

(c) A licensee providing healthcare services through telemedicine shall use interactive, real-time, two-way communication technologies, which shall include, except as provided at (e) below, a video component that allows a licensee to see a client and the client to see the licensee during the provision of electrology services.

(d) A licensee providing services through telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of:

1. Images;
2. Diagnostics;
3. Data; and
4. Medical information.

(e) If, after accessing and reviewing the client's records, a licensee determines that he or she is able to meet the standard of care for such services if they were being provided in-person without using the video component described at (c) above, the licensee may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without a video component.

(f) Prior to providing services through telemedicine or telehealth, a licensee shall review any medical history or medical records provided by a client as follows:

1. For an initial encounter with a client, medical history and medical records shall be reviewed prior to the provision of electrology services through telemedicine or telehealth; and
2. For any subsequent interactions with a client, medical history and medical records shall be reviewed either prior to the provision of electrology services through telemedicine or telehealth or contemporaneously with the encounter with the client.

(g) During and after the provision of electrology services through telemedicine or telehealth, a licensee shall provide his or her name, professional credentials, and contact information to the client. Such contact information shall enable the client to contact the licensee for at least 72 hours following the provision of services, or for a longer period if warranted by the client's circumstances and accepted standards of care.

(h) After the provision of electrology services through telemedicine or telehealth, a licensee shall provide the client, upon request, with his or her records reflecting the services provided.

(i) A licensee shall provide, upon a client's written request, the client's information to the client's primary care provider or to other health care providers.

(j) A licensee engaging in telemedicine or telehealth shall refer a client for follow-up care, when necessary.

13:35-12A.6 Records

A licensee who provides services through telemedicine or telehealth shall maintain a record of the care provided to a client. Such records shall comply with the requirements at N.J.A.C. 13:35-12.18, and all other applicable State and Federal statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a client's medical record.

13:35-12A.7 Prevention of fraud and abuse

(a) In order to establish that a licensee has made a good faith effort to prevent fraud and abuse when providing services through telemedicine or telehealth, a licensee must establish written protocols that address:

1. Authentication and authorization of users;
2. Authentication of the client during the initial intake pursuant to N.J.A.C. 13:35-12A.4(a)1;
3. Authentication of the origin of information;
4. The prevention of unauthorized access to the system or information;
5. System security, including the integrity of information that is collected, program integrity, and system integrity;
6. Maintenance of documentation about system and information usage;
7. Information storage, maintenance, and transmission; and
8. Synchronization and verification of client profile data.

13:35-12A.8 Privacy and notice to clients

(a) Licensees who communicate with clients by electronic communications other than telephone or facsimile shall establish written privacy practices that are consistent with the Federal standards set forth at 45 CFR Parts 160 and 164, which are incorporated herein by reference, as

amended and supplemented, relating to privacy of individually identifiable health information.

(b) Written privacy practices required at (a) above shall include privacy and security measures that assure confidentiality and integrity of client-identifiable information. Transmissions, including client email, prescriptions, and laboratory results must be password protected, encrypted electronic prescriptions, or protected through substantially equivalent authentication techniques.

(c) A licensee who becomes aware of a breach in confidentiality of client information, as defined at 45 CFR 164.402, shall comply with the reporting requirements of 45 CFR 164.

(d) Licensees, or their authorized representatives, shall provide a client, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the client's written acknowledgement of receipt of the notice.

(e) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give clients notice regarding telemedicine and telehealth, including the risks and benefits of being treated by telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment, or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the client received this notice.

(f) When telemedicine or telehealth is unable to provide all pertinent clinical information that a licensee exercising ordinary skill and care would deem reasonably necessary to provide care to a client, the licensee shall inform the client of this prior to the conclusion of the provision of care through telemedicine or telehealth and shall advise the client regarding the need for the client to obtain an additional in-person evaluation reasonably able to meet the client's needs.

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Compliance and Safety Point System and Driving During Suspension Penalty for Out-of-State Moving Violations from Non-Driver License Compact States

Proposed Amendment: N.J.A.C. 13:19-10.1

Authorized By: Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Authority: N.J.S.A. 39:2A-28, 39:5-30.5, 39:5-30.5a, and 39:5-30.6.

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

Proposal Number: PRN 2020-101.

Submit comments by December 18, 2020, to:

Kate Tasch, Director
Legal and Regulatory Affairs
Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, NJ 08666-0162
or via email to: rulecomments@mvc.nj.gov

The agency proposal follows:

Summary

New Jersey law requires the Motor Vehicle Commission (Commission) to assess penalty points against the driver records of New Jersey drivers for convictions of violations of the motor vehicle laws occurring in New Jersey, or another jurisdiction, pursuant to N.J.S.A. 39:5-30.6. The Commission's rules list several violations for which varying numbers of points are assessed (see N.J.A.C. 13:19-10.1). If the violation was committed in New Jersey, the points to be assessed vary and are listed according to the New Jersey statutory reference. If another state

or jurisdiction reports a violation to the Commission, two points are assessed, as long as it is a moving violation for which New Jersey would assess points, had the violation occurred in New Jersey. However, existing N.J.A.C. 13:19-10.1 only references the statute for moving violations committed in other states that are part of the Driver License Compact (Compact), N.J.S.A. 39:5D-1 et seq.

The Compact requires that member states report various types of convictions to the state that issued the driver license, known as the "home State." The home State "shall give such effect to the conduct as is provided by the laws of the home State." N.J.S.A. 39:5D-4. Forty-five states and the District of Columbia are members of the Compact. There are five states that are not members of the Compact, Georgia, Wisconsin, Massachusetts, Michigan, and Tennessee, and, while not required to, may report violations to New Jersey. New Jersey law, at N.J.S.A. 39:5-30.6, requires that the Chief Administrator assess points against the driver record of a New Jersey driver regardless of whether the state in which the violation occurred is a Compact state.

The proposed amendment revises the point assessment chart at N.J.A.C. 13:19-10.1 to include all out-of-State moving violations reported, rather than just those reported by states who are parties to the Compact. Under the proposed amendment, two motor vehicle points will be assessed against the driver record of an individual for any out-of-State moving violation for which New Jersey would assess points had it occurred here.

This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. Since this notice is not listed in the agency rulemaking calendar, the public comment period for this notice shall be 60 days.

Social Impact

The Commission anticipates any social impact of this proposed amendment to be positive, as it enhances the safety of all drivers by assessing points against the driver record of those drivers who have been convicted of out-of-State moving violations. If a driver accumulates 12 or more points on his or her driving record within a period of two years or less, or 15 or more points within a period greater than two years, that person's New Jersey driving privileges are subject to suspension, thus removing unsafe drivers from the roads. Additionally, a driver who accumulates 12 to 14 points on his or her driving record in a period greater than two years, has the option to complete a Driver Improvement Program in lieu of a suspension of driving privileges. The Driver Improvement Program promotes safe driving by assisting drivers in making long-term driving behavior changes.

Economic Impact

The Commission anticipates that this proposed amendment may have an economic impact on those drivers who already have excessive points on their driver record if they are convicted of a moving violation in a non-Compact state. Accumulation of excess points subjects the driver to suspension of driving privileges. However, because the population of drivers who may be affected by this proposed amendment is limited to those convicted of moving violations in the five non-Compact states, the Commission does not anticipate a major economic impact on the general public. Of note, moving violations committed in both Compact and non-Compact states can result in the imposition of auto insurance surcharges pursuant to N.J.S.A. 17:29A-35, which can have an economic impact on those who commit violations that carry points.

Jobs Impact

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

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendment is not being proposed to implement, comply with, or participate in any program established under Federal law or under a State law that incorporates or refers to Federal law, standards, or requirements.

Agriculture Industry Impact

The Commission does not anticipate that there will be any impact on the agriculture industry as a result of the proposed amendment.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed amendment would impose no reporting, recordkeeping, or other compliance requirements upon small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rulemaking governs the assessment of points against driver records for out-of-State moving violations; the proposed amendment will not have any effect on small businesses or private industry in general.

Housing Affordability Impact Analysis

The proposed amendment will have no impact on housing affordability or the costs associated with housing because the proposed amendment pertains to the assessment of points against driver records for out-of-State moving violations.

Smart Growth Development Impact Analysis

The proposed amendment will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendment 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 proposed amendment pertains to out-of-State moving violation consequences.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposal follows (addition indicated in boldface **thus**; deletion indicated in brackets [thus]):

SUBCHAPTER 10. POINT SYSTEM AND DRIVING DURING SUSPENSION

13:19-10.1 Point assessment

(a) Any person who is convicted of any of the following offenses, including offenses committed while operating a motorized bicycle, shall be assessed points for each conviction in accordance with the following schedule:

Section Number	Offense	Points
...		
55.	N.J.S.A. [39:5D-4] 39:5- Moving violation Out-of-State	2
	30.6	

(b) (No change.)

(a)

MOTOR VEHICLE COMMISSION

Licensing Services

Title to Vehicles Abandoned at Repair Facilities

Proposed New Rules: N.J.A.C. 13:21-11A

Authorized By: Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Authority: N.J.S.A. 39:2-3, 39:2A-21, 39:2A-28, 39:10-4, and 39:10A-19.

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

Proposal Number: PRN 2020-095.

Submit comments by December 18, 2020, to:

Kate Tasch, Director
Legal and Regulatory Affairs
Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, NJ 08666-0162