

Authority: N.J.S.A. 17:1-8.1 and 15.e, 17:48C-18.1 et seq., 17:48D-1 et seq., 17B:26-44.4 et seq., and 17B:27-51.10a et seq.

Effective Date: January 25, 2019, Readoption;
February 19, 2019, Amendments.

Expiration Date: January 25, 2026.

Summary of Public Comment and Agency Response:

No comments were received.

Federal Standards Statement

State agencies that propose to adopt or amend State rules that exceed Federal standards regarding the same subject matter are required to include in the rulemaking document a Federal standards analysis. The rules readopted with amendments are subject to Federal requirements addressing certain standards for health insurance contracts pursuant to the Federal Patient Protection and Affordable Care Act (ACA), Pub. L. 111-148, as amended by the Health Care and Education Reconciliation Act, Pub. L. 111-152, and as set forth at 45 CFR 156.110(a)(10) (collectively, the Federal law). Specifically, the Federal law requires that health benefits plans offered to individuals and small groups include coverage for certain categories of services including pediatric dental services. These categories of services are referred to as Essential Health Benefits (EHB). Therefore, dental plan organizations (DPOs) offering stand-alone dental plans to be sold as pediatric dental plans and DPOs or dental service corporations (DSCs) offering employee dental plans as alternate coverage through an insurance contract to be sold as a pediatric dental plan must comply with the EHB requirements of the ACA. Because the United States Department of Health and Human Services (HHS) permitted states to establish the benefits for the EHB benchmark plan (within parameters), and the rules readopted with amendments are bringing the rules concerning DPOs and DSCs into compliance with the selected EHB benchmark requirements, the rules readopted with amendments do not exceed the Federal standards. Rather, the rules readopted with amendments are required to implement the provisions of the Federal law. Consequently, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 11:10.

Full text of the adopted amendments follows:

SUBCHAPTER 1. DENTAL PLAN ORGANIZATIONS

11:10-1.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

...
“Evidence of coverage” means any certificate, agreement, or contract issued to an enrollee, setting out the dental services and supplies to which the enrollee and his or her dependents are entitled.

11:10-1.6 Evidence of coverage and group contracts

(a) The DPO shall prepare and issue the evidence of coverage to each enrollee within 60 days of the effective date of coverage or of a change in coverage. Covered groups may distribute the forms to covered persons on behalf of the DPO.

(b) The evidence of coverage must contain all the information required by N.J.S.A. 17:48D-9. A card containing only basic identifying information is not sufficient to meet these requirements.

(c) (No change.)

(d) All evidences of coverage shall clearly identify the name of the dental plan organization on its cover and in the text.

(e) All exclusions, exceptions, limitations, items not covered, and services not provided by the plan should be clearly identified in the evidence of coverage and group contract.

(f) Coordination of benefits provisions, which limit payment to 100 percent of allowable expenses when more than one dental plan covers a covered person, are permitted only if all of the following conditions are met:

1.-2. (No change.)

3. Both the group contract and evidence of coverage issued to group enrollees shall include the coordination of benefits provisions.

(g)-(j) (No change.)

(k) Any DPO offering a stand-alone dental plan that is intended to be sold as a pediatric dental plan to satisfy the Essential Health Benefits requirement of 45 CFR 156.110(a)(10) must satisfy the following requirements:

1. The evidence of coverage shall include identical policy form language for the coverage of pediatric dental benefits as set forth at N.J.A.C. 11:20 Exhibit A or, if alternative language is used, the DPO must provide a cross-walk document to demonstrate that each required pediatric dental service from Exhibit A is contained in the text of the DPO’s evidence of coverage;

2. The evidence of coverage shall indicate that pediatric dental benefits are provided for all covered persons through the end of the month in which the covered person turns age 19, regardless of the covered person’s enrollment status; and

3. The evidence of coverage may only include the frequency limits, limitations, and exclusions that appear in the dental benefits provision set forth at N.J.A.C. 11:20 Exhibit A and such coverage may not be denied on the basis of pre-existing conditions.

(l) (No change in text.)

SUBCHAPTER 2. EMPLOYEE’S DENTAL BENEFIT PLANS; ALTERNATE COVERAGE

11:10-2.5 General rules

(a)-(d) (No change.)

(e) Any alternate coverage offered through an insurance contract that is intended to be sold as a pediatric dental plan to satisfy the Essential Health Benefits requirement of 45 CFR 156.110(a)(10) must provide pediatric dental coverage as set forth in N.J.A.C. 11:10-1.6(k).

(f) (No change in text.)

LAW AND PUBLIC SAFETY

(a)

DIVISION ON CIVIL RIGHTS

Housing for Older Persons

Adopted New Rules: N.J.A.C. 13:15

Proposed: June 4, 2018, at 50 N.J.R. 1337(a).

Adopted: December 24, 2018, by Rachel Wainer Apter, Director,
Division on Civil Rights.

Filed: January 22, 2019, as R.2019 d.019, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 10:5-8, 10:5-12, and 10:5-18.

Effective Date: February 19, 2019.

Expiration Date: February 19, 2026.

Summary of Public Comment and Agency Response:

The official comment period ended on August 3, 2018. The Division on Civil Rights (DCR) received comments from the following individuals:

1. Linda Babecki and Alice Kwong, Co-Chief Counsels, Legal Services of New Jersey;
2. Steven Marsh, Realtor, Whiting;
3. Bruce S. Shapiro, Deputy Director of Regulatory Affairs, New Jersey Realtors;
4. Margaret Casey, Realtor Associate, Toms River;
5. Mindi Ridgway, Realtor, Surf City;
6. Eileen Matson, Realtor, Manahawkin;
7. Thomas Channing, Realtor, Toms River;
8. Jeffrey E. Gamble, Realtor, Barnegat;
9. Kim Hanadel, Realtor, Tuckerton;
10. Corinne Whitehead, Realtor, Tuckerton;

11. Mary Jane Zarn, Realtor, Forked River;
12. Shayna Vrabel, Realtor, Manahawkin;
13. Stephen J. Moran, Realtor, Manahawkin;
14. Lois Dornan, Realtor, Manahawkin;
15. Randy Sinor, Realtor, Manahawkin;
16. Thomas J. Smith, Realtor, Manahawkin;
17. Christine Pesce, Realtor, Manahawkin;
18. Brian MacFarlane, Realtor, Manahawkin;
19. Laura Thatcher, Realtor, Toms River;
20. Jeanmarie McSpedon, Realtor, Manahawkin;
21. James T. Dattoli, Realtor, Brick;
22. Lisa Regan, Realtor, Manahawkin;
23. Jayne Porta, Realtor, Manahawkin;
24. Michael J. Farella, Realtor, Brick;
25. Kenneth R. Freeman, Real Estate Broker Manager, Whiting and Ocean County resident;
26. Stacey Heeley, Realtor, Whiting and Ocean County resident;
27. Noreen Lynelt, Realtor, Whiting and Ocean County resident;
28. Susan J. Snyder, Realtor, Whiting and Ocean County resident;
29. Grace DeSiervo, Realtor, Toms River and Ocean County resident;
30. Lori Woytanowski, Realtor, Forked River and Ocean County resident;
31. Deborah Trettel, Realtor, Forked River and Ocean County resident;
32. Karen W. Naedele, Realtor, Whiting and Ocean County resident; and
33. Kathie Shigo, Ocean County resident.

1. COMMENT: Legal Services of New Jersey expressed support for the adoption of N.J.A.C. 13:15.

RESPONSE: the Division on Civil Rights (DCR) thanks Legal Services of New Jersey for its support.

2. COMMENT: Commenters 2 through 33 expressed substantially similar concerns regarding the requirements for an exemption to the New Jersey Law Against Discrimination’s (LAD) ban on housing discrimination based on familial status. The commenters assert that some entities operating and managing housing communities restricted to occupancy by persons 62 or over as defined in N.J.A.C. 13:15-1.4, or restricted to occupancy by persons 55 and over as defined in N.J.A.C. 13:15-1.5, are restricting the ages of the owners as well as the occupants. These commenters note that State law and Federal law restrict the ages of the occupants, but do not restrict the ages of non-occupant owners of such properties. The commenters request amendment of the rule to clarify that individuals under the ages of 55 or 62 can purchase a home in age-restricted communities “so long as they certify the occupants of that home will be over the age of 55 or 62.” One commenter specifically requested adding clarifying language to N.J.A.C. 13:15-1.4(a) and 1.5(d).

RESPONSE: DCR agrees that the LAD’s definitions of housing for older persons address only the ages of the occupants of any housing, and do not address the ages of non-occupant owners of such housing. Accordingly, as adopted, DCR has added clarifying language to N.J.A.C. 13:15-1.2(a) to prevent any inaccurate interpretation of the LAD or the rule. DCR declines, however, to add the provision “so long as they certify that the unit will be occupied by persons [55 or 62] years of age or over” to the rules. Such a certification is already required by a New Jersey statute governing age-restricted communities, which is administered by the New Jersey Department of Community Affairs. See N.J.S.A. 45:22A-46.2. However, no such certification is required by the LAD. To ensure consistency with the relevant language in the LAD, DCR has determined that N.J.A.C. 13:15-1.2, rather than N.J.A.C. 13:15-1.4 and 1.5, should be changed.

Federal Standards Statement

A Federal standards analysis is not required because the expired rules adopted herein as new rules do not exceed Federal standards. The expired rules adopted herein as new rules are intended to implement the LAD and are not intended to implement any program under Federal law. The expired rules adopted herein as new rules support DCR’s work-sharing agreement with the Federal Department of Housing and Urban Development. To that end, the standards for housing for older persons in the expired rules adopted herein as new rules are similar to Federal

standards for housing for older persons set forth in the Federal Fair Housing Act. See 42 U.S.C. § 3607(b).

Full text of the expired rules adopted herein as new rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:15.

Full text of the expired rules adopted herein as new rules follows (additions to proposal indicated in boldface with asterisks *thus*; deletion from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. GENERAL PROVISIONS

13:15-1.2 Exemption

(a) The provisions regarding familial status in the Law Against Discrimination do not apply to housing *[which]* ***that*** satisfies the requirements of N.J.A.C. 13:15-1.3, 1.4*,* or 1.5. ***Nothing in the requirements of N.J.A.C. 13:15-1.3, 1.4, or 1.5 shall be construed to restrict the age of any purchaser or grantee of housing who does not reside in, or intend to intend in, such housing.***

(b) (No change.)

(a)

**DIVISION OF CONSUMER AFFAIRS
BOARD OF MESSAGE AND BODYWORK THERAPY
Application for Licensure**

Adopted Amendment: N.J.A.C. 13:37A-2.1

Proposed: September 17, 2018, at 50 N.J.R. 1987(a).

Adopted: December 5, 2018, by the Board of Massage and Bodywork Therapy, Bruce A. Spicer, Chair.

Filed: January 22, 2019, as R.2019 d.020, **without change.**

Authority: N.J.S.A. 45:11-67 and P.L. 2017, c. 56.

Effective Date: February 19, 2019.

Expiration Date: September 4, 2019.

Summary of Public Comment and Agency Response:

The official comment period ended November 16, 2018. The Board of Massage and Bodywork Therapy (Board) received two comments from the following individuals:

1. Nicole Lerario, LMT, A Kneaded Vacation Massage & Wellness
2. Rose M. Crenshaw-Crowley, LMT

1. COMMENT: A commenter supports the amendments to N.J.A.C. 13:37A-2.1.

RESPONSE: The Board thanks the commenter for her support.

2. COMMENT: A commenter opposes imposing the new requirement on applicants who enrolled in massage and bodywork education programs prior to the adoption of the amendments.

RESPONSE: P.L. 2017, c. 56, which imposes the new requirements on applicants, became effective on May 1, 2017. It would not be appropriate to extend this effective date for applicants as the commenter recommends.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal standards or requirements applicable to the subject matter of the adopted amendments.

Full text of the adoption follows:

SUBCHAPTER 2. LICENSURE

13:37A-2.1 Application for licensure

(a) An applicant for licensure shall qualify for licensure by:

1. Successfully completing a course of study of at least 500 hours in massage and bodywork therapies; and

2. (No change.)

(b) An individual who applies for a license shall submit to the Board:

1. (No change.)

2. An official transcript, which indicates that the applicant has completed an associate degree in massage and bodywork or a course of study outlined in (c) below from a school accredited or approved by: