

(b) Workers, supervisors, and trainees may be assessed civil administrative penalties not to exceed \$25,000 for each violation of the Act or this chapter, including, but not limited to:

1. Working as an employee without a permit;
2. Submitting false information on the application for a permit;
3. Submitting false information on the application for an examination;
4. Submitting false information to gain entrance into an examination;
5. Using fraudulent means during the taking of an examination;
6. Using fraudulent means to pass an examination;
7. Tampering with, altering, or defacing a permit;
8. Submitting false information on training records;
9. Other violations of the Act or this chapter;

(c) In assessing a civil administrative penalty pursuant to this chapter, the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services, as the case may be, may consider the following factors, where applicable, in determining what constitutes an appropriate penalty for the particular violations:

1. Degree of hazard posed to human health and the environment;
2. Degree of harm posed to the proper administration of the licensing/permitting program;
3. Category of culpability evidenced by the violator's action, including knowing action, reckless action, or negligent action;
 - i. In determining culpability, ignorance of any legal requirement of the Act or this chapter shall constitute a negligent action unless the legal requirement is one of which the violator has constructive notice, in which case the violator's action shall be classified as reckless;
 - ii. Actual notice of the legal requirement of the Act or this chapter shall constitute a finding of knowing action;
4. Past history of compliance on the part of the violator;
5. Economic benefit which the violator accrues as a result of the violation; and
6. Cooperation of the violator in correcting the violation.

(d) In addition to other sanctions in the Act or this chapter, the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services, as the case may be, shall have the authority to require:

1. The immediate correction of any violation;
2. The removal of the employer from the job site within the meaning and purposes of the Act;
3. The removal of any worker from the job site within the meaning and purposes of the Act;
4. The removal of any supervisor from the job site within the meaning and purposes of the Act; and
5. The removal of any instructor from the training course within the meaning and purposes of the Act.

Amended by R.1990 d.278, effective June 4, 1990.
See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Training agencies added; items 4, 5, 6 and 7 added to Table 3.5(a) and items 3, 4, 5, 6 and 7 added to Table 3.5(b); (c) and (d)4 added.

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" to the introductory paragraphs of (c) and (d).

8:60-3.6 (Reserved)

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Hearing requirements applicable to employer, supervisor, training agency, trainee, and worker; written request required at (c); (d) added.

Repealed by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Formerly "Hearings".

SUBCHAPTER 4. LICENSING OF EMPLOYERS

8:60-4.1 Scope of subchapter

This subchapter shall apply to the procedures required to obtain or to renew a license as an employer.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Subchapter also applies to renewals.

8:60-4.2 Exempted activities

(a) The Commissioner of Health and Senior Services may exempt from the license requirements those designated asbestos-related activities based on sufficient data which indicates that no significant exposure exists to perform such activity. Such data shall be submitted to the Commissioner of Health and Senior Services for review at least 10 calendar days prior to the beginning of such work.

(b) These exempted activities involve non-friable asbestos containing material that is not rendered friable by the activity.

New Rule, R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

8:60-4.3 Application for license

(a) The application for an employer license shall be made on forms provided by the Division of Public Safety and Occupational Safety and Health.

(b) The application for an employer license shall be typewritten or neatly and legibly printed in ink.

(c) All applications shall be carefully completed.

(d) Where applicable, applicants shall furnish evidence of applicable full time asbestos work experience as an employer. This experience shall have been completed within five years of the filing of the application. This experience shall be listed by job name, location, time involved, and cost of the contract.

(e) No license shall be granted to an employer:

1. If the employer is less than 21 years of age;
2. If the employer has been found to be in non-compliance with N.J.A.C. 12:120-3.2 and 8:60-3.2; or
3. If the employer is unable or unwilling to comply with N.J.A.C. 12:120-4.4 and 8:60-4.4 within one year of the date of receipt of the application by the Division of Public Safety and Occupational Safety and Health.

(f) All correspondence relative to applications for licenses shall be addressed to the Division of Public Safety and Occupational Safety and Health.

(g) The Division of Public Safety and Occupational Safety and Health shall be notified by the employer of any change of business and/or home residence. When writing, the license number shall be specified.

(h) The application fee for an annual license shall be \$1,000. The fee for the issuance of a duplicate license shall be \$100.00. The Commissioner may, by amendment to this section, reduce these fees based on a decrease in program costs.

(i) The application fee for an annual license shall accompany the application and is nonrefundable.

(j) The application fee for a license shall be paid by certified check or money order made payable to the Commissioner of Labor and Workforce Development.

(k) No liability shall be assumed by the Division of Public Safety and Occupational Safety and Health for loss in the transmission of the application fee.

(l) Applicants denied licenses shall not be permitted to resubmit an application for one year from the date of the denial of the application.

(m) Upon written request from the applicant, the Commissioner of Labor and Workforce Development may, at his or her discretion, waive the fees for licensing identified in (h) above.

1. The written request for waiver must identify that the applicant will suffer significant economic or financial hardship if the waiver is not granted.

i. The economic or financial hardship which will be suffered may not be the result of losses incurred by the applicant as a result of Federal, State or other governmental administrative disciplinary or regulatory action.

2. The granting of a waiver from the fees for licensing shall have no bearing on the applicant's eligibility for a license.

Amended by R.1986 d.149, effective May 5, 1986.

See: 18 N.J.R. 156(a), 18 N.J.R. 986(a).

Fee raised from \$100.00 to \$200.00

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Subsections (a) and (l) added; requirement for asbestos work experience as an employer added to (d); application fee nonrefundable.

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" to (j) and the introductory paragraph of (m).

8:60-4.4 Eligibility for employer license

(a) The applicant, to be eligible for a license as an employer, shall:

1. Provide evidence of having successfully completed the training course and pass the written examination for asbestos abatement supervisors devised and administered under the approval of the Department of Health and Senior Services as set forth at N.J.A.C. 12:120-6.2 and 8:60-6.2;

2. Have employed with the firm a job supervisor who holds a valid New Jersey asbestos supervisor permit; and

3. Disclose in and attach to the application form all information including, but not limited to, (a)4i through x below and such other information as shall demonstrate the applicant's reliability, responsibility, capability, competence, and knowledge to perform asbestos work safely and to minimize unnecessary health hazards to citizens:

i. A copy of the employer's certificate of insurance specifying the name of the insurance carrier, policy number, policy period under which the entire New Jersey Workers' Compensation obligation is insured, and which specifies both the New Jersey Department of Labor and Workforce Development, Asbestos Control and Licensing, and the New Jersey Department of Health and Senior Services, Environmental Health Services, as certificate holders of the insured;

ii. A listing of respiratory protective equipment including serial numbers and proof of purchase or availability;

this chapter. Any permit acquired through such means shall be invalid.

(g) Any applicant using fraudulent means during the taking of an asbestos worker or asbestos supervisor examination shall be subject to prosecution under the Act and this chapter. Any permit acquired through such means shall be invalid.

(h) Applicants who do not take or pass the examination within one year of completion of their training shall retake the complete training prior to being examined.

(i) Applicants who have met the requirements as set forth in this section, but have failed to submit an application or obtain a permit within one year of completion of initial training, shall provide evidence of having successfully completed an annual refresher training course pursuant to N.J.A.C. 12:120-6.8 and 8:60-6.8 in order to qualify for an asbestos permit.

(j) Each applicant who holds a valid New Jersey worker permit and wishes to upgrade to a supervisor permit must complete all training as set forth at N.J.A.C. 12:120-6.2(b) and 6.7 and N.J.A.C. 8:60-6.2(b) and 6.7 and the requirements of this section.

Amended by R.1990 d.278, effective June 4, 1990.
See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Text on obtaining permit recodified to 5.2; text on completing training courses and examination recodified from 5.5 and amended to add photograph requirements and subsections (f) through (i).

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

8:60-5.5 Procedures for completing permit application

(a) Each applicant for a permit shall complete an application which can be obtained from the Division of Public Safety and Occupational Safety and Health.

(b) Each applicant shall provide the following to the Division of Public Safety and Occupational Safety and Health:

1. Name, address, date of birth, age, sex, height, weight, eye color, driver's license number, and telephone number;

2. The name and location of the course where the applicant has successfully completed asbestos training, the date of completion, and number of hours of training;

i. The applicant shall submit to the Division of Public Safety and Occupational Safety and Health documentation that indicates successful completion of the asbestos training course with the application for permit.

ii. The applicant shall submit proof of passing the written examination.

3. Two recent, identical passport-size color photographs taken against a white background or backdrop with the applicant's face being not less than three quarters of an inch in width. The applicant shall not wear a hat, glasses or any other item which may alter or disguise the overall features of the face in the photographs; and

i. The applicant shall legibly print his or her name on the back of both photographs submitted.

ii. The applicant shall attach one passport size color photograph in the space provided on the application.

4. The name and address of the applicant's present employer, the applicant's position with the employer and the date employment commenced.

(c) Each applicant is requested to voluntarily provide his or her social security number in his or her permit application to assist the Commissioner in the enforcement of the provisions of N.J.S.A. 34:5A-32 et seq.

1. Each social security number collected may be used as an identifier in the Commissioner's computerized recordkeeping system to aid in the processing of permit applications.

2. Each social security number collected shall remain confidential to the Department of Labor and Workforce Development.

(d) The applicant shall sign and date a statement certifying that the information contained in the application is accurate, true, and complete to the best of his or her knowledge.

(e) The applicant for a worker permit shall submit a \$50.00 non-refundable fee (certified check or money order made payable to the Commissioner of Labor and Workforce Development) with the permit application. The Commissioner may, by amendment to this section, reduce this fee based on a decrease in program costs.

(f) The applicant for a supervisor permit shall submit a \$75.00 non-refundable fee (certified check or money order made payable to the Commissioner of Labor and Workforce Development) with the permit application. The Commissioner may, by amendment to this section, reduce this fee based on a decrease in program costs.

(g) Upon written request from the applicant, the Commissioner of Labor and Workforce Development may, at his or her discretion, waive the fees for permit identified in subsections (e) and (f) above.

1. The written request for waiver must identify that the applicant will suffer significant economic or financial hardship if the waiver is not granted.

i. The economic or financial hardship which will be suffered may not be the result of losses incurred by the applicant as a result of Federal, State or other

governmental administrative disciplinary or regulatory action.

2. The granting of a waiver from the fees for permit shall have no bearing on the applicant's eligibility for a permit, waive the fees for permits identified in subsections (e) and (f) above.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Text on verifying identity deleted; text on completion of permit application recodified from 5.6 and amended to require successful completion of written exam; photo requirements added.

Amended by R.1995 d. 193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a)

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" to (c)2, (e), (f) and the introductory paragraph of (g).

8:60-5.6 Length of permit

(a) Each permit issued by the Commissioner shall be valid for one year from the date of issuance.

(b) A permit shall be automatically cancelled on the date of its expiration.

(c) Any person performing asbestos work requiring a permit under the Act or this chapter who performs such work while holding an expired permit shall be subject to the penalty provisions of the Act.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Text on completing training courses and examination recodified to 5.3; text on length of permit recodified from 5.7 with (a)1 added.

Amended by R.1995 d. 193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

8:60-5.7 Contents of permit

(a) Each permit for an asbestos worker or asbestos supervisor shall be issued in writing, signed by the Commissioner of Labor and Workforce Development, and shall contain:

1. The date of issuance;
2. The expiration date;
3. The name and address of the worker or supervisor to whom it is issued; and
4. The worker's or supervisor's unique identification number supplied by the Department of Labor and Workforce Development.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Text on completion of permit application recodified to 5.4; text on contents of permit recodified from 5.8, with requirement for the Commissioner of Labor's signature and provisions regarding supervisors added.

Amended by R.1995 d. 193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" to the introductory paragraph of (a) and (a)4.

8:60-5.8 Identification of permit holder

(a) Each worker or supervisor performing asbestos work shall have their permits available at the job site and readily available for inspection by representatives of the Commissioners of the Department of Labor and Workforce Development and Health and Senior Services and of the contracting agency.

(b) Tampered with, altered, or defaced permits shall be void.

(c) Any photostats, photographs, or reproductions of a permit shall be invalid.

(d) Any worker or supervisor who loses his or her permit or has it stolen shall immediately notify the Division of Public Safety and Occupational Safety and Health in writing.

(e) An altered, defaced, mutilated, lost, or stolen permit may be replaced upon written request and a review of the circumstances by the Commissioner.

(f) A request for a replacement or duplicate permit shall be notarized and include:

1. The name, address and date of birth of the permit holder;
2. The worker's or supervisor's unique identification number;
3. The circumstances surrounding the loss of the permit, including when, where and how the permit was altered, defaced or mutilated, lost or stolen; and
4. The altered, defaced, or mutilated permit, if applicable.

(g) The cost for a replacement or duplicate permit shall be \$5.00 for a worker permit and \$7.50 for a supervisor permit.

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Text on length of permit recodified to 5.5; text on identification of permit holder recodified from 5.9, revised and new (b) added.

Amended by R.1995 d. 193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" to (a).

8:60-5.9 Suspension and revocation of permit

(a) The Commissioner may suspend or revoke any permit for the following reasons:

(c) In all cases where the Commissioner of Health and Senior Services proposes to revoke or suspend certification or instructor approval, or denies an application for certification or instructor approval, the applicant shall have the right to an informal conference or formal hearing, or both, pursuant to N.J.A.C. 12:120-8 and 8:60-8.

Amended by R.1990 d.278, effective June 4, 1990.
See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Text on examination of applicants recodified to 6.14; text on suspension or revocation of certification recodified from 6.10, with old 4 deleted and new 3, 5 and 6 added.

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Recodified from 8:60-6.11.

Administrative change.

See: 32 N.J.R. 803(a).

8:60-6.12 (Reserved)

Recodified as 8:60-6.11 by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

8:60-6.13 (Reserved)

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

New (a), (e) and (f) added; hearing requirements added at (d).

Repealed by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Formerly "Hearings for applicants and certificants when certification has been denied, revoked or suspended".

8:60-6.14 (Reserved)

Amended by R.1990 d.278, effective June 4, 1990.

See: 22 N.J.R. 736(a), 22 N.J.R. 1773(a).

Text on examination of applicants recodified from 6.12, with (a)1 added.

Repealed by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Formerly "Examination of applicants".

SUBCHAPTER 7. ASBESTOS WORK NOTIFICATION REQUIREMENTS

8:60-7.1 Purpose and scope of subchapter

(a) The purpose of this subchapter is to establish the requirements for notifying the Departments of Labor and Workforce Development and Health and Senior Services as to when and where asbestos work will be undertaken.

(b) This subchapter shall be applicable to all employers who are required to possess an asbestos license pursuant to N.J.A.C. 12:120-4 and 8:60-4 and who enter into a contract to perform asbestos work in New Jersey.

Amended by R.1995 d. 193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" to (a).

8:60-7.2 Notification requirements

(a) Every employer under the scope of this subchapter who plans to perform asbestos work in New Jersey shall submit a written notification of intent to perform asbestos work at least 10 calendar days prior to beginning such work on forms specified by the Department of Health and Senior Services except where such work is exempted at N.J.A.C. 12:120-1.4(b) (8:60-1.4(b)).

1. The date of submission of the notice is determined to be the date as postmarked by the United States Postal Service on the transmittal envelope.

2. If the postmark is not legible, or if metered mail is used, the date of submission of the notice is determined to be the date of receipt by either the Commissioner of Labor and Workforce Development or Health and Senior Services.

3. If an earlier mailing date is established by proof of mailing with a recognized United States Postal Service receipt, the date of submission of the notice is determined to be the established date.

4. The pick-up date of a recognized overnight delivery or courier service shall be deemed equivalent to a United States Postal Service postmark.

5. Facsimile transmissions of written notifications of intent to perform asbestos work are only accepted as submissions where emergency circumstances are warranted pursuant to this subchapter.

(b) The written notification required by (a) above shall include:

1. The name, address, and telephone number of the licensee;

2. The license number and type of license held by the licensee;

3. The name and address of the owner of the facility;

4. The location and description of the facility;

5. A description of the asbestos work to be performed;

6. The starting and scheduled completion dates of the asbestos work;

7. The name and address of the waste disposal site where the asbestos-containing material will be disposed;

8. The name, address and New Jersey Waste Hauler identification number of the registered waste hauler; and

9. Any other relevant information which the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services, as the case may be, determines to be necessary.

(c) Amended written notifications shall be submitted in accordance with and pursuant to N.J.A.C. 12:120-7.2(a) and

(b) and 8:60-7.2(a) and (b). Amended notifications to the Commissioner of Labor and Workforce Development and the Commissioner of Health and Senior Services are required when:

1. The starting date is delayed beyond the scheduled completion date as submitted on the initial notification;
2. The scheduled completion date will extend beyond the scheduled completion date as submitted on the initial notification;
3. The scope or description of the asbestos work to be performed for the facility changes; or
4. Any other items as required pursuant to N.J.A.C. 12:120-7.2(b) and 8:60-7.2(b) that may change.

(d) The Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services, as the case may be, may allow less than 10 calendar days prior notification where emergency circumstances warrant less than a 10 calendar day prior notification.

1. To enable the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services to determine whether a waiver of the 10 calendar day prior notification may be granted, the notifying party shall:

i. Submit a written explanation from the facility owner or from the third party environmental engineer representing the facility owner to both the Commissioner of Labor and Workforce Development and the Commissioner of Health and Senior Services which details:

- (1) The unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action; and
- (2) The impact upon the facility owner should a waiver of the 10 calendar day prior notification not be granted.

ii. By facsimile transmission or express delivery, submit a written notice for the emergency circumstance pursuant to N.J.A.C. 12:120-7.2(b) and 8:60-7.2(b).

2. A request for a waiver of the 10 calendar days prior notification may be reviewed for approval by the Commissioner of Labor and Workforce Development or Health and Senior Services when received by facsimile transmission or express delivery. Only after the Commissioner of Labor and Workforce Development or Health and Senior Services has determined and has authorized that the emergency circumstance warrants a waiver, may the asbestos work proceed as notified.

(e) Written notifications required pursuant to this subchapter shall be submitted to:

New Jersey Department of Labor and Workforce Development
Asbestos Control and Licensing Section
1 John Fitch Plaza, 3rd Floor
PO Box 392
Trenton, NJ 08625-0392

and

New Jersey Department of Health and Senior Services
Consumer and Environmental Health Services
PO Box 369
Trenton, NJ 08625-0369

Amended by R.1995 d.193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" following "Commissioner of Labor" throughout; in (e), rewrote addresses.

8:60-7.3 (Reserved)

Repealed by R.1995 d. 193, effective April 3, 1995.

See: 27 N.J.R. 71(a), 27 N.J.R. 1465(a).

Formerly "Penalties".

SUBCHAPTER 8. APPEALS AND COMPLAINTS

8:60-8.1 Scope of subchapter

This subchapter shall apply to the procedures for appealing any action or inaction by the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services, under the Act, including, the revocation, suspension or refusal to renew a license or permit, or denial of an application for a license or permit; the denial, revocation or suspension of a training agency certification or instructor approval; and the assessment of a civil administrative penalty. It shall also apply to the procedures for filing a citizen complaint alleging a violation of the Act.

Administrative change.

See: 32 N.J.R. 803(a).

Amended by R.2005 d.415, effective November 21, 2005.

See: 37 N.J.R. 1933(a), 37 N.J.R. 4439(a).

Added "and Workforce Development" following "Commissioner of Labor."

8:60-8.2 Appeals

(a) Any individual who is aggrieved by any action or inaction of the Commissioner of Labor and Workforce Development or the Commissioner of Health and Senior Services or his or her designee, under this chapter, shall have the right to an informal conference under (c) below or a formal hearing under (d) below or both upon receipt by the Commissioner of Labor and Workforce Development or Health and Senior Services, as the case may be, of a written