

December 2020/January 2021 State Regulatory Report

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Below are the most recent health care related regulatory developments as published in the New Jersey Register in December 2020 and January 2021:

- On December 7, 2020, at 52 N.J.R. 2144(a), the Department of Health published a public notice postponing certificate of need call for applications for additional pediatric intensive care beds in accordance with the provisions of N.J.A.C. 8:33 and N.J.S.A. 26:2H-1 et seq., scheduled for September 1, 2020, until September 1, 2021.
- On January 4, 2021, at 53 N.J.R. 12(a), the Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners, proposed to repeal N.J.A.C. 13:35-4.2 (Rule 4.2), which regulates abortions, and to amend N.J.A.C. 13:35-4A (Rule 4A) to remove barriers to abortion care that are unrelated to safety and to ensure abortions are regulated like other office-based surgical and special procedures. This includes proposing advanced practice clinicians (APCs)-namely, advanced practice nurses (APNs), physician assistants (PAs), certified nurse midwives (CNMs), and certified midwives (CMs)-be permitted to perform certain abortions. Proposed Amendments: J.A.C. 13:35-4A.1 through 4A.12; Proposed New Rule: N.J.A.C. 13:35-4A.19; Proposed Repeal: N.J.A.C. 13:35-4.2. Comments Due: March 5, 2021.
- On January 4, 2021, at 53 N.J.R. 81(a), the Department of Law and Public Safety, Division of Consumer Affairs, Board of Psychological Examiners adopted an amendment to N.J.A.C. 13:42-2.4 regarding degrees earned outside of the United States. It requires individuals who apply for licensure to provide the Board with comprehensive evaluation of their degree performed by the National Register of Health Service Psychologists or a foreign credential evaluation service that is member of the National Association of Credential Evaluation Services (NACES). See N.J.A.C. 13:42-2.4.
- On January 4, 2021, at 53 N.J.R. 86(a), the Department of Health published the anticipated

schedule for receipt of certificate of need applications subject to full review procedures for the period beginning January 1, 2021.

<u>Category</u>	<u>Deadline for Submission</u>	
	1/2/21	and annually thereafter
Long-term care, specialized ventilator		
	1/2/21	and annually thereafter
Long-term care, specialized behavior modification		
	1/2/21	and annually thereafter
Long-term care, pediatric		
	1/2/21	and annually thereafter
Maternal and child health		
	9/1/21	and annually thereafter
Pediatric intensive care		
	2/1/21	and every two years thereafter
Psychiatric beds		
	3/1/21	and every two years thereafter
Rehabilitation beds		
	4/1/22	and every three years thereafter
Children's hospital		

Transplantation	4/1/22	and every three years th
Mobile intensive care unit	6/1/22	and every three years th
Trauma	6/1/22	and every three years th
Long-term care, general	7/1/22	and every three years th
Home health	7/1/22	and every three years th
Burn center, program, unit	4/1/21	and every five years the
New general hospital	4/1/21	and every five years the

- On January 19, 2021, at 53 N.J.R. 101(a), the Department of Health published a notice of emergency adoption of a temporary rule waiver/modification of the requirements governing the expiration and renewal of certifications for Certified Nurse Aides (CNAs) under N.J.A.C. 8:39-43.4 and N.J.A.C. 8:39-43.6. Pursuant to this temporary rule waiver/modification, the expiration date of any nurse aide certification scheduled to expire between March 1, 2020 and December 31, 2020 shall be extended until March 19, 2021. Additionally, any certified nurse aide whose certification is scheduled to expire between March 1, 2020 and December 31, 2020 shall be permitted to renew his or certification outside of the two-year renewal window, up to and until March 19, 2021. After March 19, 2021, all CNAs will be required to resume complying with all regular certification requirements set forth in N.J.A.C. 8:39-43.4 and N.J.A.C. 8:39-43.6. Effective September 1, 2020 to March 19, 2021.

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- On January 19, 2021, at 53 N.J.R. 101(b), the Department of Health published a notice of emergency adoption of a temporary rule waiver/modification of the requirement that ambulatory care facilities with licensed mobile vans submit to the Department a service schedule, which includes, but is not limited to, dates, times and address(es) where the licensed mobile van will be temporarily stationed to provide licensed care, or memorandums of understanding between a licensed mobile van and host location. Ambulatory care facilities operating mobile vans may implement the terms of this waiver as necessary until the conclusion of the Public Health Emergency declared by Governor Philip D. Murphy in Executive Order No. 103. See N.J.A.C. 8:43A-23.3 (c).
 - On January 19, 2021, at 53 N.J.R. 102 (a), the Department of Health published a notice of emergency adoption of a temporary rule waiver/modification of N.J.A.C. 8:43I-2.9(c), which sets the criminal background clearance requirements for individuals seeking certification or recertification as a nurse aide. The Department, through this rule modification, is providing an additional extension of the expiration date of criminal background clearance notifications issued to CNAs and CNA candidates to ensure that there is adequate staffing of CNAs in good-standing at long term care facilities throughout the State. Accordingly, the Department is extending the expiration dates of criminal background clearance notifications issued to CNAs and CNA candidates between November 1, 2019 and June 30, 2020 until March 19, 2021. If full certification is not obtained by March 19, 2021, the notice shall expire, and a new criminal history report must be obtained. See N.J.A.C. 8:43I-2.9
 - On January 19, 2021, at 53 N.J.R. 107(a), the Department of Law and Public Safety, Division of Consumer Affairs, Board of Dentistry proposed an amendment to N.J.A.C. 13:30-8.18 to require prescribers to co-prescribe an opioid antidote (for example, naloxone) under certain circumstances. In addition, the Board proposes to amend N.J.A.C. 13:30-8.18 to implement P.L. 2017, c. 341, amending N.J.S.A. 24:21-15.2, which concerns limitations on prescribing, administering, or dispensing of controlled dangerous substances, with specific limitations for opioid drugs, and establishes special requirements for the management of acute and chronic pain. The revised law and proposed amendments clarify the timing of the requirement to enter into a pain management agreement, amend the definition of “initial prescription,” and revise the definition of “chronic pain” consistent with the amended statute. Proposed Amendment N.J.A.C. 13:30-8.18.
 - On January 19, 2021, at 53 N.J.R. 109(a), the Department of Law and Public Safety, Division of Consumer Affairs, Board of Nursing proposed to amend N.J.A.C. 13:37-7.9A to require prescribers to co-prescribe an opioid antidote (for example, naloxone) under certain circumstances. In addition, the Board proposes to amend N.J.A.C. 13:37-7.9A to implement P.L. 2017, c. 341, amending N.J.S.A. 24:21-15.2, which concerns limitations on prescribing, administering, or dispensing of controlled dangerous substances, with specific limitations for opioid drugs, and establishes special requirements for the management of acute and chronic pain. These limitations and requirements apply to certified advanced practice nurses. The revised law and proposed amendments clarify the timing of the requirement to enter into a pain management agreement, amend the definition of “initial prescription,” and revise the definition of “chronic pain” consistent with the amended statute. Proposed Amendment: N.J.A.C. 13:37-7.9A
 - On January 19, 2021, at 53 N.J.R. 112(a), the Department of Law and Public Safety, Division of Consumer Affairs, Board of Optometrists proposed to amend N.J.A.C. 13:38-2.5 to require prescribers to co-prescribe an opioid antidote (for example, naloxone) under certain

circumstances. In addition, the Board proposes to amend N.J.A.C. 13:38-2.5 to implement P.L. 2017, c. 341, amending N.J.S.A. 24:21-15.2, which concerns limitations on the prescribing, administering, or dispensing of controlled dangerous substances, with specific limitations for opioid drugs, and establishes special requirements for the management of acute and chronic pain. The revised law and proposed amendments clarify the timing of the requirement to enter into a pain management agreement, amend the definition of “initial prescription,” and revise the definition of “chronic pain” consistent with the amended statute. Proposed Amendment: N.J.A.C. 13:38-2.5

- On January 19, 2021, at 53 N.J.R. 114(a), the Department of Law and Public Safety, Division of Consumer Affairs, Board of Physical Therapy proposes to readopt N.J.A.C. 13:39A with amendments, repeals, and new rules. Proposed Readoption with Amendments: N.J.A.C. 13:39A; Proposed Repeals and New Rules: N.J.A.C. 13:39A-5.5 and 5A; Proposed New Rules: N.J.A.C. 13:39A-4.3 and 5.2A.
- On January 19, 2021, at 53 N.J.R. 124(c), the Department of Law and Public Safety, Division of Consumer Affairs, Board of Medical Examiners adopted the amended rule requiring physicians to co-prescribe an opioid antidote under certain circumstances. Adopted Amendment: N.J.A.C. 13:35-7.6.
- On January 19, 2021, at 53 N.J.R. 137(a), the Department of Health published a public notice adopting rule changes that permit the establishment of elective PCTA services with off-site cardiac surgery backup to be reviewed under the expedited CN review process and established rules for submission of CN applications for the provision of elective PCI at hospitals with off-site cardiac surgery back up. See N.J.A.C. 833E-2.17.

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