of license. In such cases, the license shall be returned to the Office of Certificate of Need and [Acute Care] Healthcare Facility Licensure [Program] of the Department within seven working days after the revocation, non-renewal, or suspension of license.

8:42-2.6 Waiver

(a) (No change.)

(b) A facility seeking a waiver of these rules shall apply in writing to the Director of the Office of Certificate of Need and [Acute Care] Healthcare Facility Licensure [Program] of the Department.

(c) – (d) (No change.)

SUBCHAPTER 3. GENERAL REQUIREMENTS

8:42-3.2 Ownership

(a) The ownership of the facility shall be disclosed to the Department. Proof of this ownership shall be available in the facility. Any proposed change in ownership shall be reported to the Director of the Office of Certificate of Need and [Acute Care] Healthcare Facility

Licensure [Program] of the Department in writing at least 30 days prior to the change and in conformance with the requirements for Certificate of Need applications.

(b) (No change.)

8:42-3.3 Submission of documents

The facility shall, upon request, submit any documents which are required by these rules to the Director of the Office of Certificate of Need and [Acute Care] Healthcare Facility Licensure [Program] of the Department.

SUBCHAPTER 7. NURSING SERVICES

8:42-7.3 Nursing staff qualifications and responsibilities

(a) – (c) (No change.)

(d) Registered professional nurses and licensed practical nurses shall provide nursing care to patients commensurate with their scope of practice, as delineated in the Nurse Practice Act. Nursing care shall include, but not be limited to the following:

1.- 6. (No change.)

7. A registered professional nurse who shall be available 24 hours a day, seven days a week, and who shall be required to contact a patient regarding clinical issues within one hour of the patient's call to the agency.

(e) (No change.)

SUBCHAPTER 13. PATIENT RIGHTS

8:42-13.1 Policies and procedures

(a) (No change.)

(b) Each patient shall be entitled to the following rights, none of which shall be abridged or violated by the facility or any of its staff:

1. – 2. (No change.)

3. To be informed in writing of the following:

i. – iv. (No change.)

v. Notification regarding the filing of complaints with the New Jersey Department of Health and Senior Services 24 hour Complaint Hotline at 1-800-792-9770, or in writing to:

[Division of Health Care Systems Analysis]

Office of Certificate of Need and Healthcare Facility Licensure

New Jersey Department of Health and Senior Services

PO Box [360] 358

Trenton, New Jersey 08625-[0360]0358