

RULE ADOPTIONS

ADMINISTRATIVE LAW

(a)

OFFICE OF ADMINISTRATIVE LAW

Civil Service Commission

Law Enforcement Officer and Firefighter Cases

Readoption: N.J.A.C. 1:4B

Proposed: October 16, 2017, at 49 N.J.R. 3385(a).

Adopted: December 19, 2017, by Laura Sanders, Acting Director,
Office of Administrative Law.

Filed: December 20, 2017, as R.2018 d.053, **without change**.

Authority: N.J.S.A. 40A:14-208 and 52:14F-5(e), (f), and (g).

Effective Date: December 20, 2017.

Expiration Date: December 20, 2024.

Summary of Public Comment and Agency Comment:

COMMENT: One comment was submitted on behalf of the New Jersey State Firefighters Mutual Benevolent Association (NJFMBA). The NJFMBA supports the readoption of N.J.A.C. 1:4B, in particular, the 180-day time limit for police and fire termination appeals.

RESPONSE: The Office of Administrative Law thanks the NJFMBA for the support of its rulemaking.

Federal Standards Statement

A Federal standards analysis is not required because the contested case hearing procedures are adopted in the implementation of the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and are not subject to any Federal standards or requirements.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 1:4B.

CHILDREN AND FAMILIES

(b)

HEALTH

CHILD PROTECTION AND PERMANENCY

HEALTH SYSTEMS BRANCH

CERTIFICATE OF NEED AND HEALTHCARE

FACILITY LICENSURE PROGRAM

Substance-Affected Infants

Adopted New Rules: N.J.A.C. 3A:26

Adopted Amendments: N.J.A.C. 8:43A-1.3 and 28.7 and 8:43G-1.2 and 2.13

Proposed: August 21, 2017, at 49 N.J.R. 2599(a).

Adopted: December 5, 2017, by Allison Blake, Ph.D., L.S.W.,
Commissioner, Department of Children and Families, and
December 19, 2017, by Christopher R. Rinn, Acting
Commissioner, Department of Health, with the approval of the
Health Care Administration Board.

Filed: December 7, 2017, as R.2018 d.018, **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. 9:3A-7f, 9:6-8.15, 26:2H-5, and 30:4C-4(h).

Effective Date: January 16, 2018.

Expiration Dates: N.J.A.C. 3A:26, January 16, 2025;
N.J.A.C. 8:43A, November 21, 2021; and
N.J.A.C. 8:43G, January 18, 2018.

Summary of Public Comments and Agency Responses:

The Departments received comments from the following:

1. Linda Carroll, MSN, RN-BC, Vice President, Patient Care Services, Chief Nursing Officer, St. Peter's University Hospital, New Brunswick, NJ; and

2. Jill Gresham, Senior Associate, Center for Children and Family Futures, Inc., Lake Forest, CA.

Quoted, summarized, or paraphrased below, are the comments and the Departments' responses. The numbers in parentheses following the comments below correspond to the commenter numbers above.

COMMENT: A commenter states that proposed new N.J.A.C. 3A:26-1.3(a)4, addressing the content of reports, calls for the reporting of the type of substance affecting the infant and any harm caused to the child as a result. The language the Federal Child Abuse Prevention and Treatment Act (CAPTA) uses is "infants affected by substance abuse." Proposed new N.J.A.C. 3A:26-1.3(a)4 uses the language of "harm" experienced by the infant. Asking for reports to include the "affects to the infant" seems to be broader than asking about specific harm. The commenter is not sure "affected by" is synonymous with "harm." This wording may be problematic. (2)

RESPONSE: The Departments agree that the term, "affected by," is not synonymous with the term, "harmed by." Proposed new N.J.A.C. 3A:26-1.3(a)4 would require a report to include information on "any harm" that substance exposure caused a substance-affected infant. If the substance exposure that affected the infant did not cause harm, then the reporter would so indicate in the report.

COMMENT: The commenter states that the proposed new rules and amendments are very clear that any infant exposed to drugs during pregnancy has to be reported. This rulemaking raises concern that this topic now falls under child abuse laws and some of these women are crying for help, yet this now could place them in litigation for child abuse. (1)

RESPONSE: The CAPTA obliges the Departments to require reporting of substance-affected infants. If the Division determines, upon receiving such a report, that the report alleges child abuse or neglect, Federal and State laws oblige the Division to respond appropriately to the allegation. In both cases, the purpose of the reporting is for the Division to ensure the safe care and well-being of the infant. The Departments are without authority to fail either to promulgate the reporting requirement or to respond to reports that allege child abuse or neglect.

COMMENT: The commenter inquires, "Will referrals be expected for infants whose mothers are appropriately prescribed and compliant with their medical care which will knowingly result in withdrawal symptoms?" The commenter suggests the example of a mother who is "on methadone/suboxone prior to or started early in her pregnancy," and who is compliant with her methadone protocol as confirmed by the mother's social worker, and which results in her infant having withdrawal symptoms. The commenter states, "These historically have not been patients we have referred once we have confirmed compliance and that the patient is positive for what she is expected to be positive for." (1)

RESPONSE: The CAPTA, as implemented through the proposed amendments and new rules, requires the Departments to ensure the reporting of all substance-affected infants, regardless of the reasons for which infants may experience substance exposure. While the required reporting can identify potential child abuse or neglect, a substance-affected infant report would not, in and of itself, constitute an allegation of abuse or neglect. Identification of substance-affected infants through required reporting, regardless of the reasons for their exposure, enables the Division to offer care and services to address the effects of substance exposure, to avoid further exposure, and to help them stay safe and healthy.

Therefore, the infant in the example the commenter provides is a "substance-affected infant," pursuant to the definition of that term at proposed new N.J.A.C. 3A:26-1.2, because the infant "displays the