

“CEO” means the Chief Executive Officer of a State Psychiatric Hospital.

“Division” means the Division of Mental Health and Addiction Services, within the Department of Human Services.

10:36-1.3 General Provisions

(a)-(e) (No change.)
 (f) Patients who disagree with the treatment team regarding their assigned level of supervision may appeal through hospital grievance procedures or to the Division’s [of Mental Health Services] Representative assigned to each institution. The Client Service Representative will involve hospital administration and/or clinical staff as indicated in the resolution of the disagreement.

(g) (No change.)

10:36-1.4 Procedures

(a) (No change.)
 (b) Each patient’s level shall be evaluated at least as frequently as is called for in the treatment plan review schedule, or more frequently if clinically indicated or requested by the patient. The treatment plan review schedule shall comply, at a minimum, with the standards set by the applicable accrediting body for the hospital. The patient may review his or her treatment plan at any time. A patient’s family members, significant others, lawyers, guardians, and custodians are permitted to review a patient’s treatment **plan** upon their request and prior consent of the patient.

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

SUBCHAPTER 3. TRANSFERS OF INVOLUNTARILY COMMITTED PATIENTS BETWEEN STATE PSYCHIATRIC FACILITIES

10:36-3.2 Scope

(a) The rules of this subchapter apply in all instances to involuntarily committed patients who are residing at and being considered for transfer to any of the following facilities specified in N.J.S.A. 30:4-160:

- 1.-2. (No change.)
3. Ancora Psychiatric Hospital; **and**
4. The Ann Klein Forensic Center[; and].
- [5. The Senator Garrett W. Hagedorn Psychiatric Hospital.]

(b) (No change.)

10:36-3.4 General procedures

(a)-(c) (No change.)
 (d) Transfers occurring as a result of overcrowding, life-safety concerns, natural catastrophes, or consolidation of services shall require the approval of the [Director, Division of Mental Health Services] **Division’s Assistant Commissioner**.

(e) The following procedures shall be followed in cases of non-emergent transfers:

- 1.-5. (No change.)
6. If the CEOs do not agree, the case shall be referred for resolution to the [appropriate regional] **Division’s Assistant Directors**[, Division of Mental Health Services.] **in the Office of State Hospital Management**, who may, in making their decision, request clinical and technical input from hospital central office staff. Resolution, in instances of continuing disagreement, rests with the [Division Director] **Division’s Assistant Commissioner** or the [Director’s] **Assistant Commissioner’s** designee.

7.-8. (No change.)
 (f) The following procedures shall be followed in cases of emergency transfers:

- 1.-4. (No change.)
5. If, after transfer, the CEO of the receiving hospital objects to an emergency transfer, he or she shall review the case with the CEO of the sending [institution] **hospital**. If agreement cannot be reached, the matter shall be referred to the **Division’s Assistant Director** [of the receiving region] **in the Office of State Hospital Management for resolution. Resolution, in instances of continuing disagreement, rests with the Division’s Assistant Commissioner or the Assistant Commissioner’s designee.**

[6. That Assistant Director shall consult with his or her counterpart from the sending region to resolve the issue.

7. If agreement cannot be reached by the Assistant Directors, the issue shall be referred for resolution to the Director or the Director’s designee.]

[8.] **6.** (No change in text.)

10:36-3.5 Procedures when patients object to transfer

(a) (No change.)
 (b) Regarding emergency transfers, the following apply:
 1. (No change.)
 2. If a patient or a representative of the patient objects to such a transfer, they may submit their position in writing to the Division after implementation of the transfer. A designee of the [Division Director] **Division’s Assistant Commissioner** shall review the basis for the transfer after the transfer, and shall provide the patient or his or her representative with an opportunity to state the basis for their objection and present any relevant facts or statements. The designee shall not be a member of the patient’s treatment team at either the sending or receiving hospital and shall provide an independent review of the need for the [proposed] transfer **after the transfer**. The designee shall have the authority to approve or disapprove the [proposed] transfer. This decision shall be in writing and shall become part of the patient’s clinical record.

CHILDREN AND FAMILIES

(a)

OFFICE OF LICENSING
Manual of Standards for Children’s Shelter Facilities and Homes

Proposed Readoption with Amendments: N.J.A.C. 10:124

Proposed New Rules: N.J.A.C. 10:124-2.2 and 4.11

Authorized By: Allison Blake, Ph.D., L.S.W., Commissioner, Department of Children and Families.
 Authority: N.J.S.A. 2A:4A-20 et seq., 2A:4A-37, 9:3A-7.g, 9:3A-9, 30:1-14 and 15, and 30:4C-4.(d).
 Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2015-131.

Submit written comments by December 18, 2015, to:

Pamela Wentworth, M.S.W., L.S.W.
 Department of Children and Families
 PO Box 717
 Trenton, NJ 08625
 or
rules@dcf.state.nj.us

The agency proposal follows:

Summary

The Office of Licensing (Office) proposes to readopt with amendments and new rules, the rules governing the licensing of shelter facilities and shelter homes for children. The rules affect those who operate shelter facilities and shelter homes, those who work at shelter facilities, those who live in shelter homes, the children placed in them, and the parents of those children.

N.J.A.C. 10:124 has been in effect since 1974.

The Office provides a letter of approval or temporary approval to shelter facilities and shelter homes which meet or substantially meet the standards of this chapter. The Office may deny, suspend, revoke, or refuse to renew the approval if the standards are not met. A shelter facility or shelter home shall not operate without a letter of approval or temporary approval.

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 10:124 was set to expire on September 12, 2015. As the Department of Children and Families (Department) has submitted this notice of proposal to the Office of Administrative Law prior to that date, pursuant to N.J.S.A. 52:14B-

5.1.c(2), the expiration date is extended 180 days to March 10, 2016. The Department has reviewed these rules and has determined that they continue to be necessary, proper, and reasonable for the purpose for which they were originally promulgated.

The Office proposes to amend N.J.A.C. 10:124-1.1(a) and (b) to add that N.J.S.A. 30:1-14 and 15 are applied to the Department of Children and Families by N.J.S.A. 9:3A-9, effective July 1, 2006. The Office has proposed further clarification for the reader to these subsections by stating the complete citation of N.J.S.A. 30:4C-4.(h) in N.J.A.C. 10:124-1.1(a) and N.J.S.A. 30:4C-4.(d) in N.J.A.C. 10:124-1.1(b). N.J.A.C. 10:124-1.1(a) is proposed to be clarified by placing the word “and” at the end of the list of statutes and replacing a semicolon with a comma.

The Office proposes to amend the phrase “and/or” at N.J.A.C. 10:124-1.1(b) through (g), 1.3(a), 5.3(q), 5.4(a), and 6.1(a) to clarify what is required.

The Department of Children and Families was created July 1, 2006, pursuant to N.J.S.A. 9:3A-9. The Office of Licensing is proposing to replace reference to the Department of Human Services with the Department of Children and Families at N.J.A.C. 10:124-1.1(b), (c), (d), (e), and (g). The definition of “Department” and the definition of “Division” at N.J.A.C. 10:124-1.2 are proposed to be amended to reflect the Department of Children and Families.

The Office has defined “shelter home” as well as “shelter facility.” The rule uses these terms, as well as the terms “home” and “facility” which are undefined. In order to clarify the rules, the Office proposes to amend the terms “home” and “facility” throughout by replacing them with the defined terms “shelter home” and “shelter facility,” respectively.

The Office of Licensing proposes to amend N.J.A.C. 10:124 throughout to replace “Division of Youth and Family Services” with “Division of Child Protection and Permanency.” These amendments can be found at N.J.A.C. 10:124-1.1(b)1, (e), (f)1, and 1.2, in the definition of “Division.” The proposed amendments reflect the creation of the Division of Child Protection and Permanency (CP&P) on June 29, 2012, by amendment to N.J.S.A. 9:3A-9.

The former Bureau of Licensing is now titled the Office of Licensing. The definition of “Bureau” is proposed for deletion and the definition of “Office” is proposed to be added to N.J.A.C. 10:124-1.2. The Office has proposed amendments to the rules throughout to use the current title. The Office also proposes that the rules be amended to replace “Bureau” with “Office” throughout. At N.J.A.C. 10:124-5.1(a)6, the Office proposes to delete reference to the Division of Youth and Family Services, as the location of the Office of Licensing, as it is noted in the proposed amendment to the definition of “Office of Licensing” at N.J.A.C. 10:124-1.2.

The Office is proposing to amend the definitions of “shelter facility” and “shelter home” at N.J.A.C. 10:124-1.2 to remove the terms “juvenile-family in crisis shelter” and “juvenile-family in crisis home” because these terms are not used elsewhere in the rule. Therefore, they do not need to be defined. The Office is also proposing to amend the definition of “shelter home” to remove mention of the Division of Youth and Family Services’ emergency foster shelter homes because these homes were removed from N.J.A.C. 10:122C-1.2 in 2009. These homes are licensed resource family homes with no distinctions from other licensed resource family homes.

A definition of “restrictive behavior management practice” is proposed at N.J.A.C. 10:124-1.2 to define the term at proposed new N.J.A.C. 10:124-4.11.

The Office is proposing at N.J.A.C. 10:124-1.2, to delete the definition of “shall” as it is not necessary. The Office is proposing to amend N.J.A.C. 10:124-1.4(a)1 to change the locus of the capacity approval from the Division to the Department. This reflects that, organizationally, contract administration is part of the Department, but not part of the Division.

The Office is proposing to amend N.J.A.C. 10:124-1.7(b) to remove the “or” leaving the phrase to read “shelter facility and shelter home records.” This clarifies the sentence for the reader.

Proposed new N.J.A.C. 10:124-2.2, Rights of children, establishes a minimum of rights that the shelter shall enforce and requires that the child, parents, and staff shall have access to these rights. The purpose of this rule is to guarantee certain rights while the child is in shelter care.

N.J.A.C. 10:124-2.2, 2.3, and 2.4 are proposed for recodification as N.J.A.C. 10:124-2.3, 2.4, and 2.5 and internal cross-references are updated.

The term “foster parent” is proposed to be amended to “resource family parent” at recodified N.J.A.C. 10:124-2.3(c). The term was changed when N.J.S.A. 30:4C-27.3 et seq. was amended in 2004. This brings the rules into agreement with the statutory language. In addition, in recodified N.J.A.C. 10:124-2.3(a) and (b), the medical examination requirements are rephrased for clarity.

The Office proposes to amend N.J.A.C. 10:124-2.4(c) to specify that copies of laws related to child abuse and further information on child abuse are now located on the Department’s website. Shelter facilities and shelter homes can access the material there, rather than requesting it from the Division of Child Protection and Permanency.

The responsibility to deny, suspend, revoke, or refuse to renew a certificate of approval is proposed to be amended at N.J.A.C. 10:124-3.1(d), 3.8(b), 3.8(j)5, and 3.9(f) from the Division to the Office of Licensing, as this is now a function of the Office of Licensing.

The Office is correcting an error at N.J.A.C. 10:124-3.2(a)2. In addition to proposing an amendment to replace Bureau with Office, the sentence is proposed to be further amended to state “The Office or shelter facility shall have the authority...,” removing the erroneous “of” and deleting “or agency.” The Office is proposing to remove redundant terminology from N.J.A.C. 10:124-3.4(a) and (b). The terms “shelter home coordinator” and “shelter home parent,” respectively, are redundant.

N.J.A.C. 10:124-3.8(f) is proposed to be amended to add that the exception at subsection (e) also applies to those who serve in a shelter home but are not employees of the shelter home. Similar amendments to N.J.A.C. 10:124-3.8(i) and (j)4 are proposed. The Office proposes to delete reference to “the agency’s” in describing the board of directors from N.J.A.C. 10:124-3.8(g)4 for clarification. The requirement to provide written consent to a Child Abuse Record Information background check to the Division is proposed to be amended to the Department at N.J.A.C. 10:124-3.9(a). The Department, rather than the Division, conducts the background check. N.J.A.C. 10:124-3.9(d), (f), and (g) are amended to reflect this change. Organizationally, this function is no longer within the Division, but is within the Departmental structure.

The authority to deny, suspend, revoke, or refuse to renew a certificate is located within the Office of Licensing, rather than the Division. N.J.A.C. 10:124-3.9(b) is proposed to be amended to reflect that organizational change.

The Office is proposing to amend N.J.A.C. 10:124-3.9(b)2 to say that “the shelter home parent may choose to remove the household member who refuses to consent from the shelter home...” This clarifies the meaning of the sentence.

The Office is proposing to amend N.J.A.C. 10:124-3.9(d)2 to add a cross-reference to N.J.A.C. 10:120A, which regulates the dispute resolution opportunities for substantiated perpetrators of child abuse. This is a convenience to the reader.

The Office intends to correct an error at N.J.A.C. 10:124-3.9(f)1, which references a rule about appeals. That information is located at N.J.A.C. 10:124-1.6, rather than N.J.A.C. 10:124-2.4.

The Office is proposing to amend the heading of N.J.A.C. 10:124-3.11 to replace “agencies” with “shelter facilities.” The Office is proposing to amend N.J.A.C. 10:124-4.5(a) to include shelter homes in addition to shelter facilities. This gives children placed in shelter homes the same right to education as those children placed in shelter facilities, which is important to their educational progress.

The Office is proposing new N.J.A.C. 10:124-4.6(b), which requires the shelter staff to prepare a case management plan for each child in a shelter facility for more than 45 days. This will ensure that the child’s needs are met while a more permanent living arrangement is sought.

The Office is proposing new N.J.A.C. 10:124-4.11 to stipulate that shelter facilities utilizing restrictive behavior management practices must do so in accordance with the rules applicable to group homes in N.J.A.C. 10:128, except that notice of use of such practices must be within 72 hours of such use.

At recodified N.J.A.C. 10:124-4.12(a) and (b), the Office proposes to clarify that these subsections apply to shelter homes and shelter home

parents by including these terms. Subsection (c) already includes shelter home parents.

The Office is proposing to amend recodified N.J.A.C. 10:124-4.12(a) to add that a shelter home must also make its discipline and control policies available to children, parents, and staff members, and to require these be in writing, to ensure that they have this information. A new subsection (d) is proposed to regulate the use of "time out" as a means of discipline. This amendment is proposed to specify the guidelines for this type of discipline and to prohibit the use of inappropriate places for the time out to be served.

Proposed amendments to recodified N.J.A.C. 10:124-4.12(f)8, 9, and 10 would add three additional types of punishment that are prohibited. These punishments are not considered helpful in teaching self-discipline.

The Office proposes new N.J.A.C. 10:124-4.16(a). Proposed new subsection (a) requires the shelter facility or shelter home to have written policies and procedures for the search for weapons or contraband. As this policy is to be distributed to children and their parents upon admission, the children and parents are informed of the parameters of the policy, which is to maintain the safety of the children and staff in the shelter.

Recodified N.J.A.C. 10:124-4.16(b), (c), and (d), as well as the section heading, contain proposed amendments to include shelter homes and shelter home parents. Specifically, proposed amendments to paragraphs (b)1 and 2 would add that a shelter home parent is authorized to frisk search a child if there is reasonable suspicion they are in possession of a weapon while proposed amendments to paragraphs (c)1 and 2 allow such searches for illegal drugs or contraband. A proposed amendment to paragraph (b)2 would add shelter homes to provide increased safety for all household members, including the children placed in the shelter home. Paragraph (c)2 is proposed for amendment to have two additional staff members or shelter home parents present when items within the child's possession or control are inspected for the presence of illegal drugs or contraband. These procedures streamline the practice of conducting a search. The search ensures the safety and well-being of all the children placed in the shelter facility and shelter home, as well as the staff members and persons living in the household.

The Office proposes new N.J.A.C. 10:124-4.16(e) and (f) to address searching a child's room or possessions not within his or her immediate control. Proposed new subsection (e) would establish parameters for conducting unannounced searches to ensure that the child's rights are not violated, while protecting those living or working in the shelter facility or shelter home.

The Office proposes to amend the heading in N.J.A.C. 10:124-5.1 to add "and shelter homes" as these requirements apply to all shelter facilities.

N.J.A.C. 10:124-5.2(b)2 is proposed to be amended to include the full name of the NJUFC, the New Jersey Uniform Fire Code, to define the acronym for the reading public.

The Office is proposing to correct a codification error at N.J.A.C. 10:124-5.2(d)i. The correct codification is N.J.A.C. 10:124-5.2(d)1.

N.J.A.C. 10:124-5.2(f) and (m) contain redundant terms, which are proposed for removal, making the rule easier to read. N.J.A.C. 10:124-5.2(n) is proposed to be amended to replace "swimming pools" with "swimming areas" and to correct a citation. N.J.A.C. 10:124-5.2(q) is proposed for amendment to rephrase for better flow and refers to "lead paint standards" rather than "lead paint."

The name and telephone number of the Child Protection and Permanency hotline to report child abuse is proposed to be amended at N.J.A.C. 10:124-5.4(a)5 to include the current name and telephone number.

The Office proposes to amend N.J.A.C. 10:124-5.5 to replace "and" with "or" to clarify that in addition to life safety requirements in N.J.A.C. 10:124-5.4, shelter facilities and shelter homes would be required to take additional steps the Office deems necessary to correct conditions that endanger health, safety, or well-being of children.

The Office proposes to amend N.J.A.C. 10:124-6.3(d) to ensure conformity with the State's newly enacted requirements on the use of child passenger restraint systems at N.J.S.A. 39:3-76.

The Office is proposing to amend N.J.A.C. 10:124-6.4(a), 6.5(a) and (b), and 6.6(a) to add that shelter homes must also meet these

transportation requirements. These requirements improve a child's safety when being transported by shelter facility staff or a shelter home parent.

The following summarizes the rules proposed for readoption including proposed new sections and recodifications.

N.J.A.C. 10:124-1.1 states the legal authority for the chapter.

N.J.A.C. 10:124-1.2 states the definitions of terms used in the chapter.

N.J.A.C. 10:124-1.3 states the populations served by shelter facilities and shelter homes.

N.J.A.C. 10:124-1.4 states the capacity and location requirements of shelter facilities and shelter homes.

N.J.A.C. 10:124-1.5 states the approval requirements for shelter facilities and shelter homes.

N.J.A.C. 10:124-1.6 states information on administrative hearings.

N.J.A.C. 10:124-1.7 states the public's access to the Office's records on shelter facilities and shelter homes.

N.J.A.C. 10:124-2.1 states that shelter homes and shelter facilities must have a statement of purpose.

Proposed new N.J.A.C. 10:124-2.2 states the rights of children placed in a shelter facility or shelter home and reporting requirements regarding these rights.

Recodified N.J.A.C. 10:124-2.3 states required intake and admissions procedures.

Recodified N.J.A.C. 10:124-2.4 states reporting requirements for shelter facilities and shelter homes.

Recodified N.J.A.C. 10:124-2.5 states the recordkeeping requirements for shelter facilities and shelter homes.

N.J.A.C. 10:124-3.1 states basic information about staff requirements.

N.J.A.C. 10:124-3.2 states the health requirements for shelter facility staff.

N.J.A.C. 10:124-3.3 states the qualifications for shelter facility staff.

N.J.A.C. 10:124-3.4 states the qualifications for the shelter home coordinator and shelter home parent.

N.J.A.C. 10:124-3.5 states the staff to child ratio requirements for shelter facilities.

N.J.A.C. 10:124-3.6 states the staff development and evaluation requirements for shelter facilities.

N.J.A.C. 10:124-3.7 states information about governing bodies and citizen review boards for shelter facilities.

N.J.A.C. 10:124-3.8 states the Criminal History Record Information background check requirements for shelter facility and shelter home staff and for shelter home parents and shelter home household members.

N.J.A.C. 10:124-3.9 states the Child Abuse Record Information background checks required for shelter facility staff and shelter home staff and for shelter home parents and shelter home household members.

N.J.A.C. 10:124-3.10 states the background check procedures for New Jersey shelter facilities and shelter homes.

N.J.A.C. 10:124-3.11 states the background check procedures for out-of-State shelter facility staff and shelter home parents and others.

N.J.A.C. 10:124-4.1 states the health program requirements for children in a shelter facility or shelter home.

N.J.A.C. 10:124-4.2 states the requirements for each child's clothing and the protection of each child's personal property.

N.J.A.C. 10:124-4.3 states the food and nutrition requirements for children.

N.J.A.C. 10:124-4.4 states the standards for rest, bedrooms, and sleep for children.

N.J.A.C. 10:124-4.5 states the educational program requirements for children.

N.J.A.C. 10:124-4.6 states the social service requirements for shelter facilities.

N.J.A.C. 10:124-4.7 states the recreation program requirements for shelter facilities and shelter homes.

N.J.A.C. 10:124-4.8 states the requirements for participation in religious activities and services.

N.J.A.C. 10:124-4.9 states the standards for chores and employment.

N.J.A.C. 10:124-4.10 states that shelter facility staff is required to post a list of rules for the daily routine.

New N.J.A.C. 10:124-4.11 states restrictive behavior management practices for shelter facilities.

Recodified N.J.A.C. 10:124-4.12 states requirements on discipline and control for shelter facilities and shelter homes.

Recodified N.J.A.C. 10:124-4.13 states the procedures for the visitation of children.

Recodified N.J.A.C. 10:124-4.14 states the requirements for a child's mail and telephone calls.

Recodified N.J.A.C. 10:124-4.15 states the requirements for weapons and firearms in shelter facilities and shelter homes.

Recodified N.J.A.C. 10:124-4.16 states the procedures for search and seizure of weapons and contraband from a child.

N.J.A.C. 10:124-5.1 states the local government physical facility requirements that shelter facilities must follow.

N.J.A.C. 10:124-5.2 states the State government physical facility requirements for shelter facilities.

N.J.A.C. 10:124-5.3 states the State government physical facility requirements for shelter homes.

N.J.A.C. 10:124-5.4 states the life-safety requirements for shelter facilities and shelter homes.

N.J.A.C. 10:124-5.5 states the requirement that the shelter facilities and shelter homes take necessary steps to correct any conditions that may endanger the health, safety, and well-being of children placed there.

N.J.A.C. 10:124-6.1 states requirements for vehicles used to transport children.

N.J.A.C. 10:124-6.2 states the driver requirements for the drivers of vehicles used to transport children.

N.J.A.C. 10:124-6.3 states vehicle safety practices.

N.J.A.C. 10:124-6.4 states what transportation records need to be kept by shelter facilities and shelter homes.

N.J.A.C. 10:124-6.5 states the required vehicle insurance.

N.J.A.C. 10:124-6.6 states requirements for transporting handicapped, non-ambulatory children.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements set forth at N.J.A.C. 1:30-3.2 and 3.2, in accordance with N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Office of Licensing believes that the rules proposed for readoption with amendments and new rules will have a positive impact on the children placed in shelter facilities and shelter homes. As of June 2015, the Statewide capacity allows 414 children to be sheltered at one time. The purpose of this rule is to provide a safe, temporary environment for these children and the services that they need while in a shelter.

Those who operate shelter facilities and shelter homes are also impacted by this rule. This rule sets the minimum standards needed to operate a shelter facility or shelter home, so that the operators know what is required of them to provide the service. The Office anticipates a positive response to the rules proposed for readoption with amendments and new rules.

Economic Impact

The Office of Licensing does not anticipate any economic impact on shelter facilities and shelter homes due to the proposed readoption of this rule. The licensed shelter facilities and shelter homes are under contract with the Department or other governmental units, so their costs are covered. The Office does not believe that any of the proposed amendments to the rule will cost the shelters any additional expenditure.

The rules proposed for readoption with amendments and new rules impact the budget of the Department, as they assist the Department to meet the requirements of Title IV-E of the Social Security Act, 42 U.S.C. §§ 671(a)10 and 11. The Fiscal Year 2016 appropriation is \$157,461,000.

Federal Standards Statement

There are no Federal standards related specifically to shelter care. Title IV-E of the Social Security Act, 42 U.S.C. §§ 671(a)(10) and (11), requires the state to establish and maintain standards for foster homes and child care institutions, and to periodically review the standards, but leaves it to the states to set the standards. The rules proposed for readoption with amendments and new rules are the standards for shelter facilities and shelter homes and establish shelter inspection and reporting requirements in order to maintain the standards. The process of rule readoption is part

of the periodical review of these standards. Since applicable Federal standards are met but not exceeded, a Federal standards analysis is not required.

Jobs Impact

The Office anticipates that the rules proposed for readoption with amendments and new rules will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments and new rules will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The regulated children's shelter facilities and shelter homes are considered to be small businesses under the terms of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. There are 15 regulated shelter facilities and 74 shelter homes in New Jersey, as of June, 2015.

The rules proposed for readoption with amendments and new rules impose recordkeeping, reporting, and compliance requirements on shelter homes and shelter facilities. Specifically, in regard to the shelter structure, it must meet applicable building code standards and be subject to initial and subsequent biannual inspection by the Office of Licensing. In regard to the staff, they must undergo a criminal history and background check and tuberculin testing and meet minimum health and fitness requirements. In addition, shelter facility staff must meet minimum education requirements, be trained in emergency procedures, and have ongoing training and performance evaluations. Shelter facilities must also maintain a minimum staff to child ratio and, based on the number of children served, also provide certain minimum social services. Shelters must also meet basic requirements of providing clean clothing, bed linens, access to health care and a safe living environment, and if shelter is for extended periods of time, also provide for education. Shelters must be adequately insured for liability. Reporting requirements for shelter certification include fire safety inspection certificate and a certificate or statement of satisfactory health approval. In addition, shelters must report any pending criminal charges against any staff member or volunteer. Recordkeeping requirements include proof that the compliance requirements are met. Written policies regarding discipline and control and emergency information must be maintained. Proposed new N.J.A.C. 10:124-2.2 requires a list of children's rights be prepared that meets minimum requirements, and that the list be posted and provided to admitted children and parents, and that a signed record be maintained of receipt of the list.

Professional services are not expected to be required except for site safety inspections, including an electrical inspection, which may require the services of a professional electrician.

The Office of Licensing does not anticipate any initial or annual capital costs or expenditures to result from the rules proposed for readoption with amendments and new rules.

The Office has made no distinction between the requirements for small businesses and those of other businesses, as all of the shelter facilities and shelter homes are small businesses. These requirements are held to be necessary to protect the health, safety, and welfare of children.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and new rules will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to the licensing of children's shelter facilities and shelter homes.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments and new rules are expected to have no impact on smart growth development and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to the licensing of children's shelter facilities and shelter homes.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:124.

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

CHAPTER 124
MANUAL OF STANDARDS FOR CHILDREN'S SHELTER
FACILITIES AND **SHELTER HOMES**

SUBCHAPTER 1. GENERAL PROVISIONS

10:124-1.1 Legal authority

(a) This chapter is promulgated pursuant to N.J.S.A. 30:1-14 and 15, **as applied by N.J.S.A. 9:3A-9, 30:4C-4.h, [and N.J.S.A.] 2A:4A-37[;], and 2A:4A-20 et seq.**

(b) Under N.J.S.A. 30:1-14, **as applied by N.J.S.A. 9:3A-9, and N.J.S.A. 30:4C-4.(d)**, the Department of [Human Services] **Children and Families** is authorized to inspect, evaluate, and approve publicly or privately operated shelter facilities [and/or] **and shelter** homes that:

1. Provide board, lodging, or care for children who are placed or financed by the Division of [Youth and Family Services] **Child Protection and Permanency** or any other State agency; and

2. (No change.)

(c) Under N.J.S.A. 2A:4A-20 et seq., the Department of [Human Services] **Children and Families** is mandated to inspect, evaluate, and "specify" (approve) shelter facilities [and/or] **and shelter** homes that:

1. (No change.)

2. Provide board, lodging, or care primarily for children in juvenile-family crisis as defined by State law, who are awaiting court disposition or post-disposition action.

(d) In order to be eligible to provide care for children, a shelter facility [and/or] **or shelter** home described in (b) or (c) above shall demonstrate to the satisfaction of the Department of [Human Services] **Children and Families** or its duly authorized agent through such methods and procedures as may be prescribed that it complies with the rules [and regulations contained in] **of** this chapter, which shall constitute minimum standards only.

(e) Responsibility for insuring that [such] shelter facilities [and/or] **and shelter** homes **described in (b) and (c) above** comply with the provisions of the statutes cited in (a) above and of this chapter is hereby delegated by the Department of [Human Services] **Children and Families** to the [Bureau] **Office** of Licensing of the Division of [Youth and Family Services] **Child Protection and Permanency**.

(f) Under N.J.S.A. 30:1-15, the Department of [Human Services] **Children and Families** is authorized to "visit and inspect" publicly or privately operated shelter facilities [and/or] **and shelter** homes that:

1. Provide board, lodging, or care for children who are not placed or financed by the Division of [Youth and Family Services] **Child Protection and Permanency** or any other State agency; and

2. (No change.)

(g) The Department of [Human Services] **Children and Families** or its duly authorized agent is authorized to "visit and inspect" [such] **shelter** facilities [and/or] **and shelter** home[s] as noted in (f) above, to assess the general health, safety, and well-being of the children and the care and treatment they are receiving. Although such shelter facilities [and/or] **and shelter** homes cannot be required to comply with the rules [and regulations contained herein] **in this chapter** the Department may use these rules [and regulations] as the basis for its inspection.

10:124-1.2 Definitions

The following words and terms, when used in this chapter, have the following meanings:

["Bureau" means the Bureau of Licensing of the Division of Youth and Family Services.]

...
"Children's shelter facility" or "shelter facility" [or "juvenile-family in crisis shelter"] means any public or private facility that provides 24-hour-a-day residential care to six or more children in a non-physically restrictive environment for a period of time usually not exceeding 30 days.

...
"Children's shelter home" or "shelter home" [or "juvenile-family in crisis home"] means any public or private residence that provides 24-

hour-a-day residential care to five or fewer children in a non-physically restrictive environment for a period of time usually not exceeding 30 days. [Shelter homes shall not include the Division of Youth and Family Services emergency foster shelter homes.]

...
"Department" means the New Jersey Department of [Human Services] **Children and Families**.

"Division" means the Division of [Youth and Family Services] **Child Protection and Permanency**, New Jersey Department of [Human Services] **Children and Families**.

...
"Manual of Standards for Children's Shelter Facilities and Homes" or "Manual of Standards" means the rules [and regulations] promulgated in this chapter, which shall constitute minimum requirements for children's shelter facilities and **shelter** homes.

"Office" means the **Office of Licensing of the Department of Children and Families**.

...
"Restrictive behavior management practice" means the use of **physical restraint and exclusion as part of a comprehensive treatment plan to help the child develop self-control, to reduce maladaptive behavior, or to protect the child and others from harm.**

["Shall" denotes a provision of this chapter that a children's shelter facility or shelter home must meet before approval is granted by the Bureau.]

10:124-1.3 Population served by shelter facilities and **shelter** homes

(a) A shelter facility or **shelter** home provides care for children who are:

1. Abused; [and/or]

2. Abandoned; [and/or]

3. Dependent; [and/or]

4. Neglected; [and/or]

5. In need of temporary emergency care; [and/or]

6. (No change.)

7. Charged as a juvenile delinquent, pursuant to State law, and who would not be a threat to the physical, social, or emotional well-being of the other children at the shelter facility or **shelter** home.

10:124-1.4 Capacity and location of shelter facilities and **shelter** homes

(a) Capacity:

1. Shelter facility: A facility which provides care for a minimum of six and a maximum of 25 children. However, a shelter facility established after [the effective date of this chapter] **February 28, 1974**, shall not exceed a maximum capacity of 12 children, unless approved by the [Division] **Department**.

2. (No change.)

3. The [Bureau] **Office** may restrict new admissions to a shelter facility or **shelter** home upon a determination that the shelter facility or **shelter** home is regularly over the maximum number of children that the **shelter** facility or **shelter** home has been approved by the [Bureau] **Office** to serve.

(b) Location: A shelter facility or **shelter** home shall:

1.-2. (No change.)

10:124-1.5 Approval requirements

(a) A shelter facility or **shelter** home shall obtain approval from the [Bureau] **Office** pursuant to the legal authority specified in N.J.A.C. 10:124-1.1(b) and (c) prior to establishment or operation.

(b) The [Bureau] **Office** shall conduct an annual on-site physical facility and a biennial comprehensive programmatic inspection of a shelter facility and a biennial comprehensive programmatic inspection of a shelter home to determine compliance with this chapter.

(c) If a shelter facility or **shelter** home meets all applicable provisions of this chapter, the [Bureau] **Office** shall issue a letter of approval.

(d) The [Bureau] **Office** shall provide notice if a letter of approval shall not be issued.

(e) If the [Bureau] **Office** determines that a shelter facility or **shelter** home is in substantial compliance with all applicable provisions of this chapter, providing that no serious or imminent hazard affecting the

children exists, the [Bureau] **Office** may issue a letter of temporary approval.

(f) When a letter of temporary approval is issued, the [Bureau] **Office** shall provide a written statement explaining what the shelter facility or **shelter** home must do to achieve full compliance.

(g) A letter of temporary approval may be issued for a period not to exceed six months. The [Bureau] **Office** may issue as many temporary approvals as it deems necessary; however, a shelter facility or **shelter** home shall not operate pursuant to temporary approvals for more than 12 months.

(h) Each approval period, which may include the issuance of one or more letters of temporary approval and/or one letter of approval, shall be two years.

1. In determining the expiration date of the first letter of approval, the [Bureau] **Office** shall compute the two year period from the date of issuance of the first letter of approval or temporary approval.

2. In determining the expiration date of a renewed approval, the [Bureau] **Office** shall compute the two-year approval period from the date on which the shelter facility's or **shelter** home's previous letter of approval expired.

(i) The letter of approval or temporary approval shall be kept on file at the shelter facility or at the office[s] of the shelter home coordinator.

(j) An authorized representative of the [Bureau] **Office** may at any time make an announced or unannounced visit and inspect the shelter facility or **shelter** home and/or review files, reports, or records to determine its compliance with this chapter and/or to investigate a complaint.

(k) A shelter facility or **shelter** home's approval may be denied or revoked for any activity, policy, or conduct that presents a serious or imminent hazard to the health, safety, [and] **and/or** well-being of a child or that otherwise demonstrates unfitness or inability to operate the shelter facility or **shelter** home.

(l) A shelter facility's or shelter home's approval may be denied, suspended, revoked, or refused for renewal for:

1. Failure by the facility or **shelter** home to secure and to maintain on file documentation from the Department showing compliance with criminal conviction disclosures, as specified in N.J.A.C. 10:124-3.1(a), Criminal History Record Information background checks, as specified in N.J.A.C. 10:124-3.8, or Child Abuse Record Information background checks, as specified in N.J.A.C. 10:124-3.9;

2.-7. (No change).

10:124-1.6 Administrative hearings

(a) To effectuate the purposes of this chapter, the [Bureau] **Office** may initiate an administrative hearing in the interest of justice.

(b) When the [Bureau] **Office** proposes not to approve or not to continue approval of a shelter facility or **shelter** home, the [Bureau] **Office** shall afford the shelter facility or **shelter** home notice and opportunity for an administrative hearing.

(c) All administrative hearings shall be conducted pursuant to the Administrative Procedure Act, [(N.J.S.A. 52:14B-1 et seq., and N.J.S.A.] 52:14F-1 et seq.[]), and the Uniform Administrative Procedure Rules [of Practice], [(N.J.A.C. 1:1)].

10:124-1.7 Public access to [Bureau] **Office** records for children's shelter facilities and **shelter** homes

(a) Files of shelter facilities and **shelter** homes maintained by the [Bureau] **Office** are public records and shall be readily accessible for examination by any person, under the direction and supervision of the [Bureau] **Office**, except when public access to records is restricted in keeping with the State Public Records Law or other appropriate statutes.

(b) The [Bureau] **Office** shall establish policies governing the review by the public of shelter facility and/or **shelter** home records.

SUBCHAPTER 2. ADMINISTRATION

10:124-2.1 Statement of purpose

A shelter facility [of] **or** a shelter home coordinator shall maintain on file a written statement of purpose for the shelter facility or **shelter** home(s). The statement of purpose shall be reviewed by the shelter facility staff members or shelter home parents and shall include a

description of policies, purpose(s), objectives, services offered, eligibility requirements, and financial agreements for the care and treatment of children, in accordance with provisions of this chapter.

10:124-2.2 Rights of children

(a) **The shelter facility or shelter home shall prepare a list of children's rights and shall post it in a prominent location in each shelter facility or shelter home or give it to each child and document such in each child's record. At a minimum, the list shall specify the children's right to:**

1. Receive prompt medical treatment;
2. Have access to an appropriate education;
3. Live in a safe, clean, and healthy environment;
4. Be free of physical or sexual harassment or abuse and corporal punishment;
5. Attend religious services of their choice; and
6. Have unimpeded communication to the Department.

(b) **The shelter facility or shelter home shall give this list of children's rights to the parents of the children applying for admission, to all staff members, and to all persons who request this information.**

(c) **The shelter facility or shelter home shall secure and maintain on file a record of the parents' and staff members' signatures attesting to their receipt of the list of children's rights.**

(d) **If the shelter facility or shelter home chooses to develop a search and seizure policy, the shelter facility or shelter home shall give all children, staff, and parents a copy of this policy, as specified in N.J.A.C. 10:124-4.16.**

(e) **The shelter facility or shelter home shall prepare, post, or give to all staff members and children written grievance procedures governing how the children may raise questions about or voice disagreements with and concerns about procedures, care, and specific incidents. The shelter facility or shelter home shall not take or threaten to take retaliatory or disciplinary action of any kind against a child who uses the grievance procedure or files a grievance. The shelter facility or shelter home shall establish a procedure to explain these grievance procedures to children who are developmentally disabled.**

10:124-[2.2]2.3 Intake and admissions procedures

(a) Each child placed in a shelter facility or **shelter** home shall receive a medical examination within 72 hours of placement, unless the child received a medical examination [within] **by a physician no more than 30 days** prior to placement and a written copy of the results of such examination is provided and kept on file. However, when the shelter facility or shelter home parent suspects that a child is ill or carrying a contagious disease, [she/he] **she or he** shall be examined immediately upon admission.

(b) [A physician shall perform the medical examination given to a child within 30 days prior to placement and either a physician or nurse shall perform the medical examination given immediately upon admission or within 72 hours of placement.] **If a medical examination is required immediately or within 72 hours of placement under (a) above, that examination may be conducted by a physician or a nurse.** If the examination is performed by a nurse, the child shall receive a medical examination performed by a physician within 10 days following admission.

(c) Upon the child's admission, the shelter facility or the shelter home coordinator shall obtain pertinent factual and identifying information including, as a minimum, the following:

1. Child's name (and nicknames), gender, date of birth, religion, and race;
2. Name, address, phone number, and relationship to the child of the person(s) with whom the child was living at the time of admission;
3. Name, address, **and** phone number of the father, mother, [foster] **resource family** parent(s), or legal guardian(s), if different from above;
- 4.-6. (No change.)
7. Name, address, and phone number of the person bringing the child to the shelter facility or **shelter** home;
- 8.-11. (No change.)

(d) Following admission to a shelter facility or **shelter** home, each child shall be:

1.-5. (No change.)

10:124-[2.3]2.4 Reporting requirements

(a) The shelter facility or shelter home coordinator shall notify the [Bureau] **Office** within 24 hours after any of the following changes and events:

1. Unanticipated temporary or permanent closing of a shelter facility or **shelter** home;

2. Legal action against a shelter [facility/staff] **facility, shelter facility staff member, [or] shelter [home/shelter] home, or shelter** home parent which involves or affects any child or the operation of the shelter facility or **shelter** home;

3. Damage to the premises of the shelter facility or **shelter** home caused by fire, accident, or the elements; or

4. Injury requiring hospitalization or action(s) resulting in the death of a child which occurred while the child was on the premises of the shelter facility or **shelter** home or while in the care of a shelter facility staff member(s) or shelter home parent(s).

(b) The shelter facility or shelter home coordinator shall notify the [Bureau] **Office** in writing at least 30 days prior to any of the following proposed changes and events:

1. Anticipated temporary or permanent closing or relocation of the shelter facility or **shelter** home for any reason;

2.-3. (No change.)

4. Proposed change in the capacity of the shelter facility or **shelter** home.

(c) A shelter facility or **shelter** home shall notify the [Division] **Department** immediately if it is believed that a child has been or is being abused or neglected by staff, residents, or any other person, as required by [the Child Abuse and Neglect Law (N.J.S.A. 9:6-8.9, 8.10, 8.13, and 8.14)]. Copies of the law and information about it are available [from the Division, upon request] **online at www.nj.gov/dcf/reporting**.

10:124-[2.4]2.5 Records

(a) General requirements for shelter facilities and **shelter** homes:

1. Records required to be maintained by the shelter facility or **shelter** home pursuant to this chapter shall be kept on file at the shelter facility or at the shelter home coordinator's office.

2. Records shall be open for inspection by an authorized representative of the [Bureau] **Office**.

3. (No change.)

(b) Children's records for shelter facilities and **shelter** homes: The shelter facility or shelter home coordinator shall keep on file a written record for each child, which shall be retained for at least one year following the discharge of the child. The record shall include:

1. Identifying information, as specified in N.J.A.C. 10:124-[2.2(c)]**2.3(c)**;

2. Health information, as specified in N.J.A.C. 10:124-[2.2(a)]**2.3(a)** and (c)11; [and]

3. (No change.)

4. Documentation regarding the opening of a child's mail at a shelter facility **or home**, as specified in N.J.A.C. 10:124-[4.13(c)]**4.14(c)**.

(c) (No change.)

(d) Administrative records for shelter facilities: Every shelter facility shall keep on file for at least one year the following written records:

1.-10. (No change.)

11. A record of policies and procedures regarding discipline and control, as specified in N.J.A.C. 10:124-[4.11(a)]**4.12(a)**;

12. (No change.)

13. A record of a listing of approved visitors for each child, as specified in N.J.A.C. 10:124-[4.12(c)]**4.13(c)**;

14.-18. (No change.)

(e) The shelter home coordinator shall keep the following information on file for each **shelter** home for at least one year after the shelter home parent's separation:

1.-3. (No change.)

(f) (No change.)

SUBCHAPTER 3. STAFF REQUIREMENTS

10:124-3.1 Basic information

(a) Every shelter facility director, staff member, shelter home coordinator, and shelter home parent shall:

1.-6. (No change.)

7. Be in satisfactory physical, mental, and emotional health to perform [his/her] **his or her** job duties satisfactorily.

(b) (No change.)

(c) Whenever the Department makes a determination that a facility director, staff member, shelter home coordinator, shelter home parent, or shelter home household member poses a risk of harm to children, the **shelter** facility or **shelter** home shall carry out the Department's recommendation for corrective action. Such corrective action may include, but not be limited to:

1. Removal or suspension of the affected individual from employment at the **shelter** facility or **shelter** home or reassignment to other duties that do not involve contact with the children; or

2. When the individual resides at the **shelter** home, removal of the affected individual from the premises.

(d) If an allegation of child abuse or neglect is substantiated against an individual working or residing at the **shelter** facility or **shelter** home, the **shelter** facility or **shelter** home shall immediately terminate the individual's employment at the **shelter** facility or **shelter** home. If the individual is a facility director, shelter home coordinator, shelter home parent, or shelter home household member, the [Division] **Office** shall deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable.

1. The **shelter** facility or **shelter** home may appeal the denial, suspension, revocation, or refusal to renew, as specified in N.J.A.C. 10:124-1.6.

2. The shelter home parent may choose to remove the household member against whom child abuse or neglect is substantiated from the **shelter** home before the action against the certificate takes effect.

(e) Every shelter facility shall have:

1. An administrator who shall be responsible for the actual operation and management of the shelter facility. [She/he] **She or he** shall also designate staff to be in charge at all times during [his/her] **his or her** absence;

2.-6. (No change.)

(f) (No change.)

10:124-3.2 Health requirements for shelter facility staff

(a) Tuberculin testing requirements:

1. (No change.)

2. If the Mantoux tuberculin test result is insignificant (0 to 9 mm of induration), no further testing shall be required. The [Bureau of] **Office or shelter** facility shall have the authority at any time in the future to require a staff member to retake the Mantoux tuberculin test, if there is reason to believe or suspect that the staff member may have contracted tuberculosis.

3. If the Mantoux tuberculin skin test results in significant (10 or more mm of induration), the individual shall take a chest x-ray. If the chest x-ray shows significant results, the staff member may not come in contact with the children unless [she/he] **she or he** submits to the shelter facility a written statement from a physician certifying that [she/he] **she or he** poses no threat [to] of tuberculosis contagion.

4. (No change.)

(b) Prior to working for or with a shelter facility, and at least once every three years thereafter, each staff member who comes in contact with the children for at least the equivalent of one full day a week shall submit a written statement from a physician that [she/he] **she or he** is in good health and free from chronic or recurrent communicable disease. The initial statement shall be based on an examination conducted within the six months immediately preceding such person's association with the shelter facility.

(c) (No change.)

10:124-3.4 Qualifications for shelter home coordinator and shelter home parent

(a) [Shelter home coordinator:] The shelter home coordinator shall:

1.-3. (No change.)

(b) [Shelter home parent:] A shelter home parent shall:

1.-3. (No change.)

4. Have the ability and willingness to work cooperatively with the shelter home coordinator and the [Bureau] **Office**; and

5. Have the ability and willingness to maintain confidentiality regarding a shelter home child and [his/her] **his or her** family.

10:124-3.5 Staff/child ratios for shelter facilities

(a) (No change.)

(b) Each shelter facility shall provide minimum staff/child ratios based on the number of children in residence at the shelter facility as stated below:

1. (No change.)

2. Social services:

i.-ii. (No change.)

iii. In shelter facilities with a capacity of 12 or fewer children, the administrator may serve as a part-time social service worker providing [s/he] **she or he** possesses the qualification for the position.

10:124-3.6 Staff development and evaluation for shelter facilities

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

(d) The shelter facility shall insure that every new staff member is accompanied on [his/her] **his or her** duties by an experienced staff member(s) as part of an orientation program.

10:124-3.7 Governing [body/citizens] **body or citizens** board for shelter facilities

(a) Every shelter facility shall have a governing [body/citizens] **body or citizens** board which shall either:

1.-2. (No change.)

(b) A shelter facility member shall not serve as a voting member of the governing [body/citizens] **body or citizens** board for that shelter facility.

(c) Every governing [body/citizens] **body or citizens** board shall meet at least twice a year.

(d) The shelter facility shall keep on file a list of the current membership of the governing [body/citizens] **body or citizens** board.

10:124-3.8 Criminal History Record Information background checks

(a) As a condition of securing and maintaining a certificate, the **shelter** facility or **shelter** home shall ensure that a State and Federal Criminal History Record Information (CHRI) fingerprint background check, in keeping with P.L. 2003, c.186, is completed for each shelter facility director, staff member, shelter home coordinator, shelter home parent, and shelter home household member at least 18 years of age.

(b) If the facility director, shelter home coordinator, shelter home parent, or shelter home household member refuses to consent to or cooperate in a CHRI background check, the [Division] **Office** shall deny, suspend, revoke, or refuse to renew the certificate, as applicable.

1. The **shelter** facility or **shelter** home may appeal the denial, suspension, revocation, or refusal to renew, [as specified in] **pursuant to** N.J.A.C. 10:124-1.6.

2. The shelter home parent may choose to remove the household member so refusing from the **shelter** home before the action against the certificate takes effect.

(c) If a staff member refuses to consent to or cooperate in a CHRI background check, the **shelter** facility or **shelter** home shall immediately terminate the staff member's employment at the **shelter** facility or **shelter** home.

(d) If any person specified in (a) above has a record of criminal conviction, the Department of [Human Services] **Children and Families** shall review the record with respect to the type and date of the criminal offense and make a determination as to the suitability of the person to receive a certificate or to administer, work at, or reside in the **shelter** facility or **shelter** home, as applicable.

(e) A person shall be disqualified from receiving a certificate, administering, working at, or residing in a **shelter** facility or **shelter** home if that person ever committed a crime which resulted in a conviction for:

1.-15. (No change.)

(f) As an exception to (e) above, the Department may approve the employment at or administration of a **shelter** facility or **service at a**

shelter home by an individual convicted of a crime specified in (e) above if all of the following conditions are met:

1. The Department determines that the crime does not relate adversely to the position the individual is employed in, pursuant to the provisions of P.L. 1968, c.282, [(N.J.S.A. 2A:168A-1 et seq.);]

2. (No change.)

3. The **shelter** facility or **shelter** home documents that the individual's employment or administration of the **shelter** facility or **shelter** home does not create a risk to the safety or well-being of children due to the nature and requirements of the position. As necessary, the **shelter** facility or **shelter** home shall identify restrictions regarding the individual's contact with, care or supervision of children;

4. The **shelter** facility or **shelter** home documents that the individual is uniquely qualified for the position due to specific skills, qualifications, characteristics, or prior employment experiences; and

5. (No change.)

(g) For crimes and offenses other than those cited in (e) above, an individual may be eligible to receive a certificate or to administer, work at, or reside in a **shelter** facility or **shelter** home if the individual has affirmatively demonstrated to the Department clear and convincing evidence of rehabilitation.

1. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

i. The nature and responsibility of the position at the **shelter** facility or **shelter** home that the convicted individual would hold, has held, or currently holds, as the case may be;

ii.-viii. (No change.)

2. Upon receipt of documentation submitted by the **shelter** home or **shelter** facility, indicating why the individual at issue should not be precluded from administering, working, or residing at the **shelter** home or **shelter** facility, the Department, after assessing the facts on a case-by-case basis, shall make the final determination regarding the individual's rehabilitation, in keeping with the provisions of the State Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

3. The Department shall make the final determination regarding the suitability of a **shelter** facility director or shelter home coordinator with a criminal conviction other than those cited in (e) above.

4. For a current or prospective staff member, shelter home parent, or shelter home household member with a criminal conviction other than those cited in (e) above, the director of the **shelter** home or **shelter** facility or [the agency's] its board of directors shall make a determination regarding the individual's suitability upon the Department's determination that the individual has affirmatively demonstrated rehabilitation.

(h) If the facility director or shelter home coordinator has knowledge that any individual specified in (a) above has criminal charges pending against the individual, the facility director or shelter home coordinator shall promptly notify the Department to determine whether or not any action concerning the individual is necessary in order to ensure the safety of the children who are placed in the **shelter** facility or **shelter** home.

(i) If the Department is notified that any individual specified in (a) above is convicted of a crime or offense after the CHRI has been completed, the Department shall make a determination whether to suspend or revoke the certificate or require the **shelter** facility or **shelter** home to terminate the individual's employment or service, as applicable.

(j) Upon completion of the CHRI for an individual, the Department shall notify the individual, and the **shelter** facility or **shelter** home as applicable, in writing, of the individual's qualification or disqualification for employment or service under section 4 or 5 of P.L. 2003, c.186, [(N.J.S.A. 30:4C-27.19 or 30:4C-27.20)].

1.-2. (No change.)

3. If no challenge is filed or if the determination of the accuracy of the CHRI upholds the disqualification, the Department shall notify the **shelter** facility or **shelter** home that the individual has been disqualified from employment or service.

4. The **shelter** facility or **shelter** home shall immediately terminate the disqualified individual's employment or service at the **shelter** facility or **shelter** home.

5. If the disqualified individual is a facility director, shelter home coordinator, shelter home parent, or shelter home household member, the

[Division] **Office** shall deny, suspend, revoke, or refuse to renew the certificate, as applicable.

6. The shelter home parent may choose to remove the disqualified household member from the **shelter** home before the action against the certificate takes effect.

(k) A **shelter** facility or **shelter** home that has received an employment application from an individual, or currently employs an individual, shall be immune from liability for acting upon or disclosing information about the disqualification or termination of that individual to another **shelter** facility or **shelter** home seeking to employ that individual, if the **shelter** facility or **shelter** home has:

1. Received notice from the Department or the agency's board of directors, as applicable, that the individual has been determined by the Department or the board of directors to be disqualified from employment or service at a **shelter** facility or **shelter** home pursuant to P.L. 1968, c.282, [(N.J.S.A. 2A:168A-1 et seq.)]; or

2. Terminated the employment of a staff member because the individual was disqualified from employment or service at the **shelter** facility or **shelter** home on the basis of a conviction of a crime pursuant to P.L. 1968, c.282, [(N.J.S.A. 2A:168A-1 et seq.)], after commencing employment or service at the **shelter** facility or **shelter** home.

(l) A **shelter** facility or **shelter** home that acts upon or discloses information pursuant to (k) above shall be presumed to be acting in good faith unless it is shown by clear and convincing evidence that the **shelter** facility or **shelter** home acted with actual malice toward the individual who is the subject of the information.

10:124-3.9 Child Abuse Record Information background checks

(a) As a condition of securing and maintaining a certificate, the **shelter** facility or **shelter** home shall provide written consent to the [Division] **Department** from each shelter facility director, shelter facility or shelter home staff member, shelter home parent, and shelter home household member at least 18 years of age, for a Child Abuse Record Information (CARI) background check to be conducted.

(b) If a facility director, shelter home coordinator, shelter home parent, or shelter home household member refuses to consent to or cooperate in a CARI background check, the [Division] **Office** shall deny, suspend, revoke, or refuse to renew the certificate, as applicable.

1. The **shelter** facility or **shelter** home may appeal the denial, suspension, revocation, or refusal to renew, [as specified in] **pursuant to** N.J.A.C. 10:124-1.6.

2. The shelter home parent may choose to remove the household member [so refusing] **who refuses to consent** from the **shelter** home before the action against the certificate takes effect.

(c) If a staff member refuses to consent to or cooperate in a CARI background check, the **shelter** facility or **shelter** home shall immediately terminate the staff member's employment at the **shelter** facility or **shelter** home.

(d) Upon receipt of written consent from an individual specified in (a) above, the [Division] **Department** shall conduct a search of its records to determine if an allegation of child abuse or neglect has been substantiated, pursuant to section 4 of P.L. 1971, c.437, [(N.J.S.A. 9:6-8.11)], against the individual.

1. (No change.)

2. The Department may consider incidents substantiated prior to June 29, 1995, if the Department, in its judgment, determines that the perpetrator poses a risk of harm to children in a **shelter** home. In cases involving incidents substantiated prior to June 29, 1995, in which the Department determines that the individual is disqualified, the Department shall offer the perpetrator an opportunity for a hearing to contest the substantiation **in accordance with N.J.A.C. 10:120A.**

(e) If the [Division] **Department** determines that an allegation of child abuse or neglect has been substantiated against an individual specified in (a) above, the **shelter** facility or **shelter** home shall immediately terminate the individual's employment at the **shelter** facility or **shelter** home.

(f) If the [Division] **Department** determines that an allegation of child abuse or neglect has been substantiated against a facility director, shelter home coordinator, shelter home parent, or shelter home household

member, the Division shall deny, suspend, revoke, or refuse to renew the certificate of approval, as applicable.

1. The **shelter** facility or **shelter** home may appeal the denial, suspension, revocation, or refusal to renew, as specified in N.J.A.C. 10:124-[2.4]1.6.

2. The shelter home parent may choose to remove the disqualified household member from the **shelter** home before the action against the certificate takes effect.

3. If the incident was substantiated prior to June 29, 1995, the [Division] **Department** shall notify the individual in writing that the individual may request a hearing to contest the substantiation.

(g) If the [Division] **Department** determines that an allegation of child abuse or neglect has been substantiated against a staff member, the **shelter** facility or **shelter** home shall notify the staff member in writing that the termination of employment is based on a substantiated allegation of child abuse or neglect. If the incident was substantiated prior to June 29, 1995, the **shelter** facility or **shelter** home shall notify the staff member in writing that the staff member may request a hearing to contest the substantiation.

10:124-3.10 Background check procedures for New Jersey **shelter** facilities and **shelter** homes

(a) Prior to the opening of a new **shelter** facility or **shelter** home located in New Jersey, the **shelter** facility or **shelter** home shall ensure that a request for a Criminal History Record Information (CHRI) background check, as specified in N.J.A.C. 10:124-3.8, and a Child Abuse Record Information (CARI) background check, as specified in N.J.A.C. 10:124-3.9, is submitted for all persons identified in N.J.A.C. 10:124-3.8(a) and 3.9(a).

(b) Prior to the first renewal of a certificate on or after March 26, 2004, for an existing **shelter** facility or **shelter** home located in New Jersey, the **shelter** facility or **shelter** home shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 10:124-3.8, is submitted for all persons identified in N.J.A.C. 10:124-3.8(a) and 3.9(a).

(c) Prior to each renewal of a certificate on or after March 26, 2004, for an existing **shelter** facility or **shelter** home located in New Jersey, the **shelter** facility or **shelter** home shall ensure that a request for a CARI background check, as specified in N.J.A.C. 10:124-3.9, is submitted for all persons identified in N.J.A.C. 10:124-3.8(a) and 3.9(a).

(d) Within two weeks after a new staff member begins employment at a **shelter** facility or **shelter** home or a new household member begins residing at a **shelter** home located in New Jersey, the **shelter** facility or **shelter** home shall ensure that a request for a CHRI background check, as specified in N.J.A.C. 10:124-3.8, and a CARI background check, as specified in N.J.A.C. 10:124-3.9, is submitted for the new staff member or household member.

(e) An individual shall not be left alone as the only adult caring for a child at the **shelter** facility or **shelter** home until documentation from the Department showing compliance with a CHRI check and CARI check for the individual has been received by the **shelter** facility or **shelter** home.

10:124-3.11 Background check procedures for out-of-State **shelter** homes and [agencies] **shelter** facilities

(a) For a **shelter** facility or **shelter** home located outside New Jersey, the **shelter** facility or **shelter** home shall ensure that the director and each applicant, shelter facility or shelter home staff member, shelter home coordinator, shelter home parent, and shelter home household member meet all applicable laws and regulations in that state governing criminal history record background checks and child abuse record information checks that may be required as a condition of employment.

(b) In the event that criminal history record background checks and child abuse record information checks are not mandated in that state, the **shelter** facility or **shelter** home shall require that the director and each applicant, staff member, shelter home coordinator, shelter home parent, and shelter home household member make a disclosure of any criminal conviction. The results of the disclosure shall be made available to the Department, so that the Department can determine the suitability of the individual for certification, employment, or service at the **shelter** facility or **shelter** home during the time children who are residents of New Jersey are placed in the **shelter** facility or **shelter** home.

SUBCHAPTER 4. PROGRAM REQUIREMENTS

10:124-4.1 Health

(a)-(g) (No change.)

(h) The shelter facility or **shelter** home shall provide personal hygiene items for all children.

(i) (No change.)

10:124-4.2 Clothing and personal belongings

(a) (No change.)

(b) The shelter facility or **shelter** home shall insure that each child's clothing is kept clean and in good repair.(c) The shelter facility or **shelter** home shall insure that provisions are made for the protection of each child's personal property.10:124-4.3 Food and nutrition requirements for shelter facilities and **shelter** homes(a) The shelter facility or **shelter** home shall provide or arrange for the provision of three nutritious meals a day (breakfast, lunch, and dinner) and snacks from food that is selected, stored, prepared, and served in a sanitary and palatable manner.(b) The shelter facility or **shelter** home shall not force-feed or otherwise coerce a child to eat against [his/her] **his or her** will, except by order of a physician.

(c) (No change.)

(d) Individualized diets and feeding schedules that are submitted to the shelter facility or **shelter** home by the child's physician(s) shall be followed.

10:124-4.4 Rest, bedroom, and sleep

(a) (No change.)

(b) General requirements for shelter facilities and **shelter** homes: 1.-13. (No change.)

10:124-4.5 Education

(a) The shelter facility or **shelter home** shall insure that each school-age child in care for two weeks or longer receives a minimum educational program provided by the child's school district of residence, pursuant to N.J.S.A. [18A:10-1 and N.J.S.A. 18:11-1] **18A:38-1** et seq.

(b)-(c) (No change.)

(d) The shelter facility administrator or shelter home coordinator shall seek to have each school-age child who has been admitted to the shelter facility or **shelter** home returned to classroom instruction in a public school. If such return is not possible or feasible in the judgement of the shelter facility administrator or shelter home coordinator, application shall be made to the chief school administrator of the child's school district of residence for the provision of home instruction for the child at the shelter facility or **shelter** home, in accordance with State education law and regulations.

(e)-(f) (No change.)

10:124-4.6 Social services requirements for shelter facilities

(a) The shelter facility shall have a social services program that includes such services as:

1. (No change.)

2. Coordination of contacts between the child and [his/her] **his or her** family; and

3. (No change.)

(b) **If a child remains in the shelter facility for more than 45 days, the shelter facility shall develop a case management plan. Once developed, the case management plan shall be reviewed or revised 60 days thereafter.**

10:124-4.7 Recreation

(a) (No change.)

(b) The shelter facility or **shelter** home shall provide indoor and outdoor space to enable the children to participate in recreational/physical exercise.

(c) (No change.)

10:124-4.8 Religion requirements for shelter facilities and **shelter** homes(a) Every child shall be afforded the opportunity to participate in religious activities and services in accordance with [his/her] **his or her** own faith or with that of [his/her] **his or her** parent(s).

(b) (No change.)

(c) The shelter facility or **shelter** home shall arrange for or directly provide transportation for any child who wishes to attend religious activities and services.(d) The shelter facility or **shelter** home shall not coerce or require children to participate in religious activities but may encourage them to do so.

10:124-4.9 Work and employment

(a) (No change.)

(b) Children shall be allowed to hold part-time employment outside the shelter facility or **shelter** home, provided that the work shall not interfere with regularly scheduled program activities or school program.**10:124-4.11 Restrictive behavior management practices****Shelters that choose to utilize restrictive behavior management practices shall do so in accordance with the rules and restrictions specified at N.J.A.C. 10:128-6.13. Notifications in accordance with N.J.A.C. 10:128-6.13(g) are required within 72 hours of each utilization of restrictive behavior management practices.**

10:124-[4.11]4.12 Discipline and control

(a) The shelter facility or **shelter home** shall have written policies and procedures regarding discipline and control, which shall be maintained on file, explained, and be made available **in writing** to all children, parent(s), and staff members.(b) The discipline, control, or supervision of the children in a shelter facility or **shelter home** shall be the responsibility of the staff members or **shelter home parents** and that responsibility shall not be delegated to the children.

(c) (No change.)

(d) **Shelter facilities or shelter homes that use time out as a means of disciplining children and to teach them self-control shall:****1. Develop written guidelines and criteria for staff members using time out with children;****2. Discontinue the time out as soon as the child is under instructional control;****3. Ensure that the length of time for each time out does not exceed 30 minutes; and****4. Ensure that the time out does not take place in a closet, bathroom, unfinished basement, unfinished attic, stairway, locked room, or other area not intended or routinely used for occupancy by children.**[(d)] (e) A child's rights in a shelter facility or **shelter** home shall never be removed or discontinued for purposes of discipline, control, or punishment; however, the deprivation of a child's privileges may be used as a disciplinary technique.

[(e)] (f) The shelter facility or shelter home coordinator shall prohibit the following types of punishment:

1.-4. (No change.)

5. Deprivation of meals, sleep, mail, clothing appropriate to the season or time of day, verbal communication, family visits, [and/or] or other basic rights;

6. Mechanical, chemical, or excessive physical restraint; [or]

7. Assignment of unduly physically strenuous, harsh work[.];

8. Refusal of entry to the shelter facility or shelter home;**9. Temporary suspension and return of a child from the shelter facility or shelter home to a parent, relative, or resource family parent unless approved by the placing agency; or****10. Seclusion in a locked room.**

[(f)] (g) (No change in text.)

10:124-[4.12]4.13 (No change in text.)

10:124-[4.13]4.14 Mail and telephone communications

(a) There shall be no restriction on the amount of mail a child at the shelter facility or **shelter** home is permitted to send or receive.

(b) Incoming and outgoing mail for or from any child at the shelter facility or **shelter** home shall not be withheld or read by any shelter facility staff member or shelter home parent.

(c) A shelter facility staff member may open parcels and letters only if [s/he] **she or he** suspects that the contents contain contraband and then only in the presence of the child sending or receiving the parcel or letter and another staff member. A record shall be maintained in the child's file documenting the specific reason why such mail was opened and the results. The record shall be dated and signed by the shelter facility administrator or [his/her] **his or her** designate.

(d) Each child in the shelter facility or **shelter** home shall receive a reasonable postage allowance and writing materials for correspondence.

(e) A telephone shall be made available for use by the children in the shelter facility or **shelter** home.

(f) Each child in a shelter facility or **shelter** home shall be permitted to make and receive a reasonable number of telephone calls.

(g) (No change.)

10:124-[4.14]4.15 (No change in text.)

10:124-[4.15]4.16 Search and seizure requirements for shelter facilities and shelter homes

(a) Shelter facilities or shelter homes may conduct searches for weapons or contraband, provided that they maintain on file in the shelter facility or shelter home written policies and procedures that are consistent with the requirements of this chapter.

1. The shelter facility or shelter home shall define contraband to include illegal drugs, unauthorized property, stolen property, or items otherwise obtained illegally.

2. The shelter facility or shelter home shall explain the policy and distribute copies of the written policy to children and their parents upon admission.

3. The shelter facility or shelter home shall specify the actions that it will take when weapons or contraband are found.

[a] (b) Search procedure for a weapon(s):

1. A shelter facility staff member **or shelter home parent** shall be permitted to frisk search (surface search of outer clothing) a child only when there is reasonable suspicion that the child is in possession of a weapon(s).

2. A shelter facility staff member **or shelter home parent** shall be prohibited from reaching into a child's pockets unless the frisk search indicates that there is reasonable belief that the child is in possession of a weapon(s).

3. The shelter facility **or shelter home** shall complete and keep on file an incident/accident report for every incident involving the frisk searching of a child.

[b] (c) Search procedure for illegal drugs or contraband:

1. A shelter facility staff member **or shelter home parent** shall be prohibited from frisk searching a child who is suspected of possessing illegal drugs or contraband.

2. A shelter facility staff member **or shelter home parent** who has reasonable suspicion that a child is in possession of illegal drugs or contraband shall request that the child voluntarily empty a garment pocket(s), a bag, a purse, or other such items within a child's possession or control. If the child complies with the request, the shelter facility staff member **or shelter home parent** shall inspect all items that are in plain view **while in the presence of a second staff member or shelter home parent**. The staff member **or shelter home parent** shall be prohibited from conducting an exploratory search of another garment pocket(s) or other compartment(s) of a bag or a purse without the voluntary permission of the child.

3. (No change.)

[c] (d) A shelter facility staff member **or shelter home parent** shall be prohibited from strip searching a child for any reason.

(e) If a shelter facility or shelter home has reasonable suspicion that a child's room or other possessions not within a child's immediate possession or control, contain contraband, stolen property, or weapons, the shelter facility staff or shelter home parent may conduct an unannounced search if:

1. The shelter facility staff or shelter home parent explains and documents this practice to the child and his or her parents;

2. The search is conducted in the presence of two staff members or shelter home parents, one of whom has supervisory or administrative responsibility; and

3. The shelter facility or shelter home shall allow the child, if the child is present in the shelter at the time of a search, an opportunity to observe the search. If the child declines the opportunity, the staff members may conduct the search in the child's absence.

(f) When unannounced room searches occur, pursuant to (e) above, the shelter facility or shelter home shall verify which child is responsible for any weapon or contraband brought into the shelter facility before imposing a disciplinary action or sanction on the child.

SUBCHAPTER 5. PHYSICAL FACILITY AND LIFE-SAFETY REQUIREMENTS

10:124-5.1 Local government physical facility requirements for shelter facilities and shelter homes

(a) An applicant seeking an initial approval, as specified in N.J.A.C. 10:124-1.5, to operate a shelter facility or **shelter** home shall comply with all applicable provisions of the New Jersey Uniform Construction Code, as specified in N.J.A.C. 5:23 and hereinafter referred to as the NJUCC.

1. For newly constructed buildings, for existing buildings whose construction code use group classification would change from that which it had been, or for existing buildings that require major alteration or renovation, the shelter facility or **shelter** home shall submit to the [Bureau] **Office** a copy of a Certificate of Occupancy (CO) issued by the municipality in which it is located, reflecting the shelter facility's or **shelter** home's compliance with the appropriate use group classification provisions of the NJUCC.

2. For shelter facilities or **shelter** homes that are planning to construct a new building, the shelter facility or **shelter** home shall submit to the [Bureau] **Office**:

i. (No change.)

ii. If applicable, revised architectural or final drawings containing all required items listed in the preliminary plan review for final approval as in compliance with this chapter from the [Bureau] **Office** before the shelter facility or **shelter** home can open.

3. For buildings constructed after the adoption of the NJUCC (1977) and that have not had major alterations or renovations since receipt of the CO, the shelter facility or **shelter** home shall obtain the CO that reflects the appropriate use group classification issued by the municipality in which it is located at the time the building was originally constructed or approved. This shelter facility or **shelter** home shall submit a copy of the building's CO to the [Bureau] **Office**.

4. For existing buildings, whose use prior to the adoption of the NJUCC (before 1977) was and continues to be for a shelter facility or **shelter** home and that have not had major alterations or renovations, the shelter facility or **shelter** home shall obtain a Certificate of Continued Occupancy (CCO) or a letter to this effect, issued by the municipality in which it is located, reflecting the building's compliance with provisions of the municipality's construction code requirements that were in effect at the time it was originally constructed or converted for use as a shelter facility or **shelter** home. The shelter facility or **shelter** home shall submit a copy of the building's CCO or letter reflecting the building's compliance to the [Bureau] **Office**.

5. The shelter facility or **shelter** home shall obtain a new CO or CCO issued by the municipality in which it is located, reflecting the building's compliance with provisions of the applicable NJUCC use group classification, and submit a copy of the new CO or CCO to the [Bureau] **Office** whenever it takes any of the following actions:

i. (No change.)

ii. Makes a major alteration or renovation, as defined by the NJUCC, of the building or premises where the shelter facility or **shelter** home is located;

iii. Increases the floor area or the number of stories to the building or premises where the shelter facility or **shelter** home is located; or

iv. (No change.)

6. Whenever a municipality grants a shelter facility or **shelter** home a written variation from any of the requirements of the NJUCC, the [Bureau of Licensing of the Division of Youth and Family Services]

Office of Licensing may accept such variations as meeting the requirements of this chapter.

i. When the [Bureau] **Office** does not accept the variation, the non-acceptance shall be based on the best interests of the residents of the shelter, and shall include consideration for their health and safety.

ii. Should the **shelter** facility or **shelter** home disagree with the [Bureau] **Office**, the **shelter** facility or **shelter** home may seek a hearing in accordance with N.J.A.C. 10:124-1.6 and the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1, as implemented by the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(b) An applicant seeking an initial approval, as specified in N.J.A.C. 10:124-1.5, to operate a shelter facility **or shelter home** shall comply with all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70 and hereinafter referred to as the NJUFC. The shelter facility shall obtain the building's fire safety inspection certificate issued by the municipality in which it is located, based on a fire inspection conducted within the preceding 12 months, reflecting the shelter facility's compliance with all applicable provisions of the NJUFC. The shelter facility shall submit a copy of the building's fire safety inspection certificate to the [Bureau] **Office**.

(c) An applicant seeking an initial approval, as specified in N.J.A.C. 10:124-1.5, to operate a shelter facility **or shelter home** shall comply with all applicable provisions of the State Sanitary Code, as specified in N.J.A.C. 8:24. The shelter facility **or shelter home** shall obtain a certificate or statement of satisfactory health approval issued by the applicable municipal, county, or State health agency, based on a health inspection conducted within the preceding 12 months, certifying that the shelter facility **or shelter home** complies with applicable provisions of local, county, and State health codes and poses no health hazard to the children served. The shelter facility shall submit a copy of the certificate or statement of satisfactory health approval to the [Bureau] **Office**.

(d) An applicant seeking the renewal of a certificate of approval to continue operating a shelter facility **or shelter home** shall obtain and submit to the [Bureau] **Office**, copies of:

1.-2. (No change.)

10:124-5.2 State government physical facility requirements for shelter facilities

(a) All shelter facilities shall be inspected by the [Bureau] **Office** prior to receipt of an initial and/or subsequent approval to insure that the building has been maintained in accordance with the requirements specified in (b) through (q) below.

(b) (No change.)

(c) Limitations on the use of upper and lower levels:

1. (No change.)

2. In NJUCC-designated buildings of Type 4 and Type 5A construction, children shall not be permitted above the third floor unless the building meets all the applicable provisions of the **New Jersey Uniform Fire Code (NJUFC)** and the NJUCC.

3. (No change.)

(d) Exit requirements:

[i.] 1. (No change in text.)

2.-4. (No change.)

(e) Shelter facilities shall ensure that fire protection requirements, including those for [boiler/furnace] **boiler and furnace** separation, electrical fire alarm systems, emergency lighting, and exit signs conform to all applicable provisions of the NJUFC and NJUCC.

(f) [Glass surfaces:] All glass surfaces that are not safety glass and that are located in areas where there may be possible impact by the children shall have a protective guard.

(g) Electricity:

1.-2. (No change.)

3. Upon request, the shelter facility shall provide the [Bureau] **Office** with a copy of an electrical inspection report based on an inspection conducted within the preceding 12 months. This report shall confirm that the electrical system is adequate and in compliance with the Electrical Subcode of the UCC.

4. (No change.)

(h)-(j) (No change.)

(k) Plumbing:

1.-2. (No change.)

3. The temperature of tap water shall not exceed 110[°] **degrees** Fahrenheit.

(l) Bathroom and toilet facilities:

1. The shelter facility shall have at least one toilet, wash basin, and bathtub or shower for every six children above the age of [2 1/2] **two and one half** years. These facilities shall not be located more than one floor from any bedroom or living area.

2.-5. (No change.)

(m) [Kitchen facilities:] The shelter facility's kitchen and food preparation area shall meet the following requirements:

1.-2. (No change.)

3. If the occupancy of the building is more than 12 children, or if commercial cooking equipment is used, the kitchen shall be separated by a one hour fire-rated enclosure that is equipped with a C-label ([3/4] **three quarter** hour) fire-rated door with a self-closing device and positive latching.

(n) [Swimming pools:] Any swimming [pool] **areas** used by [the] children shall comply with the requirements pertaining to swimming [pools] **areas**, as specified in the New Jersey Youth Camp Safety Act Standards, [(N.J.A.C. 8:25-5.1 through 5.4 and N.J.A.C. 8:25-6.9)] **N.J.A.C. 8:25-9.1**.

(o)-(p) (No change.)

(q) [Lead paint:] Shelter facilities caring for children six years of age [and/or] **or** younger shall comply with the following **lead paint standards**:

1. (No change.)

2. When lead paint is found in areas of a shelter facility not specified under N.J.A.C. 8:51-7.1 through 7.5, the [Bureau] **Office** shall determine whether the lead paint is hazardous to the health, safety, and well-being of the children served and, if considered to be hazardous, the shelter facility shall remove the lead paint hazard.

10:124-5.3 State government physical facility requirements for shelter homes

(a) Fire protection:

1. The shelter home shall provide a minimum of one smoke detector that shall be installed in a manner and location approved by the [bureau] **Office** or local fire official.

2.-4. (No change.)

(b) Heating: The shelter home shall provide a minimum temperature of 65[°] **degrees** Fahrenheit in all rooms used by the children.

(c) (No change.)

10:124-5.4 Life-safety requirements for shelter facilities and **shelter** homes

(a) Emergency information: the shelter facility **or shelter** home shall post in a prominent location written emergency information, including the following:

1. (No change.)

2. The name, address, and telephone number of the physician retained by the shelter facility **or shelter** home or of the health facility to be used in emergency situations;

3. The hospital [and/or] **or** clinic to which injured or ill children are to be taken;

4. (No change.)

5. The telephone number of the [Division's Office of Child Abuse Control (800-792-8610)] **New Jersey Child Abuse Hotline - 1-877-NJ ABUSE (1-877-652-2873)**; and

6. (No change.)

(b) (No change.)

(c) First aid equipment: First aid equipment shall be located in a convenient, accessible location in the shelter facility **or shelter** home and shall include:

1.-2. (No change.)

(d) (No change.)

(e) Shelter facilities and **shelter** homes caring for children six years of age and under shall comply with the following:

1.-2. (No change.)

10:124-5.5 Supplemental requirement

In addition to the requirements, as specified in N.J.A.C. 10:124-5.1 through 5.4, the [Bureau] Office shall also require shelter facilities and shelter homes to take whatever additional steps that it deems are necessary to correct any conditions in the shelter facility or shelter home that may endanger in any way the health, safety, [and] or well-being of the children served.

SUBCHAPTER 6. TRANSPORTATION REQUIREMENTS

10:124-6.1 Vehicle requirements

(a) Vehicles used for transportation of children shall be in conformity with State motor vehicle law(s) [and/or regulations] and rules.

(b)-(c) (No change.)

10:124-6.3 Safety practices

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

[(d) All persons in the vehicle shall be secured in seats with safety belts for those vehicles required by law to be equipped with safety belts.]

(d) Child passenger restraint systems shall be used as required by N.J.S.A. 39:3-76.

(e)-(f) (No change.)

10:124-6.4 Transportation records

(a) The shelter facility or shelter home shall keep on file the name of each driver and a photostatic copy of [his/her] his or her valid driver's license.

(b) These records shall be available upon request to any authorized representative of the [Bureau] Office.

10:124-6.5 Insurance

(a) The shelter facility or shelter home shall maintain liability insurance for bodily injury or death in minimum amounts of \$300,000 per person and \$500,000 per accident.

(b) If [the shelter facility] transportation services are provided by a private individual or from under contract or other arrangement, the shelter facility or shelter home shall maintain a file copy of the individual's or firm's insurance coverage in the amounts specified in (a) above and make a copy of such coverage available to the [Bureau] Office upon request.

10:124-6.6 Special regulations

(a) The following [additional regulations] shall be required for shelter facilities and shelter homes serving handicapped, non-ambulatory children:

1.-3. (No change.)

and Insurance, 11th floor Conference Room, 20 West State Street, Trenton, New Jersey.

Submit comments by October 1, 2015, to:

Ellen DeRosa
Executive Director
New Jersey Individual Health Coverage Program Board
P.O. Box 325
Trenton, NJ 08625-0325
Fax: 609-633-2030
E-mail: ellen.derosa@dobi.nj.gov

The agency proposal follows:

Summary

The Individual Health Coverage (IHC) Program was established in accordance with P.L. 1992, c. 161. The IHC Program is administered through a Board of Directors (Board). The primary functions of the IHC Program and its Board are the creation of standard health benefits plans (standard plans) to be offered in the individual market in New Jersey and the regulation of the individual health coverage market. There are five standard plans, which have been established through regulation, and are set forth in Exhibits A and B of the Appendix to N.J.A.C. 11:20, the rules for the IHC Program, along with Exhibit C, which provides explanations of how certain variables in the standard plans may be used by carriers.

Amendments to the standard plans set forth in Exhibits A and B

As required by 45 CFR 156.115(a)(6), the IHC Program Board proposes amendments to the schedule pages and the Dental Benefits and Vision Benefit provisions such that pediatric dental and vision coverage no longer ends on the date the child turns age 19 but rather extends through the end of the month in which the child turns age 19.

The IHC Program Board proposes updating the variable text on the schedule pages to illustrate the increase in the maximum amount of maximum out of pocket for 2016 consistent with Federal requirements at 45 CFR 156.130. The schedule pages, as amended, illustrate a maximum amount of \$6,850, which is the maximum amount permitted during 2016. As the maximum out of pocket increases each year under Federal law, the variable range for the maximum out of pocket amount permitted for the standard plans is intended to increase also.

The IHC Program Board proposes several amendments to address coverage for telemedicine, e-visits, and virtual visits. All of the amendments appear as variable text which means carriers have the option to use or not use some or all of the new text. The new text defines each of these terms, allows the inclusion of these terms on the schedule page to allow carriers to specify any applicable cost sharing for each of these types of service, expands the practitioner charges section to explain that services provided as telemedicine visits, e-visits, and virtual visits are covered under the plan, and modifies the exclusion for telephone consultations to create an exception for telemedicine, e-visits, and virtual visits.

The IHC Program Board is proposing to amend the definition of dependent to address the age 26 limit and the categories of children who may qualify as dependents. With respect to the age 26 limit, the Board proposes the inclusion of variable text such that carriers may continue to define dependent as a child under the age of 26, which means the child ceases to be a dependent on his or her birthday or may allow the child to be considered a dependent through the end of the month in which the child turns age 26. The opportunity to consider a child a dependent through the end of the month will facilitate the opportunity to buy replacement coverage for the child without a lapse in coverage. Since carriers are required to allow first of the month effective dates, a child who turns age 26 on any date other than the end of the month would have a lapse in coverage if the replacement plan is not effective until the first of the month. With the option to allow an end of the month termination date, the child would have the opportunity for continuous coverage since the new plan could be effective the day after the dependent coverage ends. With respect to the categories of children who can qualify as dependents, the Board recognizes that for many years the standard plans have allowed coverage of children with a legal or blood relationship who are not otherwise eligible as dependents, provided the children reside in the policyholder's household. The 2016 QHP Application Instructions

INSURANCE

(a)

**DEPARTMENT OF BANKING AND INSURANCE
INDIVIDUAL HEALTH COVERAGE PROGRAM
BOARD**

**Individual Health Coverage Program
Individual Health Benefits Plans**

**Proposed Amendments: N.J.A.C. 11:20 Appendix
Exhibits A and B**

Authorized By: New Jersey Individual Health Coverage Program Board, Ellen DeRosa, Executive Director.

Authority: N.J.S.A. 17B:27A-2 et seq.

Calendar Reference: See Summary below for an explanation of inapplicability of the calendar requirement.

Proposal Number: PRN 2015-130.

As required by N.J.S.A. 17B:27A-16.1, interested parties may testify with respect to the standard health benefits plans set forth in N.J.A.C. 11:20 Appendix Exhibits A and B at a **public hearing** to be held at 9:00 A.M. on September 24, 2015, at the New Jersey Department of Banking