

**Housing Affordability Impact Analysis**

The expired rule proposed herein as a new rule will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the rule would evoke a change in the average costs associated with housing. The expired rule proposed herein as a new rule merely clarifies the type of discriminatory advertising that is prohibited under the LAD.

**Smart Growth Development Impact Analysis**

DCR does not anticipate that the expired rule proposed herein as a new rule will have any impact on housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The expired rule proposed herein as a new rule merely clarifies the type of discriminatory advertising that is prohibited under the LAD.

**Full text** of the proposed changes to the expired rule proposed herein as a new rule follows (additions indicated in boldface **thus**):

CHAPTER 9

ADVERTISING RELATING TO REAL PROPERTY

SUBCHAPTER 1. GENERAL PROVISIONS

13:9-1.1 Discriminatory advertising regarding realty

(a) It shall be a violation of the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., for any person, including any newspaper or publication published or circulated within this State, to make, print, publish, circulate, issue, display, post, utter or disseminate or to cause to be made, printed, published, circulated, issued, displayed, posted, uttered or disseminated any print or electronic notice, listing, statement, sign or advertisement regarding the sale, lease, sub-lease, rental or assignment of any real property, which expresses, overtly or subtly, directly or indirectly, any preference, limitation, specification or discrimination as to race, creed, color, national origin, ancestry, marital status, civil union status, domestic partnership status, sex, **pregnancy, breastfeeding,** gender identity or expression, familial status, nationality, disability, affectional or sexual orientation, source of lawful income used for rental or mortgage payments, **or liability for service in the Armed Forces of the United States,** as such terms may be defined in the Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

(b) This section applies to real property as defined in the Law Against Discrimination, N.J.S.A. 10:5-1 et seq., public housing and the rental of:

1. A single apartment or flat in a two-family dwelling, the other occupancy unit of which is occupied by the owner as a residence at the time of such rental; and

2. A room or rooms to another person or persons by the owner or occupant of a one-family dwelling occupied by the owner or occupant as a residence at the time of such rental.

**(a)**

**DIVISION ON CIVIL RIGHTS**

**Housing for Older Persons**

**Proposed New Rules: N.J.A.C. 13:15**

Authorized By: Craig Sashihara, Director, Division on Civil Rights.

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

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

Proposal Number: PRN 2018-049.

Submit written comments by August 3, 2018, to:

Estelle Bronstein, Deputy Executive Director  
 Department of Law and Public Safety  
 Division on Civil Rights  
 PO Box 089  
 Trenton, NJ 08625-0089  
 E-mail: [Estelle.Bronstein@njcivilrights.gov](mailto:Estelle.Bronstein@njcivilrights.gov)

The agency proposal follows:

**Summary**

The New Jersey Division on Civil Rights (DCR) in the Department of Law and Public Safety enforces the New Jersey Law Against Discrimination (LAD), N.J.S.A. 10:5-1 et seq. Among other things and with some exceptions, the LAD prohibits housing providers from discriminating based on familial status, that is, discriminating against individuals or families because they have a minor child, are seeking custody of a minor child, or are pregnant. See N.J.S.A. 10:5-12 and 10:5-5.11. Residential housing that qualifies as "Housing for older persons," as defined in the LAD, N.J.S.A. 10:5-5.11, is exempt from the provisions of the LAD prohibiting discrimination based on familial status.

Rules regarding housing for older persons were originally adopted in 1995 to provide clarification on this exemption. The rules were amended upon re-adoption in 2005 to be consistent with amendments to the LAD, as well as with the rules for housing for older persons promulgated by the Federal Department of Housing and Urban Development (HUD). The 2005 amendments made DCR's rules "substantially equivalent" to HUD's rules, which enabled DCR to enter into a work-sharing agreement with HUD. Under that agreement DCR receives funding from HUD for investigations, case processing, and outreach activities.

In 2011, DCR again reviewed the rules on housing for older persons. DCR determined that these rules were necessary, reasonable, and proper for the purpose for which they were originally promulgated, and re-adopted them.

The rules expired on March 17, 2018. DCR has now reviewed the expired rules and has determined that they are necessary, reasonable, and proper for the purpose for which they were originally promulgated. Consequently, the expired rules are proposed herein as new rules without change, regarding Housing for Older Persons, N.J.A.C. 13:15.

The expired rules are proposed herein as new rules clarify the types of housing for older persons that automatically qualify for the statutory exemption. Specifically, the expired rules proposed herein as new rules clarify that provisions regarding familial status do not apply to: (1) housing provided under any State program that the Attorney General determines is specifically designed and operated to assist elderly persons, as defined in the State program; (2) housing provided under any Federal program that the Secretary of the United States Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons, as defined in the Federal program; (3) certain housing intended for, and solely occupied by, persons 62 years of age or older; and (4) housing intended and operated for occupancy by at least one person 55 years of age or older per unit. The expired rules proposed herein as new rules also clarify that nothing in this chapter limits the applicability of any reasonable local or State restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

In addition to providing more detailed guidance on the LAD's exemption for housing for older persons, the expired rules proposed herein as new rules support DCR's work-sharing agreement with HUD.

The following is a summary of the expired rules proposed herein as new rules.

N.J.A.C. 13:15-1.1 sets forth the purpose of the chapter.

N.J.A.C. 13:15-1.2 provides that housing that satisfies the requirements of this chapter as housing for older persons is not subject to the prohibitions against discrimination based on familial status.

N.J.A.C. 13:15-1.3 sets forth the requirements of elderly housing programs that are exempt from the prohibitions against discrimination in housing based on familial status.

N.J.A.C. 13:15-1.4 sets forth the requirements for housing intended for, and occupied by, persons 62 years of age or older in order to be exempt from the prohibitions against discrimination based on familial status.

N.J.A.C. 13:15-1.5 sets forth the requirements for housing intended and operated for persons 55 years of age or older in order to be exempt from the prohibitions against discrimination based on familial status.

As DCR has provided a 60-day comment period on the notice for this proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

**Social Impact**

The expired rules proposed herein as new rules will have a beneficial social impact on New Jersey residents, particularly persons who benefit from housing intended to address the needs of person 62 years of age and older and housing intended to address the needs of persons 55 years of age and over. The expired rules proposed herein as new rules clarify the statutory exception to the LAD's prohibitions against housing discrimination based on familial status for housing intended for older persons.

**Economic Impact**

The expired rules proposed herein as new rules will not have a significant economic impact on businesses or the real estate industry since all legal obligations arising under the rules have been mandated by existing Federal or State law and the expired rules proposed herein as new rules add no new legal obligations. The expired rules proposed herein as new rules will have a positive economic impact on the State, as the rules will support DCR's work-sharing agreement with HUD, allowing DCR to continue to receive Federal funding for investigations, case processing, and outreach initiatives.

**Federal Standards Statement**

A Federal standards analysis is not required because the expired rules proposed herein as new rules do not exceed Federal standards. The expired rules proposed herein as new rules are intended to implement the LAD, and are not intended to implement any program under Federal law. The expired rules proposed herein as new rules support DCR's work-sharing agreement with HUD. To that end, the standards for housing for older persons in the expired rules proposed herein as new rules are the similar to Federal standards for housing for older persons set forth in the FHA.

**Jobs Impact**

The expired rules proposed herein as new rules will have no impact on the number of jobs in the State. The expired rules proposed herein as new rules will have no impact on the increase or decrease of staff positions in DCR.

**Agriculture Industry Impact**

The expired rules proposed herein as new rules will have no impact on the agriculture industry in New Jersey.

**Regulatory Flexibility Analysis**

The costs of compliance with the expired rules proposed herein as new rules for any affected small businesses, as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is unchanged, and is likely to be minimal or nonexistent. All legal obligations arising under the expired rules proposed herein as new rules have already been mandated by existing Federal or State laws. The expired rules proposed herein as new rules merely clarify the provisions of the LAD that permit certain housing to be offered to and maintained exclusively for older persons. The expired rules proposed herein as new rules will not impose new reporting, recordkeeping, or other compliance requirements on small businesses as that term is defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. No professional services are required for compliance.

**Housing Affordability Impact Analysis**

The expired rules proposed herein as 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. The expired rules proposed herein as new rules merely clarify the type of housing for older persons that is statutorily exempt by from the prohibitions against discrimination based on familial status.

**Smart Growth Development Impact Analysis**

DCR does not anticipate that the expired rules proposed herein as new rules will have any impact on housing production in Planning Areas 1 or 2, or designated centers, under the State Development and Redevelopment Plan. The expired rules proposed herein as new rules merely clarify the type of housing for older persons that is statutorily

exempt by from the prohibitions against discrimination based on familial status.

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

(a)

**DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS  
Limited Licenses: Midwifery**

**Proposed Amendments: N.J.A.C. 13:35-2A.2, 2A.4,  
2A.5, 2A.6, 2A.7, 2A.9, 2A.10, 2A.11, 2A.14, and  
2A.16**

Authorized By: State Board of Medical Examiners, William Roeder, Executive Director.

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

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

Proposal Number: PRN 2018-050.

Submit written comments by August 3, 2018, to:

William Roeder, Executive Director  
State Board of Medical Examiners  
PO Box 183  
Trenton, NJ 08625-0183  
or electronically at: <http://www.njconsumeraffairs.gov/Proposals/Pages/default.aspx>.

The agency proposal follows:

**Summary**

The Board of Medical Examiners (Board) has reviewed the rules governing the practice of licensed midwives and proposes amendments to these rules to reflect current practice standards for midwifery. The Board proposes to amend N.J.A.C. 13:35-2A.2 to delete the term "affiliated physician" and replace it with "consulting physician." The Board believes that the term "consulting physician" more accurately describes the relationship between a licensed midwife and the physician with whom he or she has clinical guidelines. The Board proposes to replace "affiliated physician" with "consulting physician" throughout Subchapter 2A. The Board also proposes to amend the definitions of "certified midwife (CM)" and "certified nurse midwife (CNM)" in N.J.A.C. 13:35-2A.2. The proposed amendments delete a phrase that stated that a certified midwife is not a registered nurse. The proposed amendments require a certified midwife to currently hold, or have held in the past, certification by the American Midwifery Certification Board (AMCB), which is the successor to the American College of Nurse Midwives Certification Council (ACC). The proposed amendments require a certified nurse midwife to currently hold, or have held in the past, certification from the American College of Nurse Midwives (ACNM) or the AMCB. The Board proposes to amend N.J.A.C. 13:35-2A.4 to delete reference to the ACC and replace it with reference to the AMCB.

The Board proposes to amend N.J.A.C. 13:35-2A.5 to replace the Midwifery Model of Care with the Midwives Alliance of America Core Competencies (2014) as the standard for certified professional midwife practice. The proposed amendments also provide an address for the Midwives Alliance of North America.

N.J.A.C. 13:35-2A.7 establishes license renewal requirements for licensed midwives. The Board proposes to amend this rule to require licensed midwives to submit proof that they are currently certified by the ACNM, AMCB, or North American Registry of Midwives (NARM) when renewing licensure. A licensee renewing as inactive will not be required to submit proof that he or she is currently certified, but will need to submit such proof if he or she elects to reactivate his or her license.

N.J.A.C. 13:35-2A.9 and 2A.11 set forth procedures that a licensed midwife must follow when a patient is at increased risk during