

ADOPTION SECTION

HEALTH

OFFICE OF THE COMMISSIONER

OFFICE OF LEGAL AND REGULATORY COMPLIANCE

CRIMINAL INVESTIGATION UNIT

Notice of Readoption

Criminal Background Investigations: Nurse Aides, Personal Care Assistants and Assisted Living Administrators

Readoption: N.J.A.C. 8:43I

Authority: N.J.S.A. 26:2H-7.19 and 26:2H-86.

Authorized By: Cathleen D. Bennett, Commissioner, New Jersey Department of Health.

Effective Date: March 17, 2017.

New Expiration Date: March 17, 2024.

Take notice that, pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 8:43I, Criminal Background Investigations: Nurse Aides, Personal Care Assistants and Assisted Living Administrators, were scheduled to expire on May 13, 2017.

The rules establish standards in New Jersey for the required fingerprint supported criminal history record background checks on certified nurse aides, personal care assistants, and assisted living administrators. Subchapter 1 contains the purpose and scope of the chapter, establishes definitions of terms, provides how forms may be obtained from the Department, and sets forth the mandate for the submission of Social Security numbers as part of the background check process. Subchapter 2 establishes the criminal background check process for nurse aides, explains the rehabilitation

process for those nurse aides with criminal histories, and sets forth the hearing rights for nurse aides denied certification based upon the background check. Subchapter 3 establishes the criminal background check process for personal care assistants, explains the rehabilitation process for those personal care assistants with criminal histories, and sets forth the hearing rights for personal care assistants denied certification based upon the background check. Subchapter 4 establishes the criminal background check process for assisted living administrators, explains the rehabilitation process for those administrators with criminal histories, sets forth the hearing rights for administrators denied certification, and reiterates the requirement that administrators assume the cost of the criminal history background check, as required by N.J.S.A. 26:2H-7.19.

The Department is developing a rulemaking to revise and update N.J.A.C. 8:43I, and anticipates filing this rulemaking with the Office of Administrative Law for processing in the ordinary course. However, this rulemaking could not be proposed prior to the expiration of N.J.A.C. 8:43I. The Commissioner has reviewed N.J.A.C. 8:43I and has determined that, pending the finalization of the anticipated rulemaking described above, the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive for the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted. Therefore, pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 8:43I is readopted and shall continue in effect for a seven-year period.