

For the foregoing reasons, the Department denies the petition for rulemaking. In accordance with N.J.A.C. 1:30-4.2, the Department shall mail this notice of action to the petitioner.

HUMAN SERVICES

(a)

OFFICE OF THE COMMISSIONER

Notice of Action on Petition for Rulemaking Workplace Violence Prevention

Petitioner: Caleb L. McGillvary.

Take notice that on July 27, 2026, the Department of Human Services (Department) received a petition for rulemaking from Caleb L. McGillvary seeking new rules for Department-licensed facilities and Department-licensed employees regarding workplace violence prevention, training, and accountability, specifically, perpetuated by individuals receiving services, visitors, or other individuals against social workers and healthcare workers. The rules would require enhanced workplace violence prevention requirements, reporting requirements, alarm and alert system provisions, behavioral expectation signs posted in Department-licensed facilities, anti-retaliation provisions, and annual audits. A notice acknowledging receipt of the petition was published in the New Jersey Register at 58 N.J.R. 2132(a).

Take further notice that the Commissioner of the Department (Commissioner) certifies that the petition was duly considered pursuant to law, and upon due deliberation, the Department has determined that the requested new rules to implement workplace violence prevention for Department-licensed facilities and Department-licensed employees by individuals who receive services are denied.

The Department does not license healthcare professionals and social workers that work with individuals receiving Department services. The Department does license facilities that provide individuals with services. The Department recognizes the importance of ensuring the safety and well-being of healthcare and social work professionals that work with individuals that receive Department services. There are protocols in place for employees to report workplace incidents, as well as procedures to follow if individuals receiving services are involved. There are also emergency protocols for incidents that involve visitors and other individuals at Department-licensed facilities.

The Department cannot regulate the conduct of individuals receiving services. Some of the individuals that receive services have a different cognitive level than the healthcare and social work professionals that provide services. In those instances, there is an unequal power dynamic where individuals receiving services need higher levels of care. The Department recognizes the need to provide individuals receiving services the best support to navigate their lives to the fullest extent of their capacity and capabilities. Department rules require healthcare and social work professionals employed by Department-licensed entities to be trained to work with individuals based on the individual's specific needs, including when and how to diffuse and deescalate situations involving individuals receiving services.

The Department declines to promulgate new rules that seek to regulate the conduct and behavior of individuals receiving services. Workplace safety in this context is governed by the requirements for professionals to be trained in ways that support the protection and safety individuals receiving services.

A copy of this public notice has been mailed to the petitioner.

LAW AND PUBLIC SAFETY

(b)

DIVISION OF CONSUMER AFFAIRS

Notice of Receipt of Petition for Rulemaking Board of Medical Examiners

N.J.A.C. 13:35-3.14C

Petitioner: Frederick Thomas Allen, M.D., MBA.

Authority: N.J.S.A. 45:9-2.

Take notice that on September 8, 2026, the Board of Medical Examiners (Board) received a petition for rulemaking from Frederick Thomas Allen (petitioner) requesting that the Board adopt a new rule at N.J.A.C. 13:35-3.14C setting forth standards for conditions imposed on licensure based upon substance use disorder. The petitioner suggests that such a rule should establish how the Board determines the supervision, monitoring, or limitations on practice that is necessary pursuant to N.J.S.A. 45:1-22. The petitioner points out that N.J.A.C. 13:35-3.14A and 3.14B address standards for determining if there are practice deficiencies when a licensee reactivates or reinstates a license; that N.J.A.C. 13:35-6.19 addresses reporting requirements, including issues that may impair a licensee's ability to practice safely; and that N.J.A.C. 13:35-11.1 through 11.6 address the Board's Alternative Resolution Program. The petitioner argues that none of these rules set forth a condition-specific test addressing the risks that justify a substance use-related restriction on a license, evidence that supports such risks, why less restrictive measures are inappropriate, how the scope of restrictions is selected, and when restrictions should end.

The petitioner's recommended rule would apply to restrictions placed on a license due to substance use disorder. The rule would require restrictions to be addressed pursuant to an individualized assessment of a licensee's ability to practice. The Board would be required to provide a licensee subject to restrictions with a written statement identifying the statute or regulation through which restrictions are imposed, the risk to patients or the public that the restrictions address, and evidence supporting the existence of the risk when the determination to impose restrictions was determined. The statement would also have to explain why less restrictive restrictions were not appropriate and state the duration of the restrictions. If evidence existed that bears on a licensee's ability to practice safely that arises after conduct that is the basis for restrictions, the Board would be required to address that evidence in the written statement. The Board would also be required to consider a written assessment or recommendation from a treatment, assistance, or monitoring program. If the Board does not accept such recommendations, it would be required to state the reasons why it did not in the written statement.

The petitioner's recommended regulation would also require that restrictions be based on an identified risk and measures to mitigate that risk, not on a diagnosis or cause of the risk. If materially comparable risks result in different restrictions, the Board would be required to identify in the required written statement the reasons why different restrictions were imposed. The rule would require that restrictions have a definite duration or objective criteria for the removal of the restrictions. A licensee would be permitted to apply for a modification of a restriction based upon changed circumstances or new evidence. The Board would be required to act on such a request within 90 days. Before it could impose a restriction, the Board would be required to provide written notice to a licensee, with the opportunity for the licensee to provide a response and written evidence. A licensee would be permitted to request a hearing with the Board. The Board would be required to provide its determination regarding restrictions to a licensee in writing with the process for the licensee to seek a review.

The petitioner contends that the recommended rule would reduce repeated correspondence with the Board and make Board determinations more transparent. It also would encourage participation in treatment and monitoring programs and provide programs, employers, and licensees a framework for making recommendations and reentry into practice. The petitioner also contends that the recommended rule would be consistent with Federal disability laws.