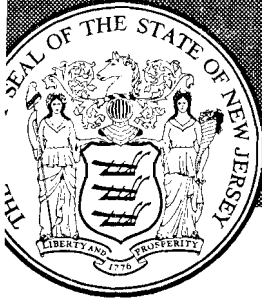


# NEW JERSEY REGISTER



THE STATE'S OFFICIAL MONTHLY RULES PUBLICATION

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## INDEX OF RULES IN THIS ISSUE

	<u>Cite</u>		
<b>OFFICE OF ADMINISTRATIVE LAW</b>		<b>ENVIRONMENTAL PROTECTION</b>	
Rules on administrative hearings .....	362(a)	Prop. amend potentially dangerous animals .....	390(a)
<b>AGRICULTURE</b>		Prop. non-game wildlife .....	390(b)
Prop. amend brucellosis tests .....	377(a)	Notice of NPDES permits .....	390(c)
Prop. restrictions on milk coupons .....	377(b)	Amend shellfish condemnation .....	391(a)
Amend brucellosis tests .....	377(c)	Amend Register of Historic Places .....	391(b)
Amend commercial nutrient values .....	378(a)	Amend Delaware Basin floodplain .....	391(c)
Amend agricultural liming .....	378(b)	Amend solid waste collector/hauler fees .....	391(d)
<b>BANKING</b>		Amend Delaware Basin floodplain .....	391(e)
Prop. multiple-party deposits .....	378(c)	Game code .....	392(a)
Prop. cemetery rules .....	380(a)	Amend hazardous discharges .....	392(b)
Amend approved subsidiaries .....	383(a)	<b>HEALTH</b>	
<b>CIVIL SERVICE</b>		Prop. amend nursing home administrator .....	392(c)
Amend disability and sick leave .....	383(b)	Prop. amend hospital bill summaries .....	392(d)
Amend review of scoring key .....	383(c)	Prop. long-term care certificate of need .....	393(a)
<b>COMMUNITY AFFAIRS</b>		Prop. amend intermediate care administrator .....	393(b)
Prop. amend multiple dwelling maintenance .....	383(d)	Prop. amend long-term care administrator .....	393(c)
Prop. amend multiple dwelling smoke detectors .....	384(a)	Prop. hospice licensure standards .....	394(a)
Prop. HFA debarment .....	385(a)	Prop. amend boarding homes .....	394(b)
Amend ombudsman subpoenas .....	387(a)	Amend interchangeable drug list .....	394(c)
Amend HFA rents .....	388(a)	Amend interchangeable drug list .....	405(a)
Ratify cooperative purchasing .....	388(b)	Amend plan review fee .....	405(b)
<b>EDUCATION</b>		Amend long-term care effective date .....	406(a)
Prop. amend family life education .....	388(c)	Amend long-term care .....	406(b)
Prop. amend statewide assessment .....	389(a)	Amend interchangeable drugs .....	406(c)
		Amend hospital rate rules .....	406(d)
		Amend SHARE guidelines .....	406(e)
		Amend hospital cost reporting .....	407(a)
		Emerg. amend residential alcohol abuse facilities .....	407(b)
		Emerg. amend ambulatory alcohol abuse facilities .....	407(c)

(Continued on Back Cover)

# NOTICES OF RULE-MAKING ACTIVITIES OF STATE AGENCIES

(a)

## OFFICE OF ADMINISTRATIVE LAW

### Rules Concerning Administrative Hearings

On June 19, 1980, Howard M. Kestin, Director of the Office of Administrative Law, pursuant to authority of N.J.S.A. 52:14F-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, repealing 15:15-10, adopted new rules concerning administrative hearings substantially as proposed in the Notice published May 8, 1980 at 12 N.J.R. 234(a), but with subsequent, substantive changes not detrimental to the public in the opinion of the Office of Administrative Law.

Full text of the adoption follows (additions between the proposal and adoption are indicated in boldface thus; deletions between the proposal and adoption are indicated in brackets [thus]).

#### TITLE 1

#### UNIFORM ADMINISTRATIVE PROCEDURE RULES OF PRACTICE

#### CHAPTER 1

#### RULES OF GENERAL APPLICATION

#### SUBCHAPTER 1. APPLICABILITY, SCOPE, CITATION OF RULES, CONSTRUCTION AND RELAXATION

##### 1:1-1.1 Applicability; scope; rules of special applicability

(a) This chapter shall govern the conduct of all contested cases in the Executive Branch of the State Government,<sup>1</sup> whether conducted by the Office of Administrative Law or by the agencies themselves pursuant to statute.<sup>2</sup> In the event of conflict between this chapter and any other agency rule, this chapter shall prevail. Procedural rules formerly adopted by the agencies shall continue to apply to the extent they are not inconsistent with this chapter, with statutory requirements or with constitutional standards. Under N.J.S.A. 52:14F-5(e) no agency other than the Office of Administrative Law may hereafter adopt any rules to regulate the conduct of contested cases and the rendering of administrative adjudications.

(b) The following Uniform Administrative Procedure

rules are not intended to apply to contested cases heard in agencies exempt under N.J.S.A. 52:14F-8:

1. N.J.A.C. 1:1-[5.2]5.1-5.5;
2. N.J.A.C. 1:1-[5.5] 8.1, 8.2 and 8.5(a), (b) and (c);
3. N.J.A.C. 1:1-9.7

(c) This chapter is subject to rules of special applicability to particular agencies to be hereafter adopted by the Office of Administrative Law in consultation with particular agencies.

<sup>1</sup>See L. 1978, c. 67, §5 (N.J.S.A. 52:14F-5).

<sup>2</sup>L. 1978, c. 67 §10 (N.J.S.A. 52:14F-8) or L. 1968, c. 410, §2(a) (N.J.S.A. 52:14B-2(a)).

##### 1:1-1.2 Citation of rules

This chapter shall be referred to as the "New Jersey Uniform Administrative Procedure Rules, 1980" and may be cited as, e.g. N.J.A.C. 1:1-1.2.

##### 1:1-1.3 Construction and relaxation; parties appearing without attorneys (pro se); parties represented by non lawyers

(a) This chapter shall be construed to secure just determinations, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay. Unless otherwise stated, any procedural rule may be relaxed or dispensed with by a judge if adherence to it would result in unfairness or injustice. In the absence of rule, a judge may proceed in any manner compatible with these purposes.

(b) This chapter shall not be applied to impose excessive burdens upon either pro se parties or non-lawyer representatives of parties; formal requirements, particularly, shall be relaxed for their benefit. Time requirements shall not be relaxed unless the interests of justice manifestly require. Ultimate standards of proof and the burdens of production and persuasion shall not be relaxed.

##### 1:1-1.4 Definitions and applications

As used in this chapter, the term

"Agency head" means the person or body authorized by law to render final decisions in contested cases.

"Clerk" means the Clerk of the Office of Administrative Law or any such scheduling or docketing officer designated by the head of an agency, pursuant to N.J.S.A. 52:14F-8 or N.J.S.A. 52:14B-2(a), to oversee the administration of contested cases.

"Judge" means an administrative law judge of the State of New Jersey or, pursuant to N.J.S.A. 52:14F-8 or

## NEW JERSEY REGISTER

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N.J.S.A. 52:14B-2(a), any other person presiding over a hearing in a contested case or, depending on the context, authorized by law to do so.

"Party" means any person or entity directly involved in a contested case, including a petitioner, respondent, intervenor, or State agency proceeding in any such capacity.

"Contested case" means a proceeding, including any licensing proceeding, in which the legal rights, duties, obligations, privileges, benefits or other legal relations of specific parties are required by constitutional right or by statute to be determined by an agency by decisions, determinations, or orders, addressed to them or disposing of their interests, after opportunity for an agency hearing. N.J.S.A. 52:14B-2.<sup>1</sup>

<sup>1</sup>L.1978, c.67, amending the Administrative Procedure Act and establishing the Office of Administrative Law to conduct hearings in contested cases provides, in § 9 (N.J.S.A. 52:14F-7), that it is the prerogative of the agency heads "to determine whether a case is contested. . . ." It is the statutory obligation of the Director of the Office of Administrative Law, inter alia, to "develop uniform standards . . . (regulating) the conduct of contested cases and the rendering of administrative adjudications" (N.J.S.A. 52:14F-5e) and to "advise agencies concerning their obligations under the Administrative Procedure Act. . . ." (N.J.S.A. 52:14F-5h).

#### 1:1-1.5 The nature of a contested case

(a) Pursuant to the statutory definition, a matter is a contested case where, by virtue of statute or constitutional requirement, a hearing is required before a State agency to determine rights, duties, [obligations,] obligations, privileges, benefits or other legal relations of specific parties. The required hearing must be pre-eminently adjudicatory and judicial in nature and not informational or intended to provide a forum for the expression of public sentiment on proposed agency action. A matter which is susceptible to administrative resolution avoiding factual or legal dispute is not a contested case. Therefore, in order for a matter to be a contested case which must be heard by an administrative law judge:

1. A hearing must be required by statute or constitutional provision; and
2. The matter must not be susceptible of informal resolution on the administrative level (See N.J.A.C. 1:1-5.4); and
3. The required hearing must be designed to result in an adjudication concerning the rights, duties, obligations, privileges, benefits or other legal relations of specific parties over which there exist disputed questions of fact, law, or disposition.

(b) Where specific parties and the general public are involved in one proceeding, both the constitutional/statutory basis and the adjudicatory character requirements of contested cases are satisfied only by the specific parties who will be affected by the outcome substantially, specifically, and directly.

#### 1:1-1.6 The characteristics of contested cases

(a) Within the scope of the controlling requirements in N.J.A.C. 1:1-1.5, the following are some of the qualities of contested cases:

1. Contested cases involve genuinely disputed questions of fact, law, or result, requiring findings, interpretations, or applications to be made.
2. Parties in contested cases may include:
  - i. Particular individuals; or
  - ii. Specific businesses or other entities, including governmental agencies; or

iii. Finite groups of individuals, businesses, or other entities with related interests.

3. Contested cases resolve questions relating to the rights, entitlements, and obligations of specific parties even in large, but defined, groups. They do not deal with broad policy issues affecting entire industries or large and undefined classes of people. In some instances an agency's matters may be contested cases (judicial) in part and uncontested cases (legislative or regulatory) in part. It is necessary in each such matter to determine whether the issues can be fruitfully separated or whether the needs of fairness, efficiency, and thoroughness require the issues to be handled in a single, integrated proceeding.

4. Contested cases deal with factual, legal, or dispositional issues relating to past, current, or proposed activities or interests of particular parties.

5. Contested cases are adversary proceedings involving particular parties. An agency itself may be an adversary party.

6. Contested cases involve subject matter susceptible to the receipt of evidence or particularized legal argument, i.e., concerning the rights or interests of particular parties as opposed to the community at large or loosely defined segments thereof.

7. In a contested case, the final action in the matter will tend to be particular and immediate in effect, though possibly long range. It will relate to specific parties. The final action will not be general and in futuro affecting broad, undefined groups of people or entities.

8. A case is contested if the factual issues to be determined are such that fairness requires a particular party:

- i. To know fully the factual bases upon which the agency decision will rest;
- ii. To meet those facts with evidence of its own which characterizes them or rebuts them; or
- iii. To cross-examine to test the validity and solidity of those factual bases.

9. A case is contested if the legal issues in the matter are such that the personal or property rights of a particular party will be adversely affected in a special way by an interpretation or application of law or agency rule or regulation.

#### 1:1-1.7 The characteristics of matters which are not contested cases

(a) Matters are not contested cases when they may be categorized as follows:

1. Adjudicatory hearings not required by constitutional rule but required by statute for the purpose of affording, e.g., "interested parties the opportunity to present their positions," where the case will not result in a direct disposition of the rights, duties, obligations, privileges, benefits or other legal relations of the "interested parties."

2. Objector or general public hearings, where there is no statutory or constitutional right to an adjudicatory hearing and the hearing which is held will not result in a direct or specific disposition of the rights, duties, etc., of the "objector" or "public parties" as individuals.

3. Matters which will affect the rights of a specific party, but where there is neither a statutory nor a constitutional right to an adjudicatory hearing.

4. Hearings, whether required by statute or not, which are legislative in nature; i.e., designed to make known a proposed rule, regulation, or general policy and to receive views from the general public; and where the proceeding will not result in a disposition of specific rights of specific parties for whose benefit the hearing is held.

5. Hearings, whether required by statute or not, involving inquiry which is general in respect of a policy decision and is designed to determine whether a contemplated

standard should or should not apply to the public generally or to everyone in a field of activity which the agency is authorized to regulate, rather than to individual parties.

1:1-1.8 Agency responsibility before transmission to the Office of Administrative Law

Agencies should not transmit [un]contested cases to the Office of Administrative Law before the cases are perfected and issue is joined. Matters will continue to commence and terminate in the agencies themselves. Agencies should attempt to resolve or adjust matters administratively by explaining fully to the parties affected the proposed agency action and the factual information and legal authority upon which it is based. Where it would be fruitful, agencies should also continue to apply or develop procedures for resolving particular types of contested matters informally on the administrative level. (See N.J.A.C. 1:1-5.4.)

1:1-1.9 The Attorney General's function

When a question arises whether a particular matter is a contested case, legal advice should be obtained from the Attorney General's Office.

SUBCHAPTER 2. COMMENCEMENT OF CONTESTED CASES; JURISDICTION OF THE OFFICE OF ADMINISTRATIVE LAW

1:1-2.1 Commencement of contested cases in the State agencies; form

A contested case shall be commenced in the State agency with appropriate subject matter jurisdiction. A contested case may be commenced by the agency itself or by an individual or entity as provided in the rules and regulations of the agency adopted in conformance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq., and subject to the requirements of subchapter 6 of this chapter.

1:1-2.2 Jurisdiction of the Office of Administrative Law

(a) The Office of Administrative Law shall acquire jurisdiction over a matter only after it has been determined to be a contested case by an agency head and has been filed in the Office of Administrative Law or as otherwise authorized by law, except as provided by subchapter 14 of this chapter.

(b) The Office of Administrative Law shall not receive, hear or consider any pleadings, motion papers, or documents of any kind relating to any matter until it has acquired jurisdiction over that matter, except as provided by subchapter 14 of this chapter.

(c) Matters referred to the Office of Administrative Law that are more appropriately handled by administrative resolution without a contested case hearing shall be returned to the agency by the clerk or judge unless the Director, Office of Administrative Law has approved a request for administrative assistance under N.J.S.A. 52:14F-50, or N.J.A.C. 1:1-5.4(d). That a statute or constitutional principle may provide for a hearing shall not be dispositive of whether efforts at administrative resolution may be more appropriate than a contested case hearing in the particular circumstances.

SUBCHAPTER 3. CONDUCT OF CONTESTED CASES GENERALLY

1:1-3.1 Public hearings; records as public; exceptions

(a) All evidentiary hearings, proceedings on motions and other applications shall be conducted as public hearings unless otherwise provided by statute, rule or regulation, or on order of a judge for good cause shown. Pre-

hearing conferences and settlement conferences may be conducted in public or in closed session at the judge's discretion. The record of all hearings shall be open to public inspection, but the judge may, for good cause shown, order the sealing of the record or any part thereof.

(b) In considering whether to make an exception to the public hearing and public record standards of subsection (a) of this section, the judge shall consider the requirements of due process of law, other constitutional and statutory standards and matters of public policy. The judge shall also consider the need to protect against unwarranted disclosure of sensitive financial information or trade secrets, to protect parties or witnesses from undue embarrassment or deprivations of privacy, or to promote or protect other equally important rights or interests. The treatment of testimony or exhibits shall be on such terms as are appropriate to balance public and private rights or interests and to preserve the record for purposes of review.

1:1-3.2 Expedition; settlement conferences; special time requirements; inactive list

(a) Hearings and other proceedings in contested cases shall proceed with all reasonable expedition and, to the greatest extent possible, shall be held at one place and shall continue, except for brief intervals of the sort normally involved in judicial proceedings, without suspension until concluded.

(b) The judge may schedule conferences prior to the hearing to reach agreement upon as many matters as possible.

(c) The clerk or judge may establish a specially accelerated or accelerated schedule of proceedings or time limits to meet statutory requirements or the special needs of the parties or the particular case.

(d) The parties shall promptly advise the clerk and the judge of the happening of any event which might delay the conduct of the case.

(e) If the judge determines by affidavit or other competent proof that a party to a pending case is unable to prosecute or defend without substantial inconvenience, the case may be placed on an inactive list established for this purpose for a period not to exceed six months. The clerk shall return this case to an active status after six months have expired unless by affidavit or other competent proof a party indicates that the party's inability to proceed continues. The clerk shall notify all parties and the agency of any action taken under this section.

1:1-3.3 Verbatim record of proceedings; sound and stenographic recordings; requesting transcript; cost

(a) All proceedings in the presence of a judge, except settlement discussions, and informal discussions either immediately preceding hearing or during the hearing to facilitate orderly and expeditious conduct of the case, shall be recorded verbatim either by a stenographic reporter or by sound recording devices, or both. Any discussions off the record, no matter how brief, except settlement discussions shall be summarized for the record.

(b) Any party, or any person with a legitimate need, may obtain a transcript of any proceeding which has been sound recorded by filing a request with the clerk and by notifying all parties. Unless the requesting party is a state agency, the request shall be accompanied by a \$100 security deposit for each day or fraction thereof of the proceeding. The clerk shall promptly arrange for the preparation of the transcript with a copy for the case file. Upon completion of the transcript, the clerk shall bill the requesting party for the preparation of the transcript and the copy. Upon receipt of payment, the clerk shall forward

the original transcript to the requesting party and shall return the deposit.

(c) Any party may obtain an unofficial copy of a sound recorded proceeding by making a request to the clerk accompanied by a blank standard cassette of appropriate length.

(d) Any party, or any person with a legitimate need, may request the appropriate stenographic firm to prepare a transcript of any stenographically recorded proceeding and shall provide notice of the request to the clerk and to all other parties. Unless the requesting party is a State agency, the stenographic firm may require a deposit. The reporter shall promptly prepare the transcript in accordance with standards established by the Office of Administrative Law and shall file a copy with the clerk at the time the original is delivered to the requesting party. The requesting party shall be charged for the copy filed with the clerk at a rate not to exceed State contract rates.

(e) Any party or person entitled by Federal statute or regulation to copy and inspect the verbatim transcript may arrange with the clerk to review any transcript filed under N.J.A.C. 1:1-3.3(b) or (d) and shall also be permitted to hear and receive a copy of any sound recorded proceeding pursuant to N.J.A.C. 1:1-3.3(c).

[(f) State agencies requesting official transcripts shall make provision for payment or shall pay the cost of production at rates established under the prevailing State contract rates.]

(f) State agencies requesting official transcripts shall make provision for payment or shall pay the cost of production at rates established under the prevailing State contract rates; provided that where a State agency is authorized by law to represent the public interest in the proceedings, and another party to the proceedings is entitled by law to recover the costs thereof from others, such other party shall obtain, pay for and furnish to such State agency upon request the official transcript.

#### 1:1-3.4 Exhibits

(a) The verbatim record of the proceedings shall include references to all exhibits and, as to each, the offering party, a brief description of the exhibit stated by the offering party or the judge, and the marking directed by the judge. The verbatim record shall also include a record of the exhibits retained by the judge at the end of the proceedings and of the disposition then made of the other exhibits.

(b) Parties should, whenever practicable, submit exhibits with a copy of each. Copies shall subsequently be conformed as to marking by the judge and shall be deposited in the clerk's file of the case. Original exhibits shall be retained in the judge's file until certified to the agency head pursuant to N.J.A.C. 1:1-16.3[(d)](e) or returned to the parties.

(c) The standard marking mode for exhibits shall be:

1. P = petitioner;
2. R = respondent;
3. A = agency;
4. J = joint;
5. C = judge;
6. Such other additional markings required for clarity as the judge may direct.

#### 1:1-3.5 Sanctions: Failure to appear; failure to comply with orders or requirements of this chapter;

obstructing the orderly conduct of proceedings

(a) If, without just excuse or because of failure to give reasonable attention to the matter, no appearance is made by or on behalf of a party on the return of a motion, at a pre-hearing conference, at a settlement conference, or on the date of hearing, or an untimely application is made for an adjournment, a judge may order any one or more of the following:

1. The payment by the delinquent attorney or party of costs, in such amount as the judge shall fix, to the State of New Jersey or an aggrieved party;

2. The payment by the delinquent attorney or party of reasonable expenses, including attorney's fees to an aggrieved party;

3. The dismissal of the petition, any claim or motion, the filing of decision by default, or the granting of the motion; or

4. Such other action as the judge deems appropriate.

(b) For unreasonable failure to comply with any order of a judge or with any requirements of this chapter including but not limited to the rules requiring filing of proposed orders, affidavits, prehearing memoranda or briefs, the judge may:

1. Dismiss or grant the motion or application;

2. Suppress a defense or claim;

3. Exclude evidence;

4. Continue the proceeding and consider sanctions under subsection (a) of this section; or

5. Take other appropriate action.

(c) Any party who engages in behavior that obstructs the orderly conduct of proceedings, shall be served by the clerk with a motion for sanctions. This motion shall be argued orally before a judge other than the one presiding over the case in which the alleged obstructive behavior occurred. On the return date, if it is determined that obstructive behavior occurred, the judge shall decide whether the matter should be referred to:

1. The courts for enforcement;

2. The New Jersey Supreme Court for disciplinary action;

3. An appropriate Ethics Committee.

#### 1:1-3.6 Reading initial papers and briefs in advance

In advance of any pre-hearing conference, settlement conference, hearing on a motion, evidentiary hearing, or other proceeding, the judge shall have read and be fully familiar with all initial papers, pleadings, motions, notices and briefs filed in the case.

#### 1:1-3.7 Appearances and representation

(a) All attorneys, pro se parties, or others permitted by law, by governing Federal regulations, or by Rule 1:21 et seq. of the New Jersey Court Rules shall be permitted to appear in a contested case and shall be subject to this chapter.

(b) Any attorney or counselor from any other jurisdiction, of good-standing there, may, at the discretion of the judge, be admitted for the one occasion to participate in a proceeding in the same manner as an attorney of this State; provided, however, that all pleadings, briefs and other papers shall be signed by an attorney of record authorized to practice in this State who shall be held responsible for them and who shall be present at all times during the proceedings unless excused by the judge.

#### 1:1-[3.3]3.8 Conduct of lawyers, judges and agency personnel

(a) Neither a judge nor an agency head in any contested case in the Executive Branch of State Government, except

as specifically authorized by law or this chapter, may initiate or consider[,] ex parte[,] any evidence or communications concerning a pending or impending proceeding. Where ex parte communications are unavoidable, the judge or agency head shall advise all parties of the communications as soon as possible thereafter.

(b) Unless otherwise provided in this chapter or clearly inapplicable in context, the rules and standards contained in the New Jersey Court Rules governing the conduct of lawyers, judges and court personnel shall govern the conduct of lawyers, judges and agency personnel appearing in or processing contested cases in the Executive Branch of State Government.

#### 1:1-3.9 Judge's powers

A judge shall have full power, jurisdiction, and authority to call and examine witnesses and to issue all orders necessary for the proper and expeditious handling of contested cases assigned for disposition.

#### 1:1-3.10 Interpreters; payment

Any party at his or her own cost may obtain an interpreter when needed to present evidence.

### SUBCHAPTER 4. TIME: COMPUTATION AND ENLARGEMENT

#### 1:1-4.1 Computation of time

In computing any period of time fixed by rule or judicial order, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday. In computing a period of time of less than seven days, Saturday, Sunday and legal holidays shall be excluded.

#### 1:1-4.2 Enlargement of time by order

A period of time fixed by rule or order for the doing of an act may be enlarged before or after its expiration by a judge's order for good cause shown.

### SUBCHAPTER 5. FILING AND TRANSMISSION OF CONTESTED CASES IN THE OFFICE OF ADMINISTRATIVE LAW: FORMAT OF PAPERS

#### 1:1-5.1 Determination of contest; filing; failure to join issue

(a) After an agency proceeding has been commenced and issue has been joined, the agency head shall forthwith determine whether the matter is contested. If, after issue has been joined, any party petitions the agency to decide whether the matter is contested, the agency shall make such a determination within 10 days from receipt of the petition.

(b) When the agency determines that the case is contested, it shall either file it forthwith with the Clerk of the Office of Administrative Law in the manner provided by N.J.A.C. 1:1-5.2 or retain it under the provisions of N.J.S.A. 52[42]:14F-8 or N.J.A.C. 1:1-5.4 and notify all parties of the decision to retain.

(c) Agencies may transmit contested cases to the Office of Administrative Law prior to issue being joined only with the consent of the Director of the Office of Administrative Law. In those cases, if a party unreasonably delays joining issue, the administrative law judge may enter summary decision against the delaying party either sua sponte or upon motion of the aggrieved party. This summary decision shall be treated as an initial decision under N.J.A.C. 1:1-16.3.

#### 1:1-5.2 Transmission of contested cases to the Office of Administrative Law; service on parties; receipt by the Office of Administrative Law

(a) In every proceeding to be filed in the Office of Administrative Law, the agency shall affix to the initial papers a completed transmittal form, furnished by the Clerk of the Office of Administrative Law, containing the following information:

1. The name of the agency transmitting the case;
  2. The name, address and telephone number of the agency's transmitting officer;
  3. The name or title of the proceeding;
  4. The agency docket or reference number;
  5. A brief statement or description of the nature of the case;
  6. A statement that the case is transmitted either before or after attempting administrative resolution;
  7. An estimate of the total time required for the hearing;
  8. Whether there are special legal requirements (State or Federal) mandating deviations from any Uniform Administrative Procedure Rule, such as the date for final decision;
  9. Whether there are any special legal requirements or requests governing notice or the location of hearing;
  10. Whether there are any special legal requirements or requests concerning stenographic recording of proceedings;
  11. An estimate of the time needed by the agency and the parties to prepare for hearing;
  12. Anticipated special features or requirements including the need for emergent [or interim] relief, the need for a pre-hearing conference, discovery needs, and motions;
  13. The names and addresses of all parties and their attorneys to the fullest extent known, including the agency representative if the agency is a party.
  14. The names of any other agencies claiming jurisdiction over either the entire or any portion of the factual dispute presented in the transmitted contested case.
- (b) The completed transmittal form and all initial papers as defined in N.J.A.C. 1:1-5.3 shall be filed with the Office of Administrative Law.
- (c) The clerk shall mark each transmitted contested case as having been received and filed; a docket number shall be assigned forthwith.
- (d) The clerk shall notify the transmitting office and all parties of the case's filing date and the docket number assigned by the Office of Administrative Law.

#### 1:1-5.3 Definition of initial papers

Initial papers include all documents similar to pleadings, notices and motions exchanged between the parties prior to transmission of the case to the Office of Administrative Law. They shall not include papers such as investigative reports and [other] evidentiary matters that have not been served upon the parties and that therefore [ , review of which] would be improper for an impartial and independent trier of fact to review prior to hearing.

#### 1:1-5.4 Administrative resolution: Office of Administrative Law participation: time limit

(a) After a [proceeding] contested case has been commenced in an agency, the agency shall make a prompt settlement attempt by applying administrative procedures including informal or summary proceedings, meetings, and conferences unless such attempts would be inappropriate or unproductive.

(b) In no event shall administrative resolution efforts continue beyond 30 days from the date the [proceeding]

contested case commenced and issue was joined in the agency, unless this time limit is extended by agreement of all the parties.

(c) After completing administrative resolution efforts in a contested case or after expiration of the time provided in subsection (b) of this section, whichever occurs first, the matter shall be filed forthwith with the clerk of the Office of Administrative Law.

(d) The agency head may request that the Director of the Office of Administrative Law assign a judge or other personnel to conduct or assist in any administrative resolution proceedings.

#### 1:1-5.5 Format of papers; copies

(a) Every paper filed after the transmittal form and the initial papers shall contain:

1. The Office of Administrative Law docket number of the proceeding in the upper right hand portion;

2. The name, address and telephone number of the person who prepared the paper in the upper left hand portion; and

3. A caption setting forth the title of the proceeding and a brief designation describing the paper filed.

(b) All papers shall be on 8½" x 11" stock of customary weight and quality insofar as is practicable.

(c) All papers filed with the Office of Administrative Law shall be in duplicate.

(d) Unless otherwise required by this chapter, the requirements of R. 1:4-1 through R. 1:4-9 of the New Jersey Court Rules (Form and Execution of Papers) shall apply. Format rules may be relaxed as is reasonable and necessary for the benefit of parties appearing pro se or with non-lawyer representatives.

### SUBCHAPTER 6. FIRST PLEADING

#### 1:1-6.1 Form of first pleading; contents

(a) The first pleading in a contested case may be in the form of a petition, complaint, an order to show cause, a notice of action or proposed action, or in any other form permitted by the agency's rules and regulations. The first pleading shall be one of the initial papers provided in N.J.A.C. 1:1-5.3.

(b) The first pleading shall be addressed to a specific party or parties, shall satisfy the service requirements of N.J.A.C. 1:1-7.1, and shall contain:

1. A statement of the legal authority and jurisdiction under which the hearing or action to be taken is to be held;

2. A reference to the particular sections of the statutes and rules involved;

3. A short and plain statement of the matters of fact and law asserted; and

4. Any other information required by concepts of fairness and justice before a party can be bound.

#### 1:1-6.2 First pleading requirement

Every contested case must have a paper that conforms with the first pleading requirements of N.J.A.C. 1:1-6.1, however, the paper need not have been the first document prepared or served in the case or the document that generates the proceedings.

#### 1:1-6.3 Amendment of first pleading

The first pleading may be amended at any time, either before or after the presentation of proofs when, in the judge's discretion, an amendment neither imposes an unreasonable burden nor is precluded by statute or constitutional principle. A judge in granting first pleading amendments may permit a brief continuance to allow an opposing party additional preparation time.

### SUBCHAPTER 7. SERVICE AND FILING OF PAPERS

#### 1:1-7.1 Service; when required; manner; proof

(a) Service of the first pleading in a contested case shall be made in person; or by certified mail, return receipt requested; or by ordinary mail; or in any manner which is designed to provide actual notice to the party or parties to be substantially, specifically and directly affected thereby, and to any other person or persons provided in the rules and regulations of the agency.

(b) All subsequent papers filed shall be served in the manner provided by subsection (a) of this section upon all attorneys of record in a proceeding and upon all parties appearing pro se.

(c) Where necessary to prove service, proof may be made by an acknowledgement of service signed by the attorney or party, or by an affidavit of the person making service, or by a certificate of service appended to the paper to be filed and signed by the attorney for the party making service. Where appropriate, other competent proof that actual and timely notice existed of the contents of the paper may be considered as a substitute for service.

(d) Service by mail of any paper referred to in subsection (b) of this section, shall be complete upon mailing.

(e) The standards of personal service contained in R. 4:4-4 of the New Jersey Court Rules shall apply to contested cases when personal service is required and this section is inapplicable.

#### 1:1-7.2 Filing; proof of publication and service; what constitutes filing

(a) All papers required to be served by N.J.A.C. 1:1-7.1 [(b)] shall be filed either before service or promptly thereafter unless otherwise provided by order. Whenever these rules or the applicable rules of any agency provide for publication, mailing or posting of public notices in contested cases, proofs thereof shall be filed within 20 days after the publication, mailing or posting.

(b) A paper shall be considered filed if the original or a clear copy is filed with the clerk or with the judge assigned to the case. Evidence of filing shall be a notation showing the date, time and place of filing. When a paper is filed with a judge, the notation shall also identify the judge; and such papers shall be forwarded to the clerk forthwith.

(c) Except for service by publication or as otherwise required in this chapter, proof of service shall not be necessary unless a question of notice arises.

(d) Subject to the requirements of N.J.A.C. 1:1-2.2, the clerk shall file all papers presented for filing, and may notify the person filing if such papers do not conform to this chapter.

### SUBCHAPTER 8. SCHEDULING AND CONDUCT OF PROCEEDINGS GENERALLY; FIRST NOTICE OF HEARING OR PREHEARING CONFERENCE; SUBPOENAS

#### 1:1-8.1 Scheduling of proceedings: clerk's function; judge's function

(a) When a contested case is filed, the clerk shall mark the papers accordingly and shall expeditiously determine whether the matter should be set down for a pre-hearing conference, an evidentiary hearing or another type of proceeding. The clerk may consult with a judge in making this determination. The case shall then be assigned to a judge who shall review the file and determine how the matter can best be conducted on the scheduled date or dates, communicating further with the parties if necessary. Except in cases of genuine, emergent need, the scheduled date or dates shall not be adjourned. If addi-

tional days are needed to conclude the proceeding, the judge shall establish an expedited schedule and peremptory dates.

(b) Applications for adjournments, whether consented to or not, shall be made to the clerk until such time as the parties shall have personally appeared before a judge. Thereafter, applications for adjournments shall be made to the judge.

#### 1:1-8.2 Notice of proceeding; abandonment

(a) After filing, the clerk shall prepare a notice of hearing, pre-hearing conference, or other proceeding and shall serve the same in a manner authorized by N.J.A.C. 1:1-7.1(a) to all parties. The notice shall fairly apprise the parties of the date, time, place, and nature of the proceeding.

(b) All parties shall be afforded timely and adequate notice of any hearing or other proceeding, consistent with the requirements of statutes, regulations and due process of law. In emergent circumstances, where the public interest is endangered or the need is great, five days notice or a shorter period established by statute, order, or agreement of the parties shall be deemed to be timely and adequate.

(c) All parties shall receive subsequent notices of all proceedings in any contested case. Subsequent notices shall fairly apprise the parties of the date, time, place and nature of a proceeding and may be either written or effected by a statement made on the record.

(d) In all contested cases initiated by a person's request for a hearing, if neither the person requesting the hearing nor a representative appears at the time and place established for the hearing, a reasonable effort shall be made to determine whether the hearing request has been abandoned. Unless precluded by statute or regulation, the judge in the event of an abandonment shall prepare an order of dismissal explaining the failure to appear, which order shall be processed as an initial decision in the manner authorized by N.J.A.C. 1:1-16.3.

#### 1:1-8.3 Subpoenas: service; motion to quash

(a) Subpoenas may be issued either by the clerk or any judge. A subpoena shall state the title of the case, the party who has requested the subpoena and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein.

(a) A subpoena shall be served by the requesting party at a reasonable time in advance of hearing either in person or by certified mail return receipt requested.

(c) The judge on motion made promptly may quash or modify any subpoena for good cause shown.

#### 1:1-8.4 Subpoenas for production of documentary evidence; motions to quash

A subpoena may require production of books, papers, documents or other objects designated therein, but a subpoena shall not be used as a discovery device in place of discovery procedures otherwise available under this chapter, nor as a means of avoiding discovery deadlines established by this chapter or by the judge in a particular case. The judge on motion made promptly may quash or modify the subpoena if compliance would be unreasonable or oppressive and may condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the objects subpoenaed. The judge may direct that the objects designated in the subpoena be produced before the judge at a time prior to the hearing or prior to the time when they are to be offered in evidence and may upon their production permit them or portions of them to be inspected by the parties and their attorneys.

#### 1:1-8.5 Subpoena fees; forms; enforcement

(a) The fees for witnesses required to attend shall be at the same rates as are prescribed by law for attendance under subpoena in the Superior Court of the State and shall be paid by the requesting party.

(b) Subpoena forms shall be available free of charge at the Office of Administrative Law.

(c) Any subpoena may be enforced by an action in the Superior Court in aid of the jurisdiction of the Office of Administrative Law and the agency which generated the contested case.

(d) A party who refuses to obey a subpoena after having been ordered to do so by a judge may be subject to sanction under N.J.A.C. 1:1-3.5 or may suffer an inference that the documentary or physical evidence or testimony that the party fails to produce is unfavorable.

### SUBCHAPTER 9. MOTIONS

#### 1:1-9.1 When and how made; generally; interim relief

(a) An application for an order shall be by motion or, in special cases, by order to show cause. A motion other than one made by a party during a hearing, shall be in writing unless a judge permits it to be made orally. No technical forms of motion are required. A motion shall state the grounds upon which the motion is made and the relief or order sought.

(b) All motions shall be accompanied by a proposed form of order unless waived by the judge.

(c) All motions shall be filed with the clerk except motions made during a hearing, other motions permitted by a judge to be made orally, and emergency motions. If an extra copy of the motion and a self addressed stamped envelope, is provided, the clerk shall mark the copy filed and return it to the movant. Motions made during a hearing and other motions permitted by a judge to be made orally shall be subject to the verbatim record requirements of N.J.A.C. 1:1-3.3. Emergency motions made in writing may be filed with the clerk or with the judge assigned to the case. When a motion is filed with the clerk it shall be transmitted forthwith to the judge assigned to the case. When a motion is filed in a case which has not yet been assigned to a judge, the case shall be immediately assigned and the motion transmitted to the judge along with the case file.

(d) Motions filed in advance of a scheduled hearing date shall be scheduled for decisions before that hearing date unless otherwise directed by the judge.

(e) During the pendency of a contested case, interim relief, including temporary restraints and interlocutory injunctions, may be applied for by motion.

(f) A motion for substantially the same relief as that previously denied shall specifically identify the previous proceeding and its disposition.

#### 1:1-9.2 Motions in writing; generally, no oral argument; time limits

(a) With the exception of motions made pursuant to N.J.A.C. 1:1-9.6(b) and (d), when a motion is in writing no action shall be taken thereon until at least 20 days have expired from the date of service upon the opposing party unless an expedited schedule is ordered for the purpose of complying with N.J.A.C. 1:1-9.1(d) or for other good cause shown.

(b) The moving papers shall establish a submission date at least 20 days from the date of service upon the opposing party, when the matter will be submitted to a judge for disposition. Proof of service shall be filed with the moving papers or promptly thereafter.

(c) The opposing parties shall file and serve responsive papers no later than 10 days after receiving the moving papers.

(d) The moving party may file and serve further papers responding to any matter raised by the opposing party and shall do so no later than five days after receiving the responsive papers.

(e) All motions in writing shall be submitted for disposition on the papers unless an oral argument is directed by the judge. When oral argument is directed by the judge, a motion shall be considered submitted for disposition at the close of argument.

(f) All motions shall be decided within ten days after they are submitted for disposition.

(g)[(f)] The time requirements of this rule may be modified in the discretion of the judge for good cause.

#### 1:1-9.3 Procedure when oral argument is directed

(a) When oral argument is directed on a motion the clerk or the judge shall serve upon the parties a notice complying with the requirements of N.J.A.C. 1:1-8.2(c).

(b) The judge may hear the matter wholly or partly on oral testimony or on depositions, and may direct any affiant to submit to cross examination.

(c) Provided that all parties consent to the method and appropriate terms as shall be established by the judge, including provision for sound recording, the matter may be orally argued by conference telephone call.

#### 1:1-9.4 Affidavits; briefs and supporting statements

(a) Motions and answering papers shall be accompanied by all necessary supporting affidavits and briefs or supporting statements. All motions and answering papers shall be supported by affidavits for facts relied upon which are not of record or which are not the subject of official notice. Such affidavits shall set forth only facts which are admissible in evidence under subchapter 15 of this chapter and to which the affiants are competent to testify. Properly verified copies of all papers or parts of papers referred to in such affidavits may be annexed thereto.

(b) In the discretion of the judge, a party or parties may be required to submit briefs or supporting statements pursuant to the schedule established in N.J.A.C. 1:1-9.2 or as ordered by the judge.

#### 1:1-9.5 Disposition of motions; drafting the order

(a) When a motion has been made in writing, the judge shall render a decision on the motion by signing or modifying and signing the proposed order filed with the motion [and shall have the order served forthwith upon the parties.] or by instructing the prevailing party to prepare and submit an order in accordance with N.J.A.C. 1:1-9.5(b). When a motion has been made orally, the judge may render a decision either orally on the record or by a written order [served forthwith upon the parties].

(b) The prevailing party on oral motion shall draft an appropriate order, unless waived by the judge. This order shall be submitted to the judge on five days notice to all parties who may, within that time period, submit to the judge on notice to the parties alternative forms of order.

(c) The judge after signing any proposed order shall cause the order to be served forthwith upon the parties.

#### 1:1-9.6 Motions for emergency relief

(a) Opposing parties shall be given ample opportunity in the circumstances to respond to a motion for emergency relief.

(b) A party may apply for emergency relief under circumstances which do not permit an opposing party to be fully heard. A grant of relief pursuant to such a motion shall be based upon:

1. A showing of specific facts by affidavit or oral testimony that the moving party has made an adequate, good faith effort to provide notice to the opposing party, or that

notice would defeat the purpose of the application for relief; and

2. A finding that immediate and irreparable harm will probably result before adequate notice can be given; and

3. A likelihood that the moving party will prevail when the motion is fully argued by all parties.

(c) Any relief granted pursuant to subsection (b) of this section shall be limited in scope and temporary for as brief a duration as is possible to allow the opposing party to be given notice and to be fully heard on the motion.

(d) When a contested case is the result of ex parte agency action, or when a judge has granted emergency relief pursuant to subsection (b) of this section, adversely affected parties shall have an opportunity to move before the judge for dissolution or modification of the ex parte action or grant of emergency relief on two days notice to the adverse party or parties.

#### 1:1-9.7 [Interim or emergency o]Orders on motion; review by agency head; when permitted; when not permitted

(a) On any substantive issue decided by motion, an [interim or emergency] order that changes the status quo at the time of hearing before the Office of Administrative Law shall by its terms, not be effective for ten days from the entry of the order. On the day such an order is entered, the [clerk] judge shall forward a copy to the agency head who shall indicate in writing to the clerk, judge and all parties within the specified ten day period whether the order will be reviewed. If the order will be reviewed by the agency head, its effective date shall be stayed pending such review subject to the provisions of subsections (c) and (d) of this section. If the agency head elects to review the order it shall be effective on the eleventh day after its entry.

(b) On any substantive issue decided by motion, an [interim or emergency] order that preserves the status quo at the time of hearing before The Office of Administrative Law shall, by its terms, be effective immediately. On the day such an order is entered, the [clerk] judge shall forward a copy to all parties and the agency head who shall indicate in writing to the clerk, judge and all parties within ten days from the entry of the order whether the order will be reviewed. Within 10 days from the entry of the order and upon notice to all other parties, the judge and the clerk, any party may file a motion with the agency head seeking relief from the order unless such a motion is prohibited by the agency's rules or regulations.

(c) When an agency head indicates that an order decided by motion dealing with a substantive issue will be reviewed, the entire record in the case to the date of order, including [a] such written memorandum as may be deemed necessary by the judge setting forth the basis of the order[,] shall be certified to the agency head. Within thirty days after receiving the record and memorandum, the agency head shall affirm, reject or modify the judge's [interim or emergency] order. This time limit may be extended by the Director of the Office of Administrative Law and the agency head for good cause shown as defined in N.J.A.C. 1:1-16.6(b), (c), and (d).

(d) Review by the agency head of any [interim or emergency] order shall not cause a delay in scheduling hearing dates or result in a postponement of any scheduled hearing dates unless the judge assigned to the case determines that a postponement is necessary because of special requirements of the case, possible prejudice, or for other good cause.

(e) An agency head may not review any administrative law judge's order dealing primarily with procedural matters, appeals therefrom being governed by the provisions of New Jersey Court Rule 2:4-1(b) and (c).

## SUBCHAPTER 10. PRE-HEARING PROCEDURES AND CONFERENCES

### 1:1-10.1 Pre-hearing procedures and conferences

(a) In appropriate cases, the clerk shall advise the parties or their attorneys that a pre-hearing conference will cover those matters listed in subsection (c) of this section. In advance of the conference, upon no less than three days notice, the parties may be advised by the judge that other special matters will be discussed at the pre-hearing conference.

(b) In the judge's discretion in an appropriate case, and upon no less than 10 days' notice, the parties may be required to file with the judge and serve upon all other parties no later than three days before the scheduled pre-hearing conference, pre-hearing memoranda stating their respective positions on any or all of the matters specified in subsection (c) of this section or on other special matters specifically designated.

(c) Within 10 days after the conclusion of the pre-hearing conference, the judge shall enter a written order in the following sequence and with corresponding numbers, concisely setting out the matters determined at the conference.

1. The nature of the proceeding and the issues to be resolved including special evidence problems;
2. The parties and their status, e.g., petitioner, respondent, intervenor, etc.;
3. Any special legal requirements as to notice of hearing;
4. The schedule of hearing dates and the time and place of hearing;
5. Stipulations as to facts and issues;
6. Any partial settlement agreements and their terms and conditions;
7. Special provisions for discovery;
8. Order of proofs and witnesses;
9. A list of exhibits marked for identification;
10. A list of exhibits marked in evidence by consent;
11. Any limitation on the number of expert witnesses;
12. Any [M]otions contemplated, pending and granted;
- [13. Requests for emergency or interim relief;]
- [14.]13. Any direction with respect to the filing of briefs;
- [15.]14. Any statutory requirements mandating the date of agency head decision;
- [16.]15. Other special matters determined at the conference;

[17.]16. In the event that a particular member or associate of a firm is to try a case, or if outside trial counsel is to try the case, the name must be specifically set forth. No change in such designated trial counsel shall be made without leave of the judge if such change will interfere with the date for hearing. If the name of trial counsel is not specifically set forth, the judge and opposing parties shall have the right to expect any partner or associate to proceed with the trial on the day of hearing.

(d) The parties shall be deemed to have consented to any of the terms or procedures established in the order if they do not file and serve objection to the form of the order within five days after receiving it.

## SUBCHAPTER 11. DISCOVERY

### 1:1-11.1 Policy considerations governing discovery

(a) Discovery methods are means designed to assist parties in preparing to meet their responsibilities and protect their rights during hearings without unduly delaying, burdening or complicating the hearings process and with due regard to the rights and responsibilities of other parties and persons affected. Accordingly, parties are obliged

to exhaust all less formal opportunities to obtain discoverable material before utilizing this subchapter.

(b) Public documents accessible under legislative authorization shall not be discoverable under this subchapter, except for good cause shown. A party need only exhaust administrative remedies to obtain public documents before seeking discovery under this subchapter for good cause.

(c) Discovery shall generally not be available against a State agency that is [not] neither a party to the proceeding[, i.e., not] nor asserting a position in respect of the outcome but is [rather] solely providing the forum for the dispute's resolution.

(d) It is not ground for denial of a request for discovery that the information to be produced may be inadmissible in evidence at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(e) When discovery by notice is permitted, the notice seeking discovery need not be filed with the clerk, but shall be served upon all parties.

### 1:1-11.2 Methods available on notice; relief from discovery; enforcement of discovery notices; privilege

(a) Subject to the limitations of N.J.A.C. 1:1-11.1(a), (b) and (c), any party in a contested case by notice may obtain discovery by one or more of the following methods:

1. Written interrogatories;
2. Production of documents or things;
3. Permission to enter upon land or other property for inspection and other purposes;
4. Physical and mental examinations; and
5. Requests for admissions.

(b) Any party or person affected by a notice for discovery pursuant to N.J.A.C. 1:1-11.2(a) may apply on motion for relief from such request, or for an order enforcing such request. In considering a discovery motion the judge shall weigh the specific need for the information; its relevance and materiality; the extent to which the information is within the control of the party; undue hardship; and matters of expense, privilege and oppressiveness.

(c) All discovery motions under this section when decided by an administrative law judge on a basis other than privilege are procedural and therefore not subject to review by an agency head.

(d) All discovery motions involving questions of privilege are substantive and shall be treated as required by N.J.A.C. 1:1-9.5 and 9.7(a) and (b).

### 1:1-11.3 Depositions limited; time limits; generally no agency review

(a) Depositions upon oral examination or written questions are available only on motion for good cause shown served upon all parties in the manner prescribed by N.J.A.C. 1:1-7.1(a). In deciding any such motion, the judge shall consider the policy governing discovery (N.J.A.C. 1:1-11.1) and shall weigh the specific need for the deposition; the extent to which the information sought cannot be obtained in other ways; the requested location and time for the deposition; undue hardship; and matters of expense, privilege or oppressiveness.

(b) An order granting depositions shall specify a reasonable time period during which the deposition shall be concluded.

[[b]](c) Any deposition motion when decided by an administrative law judge is procedural and therefore not subject to review by an agency head[.] unless decided on a basis of privilege.

#### 1:1-11.4 Costs of discovery

(a) The proponent of any notice or motion for discovery shall pay for all reasonable expenses and costs caused by the discovery request.

(b) A party taking a deposition shall pay for the proceeding and shall at his or her expense promptly furnish a copy of the transcript to the witnesses deposed, if an adverse party, and if not, to any adverse party. The copy so furnished shall be made available to all other parties for their inspection and copying.

(c) Where a proponent of any notice or motion for discovery or a party taking a deposition is a State Agency authorized by law to represent the public interest in a contested case, and the party or person from whom such discovery or deposition is sought is entitled by law to recover in connection with such contested case the costs thereof from others, such State Agency shall not be required to pay the cost of such discovery or deposition.

#### 1:1-11.5 Time for discovery

(a) The parties may commence at any time to exchange voluntarily, to seek discovery through legislation that provides access to public documents or to exhaust other less formal means of obtaining discoverable material.

(b) Subject to subsection (d) of this section, parties seeking discovery in a contested case shall serve all motions for depositions and notices for discovery not later than 15 days after receiving notification of the contested case's filing. Discovery motions shall comply with the time limits specified in N.J.A.C. 1:1-9.2. Within 30 days of receipt of any notice for discovery, the receiving party shall either move for relief from such notice or shall provide the requested information, access or material.

[(b) T] (c) Subject to subsection (d) of this section the parties must complete all discovery no later than ten days before the first date of hearing established by the clerk or a judge pursuant to N.J.A.C. 1:1-8.1 or 8.2.

[(c)] (d) In the judge's discretion, upon the motion of any party, for good cause, the time for discovery may be shortened or enlarged, and hearing dates adjusted accordingly. Discovery may be permitted during the pendency of a hearing if, in the discretion of the judge, such a method would aid and expedite the hearing process.

#### 1:1-11.6 Sanctions for discovery abuses

(a) If a motion compelling discovery is granted and the circumstances warrant sanctions, the judge shall, after providing an opportunity to be heard, consider sanctions under N.J.A.C. 1:1-3.5 against the person whose conduct necessitated the motion.

1. If the motion is denied and circumstances warrant sanctions, the judge shall, after providing an opportunity to be heard, consider sanctions under N.J.A.C. 1:1-3.5 against the movant.

2. If the motion is granted in part and denied in part the judge may apportion sanctions as the circumstances may warrant.

(b) Refusal, without just cause, to obey an order compelling discovery shall be considered obstructive behavior under N.J.A.C. 1:1-3.5(c).

#### 1:1-11.7 Other standards governing discovery

Unless in conflict with this subchapter and subject to the discretion of the judge, the standards governing discovery and motions pertaining thereto shall be those embodied in R. 4:10 through R. 4:19, R. 4:22 and R. 4:23 of the New Jersey Court Rules.

## SUBCHAPTER 12. INTERVENTION AND PARTICIPATION

#### 1:1-12.1 Who may apply to intervene; status of intervenor

(a) Any person or entity not initially a party, who has a statutory right to intervene or who will be substantially, specifically and directly affected by the outcome of a contested case, may on motion, seek leave to intervene.

(b) Persons or entities permitted to intervene shall have all the rights and obligations of a party to the proceeding.

#### 1:1-12.2 Time of motion

(a) A motion for leave to intervene may be filed at any time after a contested case is initiated.

(b) If made before a contested case has been filed with the Office of Administrative Law, a motion for leave to intervene shall be filed with the head of the agency having jurisdiction over the case. The agency head may rule upon the motion to intervene or may reserve decision for action by a judge after the case has been filed with the Office of Administrative Law.

(c) If made after a contested case has been filed with the Office of Administrative Law, a motion for leave to intervene shall be filed with the Clerk of the Office of Administrative Law.

#### 1:1-12.3 Standards for intervention

(a) In ruling upon a motion to intervene, the judge shall take into consideration the nature and extent of the movant's interest in the outcome of the contested case, whether or not the movant's interest is sufficiently different from that of any party so as to add measurably and constructively to the scope of the contested case, the prospect of confusion or undue delay arising from the movant's inclusion, and other appropriate matters.

(b) Notwithstanding N.J.A.C. 1:1-12.3(a) persons statutorily permitted to intervene shall be granted intervention.

#### 1:1-12.4 [No] Agency review[; status of intervenor]

(a) Intervention motions [decided] granted by an administrative law judge are procedural and therefore not subject to review by an agency head.

(b) [Persons or entities permitted to intervene shall have all the rights and obligations of a party to the proceeding.] Intervention motions denied by an administrative law judge shall be reviewable by an agency head pursuant to N.J.A.C. 1:1-9.5 and 9.7(b).

#### 1:1-12.5 Alternative treatment of motions to intervene

Every motion for leave to intervene shall be treated, in the alternative, as a motion for permission to participate.

#### 1:1-12.6 Participation; standards for participation; no agency review

(a) Any person or entity with a significant interest in the outcome of a contested case may move for permission to participate.

(b) A motion to participate may be made at such time and in such manner as is appropriate for a motion for leave to intervene pursuant to N.J.A.C. 1:1-12.2. In deciding whether to permit participation, the judge shall consider whether the participant's interest is likely to add constructively to the case without causing undue delay or confusion.

(c) The judge shall determine the nature and extent of participation in the individual case. Participation shall be limited to:

1. The right to argue orally; or
2. The right to file a statement or brief; or

3. Both of the foregoing.

(d) Participation motions decided by an administrative law judge are procedural and therefore not subject to review by an agency head.

#### SUBCHAPTER 13. SUMMARY DECISION

##### 1:1-13.1 Time of motion

At any time after a case is determined to be contested, a party may move for summary decision upon all or any of the substantive issues therein.

##### 1:1-13.2 Motion and proceedings thereon; reviewable by agency

(a) The motion for summary decision shall be served with briefs and with or without supporting affidavits. The decision sought shall be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law. The judge shall find the facts and state the conclusions in accordance with N.J.A.C. 1:1-16.3. A summary decision may be rendered on any substantive issue in the contested case although there is a genuine factual dispute as to other issues.

(b) Any summary decision on a substantive issue rendered by an administrative law judge, [whether or not] if fully dispositive of the case [all issues] shall be treated as an initial decision under N.J.A.C. 1:1-16.3. **Partial summary decisions and [D]enials of motions for summary decision shall be treated as required by N.J.A.C. 1:1-9.5 and N.J.A.C. 1:1-9.7(b).**

(c) When an agency retains a case pursuant to N.J.S.A. 52:14F-8, summary decision motions may be submitted directly to the agency head.

##### 1:1-13.3 Contested case not fully adjudicated on motion

(a) If on motion under this section, a decision is not rendered upon all the substantive issues in the contested case and a hearing is necessary, the judge at the time of ruling on the motion, by examining the papers on file in the case as well as the motion papers, and by interrogating counsel, if necessary, shall, if practicable, ascertain what material facts exist without substantial controversy and shall thereupon enter an order specifying those facts and directing such further proceedings in the contested case as are appropriate. At the hearing in the contested case, the facts so specified shall be deemed established.

(b) Review by the agency head of any partial summary decision shall not cause delay in scheduling hearing dates or result in a postponement of any scheduled hearing dates unless the judge assigned to the case orders that a postponement is necessary because of special requirements, possible prejudice, unproductive effort or other good cause.

##### 1:1-13.4 Opposing affidavits

(a) When a motion for summary decision is made and supported as provided by N.J.A.C. 1:1-13.2, an adverse party in order to prevail must set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding. If the adverse party does not so respond, a summary decision, if appropriate, shall be entered. If it appears from the affidavits that a party is then unable to establish the existence of a genuine issue of material fact, the judge may deny the motion, may order a continuance to permit additional affidavits or discovery to be obtained, or may enter such other order as may be appropriate.

(b) If the adverse party submitting an affidavit pursuant to this rule is proceeding in bad faith or solely for the purpose of delay, the judge shall consider sanctions as permitted in N.J.A.C. 1:1-3.5.

#### SUBCHAPTER 14. CONSOLIDATION OF TWO OR MORE CONTESTED CASES; MULTIPLE AGENCY JURISDICTION CLAIMS; DETERMINATIONS OF PREDOMINANT INTEREST

##### 1:1-14.1. Motion to consolidate

(a) At any time after a contested case has been filed with the Office of Administrative Law, an agency head, any party or the judge may move to consolidate other contested cases involving common questions of fact or law between identical parties or between any party to the contested case and a state agency.

(b) This section shall apply to contested cases:

1. Already filed with the Office of Administrative Law;
2. Commenced in an agency but not yet filed with the Office of Administrative Law; and
3. Commenced in an agency and not required to be filed with the Office of Administrative Law under N.J.S.A. 52:14F-8.

##### 1:1-14.2 Form of motion; submission date; who may appear

(a) A motion to consolidate shall require the parties and the non-party agency or agencies to show [cause] why the matters should not be consolidated. The provisions of N.J.A.C. 1:1-9.1—9.6[,] shall govern such motions.

(b) If oral argument is scheduled, all parties and non-party agencies may appear or be represented on the return date of the motion to consolidate and shall be given a full opportunity to be heard.

##### 1:1-14.3 Standards for consolidation; order to consolidate as procedural

(a) In ruling upon a motion to consolidate, the judge shall consider:

1. The identity of parties in each of the matters;
2. The nature of all the questions of fact and law respectively involved;
3. To the extent that common questions of fact or law are involved, the saving in time, expense, duplication and inconsistency which will be realized from hearing the matters together and whether such issues can be thoroughly, competently, and fully tried and adjudicated together with and as a constituent part of all other issues in the two cases;
4. To the extent that dissimilar questions of fact or law are present, the danger of confusion, delay or undue prejudice to any party;
5. The advisability generally of disposing of all aspects of the controversy in a single proceeding; and
6. Other appropriate matters.

(b) The grant or denial of consolidation by an administrative law judge is procedural and shall not be subject to review by the agency head.

##### 1:1-14.4 Multiple agency jurisdiction claims; determinations of predominant interest [Determining the predominant agency; a substantive order]

(a) When a [decision] motion to consolidate [is rendered, the administrative law judge shall also determine by separate order which issue or issues are common before the two or more agencies, whether one of the agencies has a predominant interest and therefore should render the final decision, or whether each agency may render its separate final decision. To determine] pertains to contested cases filed with two or more State agencies which are asserting jurisdiction, the judge shall determine which agency, if any has the predominant interest in the conduct and outcome of the matter. In determining this question, the following factors shall be weighed:

1. Whether the common issue before the two agencies is, for either agency, the sole, major or dominant issue in dispute and whether its determination would either serve to moot the remaining questions or to affect substantially their resolution;

2. Whether the allegations involve issues and interests which extend beyond the immediate parties and are of particular concern to one or the other agency;

3. Whether the claims, if ultimately vindicated, would require specialized or particularized remedial relief available in one agency but not the other;

4. Whether the common issue is clearly severable from the balance of the controversy and thus will permit non-duplicate factual and legal determinations by each agency.

#### 1:1-14.5 Disposition of predominant interest orders as substantive rulings

[(b)] (a) A predominant interest decision by an administrative law judge under N.J.A.C. 1:1-14.4(a) shall be forwarded to each concerned agency and shall be considered a substantive order subject to the provisions of N.J.A.C. 1:1-9.7(a), (c) and (d).

(b) When a predominant interest decision is made which concerns matters not theretofore transmitted to the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.2, the decision shall be filed with the clerk and the Director of the Office of Administrative Law shall advise the agency or agencies involved of their obligations under N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.

(c) When an agency exempt under N.J.S.A. 52:14F-8 is determined to have a predominant interest in a contested case, the exempt agency shall decide whether to have the matter heard by an administrative law judge or by its own personnel.

#### 1:1-14[5]6. Disposition of consolidation orders

(a) After an order of consolidation is entered, the order shall be filed with the clerk, and the Director of the Office of Administrative Law shall assign a judge to preside over the consolidated contested cases.

(b) When an order of consolidation is entered which concerns matters not theretofore transmitted to the Office of Administrative Law pursuant to N.J.A.C. 1:1-5.2, the order shall be filed with the clerk and the Director of the Office of Administrative Law shall advise the agency or agencies involved of their obligations under N.J.S.A. 52:14B-1 et seq., and N.J.S.A. 52:14F-1[,] et seq.

#### 1:1-14.[6]7 Conduct of consolidated cases; judge's responsibility

(a) Subject to [subsection (b)] N.J.A.C. 1:1-14.8, [of this section,] the judge in a consolidated case shall consider all the issues and arguments in the case and shall render a single initial decision, in the form prescribed by N.J.A.C. 1:1-16.3, disposing of all the issues in controversy and, where two or more agencies are involved, specifying the issues of concern to each agency involved. The initial decision shall thereafter be filed with the heads of all concerned agencies and served upon the parties as prescribed in N.J.A.C. 1:1-16.3. Each agency head shall then discharge the responsibilities established in N.J.S.A. 52:14B-10 in respect of that agency's subject matter jurisdiction.

[(b)] If one agency has been determined to have a predominant interest, the initial decision shall specify the issues subject to the predominant interest and the agency having the authority to issue a final decision on those issues.]

[(c)] (b) In [all] each consolidated case[s], the [administrative law] judge should make a special effort to [shall clearly] delineate the administrative law principles

upon which all legal conclusions are based and, wherever possible, should seek to harmonize conflicting theories.

#### 1:1-14.8 Conduct of case involving a predominant interest; judge's responsibility

(a) If one agency has been determined to have a predominant interest in the conduct or outcome of a matter, that agency shall render the final decision on all issues within the scope of its predominant interest. The initial decision shall specify the issues relating to the predominant interest and shall clearly identify the agency having the authority to issue a final decision on those issues.

(b) In the event a determination of predominant interest is likely to result in a matter being heard in two or more separate proceedings, the judge shall also develop modes of proceeding and an order of presentation which would result in a full and fair trial and adjudication avoiding, to the greatest extent possible, fragmented and repetitive actions.

### SUBCHAPTER 15. EVIDENCE

#### 1:1-15.1 Definitions

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

"Burden of proof" means the obligation of a party to prove a fact either by a preponderance of the evidence or by clear and convincing evidence, as the case may be. Burden of proof is synonymous with burden of persuasion.

"Burden of producing evidence" means the obligation of a party to introduce evidence when necessary to avoid the risk of a contrary decision or peremptory finding on a material issue of fact.

"Conduct" includes all active and passive behavior, both verbal and non-verbal.

"Evidence" is the means from which inferences may be drawn as a basis of proof in the conduct of contested cases, and includes testimony in the form of opinion and hearsay.

"Finding of fact" means the determination from proof or official notice of the existence of a fact.

"The hearing" unless some other is indicated by the context of the rule where the term is used, means the evidentiary proceeding at which the question under a rule is raised, and not some earlier or later proceeding.

"Proof" is all of the evidence before the judge relevant to a fact in issue which tends to prove the existence or non-existence of such fact.

"Perceive" means acquire knowledge through one's own senses.

"Relevant evidence" means evidence having any tendency in reason to prove any material fact.

"Verbal" includes both oral and written words.

"Material fact" means a fact legally consequential to a determination of an issue in the case.

#### 1:1-15.2 General rules

(a) Parties in contested cases shall not be bound by statutory or common law rules of evidence or any formally adopted in the Rules of Court except as specifically provided in these rules. All relevant evidence is admissible except as otherwise provided herein. A judge may, in his or her discretion, exclude any evidence if its probative value is substantially outweighed by the risk that its admission will either:

1. Necessitate undue consumption of time; or

2. Create substantial danger of undue prejudice or confusion.

(b) Any party in a contested case may present his case or defense by oral and documentary evidence, submit rebuttal evidence and conduct such cross-examination as

may be required, in the discretion of the judge, for a full and true disclosure of the facts.

(c) If the judge finds at the hearing that there is no bona fide dispute between the parties as to a material fact, and that fact has not been stipulated, such fact may be proved by any relevant evidence, and exclusionary rules shall not apply, except for N.J.A.C. 1:1-15.2(a) or a valid claim of privilege.

(d) These rules shall be applied to promote fundamental principles of fairness and justice and to aid in the ascertainment of truth.

(e) Except as otherwise provided [in] by this subchapter, [or] by law[:] or by administrative rule establishing a privilege:

1. Every person is qualified to be a witness; and
2. No person has a privilege to refuse to be a witness; and
3. No person is disqualified to testify to any matter; and
4. No person has a privilege to refuse to disclose any matter or to produce any object or writing; and
5. No person has a privilege that another shall not be a witness or shall not disclose any matter or shall not produce any object or writing.

(f) Only evidence under oath or affirmation or evidence subject to official notice (see N.J.A.C. 1:1-15.3) shall be admitted or considered by a judge.

(g) When the qualification of a person to be a witness, or the admissibility of evidence, or the existence of a privilege is stated in these rules to be subject to a condition, and the fulfillment of the condition is in issue, the judge shall hold a preliminary inquiry to determine the issue. The judge shall indicate to the parties which one has the burden of producing evidence and the burden of proof on such issue as implied by the rule under which the question arises. No evidence may be excluded in determining such issue [as implied by the rule under which the question arises. No evidence may be excluded in determining such issue] except pursuant to the judge's discretion under N.J.A.C. 1:1-15.2(a) or a valid claim of privilege. This provision shall not be construed to restrict or limit the right of a party to introduce evidence subsequently which is relevant to weight or credibility.

(h) The judge presiding at the hearing in a contested case may not testify as a witness.

(i) All rulings on the admissibility of evidence are procedural and therefore not reviewable by an agency head, except rulings based on privilege.

#### 1:1-15.3 Official notice

(a) Notice may be taken of judicially noticeable facts as provided in the following New Jersey Rules of Evidence: Rule 9 (Facts and Law Which Must or May be Judicially Noticed); Rule 10 (Determination as to Propriety of Judicial Notice and Tenor of Matter Noticed); Rule 11(b) and (c) (Recording and Indicating Source of Matter Judicially Noticed) and Rule 12(1) and (3) (Judicial Notice in Proceedings Subsequent to Trial).

(b) Notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the agency or the judge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The experience, technical competence, and specialized knowledge of the agency or the judge may be utilized in the evaluation of the evidence, provided this is disclosed of record.

#### 1:1-15.4 Presumptions

(a) A presumption is a rebuttable assumption of fact resulting from a rule of law which requires such fact to be assumed from another fact or group of facts found or otherwise established in the contested case.

(b) No evidence offered to rebut a presumption may be excluded except pursuant to the judge's discretion under N.J.A.C. 1:1-15.2(a) or a valid claim of privilege.

#### 1:1-15.5 Witnesses

(a) A person is disqualified to be a witness if the judge finds the proposed witness is incapable of expression concerning the matter so as to be understood by the judge directly or through interpretation by one who can understand the witness, or the proposed witness is manifestly incapable of understanding the duty of a witness to tell the truth. An interpreter is subject to all the provisions of these rules relating to witnesses.

(b) A witness before testifying shall be required to take an oath or make an affirmation or declaration to tell the truth under the penalty provided by law. No witness may be barred from testifying because of religion or lack of it.

(c) As a prerequisite for the testimony of a witness there must be evidence that the witness has personal knowledge of the matter, or experience, training or education, if such be required. Such evidence may be provided by the testimony of the witness. The judge may exclude the testimony of a witness that he or she perceived a matter if the judge finds no reasonable basis for believing that the witness did perceive the matter. In exceptional circumstances the judge may receive the testimony of the witness conditionally, subject to the evidence of knowledge, experience, training or education being later supplied in the course of the proceedings.

#### 1:1-15.6 Privileges

The rules of privilege recognized by law or contained in the following New Jersey Rules of Evidence shall apply in contested cases to the extent permitted by the context and similarity of circumstances: Rule 23 (Privilege of Accused); Rule 24 (Definition of Incrimination); Rule 25 (Self-incrimination); Rule 26 (Lawyer-Client Privilege); Rule 26A-1 (Psychologist's Privilege); Rule 26A-2 (Patient and Physician Privilege); Rule 26A-3 (Information and Data of Utilization Review Committees of Hospitals and Extended Care Facilities); Rule 27 (Newspaperman's Privilege); Rule 28 (Marital Privilege-Confidential Communications); Rule 29 (Priest-Penitent Privilege); Rule 30 (Religious Belief); Rule 31 (Political Vote); Rule 32 (Trade Secret); Rule 34 (Official Information); Rule 36 (Identity of Informer); Rule 37 (Waiver of Privilege by Contract or Previous Disclosure; Limitations); Rule 38 (Admissibility of Disclosure Wrongfully Compelled); Rule 39 (Reference to Exercise of Privilege); and Rule 40 (Effect of Error in Overruling Claim of Privilege).

#### 1:1-15.7 Expert and other opinion testimony

(a) If a witness is not testifying as an expert, testimony of that witness in the form of opinions or inferences is limited to such opinions or inferences as the judge finds:

1. May be rationally based on the perception of the witness; and
2. Are helpful to a clear understanding of the witness' testimony or to the fact in issue.

(b) If a witness is testifying as an expert, testimony of that witness in the form of opinions or inferences is limited to such opinions or inferences as the judge finds are:

1. Based primarily on facts, data or other expert opinion established by evidence in the contested case; and
2. Within the scope of the special knowledge, skill, experience or training possessed by the witness.

(c) Testimony in the form of opinions or inferences which is otherwise admissible is not objectionable because it embraces the ultimate issue or issues to be decided by the judge.

(d) A witness may be required, before testifying in terms of opinion or inference, to be first examined concerning the data upon which the opinion or inference is based.

(e) Questions calling for the opinion of an expert witness need not be hypothetical in form unless, in the discretion of the judge, such form is required.

#### 1:1-15.8 Hearsay evidence; residuum rule

(a) Subject to the judge's discretion to exclude evidence under N.J.A.C. 1:1-15.2(a) or a valid claim of privilege, hearsay evidence shall be admissible in the trial of contested cases. Hearsay evidence which is admitted shall be accorded whatever weight the judge deems appropriate taking into account the nature, character and scope of the evidence, the circumstances of its creation and production, and, generally, its reliability.

(b) Notwithstanding the admissibility of hearsay evidence, some legally competent evidence must exist to support each ultimate finding of fact to an extent sufficient to provide assurances of reliability and to avoid the fact or appearance of arbitrariness.

#### 1:1-15.9 Authentication and content of writings

The following New Jersey Rules of Evidence shall apply to the trial of contested cases, within the discretion of the judge, to the extent necessary to assure the authenticity and reliability of writings: Rule 67 (Authentication Required); Rule 68 (Authentication of Copies of Records); Rule 69 (Certificate of Lack of Record); Rule 70 (Original Writings as the Best Evidence); and Rule 71 (Proof of Attested Writings).

### SUBCHAPTER 16. CONCLUSIONS OF HEARING: PROPOSED FINDINGS; CONCLUSIONS AND ORDER; INITIAL DECISION; EXCEPTIONS; FINAL DECISION

#### 1:1-16.1 Conclusion of hearing

A hearing shall be deemed concluded when a consent order or withdrawal is filed or, when a judge declares it, on the verbatim record, to have been concluded; or if a schedule has been established for the subsequent filing of briefs, statements, proposed findings of fact, conclusions of law, forms of order or other disposition, or other supplemental material, when the time established for the filing of such items has expired or when the last such item has been received by the judge, whichever is earlier. **In all hearings concluded other than by consent order, withdrawal or declaration on the verbatim record, the judge shall notify all parties in writing of the date that the hearing is concluded.**

#### 1:1-16.2 Proposed findings; briefs, conclusions and order

(a) A judge may establish a schedule for the filing of briefs, proposed findings of fact, conclusions of law, forms of order or other disposition after evidentiary proceedings have concluded or at such earlier time as the judge may for good cause order.

(b) All proposed findings of fact, conclusions of law, forms of order or other disposition shall:

1. Be accompanied by a supporting statement or [belief] brief;
2. Be in writing and served upon all other parties; and
3. Contain adequate references, in the circumstances, to the record and to authorities relied on.

(c) In establishing a schedule, the judge shall be mindful of the need for reasonable expedition and shall **except for good cause shown** require the parties to conform to a schedule that may not exceed 30 days after testimony or oral argument has ended.

#### 1:1-16.3 Initial decision

(a) As soon as is practicable after the hearing is concluded, but in no event later than 45 days thereafter, the judge shall issue and the clerk shall file with the agency head and immediately serve upon the parties an initial decision based exclusively on:

1. The competent evidence and arguments presented during the course of the hearing and made a part of the record;

2. Stipulations of fact; and

3. Matters officially noticed.

(b) The initial decision shall be final in form and fully dispositive of all issues in the case.

(c) The initial decision shall contain:

1. An appropriate caption;

2. The appearances of the parties;

3. A short statement of the nature of the proceedings;

4. Complete references to the specific statutes or regulations at issue;

5. A list of exhibits admitted in evidence which may be part of the initial decision or attached as an appendix.

6. An analysis of the facts adduced at the hearing in relation to the applicable law and covering all issues of fact and law raised in the proceedings;

7. Specific findings of contested fact which shall be designated as such and which shall not be set forth in statutory or conclusionary language;

8. Specific conclusions of law based upon the findings of fact and applicable constitutional principles, statutes, and rules or regulations;

9. An appropriate order or other disposition of the entire contested case based upon the findings and conclusions;

10. A statement that the initial decision [and the record] in the proceedings is forwarded to the agency head for consideration;

11. The following statement: "This recommended decision may be affirmed, modified or rejected by (the head of the agency), who by law is empowered to make a final decision in this matter. However, if (the head of the agency) does not so act in forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10."

(d) [(c)] No substantive finding of fact or conclusion of law, nor any concluding order or other disposition shall be binding upon the agency head, but rather all shall be considered recommendatory in nature unless otherwise provided by statute, these rules, or agreement between the agency head and the Director of the Office of Administrative Law.

(e) [(d)] Within 10 days after the initial decision is filed with the agency head, the clerk shall certify the entire record with original exhibits to the agency head and shall serve upon the parties an inventory describing the items certified in the record.

1:1-16.4 Exceptions; replies; no motions to reconsider; motions to reopen

(a) Within 10 days from the receipt of the judge's initial decision, any party may file exceptions thereto in writing with the agency head and with the clerk [of the Office of Administrative Law], serving a copy thereof on all other parties.

(b) The exceptions shall specify the particular portions of the initial decision to which exception is taken; shall designate the portions of the record relied upon in support of such exceptions; and shall set out specific findings of facts, conclusions of law or dispositions proposed in lieu of those reached by the judge or in addition thereto. Exceptions to conclusions of law shall be specific, shall briefly cite the statutory provisions or principal authorities relied upon, shall set forth conclusions suggested in lieu thereof, and shall include any proposed additional conclusions. Exceptions to the judge's order or other disposition shall set forth a form of order suggested in lieu thereof. Supporting reasons for exceptions shall be submitted in the same document or in an accompanying brief. Where briefs or statements have been filed at any time during the hearings, the written exceptions may incorporate by reference relevant portions of such papers.

(c) Within 5 days from receipt of exceptions, any party may file a reply with the agency head and with the clerk [of the Office of Administrative Law], serving a copy thereof on all other parties. Such replies may include cross exceptions or submissions in support of the initial decision.

(d) Motions to reconsider an initial decision are not permitted.

(e) Motions to reopen a hearing after an initial decision has been filed, must be addressed to the agency head.

1:1-16.5 Final decision

(a) Within 45 days after the receipt of the initial decision, the agency head may enter an order or a final decision accepting, rejecting or modifying the initial decision. Such an order or final decision shall be served upon the parties and the clerk forthwith.

(b) An order or final decision rejecting or modifying the findings of fact in the initial decision shall be based upon substantial evidence in the record and matters officially noticed pursuant to N.J.A.C. 1:1-15.3. Any order or final decision rejecting or modifying the initial decision shall specify in clear and sufficient detail the nature of the rejection or modification, the reasons for it and, precisely, the changes in result or disposition caused by the rejection or modification.

(c) An agency head may enter an order remanding a contested case to the Office of Administrative Law for further action on issues or arguments not previously raised or incompletely considered. The order of remand shall specifically state the issues or arguments to be considered, their scope and their relationship to the issues and arguments already considered. Where the agency is a party to the case, however, the agency head may not remand to the Office of Administrative Law to develop proof that, in the exercise of reasonable diligence, could have been presented by the agency at the original hearing.

[(d) When an agency head enters an order or final decision accepting an initial decision, the initial decision shall immediately become the final decision in the contested case.]

(d) [(e)] If an agency head does not reject or modify the initial decision within 45 days and unless the period is extended as provided by statute, the initial decision shall become a final decision.

1:1-16.6 Extensions of time limits

(a) Upon certification by both the Director of the Office of Administrative Law and the agency head that good cause exists, the time limits for preparation of the initial decision, for filing exceptions and replies, and for issuing an order or final decision may be extended.

(b) Requests for extension of any period must be submitted prior to the expiration of the period.

(c) A copy of any Form of Order or request for extension of any period must be served upon each party in the case.

(d) Extensions shall not be granted if inattention or procrastination cause delay, but shall be granted if the delay is attributable to honest mistake, accident, or any cause compatible with proper diligence.

SUBCHAPTER 17. SETTLEMENTS

1:1-17.1 Form of settlements; withdrawal; motions to reopen after withdrawal

(a) When the parties to a contested case wish to settle the matter by consent, the judge assigned to the case shall prepare and enter an order, signed by both parties as to form and entry, which shall state the fact of settlement and the terms of settlement, if any. If the judge determines that the settlement is fair and fully dispositive of all issues in controversy, the order shall dismiss the matter with prejudice and may be conditioned on terms. Unless the agency is a party and has consented to the settlement, the order shall be filed with the agency head in the manner of an initial decision as provided in N.J.A.C. 1:1-16.3. When the agency as a party consents to the settlement, the consent order shall be a [Final Order of Dismissal with Prejudice] final order terminating the contested case and shall be filed by the clerk with the agency.

(b) A party may withdraw a request for a hearing at any time until testimony commences at the evidentiary hearing by notifying the clerk. A party may withdraw a request for a hearing after commencement of testimony at the evidentiary hearing, upon approval of the judge. Upon receipt of the withdrawal notification, the clerk shall return the matter to the agency marked "withdrawn."

(c) Motions to reopen after the clerk has returned a withdrawn matter, must be addressed to the agency head.

An order adopting these rules was filed on June 20, 1980 as R.1980 d.275 to become effective on July 1, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

(a)

## AGRICULTURE

### DIVISION OF ANIMAL HEALTH

#### Proposed Amendments Concerning Conformity of Brucellosis Tests with Federal Standards

The State Board of Agriculture, pursuant to authority of N.J.S.A. 4:5-93.22, proposes to amend N.J.A.C. 2:2-2.4 concerning conformity of brucellosis tests with federal standards.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

#### 2:2-2.4 Conformity of brucellosis tests with federal methods

The official brucellosis tests shall be conducted in conformity with the uniform methods and rules of the bovine brucellosis [eradicate] eradication program as published by the United States Department of Agriculture APHIS-91-1, as revised [July, 1977].<sup>1</sup>

<sup>1</sup>Copies are filed with and may be received by writing to, Director, Division of Animal Health, N.J. Department of Agriculture, Health-Agriculture Building, John Fitch Plaza, Trenton, New Jersey 08625.

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

Dr. Robert E. Horton  
Director  
Division of Animal Health  
P. O. Box 1888  
Trenton, New Jersey 08625

The State Board of Agriculture may thereafter adopt rules concerning this subject without further notice.

Phillip Alampi  
Secretary of Agriculture  
Secretary, State Board of Agriculture

(b)

## AGRICULTURE

### DIVISION OF DAIRY INDUSTRY

#### Proposed New Rules on Restrictions on Use Of Coupons in Milk Promotion

The Department of Agriculture, Division of Dairy Industry, pursuant to the authority of N.J.S.A. 4:12A-1 et seq. proposes to adopt new rules on the restrictions on the use of coupons in milk promotions.

Full text of the proposal follows.

#### SUBCHAPTER 5. RESTRICTIONS ON THE USE OF COUPONS IN MILK PROMOTION

#### 2:48-5.1 Coupons on milk containers restricted

(a) It shall be unlawful and a violation of these regulations for any licensee to sell or offer for sale milk and fluid milk products within the State of New Jersey in a container on which is printed or attached thereto a "cents off" or "refund" coupon except if all of the following conditions are met:

1. Where the coupon is used as an advertising medium for a national brand non-dairy product generally available to consumers throughout the marketing area and where the cost of redemption is borne entirely by the national brand manufacturer; and for the purpose of this regulation, chain store brands shall not be considered national brands inasmuch as redemption would be limited and not available throughout the entire market; and

2. Where the coupon offer is made available to all licensees of the Division of Dairy Industry authorized to process milk for sale in New Jersey on the same terms and conditions and an affidavit to this effect has been filed with the Division of Dairy Industry; and

3. Where the coupon and its redemption has no cost to any licensee of the Division of Dairy Industry either directly or indirectly through an entity associated in any way with the licensee, but the licensee may be paid for the space on the milk container.

#### 2:48-5.2 Newspaper coupons for milk prohibited

It shall be unlawful and a violation of these regulations for any licensee directly or indirectly through an entity associated in any way with the licensee to print or cause to be printed any "cents off" or "refund" coupon in any newspaper or other advertising medium which is redeemable either directly or indirectly through a third party by the consumer upon his purchase of any milk or fluid milk product.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Woodson W. Moffett, Jr.  
Director, Division of Dairy Industry  
N.J. Department of Agriculture  
P.O. Box 1999  
Trenton, N.J. 08625  
Telephone: (609) 292-5646

The Department of Agriculture may thereafter adopt rules concerning this subject without further notice.

Woodson W. Moffett, Jr.  
Director, Division of Dairy Industry  
Department of Agriculture

(c)

## AGRICULTURE

### DIVISION OF ANIMAL HEALTH

#### Amendments Concerning Conformity Of Brucellosis Tests with Federal Standards

On May 29, 1980, Phillip Alampi, Secretary of Agriculture, pursuant to authority of N.J.S.A. 4:5-93.22 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 2:2-2.4 concerning the conformity of brucellosis tests with federal standards as proposed in the Notice published May 8, 1980 at 12 N.J.R. 247(a).

The word "eradicate" in the proposal should read "eradication."

An order adopting these amendments was filed and became effective on June 2, 1980 as R.1980 d.237.

Howard H. Kestin  
Director  
Office of Administrative Law

(a)

## AGRICULTURE

### DIVISION OF REGULATORY SERVICES

#### Amendments Concerning Commercial Values of Primary Plant Nutrients

On May 29, 1980, Phillip Alampi, Secretary of Agriculture and Secretary of the State Board of Agriculture, pursuant to authority of N.J.S.A. 4:9-15.26 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 2:69-1.11 concerning commercial values of primary plant nutrients as proposed in the Notice published May 8, 1980 at 12 N.J.R. 247(b).

An order adopting these amendments was filed and became effective on June 2, 1980 as R.1980 d.238.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## AGRICULTURE

### DIVISION OF REGULATORY SERVICES

#### Amendments Concerning Agricultural Liming Materials

On May 29, 1980, Phillip Alampi, Secretary of Agriculture and Secretary of the State Board of Agriculture, pursuant to authority of N.J.S.A. 4:9-21.11 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 2:70-1.1 and 2:70-1.8 concerning agricultural liming materials as proposed in the Notice published May 8, 1980 at 12 N.J.R. 248(a).

An order adopting these amendments was filed and became effective on June 2, 1980 as R.1980 d.239.

Howard H. Kestin  
Director  
Office of Administrative Law

(c)

## BANKING

### DIVISION OF CONSUMER COMPLAINTS

#### LEGAL AND ECONOMIC RESEARCH

#### Proposed Rules Concerning Multiple-Party Deposit Accounts

Angelo R. Bianchi, Commissioner of Banking, pursuant to authority of N.J.S.A. 17:161-16, proposes to adopt new rules concerning multiple-party deposit accounts.

Full text of the proposal follows.

### SUBCHAPTER 12. MULTIPLE-PARTY DEPOSIT ACCOUNTS

#### 3:1-12.1 Definitions

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

“Act” means chapter 491, Public Laws of 1979, N.J.S.A. 17:161-1 et seq. which may also be cited as “Multiple-party Deposit Account Act;”

“Financial institution” means any organization authorized to do business under State or Federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan associations;

“Joint account” means an account payable on request to one or more of two or more parties whether or not mention is made of any right of survivorship, and regardless whether the names of the parties are stated in the conjunctive or in the disjunctive;

“Multiple-party account” means any of the following types of account: (1) a joint account, (2) a P.O.D. account, or (3) a trust account. It does not include accounts established for deposit of funds of a partnership, joint venture, or other association for business purposes, or accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, unincorporated association, charitable or civic organization or a regular fiduciary or trust account where the relationship is established other than by deposit agreement;

“Net contribution” means the contribution of a party to a joint account as of any given time which is the sum of all deposits thereto made by or for him, less all withdrawals made by or for him which have not been paid to or applied to the use of any other party, plus a pro-rata share of any interest or dividends included in the current balance. The term includes, in addition, any proceeds of deposit life insurance added to the account by reason of the death of the party whose net contribution is in question;

“Party” means a person who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account. A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him by reason of his surviving the original payee or trustee. Unless the context otherwise requires, it includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. It also includes a person identified as a trustee of an account for another whether or not a beneficiary is named, but it does not include any named beneficiary unless he has a present right of withdrawal;

“P.O.D. account” means an account payable on request to one person during lifetime and on his death to one or more P.O.D. payees, or to one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees;

“P.O.D. payee” means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons;

“Trust account” means an account in the name of one or more parties as trustees for one or more beneficiaries where the relationship is established by the form of the

account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A trust account does not include a regular trust account under a testamentary trust of a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relation such as attorney-client.

Note: Reference is made to the Act for other definitions not set out above, which may be necessary to construe this subchapter.

### 3:1-12.2 Types of contracts

(a) A financial institution may maintain different deposit contracts for "joint accounts," "P.O.D. accounts," and "trust accounts."

(b) Separate contract forms should be used for any multiple party deposit where the parties do not intend to create a right of survivorship.

(c) A single party contract with a power of attorney or formal trust is an acceptable form for parties who do not want present rights to the account for all parties, or who do not intend to create a right of survivorship, or who otherwise intend to create rights and obligations different from those created by the Act.

### 3:1-12.3 Type of accounts

Nothing in the Act or in this subchapter is to be construed as requiring a financial institution to enter into any deposit account contract. Financial institutions are not required to open a multiple party deposit account which does not provide for rights of survivorship as provided in section 5 of the Act.

### 3:1-12.4 Specific content of deposit contract

(a) The following information must be included in all multiple party account contracts:

1. A statement that this account is subject to the provisions of the Multiple Party Deposit Act, N.J.S.A. 17:16I-1 et seq. (P.L. 1979, c.491)

2. Provisions to identify the type of account, specify the present interests of all parties and the rights of survivorship. Should the parties intend to create different rights and obligations the specific intent of the parties must be set out in the deposit account contract.

i. "This joint account (is/is not) intended to create an account relationship whereby, during the lifetime of the parties to the account, each has a right to the entire balance of the account. Upon the death of a party to this account, it (is/is not) the intent of the parties to this account to create a survivorship relationship whereby each surviving party or parties to the account has a right to an equal share in the balance of the account."

ii. "This P.O.D. account (is/is not) intended to create a right of survivorship whereby the surviving P.O.D. payee or payees to the account has a right to an equal share in the balance of the account."

iii. If there is only one trustee:

(1) "This trustee account (is/is not) intended to create an account relationship whereby during the lifetime of the trustee the entire balance of such account belongs beneficially to the trustee during his lifetime. Upon the death of the trustee, it (is/is not) the intent of such trustee to create a survivorship relationship whereby each person named as a beneficiary in the account has a right to an equal share in the balance of the account."

or,

iv. If there is more than one trustee:

(1) "This trustee account (is/is not) intended to create an account relationship whereby, during the lifetime of the trustees to the account, each has a beneficial right to the entire balance of the account. Upon the death of one or more of the trustees to the account, it (is/is not) the intent of the parties to the account to create a survivorship relationship whereby each surviving party or parties to the account has a right to an equal share in the balance of the account. Upon the death of the survivor of two or more trustees it (is/is not) the intent of the parties to this account to create a right of survivorship whereby the named beneficiaries, if surviving, or to the survivor of them if one or more die before the trustees, has a right to the balance of the account or to an equal share if there remains more than one beneficiary."

3. A statement of no liability to the financial institutions for payments made pursuant to the Act.

4. The necessary form of notice required to effectively change the terms of the deposit account contract.

5. An acknowledgement of having read the contract and received a copy of the completed form, signed by all parties.

#### 3:1-12.5 Additional content of contracts

A financial institution may include any additional provisions in its form of contract which are necessary to fully inform its depositors of the terms of multiple party deposit accounts and applicable regulations, provided that such provisions are not inconsistent with the provisions of the Act or these regulations.

#### 3:1-12.6 Changes in contract provisions

No financial institution or party may change the form of contract unless written notice is received by the financial institution as required in the Act.

#### 3:1-12.7 Copy of contract

A financial institution must give a copy of the completed deposit account contract to each party to the contract.

#### 3:1-12.8 Limitation of regulation

Nothing in this subchapter shall be deemed to supercede specific provisions set out in the Act. Therefore, in the event of any question as to which authority is to be followed, the provisions in the Act will prevail.

#### 3:1-12.9 Effective dates

As required in the Act, any multiple-party account opened on or after May 28, 1980 is subject to the provisions of the Act. The Act has prospective effect only and therefore will apply only to accounts opened on or after that date. The specific provisions as set out in this subchapter will become effective as of the date of adoption and will have prospective effect only unless all parties to the contract agree to retroactively have them apply to accounts opened on or after May 28, 1980.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Adrenee G. Freeman  
Deputy Commissioner  
Division of Consumer Complaints,  
Legal and Economic Research  
Department of Banking  
P.O. Box CN040  
Trenton, N.J. 08625

The Department of Banking may thereafter adopt rules concerning this subject without further notice.

Angelo R. Bianchi  
Commissioner  
Department of Banking

(a)

## BANKING

### CEMETERY ROAD

#### Proposed Cemetery Rules

Roger F. Wagner, Deputy Commissioner of Banking, pursuant to authority of N.J.S.A. 8A:2-2, proposes to adopt new, substantive rules concerning the New Jersey Cemetery Board.

Full text of the proposal follows:

## CHAPTER 41. CEMETERIES

### SUBCHAPTER 1. APPLICABILITY

#### 3:41-1.1 Applicability of chapter to religious corporations

Unless otherwise noted, the provisions of the chapter do not apply to religious corporations or to cemeteries owned by religious corporations unless said religious corporation has been issued a certificate of authority by the board.

#### 3:41-1.2 Application to directors, trustees, officers and employees

Unless the context otherwise requires the provisions of this chapter are applicable to cemetery companies, and their directors, trustees, officers and employees.

### SUBCHAPTER 2. DEFINITIONS

#### 3:41-2.1 Definitions

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

"Act" shall mean the New Jersey Cemetery Act. (N.J.S.A. 8A:1-1 et seq.)

"Board" shall mean the New Jersey Cemetery Board, or when specially designated by the Board, any member of the Board or its designee.

"Entombment" shall mean the placement of human remains in a crypt in a mausoleum.

"Interment" means the lawful disposition of human remains by burial, entombment or inurnment and shall include veterans, persons receiving welfare payments or services and stillborn infants.

"Person" shall mean and include, but not be limited to a cemetery company, cemetery, individual, partnership, limited partnership, corporation, business association, trustee, municipality, or any officer or official board or agency of a cemetery or municipality.

"Total cost of structure" as used in N.J.S.A. 8A:3-14e shall mean any expense incurred by the cemetery company which would not have been incurred had not the public mausoleum been constructed. In addition to actual building costs, said costs shall include but not be limited to the following: walkways, architect fees, building permit fees, landscaping, installation of utility lines and internal furnishings.

"Underground public mausoleum" shall mean an integrated structure containing a minimum of 48 crypts set upon a poured concrete floor, providing for adequate drainage, contained within walls of masonry construction. No such structure shall be constructed without first obtaining a building permit from the local construction official and approval from the Department of Community Affairs. The crypts shall not include vaults as defined in N.J.S.A. 8A:1-2.

### SUBCHAPTER 3. CEMETERY BOARD FEES

#### 3:41-4.1 General duties

(a) The charge per page for copies of minutes of any New Jersey Cemetery Board meeting and for all other documents in possession of the Board which are deemed public records as defined by N.J.S.A. 47:1A-2 will be made available to the public in accordance with the schedule of fees in said N.J.S.A. 47:1A-2.

(b) All religious corporations which provide substantial proof to the Board of being legally incorporated under Title 16 are exempt from paying the fee required by N.J.S.A. 8A:4-12(b).

## SUBCHAPTER 4. EXECUTIVE DIRECTOR

### 3:41-4.1 General duties

Under the direction of the New Jersey Cemetery Board, Department of Banking, the director shall be responsible for the administration of Title 8A, shall have charge of the field and office activities of the staff engaged in the examination and investigation of cemetery associations, and related work as required.

### 3:41-4.2 Bulk grave sales

In any case where a sale of interment spaces is made to a membership, religious corporation, society or other like entity in accordance with N.J.S.A. 8A:9-7, the Executive Director shall be empowered to grant such approval. The Cemetery Board shall be notified that such approval has been granted at the next meeting.

## SUBCHAPTER 5. CEMETERY COMPANIES

### 3:41-5.1 Charges and services

(a) Cemetery companies may not sell vaults; provided, however, that cemetery companies may sell multiple depth below ground burial crypts that were installed prior to December 1, 1971. Cemetery companies may install multiple depth below ground burial crypts that were sold prior to December 1, 1971.

(b) In the event that a memorial foundation installed by a cemetery company and paid for by a lot owner sinks, or otherwise falls into disrepair causing the memorial immediately above to sink or become unlevel, the cemetery company shall raise, replace or repair the foundation and properly reset the memorial at its own cost and expense.

(c) Cemetery companies are prohibited from selling commercially available bases of concrete, granite or marble to be attached to a bronze memorial, provided that the determination as to the need and design of subsurface support shall be governed by the reasonable rules of the cemetery company.

(d) For the purposes of N.J.S.A. 8A:5-23, the burial of a monument or a memorial shall be considered a removal of that monument or memorial.

(e) Only those charges posted by the cemetery company and filed with the Board pursuant to N.J.S.A. 8A:5-4, 5-5 are lawful. The collection of any charges that has not been so posted and filed with the Board are declared to be in violation of the Cemetery Act.

(f) Any monies paid to a cemetery company for future services shall be subject to requirements of N.J.S.A. 2A:102-13 - 102-17.

(g) A cemetery company may adjust increases in general maintenance charges if the increase is reasonably necessary to maintain the cemetery.

### 3:41-5.2 Trust funds

(a) Commingling of trust funds with the Maintenance and Preservation Fund: Any maintenance, preservation, perpetual care or other trust fund, whenever established, must be commingled with the Maintenance and Preservation Fund if the income of such trust fund is dedicated to maintenance and preservation of the entire cemetery.

(b) Prohibition against commingling: No trust fund, whenever established, may be commingled with the Maintenance and Preservation Fund if the income of such fund is dedicated to the maintenance and preservation of an individual lot, or private mausoleum, sarcophagus or other private structure for interment or memorialization.

(c) Monies required to be deposited into the Maintenance and Preservation Fund are payable to said fund on a monthly basis. Such deposits must be made no later than

the last day of the month following the month in which the monies were received.

(d) No cemetery company may take credit for overpayment into the Maintenance and Preservation Fund except with consent of the New Jersey Cemetery Board.

(e) Multiple cremations: In any case in which multiple interment of cremated remains are interred in one interment space, each individual remains shall be subject to the statutory requirements of N.J.S.A. 8A:4-5b.

(f) Interment space transfer to charitable organizations: N.J.S.A. 8A:4-5 shall not apply where a living lot owner transfers an interment space or spaces to a charitable organization without monetary consideration. This is not a resale pursuant to N.J.S.A. 8A:4-5, provided that the charitable organization submit proof of its charitable status to the cemetery company.

(g) Free interment space: A cemetery company shall be required to pay fees and charges levied by N.J.S.A. 8A:4-5 into its Maintenance and Preservation Fund in any case in which it gives an interment space free of charge.

(h) Distribution of interment spaces by a society in liquidation: Distribution of interment spaces by a society in liquidation does not constitute a resale, therefore, the cemetery company is not obliged to collect and deposit into the Maintenance and Preservation Fund the amounts set forth in N.J.S.A. 8A:4-5. A cemetery company may, however, before recording the assignment of the interment spaces, require that future maintenance charges be assumed by the grantee or may require an endowment in place of the annual general maintenance charge.

### 3:41-5.3 Trust fund management/record keeping

(a) All investments must come within the purview of N.J.S.A. 3A:15-1 et seq.

(b) A cemetery company may invest its trust funds in options for stock which said cemetery company holds in its portfolio when the exercise price of the option is in excess of the original purchase price of the stock. All other option transactions are deemed overly speculative and imprudent. In instances when an option has been written, the trust is permitted to purchase options to cover the sale of any option previously written.

(c) In the event a cemetery company enters into a trust agreement with a banking institution and said banking institution establishes a value for the securities other than the value previously reported by the cemetery company, the cemetery company shall adjust the increase or decrease in the value to coincide with that established by the banking institution and will reflect same in the appropriate column of the Maintenance and Preservation Fund report concerning the period during which the transaction occurred. Said change in value of the trust fund investment is to be substantiated by a letter from said banking institution reflecting its established value.

(d) All cemetery companies must maintain adequate records of income, expenses and investments of its general fund, Maintenance and Preservation Fund and any other trust fund administered directly or indirectly by a cemetery company so as to afford an intelligent understanding of the conduct of its business.

(e) Cemetery companies may use the services of more than one banking institution in management of their trust funds.

(f) Every cemetery company shall keep a map of the cemetery readily available for inspection at its main office but need not file a copy with the Board. Any change in the physical layout of the cemetery shall be reflected on the map annually.

(g) The gross sales price on resale and the sales price of crypts or niches in a public mausoleum or columbarium on resale shall be set forth in a duly notarized affidavit

executed by the transfer and transferee. Said affidavit shall be kept on file in the main office of the cemetery company in question.

#### **SUBCHAPTER 6. INTERMENT SPACE OWNER**

##### **3:41-6.1 Memorials**

(a) Once interment has been made in a cemetery lot or grave, reasonable memorialization of the remains must be allowed in accord with the rules and regulations of the cemetery company.

(b) Removal of encumbrances such as that described in N.J.A.C. 3:40-6.8, may be removed by a cemetery company provided seven days notice by ordinary mail to the interment space owner, the next-of-kin or other interested parties be given. Should such notification not be possible the procedure described in N.J.A.C. 3:40-6.8 shall be followed.

##### **3:41-6.2 Restrictions on closings for interments**

In order to insure continued interments and cremations, no cemetery shall be closed for more than 3 consecutive days for the purposes of making interments and conducting cremations except for strikes, acts of God or by direction of a competent authority e.g. court of competent jurisdiction New Jersey Cemetery Board, Department of Health.

##### **3:41-6.3 Transferability of interment space**

Heirs, devisees and legatees of owners of unused interment spaces may grant, convey, sell or donate such interment spaces.

#### **SUBCHAPTER 7. DISINTERMENTS**

##### **3:41-7.1 Multiple depth grave**

(a) Any cemetery company selling interment rights in a multiple depth grave to two or more unrelated purchasers shall, at the time of the sale, inform each purchaser in writing that, pursuant to N.J.S.A. 8A:5-20, remains interred in any such space may be disinterred only with the consent of the owner or owners of each interment space in which a disinterment is to be made and of the surviving spouse and children if of full age.

(b) In the event of a multiple depth grave to a single purchaser by a cemetery company, when the first interment is made the grave shall be opened to a sufficient depth to accommodate all appropriate additional interments so as to avoid additional charges for deepening and the need for a disinterment permit when subsequent interments are made, unless the person authorizing such interments shall in writing instruct the cemetery company otherwise.

##### **3:41-7.2 Additional interment; obtaining disinterment permit**

In the event the remains already in an interment space must be lowered to accommodate an additional interment, a disinterment order must be obtained permitting the lowering of the remains already in the interment space.

##### **3:41-7.3 Photographing disinterments**

(a) Cemetery companies may, by rule or regulation, prohibit photographing disinterments, except that:

1. The owner or owners of said interment space may themselves photograph such disinterment or authorize in writing another on their behalf to photograph said disinterment; and

2. Photographs may also be taken when they are a necessary part of a criminal investigation or when otherwise ordered by a court of competent jurisdiction or when otherwise ordered by a court of competent jurisdiction, provided no photographs, other than the immediate gravesite shall be taken.

#### **SUBCHAPTER 8. CREMATED REMAINS**

##### **3:41-8.1 Shipment**

In the event a crematory ships cremated remains through the U.S. Postal System or any other responsible parcel service, said crematory will label both the inside container and outside wrapper to identify the contents. The cremated remains must be securely packaged and proper insurance be provided and all necessary precautions for a safe delivery be taken.

#### **SUBCHAPTER 9. SALESMEN**

##### **3:41-9.1 Eligibility**

(a) A cemetery salesman license may not be denied to any person, regardless of profession engaged in, provided that all other provisions of the Cemetery Act are complied with.

(b) Notwithstanding the fact that an officer, superintendent, manager, or clerk of a cemetery company may act as a cemetery salesman without being licensed by the Board, this same category of individuals may be licensed by the Board if proper application is made and the Board deems them qualified to be licensed.

##### **3:41-9.2 Investigation of applicant**

(a) A New Jersey Criminal History Record Information check shall be requested from the New Jersey State Police on all applicants for a New Jersey Cemetery Salesman license.

(b) In the event the New Jersey Criminal History Record Information check discloses an arrest and conviction record of an applicant for a cemetery salesman license, the following release shall be completed by the applicant and furnished to the Board to allow the Board to have the information released by the New Jersey State Police.

Release Form: I \_\_\_\_\_, hereby authorize the New Jersey State Police to release to the New Jersey Cemetery Board any data in its files, said data to be used in connection with my application for a New Jersey Cemetery Salesmen License.

##### **3:41-9.3 License form**

A cemetery license, when issued, is to be in the form of a pocket license with a 1" by 1" recent face photograph attached.

##### **3:41-9.4 Application for renewal of license**

Application forms for renewal of cemetery salesman licenses will be mailed by the Board to the cemetery salesmen at least 60 days prior to the expiration date of the valid license.

##### **3:41-9.5 Multiple license**

A cemetery salesman selling for more than one cemetery company must obtain a separate license for each cemetery company he sells for, provided that, if the applicant applied for a license to sell for more than one cemetery, he shall be required to pay only one examination fee pursuant to N.J.S.A. 8A:9-10.

##### **3:41-9.6 Jurisdiction; local licensing and bonding**

No county or municipality may require a validly licensed cemetery salesman to purchase or obtain any type of license or permit or to post any type of bond in connection with the sale of, or offer to sell cemetery property or services supplied or performed by a cemetery company.

#### **SUBCHAPTER 10. INTERPRETATION AND CONSTRUCTION**

##### **3:41-10.1 Modification and amendments**

(a) Special cases may arise in which the literal enforcement of a rule may impose an unnecessary hardship. The

New Jersey Cemetery Board, therefore, reserves the right to make exceptions, suspensions or modifications in any of the rules and regulations where, in the Board's judgment, the public interest is better served. Such exception, suspension or modification shall in no way be construed as affecting the general application of such rule.

(b) The New Jersey Cemetery Board is authorized and empowered to adopt such rules and regulations, or amendments or supplements not inconsistent with the New Jersey Cemetery Act which may hereafter be adopted. Furthermore, the Board reserves the right at any time or times to adopt such rules or regulations or to amend, alter or repeal any rule, regulation, article, sentence, paragraph or section in these rules and regulations to carry out the purpose of the New Jersey Cemetery Act. Any and all such changes will be in accordance with the Administrative Procedure Act.

3:41-10.2 Situations where rules and regulations do not govern

In any matter not governed by the rules and regulations of the Cemetery Board, the Board shall exercise its discretion so as to carry out the purpose of the Cemetery Act.

3:41-10.3 Gender

Unless a different meaning clearly appears from the context, the use of the word importing the masculine shall be understood to include and to apply to the feminine as well.

3:41-10.4 Liberal construction

The rules and regulation shall be liberally construed to permit the Cemetery Board to discharge its statutory function and to secure a just and speedy determination of all matters before it.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

William L. Ingling  
Executive Director  
N.J. Cemetery Board  
P.O. Box CN 040  
Trenton, N.J. 08625

The Cemetery Board may thereafter adopt rules concerning this subject without further notice.

Roger F. Wagner  
Deputy Commissioner  
Department of Banking

(a)

## BANKING

### THE COMMISSIONER

#### Amendments Concerning Approved Subsidiaries

On May 30, 1980, Angelo R. Bianchi, Commissioner of Banking, pursuant to authority of N.J.S.A. 17:9A-60 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 3:11-2.1 concerning approved subsidiaries substantially as proposed in the Notice published May 8, 1980 at 12 N.J.R. 248(c), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Banking.

An order adopting these amendments was filed and became effective on June 3, 1980 as R.1980 d.240.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## CIVIL SERVICE

### CIVIL SERVICE COMMISSION

#### Amendments Concerning Disability Leave and Sick Leave Injury

On January 25, 1980, the New Jersey Civil Service Commission, pursuant to authority of N.J.S.A. 11:5-1 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 4:1-17.9 concerning disability leave and sick leave injury substantially as proposed in the Notice published December 6, 1979 at 11 N.J.R. 606(b), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Civil Service.

An order adopting these amendments was filed and became effective on May 27, 1980 as R.1980 d.231.

Howard H. Kestin  
Director  
Office of Administrative Law

(c)

## CIVIL SERVICE

### CIVIL SERVICE COMMISSION

#### Amendments on Review of the Scoring Key

On May 22, 1980, the New Jersey Civil Service Commission, pursuant to authority of N.J.S.A. 11:5-1 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 4:1-9.1 concerning the review of the scoring key substantially as proposed in the Notice published November 8, 1979 at 11 N.J.R. 535(a), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Civil Service.

An order adopting these amendments was filed and became effective on May 30, 1980 as R.1980 d.236.

Howard H. Kestin  
Director  
Office of Administrative Law

(d)

## COMMUNITY AFFAIRS

### THE COMMISSIONER

#### Proposed Amendments Concerning the Maintenance of Hotels and Multiple Dwellings

Joseph A. LeFante, Commissioner of Community Affairs, pursuant to authority of N.J.S.A. 55:13A-6(e) and 55:13A-7, proposes to amend various sections in Chapter 10, Title 5 of the New Jersey Administrative Code, concerning the maintenance of hotels and multiple dwellings.

The proposed amendments concern administration and enforcement; definitions; duties of occupants; maintenance of interiors; electrical service; artificial lighting; heating; building security; occupancy standards; hotels and rooming houses; fire protection; establishment of the Hotel and

Multiple Dwelling Health and Safety Board; and the re-designation of certain existing regulations.

Copies of the full text of the 17 pages of these proposed amendments may be obtained from or made available for review by contacting:

William M. Connolly  
Deputy Director  
Division of Housing  
Department of Community Affairs  
363 West State Street  
Trenton, N.J. 08625

A public hearing respecting this proposal will be held at 10:00 A.M. on July 30, 1980, at 363 West State Street in Trenton, N.J., in Room 105.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to the Division of Housing at the above address.

The Department of Community Affairs may thereafter adopt rules concerning this subject without further notice.

W. Arthur Lewis  
Acting Commissioner  
Department of Community Affairs

(a)

## COMMUNITY AFFAIRS

### THE COMMISSIONER

#### Proposed Amendments Concerning the Maintenance of Hotels and Multiple Dwellings

Joseph A. LeFante, Commissioner of Community Affairs, pursuant to authority of P.L. 1979, c. 419, proposes to amend the Regulations for the Maintenance of Hotels and Multiple Dwellings by establishing standards for the installation and maintenance of smoke detectors and smoke alarms.

Full text of the proposed amendments follows.

The present N.J.A.C. 5:10-19.11(c) is hereby deleted and the following provisions substituted therefor:

5:10-19.11(c) Smoke detectors shall be installed in all hotels and multiple dwellings and shall be Underwriters Laboratory, Inc. (U.L.) or Factory Mutual Research Corporation (F.M.) listed ionization or photo-electric type units.

1. All units shall have the following features: integral alarms capable of emitting a minimum sound intensity of 85 dbA at a ten foot distance, an easily seen and activated manual unit test button or approved alternative, power source monitor light or trouble signal. All units shall conform to latest U.L. 217 standards. All units shall be installed and maintained as per manufacturers recommendations and shall comply with the latest NFPA No. 72E and No. 74 standards for design and performance.

2. Every building owner shall maintain a log book in the building which will be readily available for inspection at any time. Log book shall contain the following information: dates of initial installation of units or systems, subsequent dates of monthly or bi-annual inspections and bi-annual cleaning of units by owner, dates of tenant reported unit malfunctions and dates of yearly replacement of batteries for such type units where installed. Manu-

facturers printed equipment installation information for all detector units or systems shall also be readily available for inspection if requested.

3. Every building occupant shall test all detector units in his own dwelling unit monthly and report any malfunctioning immediately to the building owner. In all common areas of building, building owner shall check all detection systems monthly.

4. All dwelling units shall have smoke detectors installed at locations as follows:

i. Each dwelling unit of every multiple dwelling or hotel shall have a minimum of one approved battery powered single station smoke detector located in close proximity to the sleeping area. In multiple dwellings detectors shall be located so that the maximum distance from detector to any sleeping area exit door shall not exceed ten feet. If any required detector is to be located closer than five feet to a kitchen or bathroom area, it shall be of the photo-electric type only.

ii. Basements and cellars directly connected, to dwelling units shall have a minimum of one approved smoke detector located in the highest ceiling area or at the ceiling of the first floor stair landing or other approved location where the earliest detection of fire would activate the alarm.

5. All buildings which do not comply fully with the minimum life safety requirements of the Uniform Construction Code and which lack fire-rated ceilings, wall and floor assemblies and early warning fire detection systems in common areas shall be required to have an approved early warning smoke or smoke/heat detection system in common areas as hereinafter provided. Detection systems shall be powered by a concealed, hard wired, constantly active electric circuit which cannot be deactivated by the operation of any interconnected switching device. All detectors shall be interconnected so that the activation of any one detector alarm will also simultaneously activate the individual alarms of all other detection units in the system. All detection units, wiring and systems installations shall conform to latest U.L. 217, NFPA No. 72E and No. 74 standards. The following common areas of all buildings shall be monitored for fire by an approved early warning smoke or smoke/heat detection system:

i. All stairways in multiple dwellings greater than two stories in height which have only one interior means of egress shall have detectors installed at either the ceiling of the stair landing or high point of the sloped staircase soffit at each floor level.

ii. All hotels greater than two stories or 30 feet in height and of other than group I construction shall have detection systems located in all common areas, connected to a supervisory type central control station conforming to latest NFPA No. 71 standards. The smoke or smoke/heat detection system shall be installed in basement and cellar storage areas, storage rooms, soiled linen collection and sorting areas, rubbish and laundry chutes, refuse collection and disposal areas, laundry drying areas with two or more machines, interior hallways, work shops, attics, enclosed stairways, escalators, kitchens, places of assembly, infirmaries and public foyers. When a building or a portion of a building exceeding 15,000 square feet in area is used for exhibitions, shows or other displays of combustible products, goods or materials, or utilizes combustible display equipment or booths, an automatic sprinkler system shall be installed throughout the exhibit space and accessory areas. The National Fire Protection Association (NFPA) Standard No. 13 (Installation of sprinkler systems) shall be used as a guide for the installation, components, sizing, spacing, location, clearances, position and type of system.

iii. Basements or cellars which lack a minimum one hour fire rated smooth ceiling surface shall have approved smoke detectors installed at a spacing not to exceed 400 square feet of floor space coverage per detector. One of such detectors shall be located at the ceiling of the first floor stair landing or other approved location where the earliest detection of fire would activate the alarm. Maximum spacing to conform to U.L./F.M. listings for "D" distances of individual manufactured units. The "D" distance spacing in open joist ceilings perpendicular to the joists shall be one half of that listed. Detectors shall be installed on the bottom surface of the joist. Compartmentalized and partially enclosed areas shall have additional detectors as required to afford complete protection of total basement/cellar area conforming to above criteria. The activated detector(s) shall set off alarms on the first floor of the building, or throughout the building, audible in each dwelling unit not separated from the basement or cellar area by fire walls having a fire-resistance rating of at least two hours with a minimum sound intensity of 85 dbA.

iv. Basements or cellars which have an existing approved minimum one hour fire-rated ceiling assembly shall have a minimum of one approved smoke detector per 2,500 square feet of area, one such detector to be located at the ceiling of the first floor stair landing or other approved location where the earliest detection of fire would activate the alarm. Additional detectors shall be required in ceiling areas that are enclosed or separated by a dropped girder or similar type projection to afford complete protection of total basement/cellar area. The detector(s) shall set off alarms on the first floor of the building, or throughout the building, audible in each dwelling unit not separated from the basement or cellar area by fire walls having a fire-resistance rating of at least two hours with a minimum sound intensity of 85 dbA.

v. Public hallways at least 20 feet in length or longer leading to a single means of egress shall have a minimum of one approved smoke or smoke/heat detector installed within every forty linear feet or fraction thereof.

vi. In multiple dwellings over two stories in height, stairways not enclosed by a minimum one hour fire-rated separation from other common areas shall have approved smoke or smoke/heat detectors installed at either the ceiling of the landing or the high point of the sloped staircase soffit at each floor level and at forty foot or fraction thereof intervals in all connecting hallways.

vii. Approved heat detectors shall be installed in all heating equipment rooms, furnace areas, elevator machine rooms, laundry rooms and other similar type areas and shall be connected to the alarm(s) on the first floor or throughout the building. Alarms shall be audible in each dwelling unit with a minimum sound intensity of 85 dbA.

6. Buildings which comply fully with the minimum life safety requirements of the New Jersey Uniform Construction Code shall contain all protective equipment and assemblies required by the New Jersey Uniform Construction Code, including at least one approved smoke detector in close proximity to all sleeping areas and at least one approved smoke detector located at the highest ceiling area of the cellar or basement or at the ceiling of the first floor stair landing or other approved location where the earliest detection of fire would activate the alarm. Such protective equipment and assemblies shall be properly maintained and kept in good repair.

7. With the approval of the Bureau, heat detectors may be substituted for smoke detectors in certain required locations.

Interested persons may present statements or arguments

in writing relevant to the proposed action on or before July 30, 1980 to:

William M. Connolly, Deputy Director  
Division of Housing  
Department of Community Affairs  
363 West State Street  
Trenton, New Jersey 08625

A public hearing on the proposed amendments will be held on July 28, 1980, at 10:00 A.M. at the General Assembly Chamber, State House, West State Street, Trenton, New Jersey. Oral or written statements or arguments relevant to the proposed action may be presented at that time.

The Commissioner of Community Affairs may thereafter adopt the amendments as proposed, or with such revisions as he may deem necessary, without further notice.

W. Arthur Lewis  
Acting Commissioner  
Department of Community Affairs

(a)

## COMMUNITY AFFAIRS

### HOUSING FINANCE AGENCY

#### Proposed Rules on Debarment

The New Jersey Housing Finance Agency in the Department of Community Affairs, pursuant to authority of N.J.S.A. 55:14J-1 et seq., proposes to adopt new rules concerning debarment.

Full text of the proposal follows.

#### SUBCHAPTER 4. DEBARMENT

##### 5:80-4.1 Definitions

When used in this subchapter, the following terms shall have the following meanings:

"Debarment" means an exclusion from New Jersey Housing Finance Agency (NJHFA) contracting, on the basis of a lack of responsibility evidenced by an offense, failure, or inadequacy of performance, for a reasonable period of time commensurate with the seriousness of the offense, failure, or inadequacy of performance.

"Suspension" means an exclusion from NJHFA contracting for a temporary period of time, pending the completion of an investigation or legal proceedings.

"Person" means any natural person, company, firm, association, corporation, or other entity.

"NJHFA contracting" means any arrangement giving rise to an obligation to supply anything to or perform any service for the NJHFA, other than by virtue of state or NJHFA employment, or to supply anything to or perform any service for a private or public person where the NJHFA provides substantial financial assistance and retains the right to approve or disapprove the nature or quality of the goods or service or the persons who may supply or perform the same.

"Affiliates" means persons having a relationship such that any one of them directly or indirectly controls or has the power to control another.

##### 5:80-4.2 Causes for debarment of a person(s)

(a) In the public interest, the NJHFA may debar a person for any of the following causes:

1. Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.

2. Violation of the Federal Organized Crime Control Act of 1970, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty.

3. Violation of the Federal or State Antitrust Statutes, or of the Federal Anti-Kickback Act (18 U.S.V. 874, 40 U.S.C. 276 b, c).

4. Violations of any of the laws governing the conduct of elections of the Federal government, State of New Jersey or of its political subdivisions.

5. Violation of the "Law Against Discrimination" (P.L. 1945, c. 169, C. 10:5-1 et seq. as supplemented by P.L. 1975, c. 127), or of the act banning discrimination in public works employment (C. 10:2-1 et seq.) or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein (C. 114, L.1942, C. 10:1-10 et seq.).

6. Violations of any laws governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages, or child labor.

7. Violations of any laws governing the conduct of occupations or professions or regulated industries.

8. Violations of any other laws which may bear upon a lack of responsibility or moral integrity.

9. Willful failure to perform in accordance with contract specifications or within contractual time limits.

10. A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that such failure or unsatisfactory performance has occurred within a reasonable time preceding the determination to debar and was caused by acts within the control of the person debarred.

11. Violation of contractual or statutory provisions regulating contingent fees.

12. Any other cause affecting responsibility as a State contractor of such serious and compelling nature as may be determined by the NJHFA to warrant debarment, including such conduct as may be prescribed by the laws or contracts enumerated in this section even if such conduct has not been or may not be prosecuted as violations of such laws or contracts.

13. Debarment by some other department or agency in the Executive Branch.

#### 5:80-4.3 Conditions affecting the debarment of a person(s)

(a) The following conditions shall apply concerning debarment:

1. Debarment shall be made only upon approval of the members of the NJHFA, upon recommendation by the Executive Director of the NJHFA, except as otherwise provided by law.

2. The existence of any of the causes set forth in section 2 of this subchapter shall not necessarily require that a person be debarred. In such instance, the decision to debar shall be made within the discretion of the members of the NJHFA, upon recommendation by the Executive Director of the NJHFA, unless otherwise required by law, and shall be rendered in the best interests of the State.

3. All mitigating factors shall be considered in determining the seriousness of the offense, failure or inadequacy of performance and in deciding whether debarment is warranted.

4. The existence of a cause set forth in N.J.A.C. 5:80-4.3(a)1-8 shall be established upon the rendering of a final judgment or conviction including a guilty plea or a plea of *nolo contendere* by a court of competent jurisdiction or by an administrative agency empowered to render such

judgment. In the event an appeal taken from such judgment or conviction results in reversal thereof, the debarment shall be removed upon the request of the debarred person unless other cause for debarment exists.

5. The existence of a cause set forth in N.J.A.C. 5:80-4.3(a)9-12 shall be established by evidence which the NJHFA determines to be clear and convincing in nature.

6. Debarment for the cause set forth in N.J.A.C. 5:80-4.3(a)13 shall be proper, provided that one of the causes set forth in subsection (a) through (1) of section 4.2 was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

#### 5:80-4.4 Procedures, period of debarment, and scope of debarment affecting the debarment of a person(s)

(a) The procedures, the period of debarment, and the scope of debarment to be followed by the NJHFA are explained below:

1. The NJHFA seeking to debar a person or his affiliates shall furnish such party with a written notice stating that debarment is being considered, setting forth the reasons for the proposed debarment, and indicating that such party will be afforded an opportunity for a hearing if he so requests within a stated period of time. All such hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act. However, where another department or agency has imposed debarment upon a party, the NJHFA may also impose a similar debarment without affording an opportunity for a hearing, provided that the NJHFA furnishes notice of the proposed similar debarment to that party, and affords that party an opportunity to present information in his behalf to explain why the proposed similar debarment should not be imposed in whole or in part.

2. Debarment shall be for a reasonable, definitely stated period of time which as a general rule shall not exceed five years. Debarment for an additional period shall be permitted provided that notice thereof is furnished and the party is afforded an opportunity to present information in his behalf to explain why the additional period of debarment should not be imposed.

3. Except as otherwise provided by law, a debarment may be removed or the period thereof may be reduced in the discretion of the members of the NJHFA, upon recommendation by the Executive Director of the NJHFA, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction or judgment, actual change of ownership, management or control, or the elimination of the causes for which the debarment was imposed.

4. A debarment may include all known affiliates of a person, provided that such decision to include an affiliate is made on a case by case basis after giving due regard to all relevant facts and circumstances. The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effectuated by him with the knowledge or approval of such person.

#### 5:80-4.5 Causes for suspension of a person(s)

In the public interest, the NJHFA, upon approval of the Attorney General, may suspend a person for any cause specified in section 2 of this subchapter or upon adequate evidence that such cause exists.

5:80-4.6 Conditions for suspension of a person(s)

(a) The following conditions concerning suspension are to be adhered to:

1. Suspension shall be imposed only upon approval of the Attorney General, upon recommendation by the Executive Director of the NJHFA, except as otherwise provided by law.

2. The existence of any cause for suspension shall not require that a suspension be imposed, and a decision to suspend shall be made at the discretion of the Attorney General, upon recommendation by the Executive Director of the NJHFA, and shall be rendered in the best interest of the State.

3. Suspension shall not be based upon unsupported accusation, but upon adequate evidence that cause exists or upon evidence adequate to create a reasonable suspicion that cause exists.

4. In assessing whether adequate evidence exists, consideration shall be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, and to inferences which may properly be drawn from the existence or absence of affirmative facts.

5. Reasonable suspicion of the existence of a cause described in N.J.A.C. 5:80-4.2(a)1-3 may be established by the rendering of a final judgment or convictions by a court or administrative agency of competent jurisdiction, by grand jury indictment, or by evidence that such violations of civil or criminal law did in fact occur.

6. A suspension invoked by another agency for any of the causes described in section 2 of this subchapter may be the basis for the imposition of a concurrent suspension by the NJHFA, which suspension may be imposed upon approval by the Attorney General when found to be in the best interest of the State.

5:80-4.7 Procedures, period of suspension, and scope of suspension affecting the suspension of a person(s)

(a) The following provisions regarding procedures, period of suspension and scope of suspension shall be adhered to by the NJHFA:

1. Upon approval of the Attorney General, the NJHFA may suspend a person or his affiliates, provided that within ten days before the effective date of the suspension, the NJHFA provides such party with a written notice stating that a suspension has been imposed and its effective date, setting forth the reasons for the suspension to the extent that the Attorney General determines that such reasons may be properly disclosed, stating that the suspension is for a temporary period pending the completion of an investigation and such legal proceedings as may ensue, and indicating that, if such legal proceedings are not commenced or the suspension removed within sixty days of the date of such notice, the party will be given either a statement of the reasons for the suspension and an opportunity for a hearing if he so requests, or a statement declining to give such reasons and setting forth the NJHFA's position regarding the continuation of the suspension. Where a suspension by another agency has been the basis for suspension by the NJHFA, the latter shall note that fact as a reason for its suspension.

2. A suspension shall not continue beyond eighteen months from its effective date unless civil or criminal action regarding the alleged violation shall have been initiated within that period, or unless debarment action has been commenced. Whenever prosecution or debarment action has been initiated, the suspension may continue until the legal proceedings are completed.

3. A suspension may include all known affiliates of a person, provided that each decision to include an affiliate

is made on a case by case basis after giving due regard to all relevant facts and circumstances. The offense, failure or inadequacy of performance of an individual may be imputed to a person with whom he is affiliated, where such conduct was accomplished within the course of his official duty or was effectuated by him with the knowledge or approval of such person.

5:80-4.8 The extent of debarment and suspension

The exclusion from State contracting by virtue of debarment or suspension shall extend to all State contracting and subcontracting within the control or jurisdiction of the NJHFA including any contracts which utilize State or NJHFA funds. When it is determined by the members of the NJHFA, upon recommendation by the Executive Director of the NJHFA, to be essential to the public interest, and upon filing of a finding thereof with the Attorney General, and in the case of suspension, upon approval of the Attorney General, an exception from total exclusion may be made with respect to a particular State contract.

5:80-4.9 Prior notice to NJHFA

Insofar as practicable, prior notice of any proposed debarment or suspension shall be given to the Attorney General and the Treasurer.

5:80-4.10 List of debarred and suspended

The NJHFA shall supply to the State Treasurer a monthly list of all persons having been debarred or suspended in accordance with the procedures prescribed herein. Such list shall at all times be available for public inspection.

5:80-4.11 Discretion

Nothing contained herein shall be construed to limit the authority of the NJHFA to contract or to refrain from contracting within the discretion allowed by law.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Kathleen Okenica  
Assistant Executive Director  
New Jersey Housing Finance Agency  
P.O. Box 417  
Trenton, N.J. 08603

The Housing Finance Agency may thereafter adopt rules concerning this subject without further notice.

Kathleen Okenica  
Assistant Executive Director  
Housing Finance Agency  
Department of Community Affairs

(a)

## COMMUNITY AFFAIRS

### OFFICE OF THE OMBUDSMAN FOR THE INSTITUTIONALIZED ELDERLY

#### Amendments to Rules of Practice And Procedure Concerning Subpoenas

On May 30, 1980, John J. Fay, Jr., Ombudsman for the Institutionalized Elderly in the Department of Community Affairs, pursuant to authority of N.J.S.A. 52:27G-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 5:100-1.6 concerning the rules of practice and procedure regarding subpoenas as proposed in the Notice published May 8, 1980 at 12 N.J.R. 250(a).

An order adopting these amendments was filed and became effective on May 30, 1980 as R.1980 d.233.

Howard H. Kestin  
Director  
Office of Administrative Law

(a)

## COMMUNITY AFFAIRS

### HOUSING FINANCE AGENCY

#### Amendments Concerning Determining Rents or Carrying Charges in Developments Financed by the Housing Finance Agency

On May 29, 1980, Bruce G. Coe, Executive Director of the New Jersey Housing Finance Agency, pursuant to authority of N.J.S.A. 55:14J-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 5:80 concerning the determining of rents or carrying charges in developments financed by the Housing Finance Agency substantially as proposed in the Notice published April 10, 1980 at 12 N.J.R. 170(c) with only inconsequential structural or language changes in the opinion of the New Jersey Housing Finance Agency.

An order adopting these amendments was filed and became effective on May 30, 1980 as R.1980 d.234.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## COMMUNITY AFFAIRS

### DIVISION OF LOCAL GOVERNMENT SERVICES

#### Ratification of Rules Concerning Cooperative Pricing and Joint Purchasing System

On June 5, 1980, Barry Skokowski, Acting Director of the Division of Local Government Services in the Department of Community Affairs, pursuant to authority of N.J.S.A. 52:27BB-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, ratified the emergency rules, cited as N.J.A.C. 5:30-17 concerning cooperative pricing and joint purchasing system that were published April 10, 1980 at 12 N.J.R. 172(a) as R.1980 d.104 with only inconsequential structural or language changes in the opinion of the Department of Community Affairs.

An order ratifying these rules was filed and became effective on June 5, 1980 as R.1980 d.243.

Howard H. Kestin  
Director  
Office of Administrative Law

(c)

## EDUCATION

### STATE BOARD OF EDUCATION

#### Proposed Amendments Concerning Family Life Education Programs

The State Board of Education, pursuant to authority of

N.J.S.A. 18A:4-15, 18A:33-1, 18A:35-5, 18A:35-6, 18A:35-7, 18A:7A-1 et seq., proposes to amend N.J.A.C. 6:29-7.1 pertaining to the rules on Family Life Education Programs.

The proposed amendments clarify the responsibility of the district board of education for curriculum development and include the involvement of parents, and other members of the community in that process.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

#### 6:29-7.1 Family life education

(a) As used in this subchapter, "family life education program" means instruction to develop an understanding of the physical, mental, emotional, social, economic, and psychological [effects] aspects of interpersonal relationships [between persons of various ages. The program of studies shall include]; the physiological, [and] psychological [basis] and cultural foundations of human development, sexuality, and reproduction, [.] at various stages of growth; [In addition, the program shall provide] the opportunity for pupils to [develop attitudes and practices which will] acquire knowledge which will support the development of responsible personal behavior, strengthen their own family life [in the present,] now, and aid in establishing strong [families of their own and] family life for themselves in the future thereby [contribute] contributing to the [improvement] enrichment of the community.

(b) [The local school district program] The family life education curriculum shall be developed in the local school district. It shall be developed through appropriate consultation and participation of teachers, school administrators, parents and guardians, pupils in grades 9 through 12, [and] community members. [This process shall be continued as the program is reviewed and updated in future years.] physicians, members of the clergy and representative members of the community. The local school district shall demonstrate prior to the initiation of any local school district program that the above consultation and participation have taken place. The process of consultation shall be continued as the program is revised in future years.

1. The parents and guardians of pupils enrolled in the district shall [have the opportunity to examine annually the program and all instructional materials prior to classroom use.] receive annually an outline of the curriculum and a list of instructional materials for the grade of their child including notification about how to receive a copy of the curriculum. The district shall make available for review in each school the complete curriculum and all instructional materials prior to use in the classroom. Upon the request of parents and guardians, the material shall be made available for their review.

(c) The district's family life education program shall be implemented comprehensively through [a] the coordinated [comprehensive] sequential [kindergarten through 12 curriculum] elementary/secondary curriculum with instructional units appropriate to the age, growth and development, and maturity of [their] the pupils.

[1. Upon completion of grades K-8, the family life education program should include, but not be limited to, the following areas of concentration: the importance of the family unit, each family member's responsibility to other family members, duties and role of various family members, communication within the family, purpose and function of the family in our culture, parenting, plant and animal growth, plant and animal reproduction, human growth and development, differences in growth between boys and girls, reproductive system of males and females,

human reproduction, heredity, social and emotional growth, responsibilities of adolescence, dating, interpersonal relationships, the dangers of talking to strangers, child abuse and neglect, sexual assault and incest, and venereal disease prevention and prenatal care.]

[2. Upon the completion of grades 9-12, the family life education program should include, but not be limited to, the following areas of concentration: parenting and child rearing, psycho-social development, sexuality and personality development, physical changes occurring during adolescence, preparation for marriage, family planning and the birth of a baby. In addition, the following areas should be reviewed: interpersonal relations, dating, human reproduction, heredity, child abuse, sexual assault and incest.]

(d) [(e)] Districts that develop their program with an interdisciplinary approach may use teachers from other disciplines to assist [one or several of the teachers from the list in subsection (d).] those staff members authorized to give instruction in family life education.

(e) [(d)] Teaching staff members holding one of the following certificates are [eligible] authorized to teach in the district's family life education program:

1. Biology;
2. Comprehensive science;
3. Elementary;
4. Health education;
5. Health and physical education;
6. Home economics;
7. Nursery;
8. School nurse;
9. Teacher of psychology.

(f) Districts may use resource people to assist with their program; that is, [doctor,] physicians, members of the clergy, [lawyer,] attorneys, parents [or] and guardians, [and the like] school social workers, school psychologists, law enforcement personnel, and others as necessary.

(g) The local school district shall provide [the opportunity] for in-service education to those teachers responsible for family life education programs.

(h) The State Department of Education shall provide technical assistance to local school districts in the development of family life education programs.

(i) The local board of education shall establish procedures whereby any pupil, whose parent or guardian presents to the school principal a signed statement that any part of the instruction in family life education is in conflict with his/her conscience, or sincerely held moral or religious beliefs, shall be excused from that portion of the course where such instruction is being given and no penalties as to credit or graduation shall result therefrom[.], (N.J.S.A. 18A:35-4.6 et seq.).

(j) [The family life education program shall be implemented in the local districts in two phases. By September, 1981, the local board shall adopt policies and procedures, develop curricula, hold in-service training sessions, and outreach efforts regarding the parents and the community. By September, 1982, the local district shall begin to implement family life education in the school program.] Each district board of education shall adopt a policy by September, 1981, for the development of a family life education program in the local district. The implementation of the family life education program shall be completed by September, 1983.

(k) This subchapter is subject to all of the provisions of N.J.A.C. 6:8-4.2.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before

July 30, 1980 to:

Lorraine L. Colavita  
Executive Assistant for Administrative  
Practice and Procedure  
Department of Education  
225 West State Street  
Trenton, New Jersey 08625

The State Board of Education may thereafter adopt these revisions substantially as proposed without further notice.

Fred G. Burke  
Commissioner of Education  
Secretary, State Board of Education

(a)

## EDUCATION

### STATE BOARD OF EDUCATION

#### Proposed Amendments Concerning Statewide Assessment

The State Board of Education, pursuant to authority of N.J.S.A. 18A:4-15, 18A:4-24, 18A:7A-1 et seq., proposes to amend N.J.A.C. 6:39-1.3 (dissemination of information) and N.J.A.C. 6:39-1.4 (interpretation of data) in the rules on Statewide Assessment.

The proposed amendments would change the timelines for the interpretation and review of the minimum basic skills summary reports.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

6:39-1.3(e) Objective-referenced summary reports shall be distributed to chief school administrators, as indicated in subsections (b), (c), and (d) of this section, in such a manner as to provide a [60-day] 45-day period from receipt of all reports for analysis of data and for the development of additional essential interpretive material by the chief school administrator pursuant to N.J.A.C. 6:39-1.4. During this period such material shall not be available for public distribution.

(f) Upon completion of the analysis, as indicated in subsection (e), but in no case later than the [60-day] 45-day interpretation period established by the commissioner, all schools and districts shall submit a copy of their objective-referenced summary reports to the county superintendent, who shall verify, within 45 days of receipt, that the reports are consistent with the interpretation guidelines previously approved by the commissioner. Upon notification of approval by the county superintendent, and upon approval by the local board of education, but in no case later than 30 days following the notification of approval by the county superintendent, objective-referenced summary reports for class(es), school(s) and district shall be made available to the public.

#### 6:39-1.4 Interpretation of data

(a) Local chief school administrators and county superintendents of schools shall interpret the results of all data within [60] 45 days of receipt of all objective-referenced summary reports.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before

July 30, 1980 to:

Lorraine L. Colavita  
Executive Assistant for Administrative  
Practice and Procedure  
Department of Education  
225 West State Street  
Trenton, New Jersey 08625

The State Board of Education may thereafter adopt these revisions substantially as proposed without further notice.

Fred G. Burke  
Commissioner of Education  
Secretary, State Board of Education

**(a)**

**ENVIRONMENTAL PROTECTION**

**DIVISION OF FISH, GAME AND WILDLIFE**

**Proposed Amendments Concerning  
Potentially Dangerous Species**

Russell A. Cookingham, Director of the Division of Fish, Game and Wildlife, pursuant to N.J.S.A. 23:2A-5 and subject to the approval of Jerry Fitzgerald English, Commissioner of Environmental Protection, proposes to amend N.J.A.C. 7:25-4.7 concerning potentially dangerous species.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).  
7:25-4.8 Potentially dangerous species

(a) "Potentially dangerous species" is defined as any exotic species or nongame species which, in the opinion of the Division, is capable of inflicting serious or fatal injuries or which has the potential to become an agricultural pest[,] or a menace to the public health, including, but not limited to, the following:

Order	Family
Primates	Cebidae - New World Monkeys Cercopithecidae - Old World Monkeys and Baboons Pongidae - Apes
Carnivora	Canidae - Nondomestic dogs Ursidae - Bears Felidae - Nondomestic cats
Sauria (Venomous)	Helodermatidae - Gila monsters
Serpentes (Venomous)	Elapidae - Coral snakes and cobras Viperidae - Vipers Crotalidae - Pit Vipers

ALSO:  
Psittaculis spp. - Ring necked parakeet  
Myiopsitta spp. - Monk parakeet  
Cyanoliseus patagonus - Patagonian conure  
Cynomys spp. - prairie dogs  
Spermophilus spp. - ground squirrels

(b) The department, in its discretion, may issue a permit for possession of a potentially dangerous animal only after a clear showing that the criteria for the possession of such potentially dangerous animal have been met.

Interested persons may present statements or arguments

in writing relevant to the proposed action on or before July 30, 1980 to:

JoAnn Frier  
Project Leader  
P.O. Box 1809  
Trenton, N.J. 08625

The Department of Environmental Protection may thereafter adopt rules concerning this subject without further notice.

Russell A. Cookingham  
Director, Division of  
Fish, Game and Wildlife  
Department of Environmental Protection

**(b)**

**ENVIRONMENTAL PROTECTION**

**DIVISION OF FISH, GAME AND WILDLIFE**

**Proposed List of Nongame  
Wildlife Species of New Jersey**

Russell A. Cookingham, Director of the Division of Fish, Game and Wildlife in the Department of Environmental Protection, pursuant to authority of N.J.S.A. 23:2A-1 et seq. and with the approval of the Commissioner of Environmental Protection, proposes to adopt a list of nongame wildlife species and status designations.

Such list, if adopted, will be cited as N.J.A.C. 7:25-20.1 et seq.

The proposed rules concern definitions; amphibians; reptiles; birds; and mammals.

Copies of the 18 pages of the full text of this proposal may be obtained from or be made available for review by contacting:

Russell A. Cookingham  
Director, Division of Fish, Game and Wildlife  
Department of Environmental Protection  
P.O. Box 1809  
Trenton, N.J. 08625

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to the Division of Fish, Game and Wildlife at the above address.

The Department of Environmental Protection may thereafter adopt rules concerning this subject without further notice.

Russell A. Cookingham  
Director, Division of Fish,  
Game and Wildlife  
Department of Environmental Protection

**(c)**

**ENVIRONMENTAL PROTECTION**

**THE COMMISSIONER**

**Public Notice of State Certifications of  
Draft NPDES Permits**

Take notice that Jerry Fitzgerald English, Commissioner of the Department of Environmental Protection, pursuant to the "New Jersey Water Pollution Control Act," N.J.S.A. 58:10A-1 et seq., is authorized to assess compliance of a surface water discharge with State law pertaining to dis-

charges to the waters of the State. The Department is requested by the United States Environmental Protection Agency, as required by section 401 of the Federal Clean Water Act, 33 U.S.C. 1251 et seq., to certify that a discharge, as described in a draft National Pollutant Discharge Elimination System permit, will not violate the requirements of State law.

The Department publishes public notice of certifications in the DEP Bulletin. Copies of the Bulletin may be obtained by calling (609) 292-3178 or writing to the Documents Distribution Center, P.O. Box 1390, Trenton, New Jersey 08625.

This Notice is published as a matter of public information.

Howard H. Kestin  
Director  
Office of Administrative Law

(a)

## ENVIRONMENTAL PROTECTION

### THE COMMISSIONER

#### Amendments Concerning Condemnation Of Certain Shellfish Beds

On May 22, 1980, Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1B-3 et seq., 58:24-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to Chapter 12 in Title 7 of the New Jersey Administrative Code concerning the condemnation of certain shellfish beds substantially as proposed in the Notice published April 10, 1980 at 12 N.J.R. 179(b), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Environmental Protection.

An order adopting these amendments was filed and became effective on May 23, 1980 as R.1980 d.230.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## ENVIRONMENTAL PROTECTION

### THE COMMISSIONER

#### Amendments Concerning the New Jersey Register of Historic Places

On June 2, 1980, Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1B-3, 13:1B-15.129 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 7:4-2.2(c)5 concerning the New Jersey Register of Historic Places as proposed in the Notice published March 6, 1980 at 12 N.J.R. 108(a).

An order adopting these amendments was filed and became effective on June 4, 1980 as R.1980 d.241.

Howard H. Kestin  
Director  
Office of Administrative Law

(c)

## ENVIRONMENTAL PROTECTION

### THE COMMISSIONER

#### Amendments Concerning Flood Plain Delineation Within the Delaware River Basin

On June 2, 1980, Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1D-1 et seq., 58:16A-50 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 7:13-1.11(c) concerning flood plain delineation within the Delaware River Basin as proposed in the Notice published April 10, 1980 at 12 N.J.R. 180(a).

An order adopting these amendments was filed and became effective on June 4, 1980 as R.1980 d.242.

Howard H. Kestin  
Director  
Office of Administrative Law

(d)

## ENVIRONMENTAL PROTECTION

### DIVISION OF ENVIRONMENTAL QUALITY

#### SOLID WASTE ADMINISTRATION

#### Amendments Concerning Registration And Fees for Solid Waste Collector/Haulers

On June 5, 1980, Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1E-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 7:26-3.2 and 7:26-4.7 concerning registration and fees for solid waste collector/haulers as proposed in the Notice published February 7, 1980 at 12 N.J.R. 70(b).

An order adopting these amendments was filed and became effective on June 9, 1980 as R.1980 d.250.

Howard H. Kestin  
Director  
Office of Administrative Law

(e)

## ENVIRONMENTAL PROTECTION

### THE COMMISSIONER

#### Amendments on Delineated Floodways in the Delaware Basin

On June 5, 1980, Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1D-1 et seq., 58:16A-50 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 7:13-1.11 concerning delineated floodways in the Delaware Basin as proposed in the Notice published March 6, 1980 at 12 N.J.R. 110(a).

Take notice that these amendments will be cited as N.J.A.C. 7:13-1.11(c)24, 25 and 26 rather than N.J.A.C. 7:13-1.11(c)23, 24 and 25 as indicated in the Notice of Proposal.

An order adopting these amendments was filed and became effective on June 9, 1980 as R.1980 d.251.

Howard H. Kestin  
Director  
Office of Administrative Law

**(a)**

## **ENVIRONMENTAL PROTECTION**

### **DIVISION OF FISH, GAME AND WILDLIFE**

#### **FISH AND GAME COUNCIL**

##### **1980-1981 Game Code**

On June 12, 1980, James Manetas, Chairman of the Fish and Game Council in the Division of Fish, Game and Wildlife in the Department of Environmental Protection, pursuant to authority of N.J.S.A. 13:1B-30 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted the 1980-1981 Game Code substantially as proposed in the Notice published May 8, 1980 at 12 N.J.R. 259(a), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Environmental Protection.

A reference to this adoption will appear in N.J.A.C. 7:25-5. An order adopting this Game Code was filed on June 18, 1980 as R.1980 d.266 to become effective on August 1, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

**(b)**

## **ENVIRONMENTAL PROTECTION**

### **THE COMMISSIONER**

#### **Amendments Concerning Discharges Of Petroleum and Other Hazardous Substances**

On June 16, 1980, Jerry Fitzgerald English, Commissioner of Environmental Protection, pursuant to authority of N.J.S.A. 13:1D-9, 58:10-23.11(k), 58:10-23.11(t) and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 7:1E-1.3 concerning discharges of petroleum and other hazardous substances as proposed in the Notice published April 10, 1980 at 12 N.J.R. 179(b).

An order adopting these amendments was filed and became effective on June 18, 1980 as R.1980 d.267.

Howard H. Kestin  
Director  
Office of Administrative Law

**(c)**

## **HEALTH**

### **THE COMMISSIONER**

#### **Proposed Amendments Concerning Appointment of Administrators**

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to amend N.J.A.C. 8:30-2.2 in the Manual of Standards for

Licensure of Nursing Homes concerning the appointment of an administrator.

Full text of the proposal follows (additions indicated in boldface thus).

8:30-2.2(g) **The governing authority shall not appoint or retain in the facility in any administrative position of a managerial nature, such as assistant administrator or similar position, a nursing home administrator whose license is either suspended or revoked, pursuant to N.J.S.A. 26:2H-27 and 26:2H-28 (Chapter 356, P. L. 1968).**

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Wanda J. Marra  
Coordinator, Standards  
N.J. Department of Health  
P.O. Box 1540  
Trenton, N.J. 08625

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley  
Commissioner  
Department of Health

**(d)**

## **HEALTH**

### **THE COMMISSIONER**

#### **Proposed Amendments Concerning Hospital Reporting of Uniform Bill-Patient Summaries (Inpatient)**

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to adopt amendments to N.J.A.C. 8:31B-2 concerning hospital reporting of uniform bill-patient summaries (inpatient).

A synopsis of the proposed amendments follows.

In order to satisfy Medicare requirements for allowing the UB-PS as a Medicare claim, the revenue codes (section IV.A.2) have been completely revised. These codes conform to the newly adopted HCFA revenue codes for uniform billing. Medicare also required that wording be added stating that New Jersey would conform to any national uniform billing form if and when such a form is mandated.

Along with the modifications for Medicare, certain segments of the original regulation have been modified to clarify their meaning or their use. Two significant modifications are (1) the proposed addition of an item to identify if a patient is a readmission, and (2) a complete revision of the payor identification codes in section IV.A.2.

In order to allow time for implementing a UB-PS system, the implementation date has been moved back to January 1, 1981 for all hospitals. Originally, the 26 1980 S.446 hospitals were scheduled to begin use of the UB-PS on October 1, 1980.

A complete copy of the revised regulation can be obtained by writing to Mr. James R. Hub, Director, New Jersey State Department of Health, Health Economics Services, Room 600, Trenton, N.J. 08625.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to the Department of Health at the above address.

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley  
Commissioner  
Department of Health

(a)

## HEALTH

### THE COMMISSIONER

#### Proposed Policy Manual for Planning and Certificate of Need Reviews of Long-Term Care Facilities and Services Within the State of New Jersey

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes for adoption the Policy Manual for Planning and Certificate of Need Reviews of Long-Term Care Facilities and Services within the State of New Jersey. Such rules, if adopted, may be cited as N.J.A.C. 8:33H.

The regulation proposes to establish general policies for the planning and certification of need of long-term care facilities and services, as well as minimum standards and guidelines to be applied to the planning and review of Certificate of Need applications of long-term care facilities and services.

Copies of the 24 pages of full text of the proposed policy manual may be obtained from or made available for review by contacting:

Mr. John A. Calabria  
Coordinator  
Health Planning Services  
Department of Health - Room 802  
P.O. Box 1540  
Trenton, N.J. 08625

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to the Department of Health at the above address.

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley  
Commissioner  
Department of Health

(b)

## HEALTH

### THE COMMISSIONER

#### Proposed Amendments Concerning Administrators and Intermediate Care Facilities

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to amend a portion of the Manual of Standards for Licensure of Intermediate Care Facilities concerning the appointment of an administrator.

Full text of the proposal follows (additions indicated in boldface thus).

8:37-4.4(a) Every facility providing intermediate care services under the multiple occupancy provisions of this manual (skilled nursing and intermediate level of care), whether a free-standing structure or a part of a structure, shall be operated under the supervision of an Administrator who is licensed as a nursing home administrator in the State of New Jersey. **The governing authority shall not appoint or retain in the facility in any administrative position of a managerial nature, such as assistant administrator or similar position, a nursing home administrator whose license is either suspended or revoked, pursuant to N.J.S.A. 26:2H-27 and 26:2H-28 (Chapter 356, P.L. 1968).**

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Wanda J. Marra  
Coordinator, Standards  
N.J. Department of Health  
P.O. Box 1540  
Trenton, N.J. 08625

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley  
Commissioner  
Department of Health

(c)

## HEALTH

### THE COMMISSIONER

#### Proposed Amendments Concerning Administrators and Long Term Care Facilities

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to amend a portion of the Manual of Standards for Licensure of Long Term Care Facilities concerning the appointment of an administrator.

Full text of the proposal follows (additions indicated in boldface thus).

8:39-1.13(h) **The governing authority shall not appoint or retain in the facility in any administrative position of a managerial nature, such as assistant administrator or similar position, a nursing home administrator whose license is either suspended or revoked, pursuant to N.J.S.A. 26:2H-27 and 26:2H-28 (Chapter 356, P. L. 1968).**

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Wanda J. Marra  
Coordinator, Standards  
N.J. Department of Health  
P.O. Box 1540  
Trenton, N.J. 08625

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley  
Commissioner  
Department of Health

(a)

## HEALTH

### THE COMMISSIONER

#### Proposed Manual of Standards for Licensure of Hospices

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq. and with the approval of the Health Care Administration Board, proposes to adopt a new Manual of Standards for Licensure of Hospices which will be cited as N.J.A.C. 8:41, if adopted.

The proposed manual concerns definitions; licensure procedures; general requirements; governing authority, administration; patient/family care policies; coordination; medical services; nursing services; pharmaceutical services; pastoral services; dietary services; social work services; supportive services; cultural enrichment services; volunteer services; bereavement services; laboratory services; dental services; patient rights and responsibilities; patient/family medical records and statistics; financial data; evaluation; infection control; housekeeping services; emergency procedures; and construction.

Copies of the 140 pages of the full text of this proposal may be obtained from or made available for review by contacting:

Wanda J. Marra  
Coordinator, Standards  
N.J. Department of Health  
P.O. Box 1540  
Trenton, N.J. 08625

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980, to the Department of Health at the above address.

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley  
Commissioner  
Department of Health

vides any personal care or service beyond food, shelter and laundry, to any one or more such persons. It shall serve[s] as a substitute for the residents' own homes, furnishing facilities and comforts normally found in a home but providing in addition such services, equipment and safety features required for safe and adequate care of residents at all times. An adult person is anyone 18 years of age or over.

..1. Any establishment which furnishes food and shelter to four (4) or more adult persons unrelated to the proprietor and which admits or retains any adult person in need of personal care or services beyond food, shelter and laundry shall be considered a Health Care Facility as defined in Chapters 136 and 138, Laws of New Jersey, 1971, Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq. and shall adhere to the standards in the Manual of Standards for Licensure of Residential Health Care Facilities (N.J.A.C. 8:43-1 et seq.).

2. Henceforth, the terms "boarding home for sheltered care," "boarding home," "rest home," "home for sheltered care," "sheltered care facility," and "residential facility" as used in this Manual shall be defined as "Residential Health Care Facility."

Ed. Note: The proposed amendment expands the definition of a Boarding Home for Sheltered Care and changes the title of the manual from Manual of Standards for New Boarding Homes for Sheltered Care to Manual of Standards for Licensure of Residential Health Care Facilities.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Wanda J. Marra  
Coordinator, Standards  
N.J. Department of Health  
P.O. Box 1540  
Trenton, N.J. 08625

The Department of Health may thereafter adopt rules concerning this subject without further notice.

Dr. Joanne E. Finley  
Commissioner  
Department of Health

(b)

## HEALTH

### THE COMMISSIONER

#### Proposed Amendment to Definition of Boarding Home

Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:H-1 et seq. and with the approval of the Health Care Administration Board, proposes to amend the Manual of Standards for Licensure of New Boarding Homes for Sheltered Care that expands the definition of a boarding home for sheltered care and changing the title of the Manual to the Manual of Standards for Licensure of Residential Health Care Facilities.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

#### 8:43-1.1 Definitions

"Boarding home, rest home or other home for the sheltered care of adult persons" means any establishment which furnishes food and shelter to four or more adult persons unrelated to the proprietor and which pro-

(c)

## HEALTH

### DRUG UTILIZATION REVIEW COUNCIL

#### Deletions to New Jersey List of Interchangeable Drug Products

On June 10, 1980, Robert Kowalski, Chairman of the Drug Utilization Review Council in the Department of Health, pursuant to authority of N.J.S.A. 24:6E-6(d) and in accordance with applicable provisions of the Administrative Procedure Act, deleted certain items from the New Jersey list of interchangeable drug products in N.J.A.C. 8:71 as proposed in the Notice published April 10, 1980 at 12 N.J.R. 184(a).

An order deleting these items was filed and became effective on June 17, 1980 as R.1980 d.254.

Howard H. Kestin  
Director  
Office of Administrative Law

(Continued on Page 405)

# INTERIM INDEX FOR NEW JERSEY ADMINISTRATIVE CODE

This regular monthly listing provides an interim service for subscribers to the New Jersey Administrative Code, as a check-list of rules most recently adopted.

It includes all rules adopted from receipt of the last individual transmittals as indicated through June 19, 1980.

**RULES NOT YET IN PRINT IN CODE (May be found in N.J. Register beginning with July 5, 1979):**  
 (Full text (in proposal form), if published, may be found in N.J. Register beginning with Sept. 6, 1978.)

**N.J.A.C.**  
**CITATION**

**DOCUMENT**    **ADOPTION NOTICE**  
**CITATION**    **(N.J.R. CITATION)**

**ADMINISTRATIVE LAW — TITLE 1**

1:1	Rules on administrative hearings	R.1980 d.275	12 N.J.R. 362(a)
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**AGRICULTURE — TITLE 2**

2:2-2.4	Amend conformity of brucellosis tests and federal standards	R.1980 d.237	12 N.J.R. 377(c)
2:3-2.12	Amend exemption from pseudorabies test	R.1979 d.304	11 N.J.R. 426(a)
2:16	Amend seed certification requirements	R.1980 d.210	12 N.J.R. 302(a)
2:54-3.7	Amend concurrent suspension to Federal Order No. 4 concerning milk handling in various New Jersey marketing areas	R.1980 d.10	12 N.J.R. 62(a)
2:69-1.11	Amend commercial values of primary plant nutrients	R.1980 d.238	12 N.J.R. 378(a)
2:70-1.1, 1.8	Amend agricultural liming materials	R.1980 d.239	12 N.J.R. 378(b)
2:71-2.28—2.31	Amend fruit and vegetable inspection and grading	R.1980 d.140	12 N.J.R. 248(b)
2:72-1.1	Amend bond requirements	R.1980 d.57	12 N.J.R. 103(a)

(Title 2, Transmittal 15 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

**BANKING — TITLE 3**

3:1-1.1	Amend interest rates	R.1980 d.151	12 N.J.R. 249(b)
3:1-1.2	Interest rates on other loans	R.1979 d.290	11 N.J.R. 429(b)
3:1-9	Amend red-lining	R.1979 d.415	11 N.J.R. 534(b)
3:2	Advertising by financial institutions	R.1980 d.125	12 N.J.R. 170(a)
3:6-7.1	Amend class II installment loan rates	R.1980 d.16	12 N.J.R. 62(c)
3:6-8.1	Savings banks' deposits	R.1980 d.144	12 N.J.R. 249(a)
3:6-9.1	Maximum interest rate on small business loans	R.1980 d.204	12 N.J.R. 302(d)
3:8-3.2, 3.3	Amend reserves by banks not members of the Federal Reserve System	R.1979 d.501	12 N.J.R. 62(b)
3:11-1.1	Amend approval to exceed ten per cent limitation	R.1979 d.298	11 N.J.R. 429(c)
3:11-2.1	Amend approved subsidiaries	R.1980 d.240	12 N.J.R. 383(a)
3:18-9.1, 9.5	Amend secondary mortgage loan act rules	R.1980 d.17	12 N.J.R. 63(a)
3:21-1.8	Loan interest rate; credit union law	R.1980 d.207	12 N.J.R. 303(a)
3:22	Insurance Premium Finance Company Act	R.1980 d.203	12 N.J.R. 302(c)
3:31-2.2	Maximum interest rate; repair and improvement loans	R.1980 d.18	12 N.J.R. 63(b)

(Title 3, Transmittal 14 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

**CIVIL SERVICE — TITLE 4**

4:1-2.1	Amend definition of immediate family	R.1980 d.60	12 N.J.R. 104(a)
4:1-9.1	Amend review of scoring key	R.1980 d.236	12 N.J.R. 383(c)
4:1-9.5	Amend performance evaluations	R.1980 d.61	12 N.J.R. 104(b)
4:1-17.9	Amend disability leave and sick leave injury	R.1980 d.231	12 N.J.R. 383(b)
4:1-20.3	Amend performance evaluation	R.1980 d.61	12 N.J.R. 104(b)

(Title 4, Transmittal 13 dated June 1, 1979 includes all rules through February 7, 1980 N.J. Register.)

## COMMUNITY AFFAIRS — TITLE 5

5:19	Repeal rules of practice of Bureau of Housing Inspection	R.1980 d.205	12 N.J.R. 305(a)
5:22	Rules on exemptions from taxation	R.1980 d.206	12 N.J.R. 305(b)
5:25-1.3, 4.2, 5.5	Amend new home warranties and builders registration	R.1980 d.158	12 N.J.R. 250(a)
5:26-1.3, 2.2, 2.17, 3.1, 4.2, 6.5, 8.4, 11.7, 11.9	Amend planned real estate development full disclosure	R.1979 d.439	11 N.J.R. 610(b)
5:30-17	Co-operative pricing and joint purchasing systems	R.1980 d.104	12 N.J.R. 172(a)
5:30-17	Ratify rules concerning cooperative pricing and joint purchasing system	R.1980 d.243	12 N.J.R. 388(b)
5:80	Amend determining rents or carrying charges in developments financed by HFA	R.1980 d.234	12 N.J.R. 388(a)
5:100-1.6	Amend ombudsman subpoenas	R.1980 d.233	12 N.J.R. 387(a)

(Title 5, Transmittal 13 dated October 1, 1979 includes all rules through November 8, 1979 N.J. Register.)

## EDUCATION — TITLE 6

6:3-1.22	Evaluation of tenured chief school administrators	R.1979 d.480	12 N.J.R. 7(a)
6:8-1.1	Amend evaluation and classification process	R.1980 d.107	12 N.J.R. 178(a)
6:8-1.1, 3.8, 4.2	Amend high school graduation requirements	R.1980 d.106	12 N.J.R. 177(b)
6:8-6.2, 7.1	Amend evaluation and classification process	R.1980 d.107	12 N.J.R. 178(a)
6:11-4.7	Amend county substitute certificate	R.1980 d.105	12 N.J.R. 177(a)
6:20-3.1, 3.4	Amend tuition public schools	R.1980 d.165	12 N.J.R. 251(c)
6:20-3.1, 3.4	Amend public school tuition	R.1980 d.225	12 N.J.R. 308(a)
6:20-5.4	Additional State school building aid	R.1979 d.479	12 N.J.R. 6(b)
6:20-6.2, 6.8	Amend purchase and loan of textbooks	R.1980 d.163	12 N.J.R. 251(a)
6:20-7	Amend qualifications, debarment, suspension and disqualification of person(s) concerning contract administration	R.1979 d.478	12 N.J.R. 6(a)
6:20-8	Rules on public school contracts	R.1980 d.69	12 N.J.R. 107(a)
6:26-3.1	Amend operation of summer schools	R.1980 d.68	12 N.J.R. 106(a)
6:27-1.4	Amend high school graduation requirements	R.1980 d.106	12 N.J.R. 177(b)
6:27-3.1	Amend operation of summer schools	R.1980 d.68	12 N.J.R. 106(a)
6:29-7.1	Family life education	R.1980 d.164	12 N.J.R. 251(b)
6:31	Amend bilingual education	R.1980 d.70	12 N.J.R. 107(b)
6:68-2	Amend library incentive grant program	R.1980 d.224	12 N.J.R. 307(b)

(Title 6, Transmittal 15 dated Nov. 13, 1979 includes all rules through Dec. 6, 1979 N.J. Register.)

## ENVIRONMENTAL PROTECTION — TITLE 7

7:1C-1.2, 1.6—1.10	Amend 90-day construction permits	R.1980 d.75	12 N.J.R. 113(d)
7:1E-1.3	Amend discharges of petroleum and other hazardous substances	R.1980 d.185	12 N.J.R. 314(a)
7:1E-1.3	Amend discharges of petroleum and other hazardous substances	R.1980 d.267	12 N.J.R. 392(b)
7:1F	Industrial survey project	R.1980 d.129	12 N.J.R. 259(c)
7:1F	Amend industrial survey project	R.1980 d.181	12 N.J.R. 313(b)
7:1G-1	Interim rules for review and approval of applications for development or construction	R.1979 d.333	11 N.J.R. 502(b)
7:1G-1.11	Amend review and approval of applications for development or construction	R.1979 d.458	12 N.J.R. 10(c)
7:1G-1.11(a)2	Amend water quality standards	R.1979 d.395	11 N.J.R. 543(b)
7:1G-2	Procedures for processing applications for development	R.1979 d.332	11 N.J.R. 504(a)
7:1G-2.1(d)	Amend procedures for processing applications for development	R.1979 d.394	11 N.J.R. 543(a)
7:4	Rules on the New Jersey Register of Historic Places	R.1979 d.328	11 N.J.R. 434(a)
7:4-2.2(c)	Amend N.J. Register of Historic Places	R.1980 d.241	12 N.J.R. 391(b)
7:6-8	Motor vehicles using ice-covered waters	R.1980 d.88	12 N.J.R. 114(b)
7:9-1.98	Delete rule on other disinfectants	R.1980 d.182	12 N.J.R. 313(c)
7:12	Amend condemnation of certain shellfish beds	R.1980 d.230	12 N.J.R. 391(a)
7:12-1.4	Condemnation of certain waters in the Atlantic Ocean for shellfish harvesting	R.1980 d.12	12 N.J.R. 71(c)
7:12-1.4	Delete rule on condemnation of certain Atlantic Ocean waters for shellfish harvesting	R.1980 d.48	12 N.J.R. 112(b)
7:13-1.11(c)	Amend flood plain delineation of the Delaware River	R.1980 d.65	12 N.J.R. 113(b)
7:13-1.11(c)	Amend flood plain delineations; North Branch Rancocas Creek and Rancocas Creek; Burlington County	R.1980 d.76	12 N.J.R. 113(e)
7:13-1.11(c)	Amend flood plain delineation within the Delaware River Basin	R.1980 d.242	12 N.J.R. 391(c)
7:13-1.11(c)	Amend delineated floodways in the Delaware Basin	R.1980 d.251	12 N.J.R. 391(e)

7:13-1.11(d)	Amend floodway delineations of streams within the Passaic River Basin	R.1979 d.430	11 N.J.R. 545(a)
7:13-1.11(d)	Amend floodway delineation of streams within the Raritan and Rahway River Basin	R.1979 d.418	11 N.J.R. 544(d)
7:13-1.11(d)	Amend flood plain delineation of Raritan River, South River, Manalapan Brook, Matchaponix Brook and various tributaries within Raritan River Basin	R.1980 d.23	12 N.J.R. 72(d)
7:13-1.11(d)	Amend floodway delineation of Elizabeth River and various streams within Roselle Park Borough	R.1980 d.24	12 N.J.R. 73(a)
7:13-1.11(d)	Amend flood plain delineation of portions of Hackensack River Basin in Bergen County	R.1980 d.26	12 N.J.R. 73(c)
7:15-1.11(d)	Amend delineated floodways in the Raritan Basin	R.1980 d.99	12 N.J.R. 181(b)
7:13-1.11(d)	Amend flood plain delineation of parts of the Rockaway River and Passaic River	R.1980 d.66	12 N.J.R. 113(c)
7:13-1.11(e)	Flood plain delineation of Passaic River from Dundee Dam upstream to Beatties Dam	R.1980 d.21	12 N.J.R. 72(b)
7:13-1.11(f)	Amend flood plain delineation of streams within New Milford Township, Ringwood and Wanague Boroughs in Passaic County	R.1980 d.22	12 N.J.R. 72(c)
7:13-1.11(g)	Amend flood plain delineation of part of Saddle River and portions of its various tributaries	R.1980 d.25	12 N.J.R. 73(b)
7:14-2.5	Amend water pollution control act regulations	R.1980 d.49	12 N.J.R. 112(c)
7:14-2.26	Wastewater treatment report	R.1980 d.58	12 N.J.R. 113(a)
7:14-4	Sludge quality assurances	R.1979 d.419	11 N.J.R. 544(e)
7:25-5	Amend 1979-80 Game Code	R.1979 d.329	11 N.J.R. 434(b)
7:25-5	Amend 1979-80 Game Code	R.1979 d.404	11 N.J.R. 544(a)
7:25-5	1980-1981 Game Code	R.1980 d.266	12 N.J.R. 392(a)
7:25-6	1980 Fish Code	R.1979 d.403	11 N.J.R. 543(c)
7:25-7.2	Amend oyster seed beds	R.1980 d.215	12 N.J.R. 314(d)
7:25-7.4	Oyster dredging prohibition	R.1980 d.216	12 N.J.R. 314(e)
7:25-12.1, 12.4	Amend sea clams	R.1979 d.472	12 N.J.R. 10(b)
7:25-15.1	Amend relay of hard clams	R.1980 d.161	12 N.J.R. 260(a)
7:25-16.1	Amend upstream lines requiring licenses	R.1979 d.405	11 N.J.R. 544(c)
7:25-17	Disposal of dead deer	R.1980 d.193	12 N.J.R. 314(c)
7:25-20.1	Temporary fishing ban	R.1980 d.177	12 N.J.R. 313(a)
7:25-20.1	Temporary fishing ban	R.1980 d.184	12 N.J.R. 313(e)
7:26-3.2, 4.7	Amend registration and fees for solid waste collector/haulers	R.1980 d.250	12 N.J.R. 391(d)
7:26-6	Interdistrict and intergroup solid waste flow	R.1979 d.502	12 N.J.R. 71(b)
7:27-16, 17	Amend control and prohibition of air pollution by volatile organic and toxic substances	R.1979 d.414	11 N.J.R. 544(b)
7:28-12	Amend transportation	R.1980 d.191	12 N.J.R. 314(b)
7:28-24.15	Amend certification fees for nuclear medicine technology	R.1980 d.87	12 N.J.R. 114(a)
7:37-1.5(d)	Delete part of rules on urban neighborhood assistance program	R.1980 d.183	12 N.J.R. 313(d)
7:45	Delineating review zone within Delaware and Raritan Canal State Park	R.1980 d.15	12 N.J.R. 72(a)

(Title 7, Transmittal 13 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

## HEALTH — TITLE 8

8:7-1.9(a)	Amend health officer qualifications	R.1980 d.168	12 N.J.R. 272(c)
8:15	Amend effective date	R.1980 d.32	12 N.J.R. 75(b)
8:15	Correction to printed text	—	12 N.J.R. 74(b)
8:15	Repeal rules on smoking in certain public places	R.1980 d.124	12 N.J.R. 187(a)
8:19	Newborn hearing screening program	R.1980 d.173	12 N.J.R. 273(d)
8:21-1.29	Labeling, sale and distribution of cosmetics for professional use only	R.1980 d.218	12 N.J.R. 317(a)
8:21-3.14	Delete rules	R.1979 d.454	11 N.J.R. 622(d)
8:21-3.15—3.18	Repeal of certain rules concerning Uniform Narcotic Act	R.1979 d.451	11 N.J.R. 622(a)
8:21-10.12(f)	Amend expiration date requirement for containers of white whole milk	R.1980 d.96	12 N.J.R. 186(a)
8:21A	Rules on good drug manufacturing	R.1979 d.453	11 N.J.R. 622(c)
8:25-3.2(a)	Amend physical examinations regarding Youth Camp Safety Act standards	R.1980 d.169	12 N.J.R. 272(d)
8:30	Amend expiration date	R.1980 d.257	12 N.J.R. 406(a)
8:31-8 App. B	Amend standards and general criteria for the planning, certification of need and designation of perinatal services	R.1979 d.369	11 N.J.R. 549(c)
8:31-25.1(a)23	Add dexamethasone to list of therapeutic agents	R.1979 d.409	11 N.J.R. 550(c)
8:31-30.1	Amendments concerning plan review fee	R.1980 d.256	12 N.J.R. 405(b)
8:31A-5.5	Temporary reporting procedures; implementation of S446	R.1979 d.368	11 N.J.R. 549(b)

8:31A-5.5	Amend hospital cost reporting procedures	R.1980 d.271	12 N.J.R. 407(a)
8:31A-6	1981 Hospital Rate Setting Rules in SHARE Manual	R.1980 d.269	12 N.J.R. 406(d)
8:31A-7	1981 SHARE guidelines	R.1980 d.270	12 N.J.R. 406(e)
8:31B-2	Rules on hospital reporting of uniform bill-patient summaries (in-patient)	R.1979 d.450	11 N.J.R. 621(a)
8:31B-3	Procedural and methodological regulations to implement Chapter 83, P.L. 1978	R.1979 d.408	11 N.J.R. 550(b)
8:31B-3.8(b)	Amend procedural and methodological rules for implementing Chapter 83, P.L. 1978	R.1979 d.484	12 N.J.R. 15(b)
8:31B-4	Financial elements and reporting	R.1979 d.407	11 N.J.R. 550(a)
8:32	Amend 1976-77 (Interim) N.J. State Medical Facilities Plan Long-term care bed need methodology and formula	R.1980 d.110	12 N.J.R. 186(b)
8:33-1.4, Exhibit 2	Amendments to guidelines and criteria for submission of applications for certificates of need	R.1980 d.36	12 N.J.R. 75(e)
8:33-1.4, 2.7, 2.8	Amend guidelines and criteria for submission of applications for certificate of need	R.1980 d.123	12 N.J.R. 186(c)
8:34-1.29, 1.30	Administrative experience regarding nursing home administrators	R.1980 d.170	12 N.J.R. 273(a)
8:35-1.3(g)	Amend antibiotic use	R.1980 d.85	12 N.J.R. 117(a)
8:36	Delete current text	R.1980 d.39	12 N.J.R. 76(c)
8:36A	Amend certificate of need for end stage renal disease service	R.1980 d.34	12 N.J.R. 75(c)
8:37	Amend expiration date	R.1980 d.257	12 N.J.R. 406(a)
8:39	Amend effective date	R.1980 d.257	12 N.J.R. 406(a)
8:39-1.1	Amend definition of ancillary nursing personnel	R.1980 d.171	12 N.J.R. 273(b)
8:39-1.15, 1.25	Amendments to Manual of Standards for Licensure of Long-Term Care Facilities	R.1980 d.258	12 N.J.R. 406(b)
8:39-1.33	Amend standards for licensure of long term care facilities	R.1979 d.492	12 N.J.R. 16(e)
8:42-1.1	Amend definition of governing authority	R.1979 d.485	12 N.J.R. 15(c)
8:42-3	Extend expiration date of standards to June 30, 1980	R.1979 d.486	12 N.J.R. 15(d)
8:42-3	Amend expiration date of standards, alcohol abuse residential and inpatient treatment facilities	R.1980 d.272	12 N.J.R. 407(b)
8:43-4.1(a)	Amendments to standards for licensure of new boarding homes for sheltered care	R.1980 d.172	12 N.J.R. 273(c)
8:43A-1.21(b)	Amend emergency medical care and defibrillators	R.1979 d.488	12 N.J.R. 16(a)
8:43A-1.52, 1.59, 1.63	Amend hours of counseling and availability of hours	R.1979 d.406	11 N.J.R. 549(e)
8:43A-1.66	Amend construction standards	R.1979 d.493	12 N.J.R. 17(a)
8:43A-1.71	Amend computerized axial tomography services	R.1979 d.487	12 N.J.R. 15(e)
8:43A-1.72	Extend expiration date for standards to June 30, 1980	R.1979 d.489	12 N.J.R. 16(b)
8:43A-1.72	Amend expiration date of standards	R.1980 d.273	12 N.J.R. 407(c)
8:43A-1.74	Amendments on intermediate renal dialysis services	R.1980 d.39	12 N.J.R. 76(c)
8:43B-1.11(q)7	Amend waiver of emergency room services	R.1979 d.410	11 N.J.R. 550(d)
8:43B-7.2(c)	Amend respiratory therapists	R.1979 d.491	12 N.J.R. 16(d)
8:43B-17.12, 17.13, 17.16	Amend number of physicians and cardiac diagnostic and surgical services	R.1979 d.490	12 N.J.R. 16(c)
8:43B-17.17	Amend construction standards and cardiac diagnostic and surgical services	R.1979 d.494	12 N.J.R. 17(b)
8:43F	Manual of Standards for Licensure of Non-Residential Medical Day Care Facilities	R.1979 d.452	11 N.J.R. 622(b)
8:45-1.3	Amend clinical laboratories licensure fees	R.1979 d.398	11 N.J.R. 549(d)
8:45-2.1, 2.2	Amendments increasing certain laboratory fees	R.1979 d.411	11 N.J.R. 550(e)
8:65-1.1-1.3	Use of controlled dangerous substances by animal care facilities	R.1980 d.86	12 N.J.R. 117(b)
8:65-2	Delete rules	R.1979 d.453	11 N.J.R. 622(c)
8:65-2.5, 5.3, 5.4, 5.11, 5.17, 6.6	Use of controlled dangerous substances by animal care facilities	R.1980 d.86	12 N.J.R. 117(b)
8:65-10.2(b)5.	Add immediate precursors to Schedule II of Controlled Dangerous Substances	R.1980 d.37	12 N.J.R. 76(a)
8:65-10.2(b)5.	Add immediate precursor to phencyclidine (PCP)	R.1980 d.38	12 N.J.R. 76(b)
8:65-10.8	Amend exempt chemical preparations	R.1980 d.180	12 N.J.R. 316(b)
8:70-1.1(c)	Amend drug evaluation and acceptance criteria	R.1979 d.412	11 N.J.R. 551(a)
8:70-1.1(d)	Amend manufacturer's name on drug labels	R.1979 d.483	12 N.J.R. 15(a)
8:71	Amend interchangeable drug products	R.1979 d.498	12 N.J.R. 75(a)
8:71	Amend list of interchangeable drug products	R.1980 d.35	12 N.J.R. 75(d)
8:71	Deletions to list of interchangeable drug products	R.1980 d.254	12 N.J.R. 394(c)
8:71	Amend list of interchangeable drug products	R.1980 d.255	12 N.J.R. 405(a)
8:71	Additions to the list of interchangeable drug products	R.1980 d.263	12 N.J.R. 406(c)

(Title 8, Transmittal 12 dated September 13, 1979 includes all rules through October 4, 1979 N.J. Register.)

## HIGHER EDUCATION — TITLE 9

9:1-6.1, 6.4	Amend petitions from out-of-State institutions	R.1979 d.441	11 N.J.R. 623(a)
9:2-2.7, 2.10, 2.12, 9.7—9.10	Amend personnel policies for State colleges	R.1979 d.460	12 N.J.R. 19(a)
9:3-1.3	Amend personnel policies for State colleges; contracts for nonfaculty professional staff	R.1980 d.50	12 N.J.R. 118(b)
9:3-2.14	Amend personnel policies for State colleges	R.1979 d.460	12 N.J.R. 19(a)
9:6-1.1—1.4	Amend personnel policies for State colleges	R.1979 d.460	12 N.J.R. 19(a)
9:6-1.2	Amend personnel policies for State colleges; contracts for nonfaculty professional staff	R.1980 d.50	12 N.J.R. 118(b)
9:7-2.2	Amend residency, dependent and independent students and grant renewals	R.1979 d.442	11 N.J.R. 623(b)
9:7-2.6	Amend residency, dependent and independent students and grant renewals	R.1979 d.442	11 N.J.R. 623(b)
9:7-2.10	Amend verification of enrollment and academic performance	R.1980 d.74	12 N.J.R. 119(a)
9:7-3.3	Amend residency, dependent and independent students and grant renewals	R.1979 d.442	11 N.J.R. 623(b)
9:7-4.1	Amend Garden State scholarship eligibility requirements	R.1980 d.212	12 N.J.R. 317(b)
9:9-1.12(a), 5.3	Amend loan amounts and eligibility requirements	R.1979 d.401	11 N.J.R. 551(c)
9:11-1.1(c)6.	Amend student eligibility	R.1980 d.1	12 N.J.R. 76(d)
9:14	Amend implementing Independent Colleges and Universities Assistance Act	R.1980 d.98	12 N.J.R. 186(b)

(Title 9, Transmittal 13 dated September 13, 1979 includes all rules through October 4, 1979 N.J. Register.)

## HUMAN SERVICES — TITLE 10

10:44B	Standards on regulating adult foster homes, skill development homes and supervised apartments	R.1980 d.157	12 N.J.R. 278(e)
10:49-1.3	Amend disclosure of information	R.1980 d.90	12 N.J.R. 193(b)
10:49-1.18, 1.23	Amend nondiscrimination of handicapped recipients	R.1980 d.247	12 N.J.R. 418(d)
10:49-5.5	Amend fair hearing	R.1980 d.33	12 N.J.R. 86(f)
10:50-1.2—1.4, 2.2, 2.5, 2.6	Amend transportation services	R.1980 d.93	12 N.J.R. 193(e)
10:52-1.6(c)	Amend out-patient hospital services	R.1980 d.45	12 N.J.R. 125(c)
10:52-1.7, 1.13	Amend Hospital Services Manual	R.1980 d.139	12 N.J.R. 278(a)
10:52-1.16	Amend medicaid reimbursement for abortions	R.1980 d.130	12 N.J.R. 277(a)
10:52-1.16	Abortions	R.1980 d.264	12 N.J.R. 419(b)
10:52-2.12	Assessment of interest on overpayments	R.1980 d.47	12 N.J.R. 126(a)
10:53-1.14	Amend medicaid reimbursement for abortions	R.1980 d.130	12 N.J.R. 277(a)
10:53-1.14	Abortions	R.1980 d.264	12 N.J.R. 419(b)
10:53-2.17	Assessment of interest on overpayments	R.1980 d.217	12 N.J.R. 323(c)
10:54-1.5(b)	Amend Physician's Services Manual	R.1980 d.138	12 N.J.R. 277(c)
10:54-1.9	Amend Physicians Services Manual	R.1980 d.91	12 N.J.R. 193(c)
10:54-1.23	Amend medicaid reimbursement for abortions	R.1980 d.130	12 N.J.R. 277(a)
10:54-1.23	Abortions	R.1980 d.264	12 N.J.R. 419(b)
10:55-1.5(b)3.	Amend Prosthetic and Orthotic Services Manual	R.1980 d.89	12 N.J.R. 193(a)
10:60-2.5	Assessment of interest on overpayments	R.1980 d.46	12 N.J.R. 125(d)
10:63-3	Amend longterm care facilities rate review guidelines	R.1979 d.482	12 N.J.R. 42(b)
10:63-3.1	Amend penalties for delinquent cost studies	R.1980 d.211	12 N.J.R. 323(b)
10:63-3.5	Amend long-term care manual rate review guidelines	R.1980 d.42	12 N.J.R. 125(b)
10:66	Amend Independent Clinic Manual	R.1980 d.249	12 N.J.R. 418(f)
10:66-1.15	Amend changes of reimbursement for independent clinics	R.1980 d.248	12 N.J.R. 418(e)
10:66-4.18	Amend medicaid reimbursement for abortions	R.1980 d.130	12 N.J.R. 277(a)
19:67-1.8	Amend Psychologists Service Manual regarding prior authorization	R.1980 d.137	12 N.J.R. 277(b)
10:81-2.7	Amend reimbursements to CWA and discontinuance of collection activity	R.1980 d.118	12 N.J.R. 194(c)
10:81-3.2, 3.3	Amend determination of presumptive eligibility	R.1980 d.77	12 N.J.R. 126(b)
10:81-3.8	Amend reimbursements to CWA and discontinuance of collection activity	R.1980 d.118	12 N.J.R. 194(c)
10:81-3.17	Amend ways by which continued absence from the home may be established	R.1980 d.222	12 N.J.R. 324(a)
10:81-3.21	Amend residence requirement and support rights	R.1980 d.119	12 N.J.R. 194(d)
10:81-3.27, 3.28	Amend transfer of cases from one county to another	R.1980 d.41	12 N.J.R. 87(a)
10:81-3.32, 3.33, 3.34	Amend temporary absence from home by a parent, parent-person or child	R.1980 d.78	12 N.J.R. 126(c)
10:81-3.38	Amend temporary absence from home by a parent, parent-person or child	R.1980 d.78	12 N.J.R. 126(c)
10:81-3.38, 3.40	Amend reimbursements to CWA and discontinuance of collection activity	R.1980 d.118	12 N.J.R. 194(c)

10:81-3.41(a)	Amend recovery of assistance granted on behalf of a child pending settlement of a claim	R.1980 d.80	12 N.J.R. 126(e)
10:81-3.42	Amend reimbursements to CWA and discontinuance of collection activity	R.1980 d.118	12 N.J.R. 194(c)
10:81-7.1	Amend transfer of cases from one county to another	R.1980 d.41	12 N.J.R. 87(a)
10:81-7.13	Amend retention and destruction of case records	R.1980 d.81	12 N.J.R. 127(a)
10:81-7.22, 7.26	Amend payment of burial and funeral costs	R.1980 d.244	12 N.J.R. 518(a)
10:81-8.20	Amend exemption of an institutionalized individual's wages	R.1980 d.188	12 N.J.R. 322(c)
10:81-App.D.	Amend residence requirements and assignment of support rights	R.1980 d.119	12 N.J.R. 194(d)
10:82-1.4	Amend cross-references to Public Assistance Manual and incorporation of existing policy into the manual	R.1980 d.120	12 N.J.R. 194(e)
10:82-1.6	Amend Assistance Standards Handbook	R.1980 d.79	12 N.J.R. 126(d)
10:82-2.6	Amend institutionalized child, homemaker service, travel expenses and emergency assistance	R.1980 d.28	12 N.J.R. 86(c)
10:82-2.9	Amend Assistance Standards Handbook	R.1980 d.79	12 N.J.R. 126(d)
10:82-2.14(f)	Amend the determination of monthly income of AFDC clients employed on a contractual basis	R.1980 d.82	12 N.J.R. 127(b)
10:82-3.7	Amend cross-references to Public Assistance Manual and incorporation of existing policy into the manual	R.1980 d.120	12 N.J.R. 194(e)
10:82-4.9(c)	Amend increase in monthly rates for foster care as established by DYFS	R.1980 d.83	12 N.J.R. 127(c)
10:82-5.4, 5.5	Amend Assistance Standards Handbook	R.1980 d.28	12 N.J.R. 86(c)
10:82-5.10	Amend Assistance Standards Handbook	R.1980 d.28	12 N.J.R. 86(c)
10:82-5.10(d)	Amend emergency assistance and victims of domestic violence	R.1980 d.166	12 N.J.R. 278(f)
10:85	Amend forms and references to forms in the general assistance program	R.1980 d.11	12 N.J.R. 86(a)
10:85-3.1, 3.2	Amend general assistance procedures for persons released from State psychiatric institutions	R.1980 d.116	12 N.J.R. 194(a)
10:85-3.2	Amendments on fair hearings and medical payments	R.1979 d.496	12 N.J.R. 43(b)
10:85-3.2	Amend General Assistance Manual	R.1980 d.92	12 N.J.R. 193(d)
10:85-3.2	Amend work registration procedures in general assistance program	R.1980 d.122	12 N.J.R. 195(b)
10:85-3.2	Amend application on behalf of a critically ill or hospitalized client by an authorized agent	R.1980 d.152	12 N.J.R. 278(b)
10:85-3.2	Amend workfare	R.1980 d.153	12 N.J.R. 278(c)
10:85-3.2	Amend out-of-State individuals entering New Jersey medical facilities	R.1980 d.245	12 N.J.R. 418(b)
10:85-3.2	Amend GAM	R.1980 d.252	12 N.J.R. 419(a)
10:85-3.3(c)	Amend determination of monthly income for persons employed on a contractual basis	R.1980 d.84	12 N.J.R. 127(d)
10:85-3.3(g)	Amend allowance schedules and medically needy individuals	R.1980 d.29	12 N.J.R. 86(d)
10:85-3.5	Amend work registration procedures in general assistance program	R.1980 d.122	12 N.J.R. 195(b)
10:85-4.6(b)	Amend emergency assistance and victims of domestic violence	R.1980 d.167	12 N.J.R. 279(a)
10:85-5.2	Amend General Assistance Manual	R.1980 d.92	12 N.J.R. 193(d)
10:85-5.3	Amend fair hearing and medical payments	R.1979 d.496	12 N.J.R. 43(b)
10:85-5.3, 5.4	Amend general assistance clients in certain municipalities	R.1980 d.252	12 N.J.R. 419(a)
10:85-5.3, 5.5	Amendments on medical payments	R.1979 d.495	12 N.J.R. 43(a)
10:85-5.8, 5.9	Amend general assistance clients in certain municipalities	R.1980 d.252	12 N.J.R. 419(a)
10:85-6.3	Amend General Assistance Manual	R.1980 d.92	12 N.J.R. 193(d)
10:85-6.8	Amend general assistance clients in certain municipalities	R.1980 d.252	12 N.J.R. 419(a)
10:85-7.1-7.3	Amend fair hearing and medical payments	R.1979 d.496	12 N.J.R. 43(b)
10:85-7.3	Amend workfare	R.1980 d.153	12 N.J.R. 278(c)
10:85-7.6	Amend fair hearing and medical payments	R.1979 d.496	12 N.J.R. 43(b)
10:85-10	Amend workfare	R.1980 d.153	12 N.J.R. 278(c)
10:85-App. C	Amend allowance schedules and medically needy individuals	R.1980 d.29	12 N.J.R. 86(d)
10:87-2.1	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-2.21, 2.29	Amend Food Stamp Manual	R.1979 d.459	12 N.J.R. 40(c)
10:87-3.18(b)	Amend criteria for student exemption from work registration	R.1980 d.30	12 N.J.R. 86(e)
10:87-3.18, 4.7	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-4.8	Amend exclusion of resources	R.1980 d.220	12 N.J.R. 323(d)
10:87-5.8	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-5.10, 6.9, 6.11, 6.13, 6.15	Amend Food Stamp Manual	R.1979 d.459	12 N.J.R. 40(c)
10:87-6.16	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-7.18, 9.1	Amend Food Stamp Manual	R.1980 d.117	12 N.J.R. 194(b)
10:87-9.7	Amend Food Stamp Manual	R.1979 d.459	12 N.J.R. 40(c)
10:87-10	Amend Food Stamp Manual	R.1980 d.121	12 N.J.R. 195(a)
10:87-10.1	Amend retention period for source documents	R.1980 d.117	12 N.J.R. 194(b)
10:87-11.15, 11.20	Amend Food Stamp Manual	R.1979 d.422	12 N.J.R. 559(d)
10:87-12	Amend Tables in Food Stamp Manual	R.1979 d.477	12 N.J.R. 42(a)
10:87-12.1	Amend income deduction table	R.1980 d.154	12 N.J.R. 278(d)

10:90	Repeal Handbook for Home Services	R.1980 d.208	12 N.J.R. 323(a)
10:94-4.33	Amendments concerning Medicaid Only income eligibility levels	R.1980 d.223	12 N.J.R. 324(b)
10:94-5.8	Amend living allowance deductions	R.1980 d.187	12 N.J.R. 322(b)
10:94-5.8	Amend exemption of institutionalized individual's wages	R.1980 d.188	12 N.J.R. 322(c)
10:94-5.8(a)	Amendments concerning living allowance deductions	R.1980 d.27	12 N.J.R. 86(b)
10:99	Repeal	R.1980 d.178	12 N.J.R. 322(a)
10:100-1.23	Amend SSI payments	R.1980 d.221	12 N.J.R. 323(e)
10:100-3.5, 3.6, 3.7	Amend payment of burial and funeral costs	R.1980 d.246	12 N.J.R. 418(c)
10:102	Repeal	R.1980 d.178	12 N.J.R. 322(a)
10:104-1.19	Pre-adoption home studies in cases of foreign born children	R.1979 d.457	12 N.J.R. 40(b)
10:105	Repeal	R.1980 d.178	12 N.J.R. 322(a)
10:107	Repeal	R.1980 d.178	12 N.J.R. 322(a)
10:108	Repeal	R.1980 d.178	12 N.J.R. 322(a)

(Title 10, Transmittal 13 dated Nov. 13, 1979 includes all rules through Dec. 6, 1979 N.J. Register.)

### CORRECTIONS — TITLE 10A

10A:32	Manual of standards for juvenile detention facilities	R.1980 d.14	12 N.J.R. 87(b)
10A:70-1.11	Temporary postponements of certain provision of Parole Act of 1979	R.1980 d.174	12 N.J.R. 335(a)
10A:71-3.3, 3.4, 3.19, 7.16	Amended Rules of State Parole Board	R.1980 d.226	12 N.J.R. 335(b)

(Title 10, Transmittal 4 dated Nov. 13, 1979 includes all rules through Jan. 10, 1980 N.J. Register.)

### INSURANCE — TITLE 11

11:1-5.8	Taxes paid to Firemen's Relief Associations	R.1979 d.356	11 N.J.R. 520(c)
11:4-16-18	Minimum standards for health insurance	R.1980 d.176	12 N.J.R. 342(c)
11:4-20.1, 20.2	Unfair discrimination on basis of impairment	R.1979 d.434	11 N.J.R. 627(f)
11:4-21	Life insurance policies—limited death benefit as alternative to underwriting	R.1980 d.265	12 N.J.R. 423(c)
11:5-1.15—1.17,	Amend advertising, contracts and obligations	R.1979 d.461	12 N.J.R. 44(b)
11:5-1.15(1)	Amend advertising	R.1980 d.52	12 N.J.R. 128(a)
11:5-1.15(m)	Amend advertising	R.1980 d.213	12 N.J.R. 343(a)
11:5-1.16(c)	Amend advertising	R.1980 d.51	12 N.J.R. 127(e)
11:5-1.16(c)	Amend listing agreements and contracts	R.1980 d.214	12 N.J.R. 342(d)
11:5-1.16(c)	Amend contracts of sale and listing agreements	R.1980 d.274	12 N.J.R. 423(d)
11:5-1.23	Amend advertising, contracts and obligation	R.1979 d.461	12 N.J.R. 44(b)

(Title 11, Transmittal 13 dated July 19, 1979 includes all rules through September 6, 1969 N.J. Register.)

### LABOR AND INDUSTRY — TITLE 12

12:15-1.3	Amend maximum weekly benefit rates; unemployment compensation and temporary disability benefits	R.1979 d.321	11 N.J.R. 449(d)
12:15-1.4	Amend taxable wage base under unemployment compensation law	R.1979 d.320	11 N.J.R. 449(c)
12:15-1.5	Amend contribution rate of governmental entities and instrumentalities	R.1979 d.327	11 N.J.R. 450(a)
12:35	Assignment of employable general assistance recipients to worksites	R.1980 d.162	12 N.J.R. 280(b)
12:175	Amendments ski lifts	R.1979 d.360	11 N.J.R. 521(a)
12:200	Amend liquefied petroleum gases	R.1980 d.143	12 N.J.R. 280(a)
12:235-1.5	Amend worker's compensation rate	R.1979 d.319	11 N.J.R. 449(b)

(Title 12, Transmittal 11 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

### LAW AND PUBLIC SAFETY — TITLE 13

13:2-17.14, 19.6	Amend elimination of requirement for oral argument	R.1979 d.393	11 N.J.R. 580(f)
13:2-24.5, 24.9, 25.1, 25.2, 25.3, 26.1	Amend Division rules	R.1980 d.72	12 N.J.R. 156(a)
13:2-31.4	Amend elimination of requirement for oral argument	R.1979 d.393	11 N.J.R. 580(f)
13:2-36.1	Amend Division rules	R.1980 d.72	12 N.J.R. 156(a)
13:2-41.5	Amend collection of sales and use tax	R.1980 d.73	12 N.J.R. 156(b)
13:19-4	Amend cardiovascular disorders	R.1979 d.367	11 N.J.R. 579(b)
13:20-12.2	Amend driver reexamination	R.1979 d.435	11 N.J.R. 628(c)
13:21-4.1	Amend statements of origin	R.1980 d.112	12 N.J.R. 209(c)
13:21-5.10	Surrender of registration plates	R.1979 d.315	11 N.J.R. 466(b)
13:21-8.2	Amend proof of identity and date of birth	R.1979 d.382	11 N.J.R. 580(d)
13:21-14	Amend bus drivers	R.1980 d.114	12 N.J.R. 209(e)
13:21-15.3	Amend motor vehicle dealers	R.1979 d.371	11 N.J.R. 580(a)

13:24-2.5, 2.7, 4.1, 4.2, 5.1	Amend emergency vehicle equipment	R.1979 d.372	11 N.J.R. 580(b)
13:25-8.5	Amend motorized bicycles	R.1980 d.113	12 N.J.R. 209(d)
13:25-8.5, 8.6	Rules on motorized bicycles	R.1979 d.481	12 N.J.R. 48(d)
13:26	Amend transportation of bulk commodities	R.1980 d.9	12 N.J.R. 91(c)
13:28-1.54	Amend beauty culture notice requirements	R.1980 d.94	12 N.J.R. 208(b)
13:28-1.56	Beauty shop price posting	R.1980 d.229	12 N.J.R. 433(b)
13:28-2.6	Amend names of schools	R.1980 d.261	12 N.J.R. 434(c)
13:28-2.11	Amend non-English speaking student enrollment	R.1980 d.109	12 N.J.R. 209(a)
13:28-2.24	Amend student standards and requirements	R.1980 d.262	12 N.J.R. 434(d)
13:28-2.24	Repeal of part of rule exempting male beauty students from performing manicuring and facial work	R.1980 d.228	12 N.J.R. 433(a)
13:28-2.33	Amend beauty culture curriculum	R.1980 d.94	12 N.J.R. 208(b)
13:29-3.10, 3.11	Amend advertising and solicitations	R.1980 d.31	12 N.J.R. 92(a)
13:33-1.11, 1.12 1.15, 1.16	Amend licensure requirements	R.1980 d.201	12 N.J.R. 348(c)
13:33-4.1	Contact lenses dispensing	R.1979 d.462	12 N.J.R. 47(a)
13:35-5.2	Amend contact lenses	R.1979 d.463	12 N.J.R. 48(a)
13:35-6.6	Amend requirements for issuing a prescription	R.1979 d.421	11 N.J.R. 582(a)
13:36-8.11	Multiple burials	R.1979 d.420	11 N.J.R. 582(b)
13:37-3.9	Foreign nursing applicants	R.1979 d.464	12 N.J.R. 48(b)
13:38-2.2	Amend examination equipment	R.1980 d.202	12 N.J.R. 348(d)
13:38-6.1(b)	Amend release of patient record of contact lens specifications	R.1979 d.465	12 N.J.R. 48(c)
13:39-5.7, 5.11, 5.15	Amend reciprocal licensure	R.1980 d.259	12 N.J.R. 434(a)
13:39-6.9	Availability of records	R.1980 d.260	12 N.J.R. 434(b)
13:41-3.2	Annual license fees and charges	R.1980 d.179	12 N.J.R. 348(a)
13:45A-6	Automotive sales practices	R.1979 d.392	11 N.J.R. 580(e)
13:45A-7.2	Amend repair of automobiles	R.1979 d.402	11 N.J.R. 581(a)
13:45A-9	Amend merchandise advertising	R.1980 d.200	12 N.J.R. 348(b)
13:45A-16	Home improvement practices	R.1980 d.111	12 N.J.R. 209(b)
13:47A-25.3	Amend disclosure of material terms to wire services	R.1980 d.155	12 N.J.R. 284(a)
13:47B-1.23	Amend half-price sales of gasoline	R.1979 d.335	11 N.J.R. 522(a)
13:47C-4	Rules on the industry standard for New Jersey Atlantic White Cedar	R.1979 d.373	11 N.J.R. 580(c)
13:48	Rules concerning Charitable Fund Raising Act of 1971	R.1979 d.311	11 N.J.R. 466(a)
13:51-3.5(d)	Chemical breath testing	R.1980 d.8	12 N.J.R. 91(c)
13:70-2.1	Amend medication of horses and testing procedures	R.1979 d.497	12 N.J.R. 91(b)
13:70-12	Amend claiming requirements	R.1980 d.95	12 N.J.R. 208(c)
13:70-14	Amend medication of horses and testing procedures	R.1979 d.497	12 N.J.R. 91(b)
13:71-4.1	Amend medication of horses and testing procedures	R.1979 d.497	12 N.J.R. 91(b)
13:71-17.3	Amend vacancy in a tier	R.1979 d.349	11 N.J.R. 522(b)
13:71-23	Amend medication of horses and testing procedures	R.1979 d.497	12 N.J.R. 91(b)

(Title 13, Transmittal 14 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

## PUBLIC UTILITIES — TITLE 14

### ENERGY — TITLE 14A

14:3-7.5(c)	Amend interest paid by utility on customer accounts	R.1979 d.289	11 N.J.R. 467(a)
14:3-7.9(b)	Estimated bills for residential customers	R.1979 d.474	12 N.J.R. 49(b)
14:3-7.9(b)	Amend estimated bills for residential customers	R.1980 d.44	12 N.J.R. 156(d)
14:3-7.15	Notification to municipalities; discontinuance of service to residential customers	R.1979 d.352	11 N.J.R. 522(c)
14:5-3.2(c)	Amend periodic testing of commercial and industrial electric meters	R.1979 d.374	11 N.J.R. 585(c)
14A:2-3.4, 3.15	Amend regulation and control of motor gasoline sales	R.1979 d.468	12 N.J.R. 48(e)
14A:8	Energy Facility Review Board	R.1979 d.473	12 N.J.R. 49(a)
14A:11-1.3	Amend periodic reporting of energy information by suppliers of motor gasoline	R.1980 d.20	12 N.J.R. 94(c)
14A:11-2	Periodic reporting of energy information by suppliers of home heating oil	R.1980 d.19	12 N.J.R. 93(b)
14A:11-3	Rules on bulk terminal operating companies	R.1979 d.417	11 N.J.R. 585(d)

(Title 14, Transmittal 12 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

(Title 14A, Transmittal 4 dated July 19, 1979 includes all rules through October 4, 1979 N.J. Register.)

## STATE — TITLE 15

15:15-10	Amend Administrative hearings	R.1980 d.275	12 N.J.R. 362(a)
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(Title 15, Transmittal 11 dated May 17, 1979 includes all rules through June 5, 1980 N.J. Register.)

## PUBLIC ADVOCATE — TITLE 15A

(Title 15A, Transmittal 1 dated March 20, 1978 includes all rules to date.)

## TRANSPORTATION — TITLE 16

16:16-4.3	Amend rescission of allocated but unexpended local State aid funds	R.1979 d.279	11 N.J.R. 410(e)
16:17-4.3	Amend rescission of allocated but unexpended local State aid funds	R.1979 d.279	11 N.J.R. 410(e)
16:21	State aid to counties and municipalities	R.1980 d.127	12 N.J.R. 215(a)
16:26-3.4	Amend reimbursed highway safety lighting	R.1979 d.466	12 N.J.R. 52(a)
16:28-1.11	Speed limits: Terrill Road	R.1980 d.145	12 N.J.R. 289(c)
16:28-1.18	Amend speed limits	R.1979 d.266	11 N.J.R. 410(d)
16:28-1.41	Amend speed zones on parts of Route U.S. 9	R.1980 d.55	12 N.J.R. 157(c)
16:28-1.57(a)	Amend speed zones on parts of Route U.S. 30 in Atlantic County	R.1980 d.3	12 N.J.R. 95(a)
16:28-1.69	Amend speed zones on parts of Route U.S. 130	R.1980 d.56	12 N.J.R. 157(d)
16:28-1.81	Amend speed limits	R.1979 d.266	11 N.J.R. 410(d)
16:28-3.1	Amend restricted parking	R.1980 d.5	12 N.J.R. 95(c)
16:28-3.38(d)	No-parking zones on part of Route U.S. 9	R.1980 d.126	12 N.J.R. 214(b)
16:28-3.39	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.44, 3.46, 3.47	Amend restricted parking	R.1980 d.4	12 N.J.R. 95(b)
16:28-3.48	Amend restricted parking on parts of Routes 44, 52, 152 and 35	R.1979 d.344	11 N.J.R. 523(c)
16:28-3.51, 3.53	Amend restricted parking	R.1980 d.5	12 N.J.R. 95(c)
16:28-3.61	Amend restricted parking	R.1980 d.4	12 N.J.R. 95(b)
16:28-3.62	Amend restricted parking	R.1980 d.5	12 N.J.R. 95(c)
16:28-3.66	Amend restricted parking	R.1980 d.4	12 N.J.R. 95(b)
16:28-3.75	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.94	Amend restricted parking	R.1980 d.53	12 N.J.R. 157(a)
16:28-3.95	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.97	Amend restricted parking	R.1979 d.265	11 N.J.R. 410(c)
16:28-3.107	Amend restricted parking: Routes 94 and 3	R.1979 d.345	11 N.J.R. 524(a)
16:28-3.107	Amend restricted parking	R.1980 d.5	12 N.J.R. 95(c)
16:28-3.107	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.112	Amend restricted parking	R.1979 d.345	11 N.J.R. 524(a)
16:28-3.113	Amend restricted parking	R.1980 d.4	12 N.J.R. 95(b)
16:28-3.121	Amend restricted parking	R.1979 d.344	11 N.J.R. 523(c)
16:28-3.194	Restricted parking on Route 7	R.1979 d.265	11 N.J.R. 410(c)
16:28-3.198, 3.199	Amend restricted parking	R.1979 d.344	11 N.J.R. 523(c)
16:28-3.199	Amend restricted parking	R.1980 d.54	12 N.J.R. 157(b)
16:28-3.201, 3.202	Restricted parking on parts of Routes 29 and 179	R.1979 d.390	11 N.J.R. 589(b)
16:28-7.6	Lane usage on parts of Route 35	R.1979 d.296	11 N.J.R. 471(a)
16:28-12.7, 12.21 12.22, 12.25, 12.33, 12.34, 12.36, 12.37, 12.48, 12.59, 12.71	Amend right turns on red signals	R.1979 d.470	12 N.J.R. 52(b)
16:29-1.8	Amend no passing zones on parts of Route U.S. 46	R.1979 d.346	11 N.J.R. 524(b)
16:29-1.20	No-passing zones on parts of Route U.S. 40	R.1979 d.264	11 N.J.R. 410(b)
16:29-1.21	No passing zones on parts of Route 27 in Mercer County	R.1980 d.2	12 N.J.R. 94(c)
16:30-1.7	One-way traffic on parts of Eisenhower Avenue in Dover Township	R.1979 d.347	11 N.J.R. 524(c)
16:30-3.1, 3.4	Amend lane usage on parts of Routes 35 and U.S. 9	R.1979 d.471	12 N.J.R. 52(c)
16:30-3.5, 3.6	High occupancy vehicle lanes on parts of Routes I-95 and 444	R.1979 d.312	11 N.J.R. 471(c)
16:30-5.1	Amendments on parking at Metro Park train station	R.1980 d.13	12 N.J.R. 95(d)
16:30-5.1	Amend traffic and parking at Metro Park Train Station	R.1980 d.128	12 N.J.R. 289(b)
16:31-1.13	Amend no left turns on parts of Route 71	R.1979 d.348	11 N.J.R. 524(d)
16:31-1.14	Rules on no-left turns on parts of Route 35	R.1979 d.389	11 N.J.R. 589(a)
16:41-16	Permits allowing use or occupancy of State-owned railroad property	R.1979 d.331	11 N.J.R. 523(a)
16:43	Junkyards adjacent to the interstate and primary highway systems	R.1979 d.499	12 N.J.R. 94(b)
16:53A	Rules on financial and accounting conditions and criteria for bus operating assistance program	R.1979 d.302	11 N.J.R. 471(b)
16:53B	Delegation of authority by Computer Operating Agency	R.1979 d.334	11 N.J.R. 523(b)
16:65-1.4	Amend effective date of classification	R.1980 d.108	12 N.J.R. 214(a)
16:65-3.1, 3.2	Amend distribution and sale of construction plans and supplementary specifications	R.1979 d.388	11 N.J.R. 588(b)

(Title 16, Transmittal 13 dated June 14, 1979 includes all rules through June 7, 1979 N.J. Register.)

## TREASURY-GENERAL — TITLE 17

17:1 foreword, 17:1-4.21	Amend general administration	R.1980 d.63	12 N.J.R. 163(a)
17:1-4.31	Rules on normal retirement age	R.1980 d.64	12 N.J.R. 163(b)
17:1-9.1-9.6, -10 foreword, -11 foreword, 11.9	Amend general administration	R.1980 d.63	12 N.J.R. 163(a)
17:2-1.8, 2.2, 2.4, 3.1, 3.6, 4.11, 4.14, 5.7, 6.2, 6.19, 7.1, 7.2	Amend Public Employees' Retirement System	R.1979 d.399	11 N.J.R. 596(b)
17:3-1.8, 1.11, 2.1, 2.7, 3.1	Amend Teachers' Pension and Annuity Fund	R.1980 d.103	12 N.J.R. 224(e)
17:3-3.4	Amend contributory insurance rate of contribution	R.1980 d.175	12 N.J.R. 354(a)
17:3-5.2, 6.7, 6.11, 6.13, 6.14	Amend Teachers' Pension and Annuity Fund	R.1980 d.103	12 N.J.R. 224(e)
17:3-6.15	Amend compulsory retirement	R.1979 d.397	11 N.J.R. 596(a)
17:4-1.8, 1.11 3.3, 4.10, 6.7, 6.8, 6.12, 6.14	Amend Police and Firemen's Retirement System	R.1980 d.135	12 N.J.R. 290(a)
17:5-1.7	Amend State Police Retirement System	R.1980 d.209	12 N.J.R. 355(d)
17:5-1.7, 2.3, 3.8	Amend State Police Retirement System	R.1980 d.101	12 N.J.R. 224(c)
17:5-5.7, 5.8	Amend State Police Retirement	R.1980 d.209	12 N.J.R. 355(d)
17:6-1.8	Amend the suspension of pension checks	R.1979 d.476	12 N.J.R. 57(a)
17:9-5.5	Amend State Health Benefits Program	R.1979 d.396	11 N.J.R. 595(c)
17:10-1.7	Amend Judicial Retirement System	R.1979 d.431	11 N.J.R. 649(b)
17:10-1.8, 2.2	Amend Judicial Retirement System	R.1980 d.97	12 N.J.R. 224(a)
17:10-3.6	Amend Judicial Retirement System	R.1979 d.431	12 N.J.R. 649(b)
17:10-5.4	Amend Judicial Retirement System	R.1980 d.97	12 N.J.R. 224(a)
17:12-1.1, 2.4, 2.5, 2.7, 2.8, 3.3	Amend administrative procedures of Purchase Bureau	R.1980 d.142	12 N.J.R. 293(a)
17:12-7.2(a)	Amendments concerning debarment, suspension and disqualification of a person	R.1980 d.141	12 N.J.R. 292(a)
17:16-27	Amend certificates of deposit	R.1979 d.436	11 N.J.R. 650(c)
17:16-31.7— 31.12	Amend common Treasury Fund A	R.1980 d.235	12 N.J.R. 436(a)
17:16-31.9	Amend calculation of daily income per participating unit	R.1979 d.437	11 N.J.R. 651(a)
17:19-10	Architect/engineer selection procedures	R.1980 d.100	12 N.J.R. 224(b)
17:20	Amend concerning Lottery Bingo game	R.1980 d.67	12 N.J.R. 163(c)
17:21	Amend concerning Lottery Bingo game	R.1980 d.67	12 N.J.R. 163(c)
	Meadowlands Sports Lottery	R.1979 d.381	11 N.J.R. 594(b)
17:21-15	Pick-6 (Lotto) Lottery	R.1980 d.136	12 N.J.R. 290(b)

(Title 17, Transmittal 13 dated September 13, 1979 includes all rules through October 4, 1979 N.J. Register.)

## TREASURY-TAXATION — TITLE 18

18:5-6	Amend Cigarette Tax Act	R.1980 d.194	12 N.J.R. 354(b)
18:6-1.1	Amend Unfair Cigarette Sales Act	R.1979 d.416	11 N.J.R. 596(c)
18:7-3.6	Amend Corporation Business Tax Act and method of company tax and net income base	R.1980 d.146	12 N.J.R. 293(b)
18:12-1.1	Amend categories of nonusable deed transactions	R.1980 d.62	12 N.J.R. 162(a)
18:12-6, -6A	Amend home improvement exemptions	R.1980 d.253	12 N.J.R. 436(b)
18:12-7.1(d)	Amendments concerning homestead tax rebate	R.1979 d.432	11 N.J.R. 650(a)
18:12-7.12(c)	Extend filing date for 1980 homestead tax rebate claims	R.1979 d.467	12 N.J.R. 56(b)
18:12-9	Moratorium on taxation of mobile homes as real property	R.1980 d.147	12 N.J.R. 293(c)
18:12A-1.7(c)	Amend filing fees and county boards of taxation	R.1980 d.148	12 N.J.R. 293(d)
18:12A-1.12	Amend determination and judgments	R.1979 d.385	11 N.J.R. 595(b)
18:12A-1.12(b)	Amend County boards of taxation regarding determination and judgments	R.1980 d.40	12 N.J.R. 97(b)
18:18-12.5	Amend the Motor Fuels Tax Act	R.1980 d.195	12 N.J.R. 354(c)
18:24-7.18	Amend sales and use tax; commercial motor vehicles	R.1980 d.197	12 N.J.R. 355(a)
18:24-7.19	Taxation of mobile homes	R.1980 d.149	12 N.J.R. 293(e)
18:24-14.3	Deletion of part of rule on hospital sales of meals	R.1980 d.196	12 N.J.R. 354(d)
18:24-16.1, 16.2 16.5—16.7	Amend coin-operated vending machines and appropriate sales tax	R.1980 d.150	12 N.J.R. 293(f)
18:24-22.1, 22.3	Amend floor covering and the Sales and Use Tax Act	R.1980 d.102	12 N.J.R. 224(d)
18:24-25.2	Amend electronic data processing transactions; Sales and Use Tax Act	R.1979 d.384	11 N.J.R. 595(a)

(a)

**HEALTH**

**DRUG UTILIZATION REVIEW COUNCIL**

**Amendments to New Jersey List of Interchangeable Drug Products**

On June 10, 1980, Robert G. Kowalski, Chairman of the Drug Utilization Review Council in the Department of Health, pursuant to authority of N.J.S.A. 24:6E-6(b) and in accordance with the applicable provisions of the Administrative Procedure Act, adopted amendments to the New Jersey list of interchangeable drug products in N.J.A.C. 8:71 substantially as proposed in the Notice published April 10, 1980 at 12 N.J.R. 184(b) but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Health.

An order adopting these amendments was filed and became effective on June 17, 1980 as R.1980 d.255.

Howard H. Kestin  
Director  
Office of Administrative Law

**HEALTH**

**THE COMMISSIONER**

**Amendments Concerning Plan Review Fee**

On June 10, 1980, Allen N. Koplin, Acting Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:31-30.1 concerning the plan review fee as proposed in the Notice published May 8, 1980 at 12 N.J.R. 260(b).

An order adopting these amendments was filed on June 17, 1980 as R.1980 d.256 to become effective on July 1, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

18:26	Amend transfer inheritance tax	R.1980 d.198	12 N.J.R. 355(b)
18:26-8.7	Amend payment of inheritance tax	R.1979 d.295	11 N.J.R. 475(a)
18:35-1.12	Computation of tax credit under the gross income tax	R.1979 d.433	11 N.J.R. 650(b)
18:35-1.13	One-time election to exclude up to \$100,000 of gain on sale of principal residence: rollover	R.1979 d.475	12 N.J.R. 56(c)
18:36	Savings Institution Tax Act	R.1980 d.6	12 N.J.R. 97(a)
18:37	Spill Compensation and Control Act	R.1980 d.199	12 N.J.R. 355(c)

(Title 18, Transmittal 13 dated July 19, 1979 includes all rules through August 9, 1979 N.J. Register.)

**OTHER AGENCIES — TITLE 19**

19:4-6.28	Amend district zoning regulations	R.1980 d.43	12 N.J.R. 164(a)
19:8-1.2	Amend speed limits on the Garden State Parkway	R.1979 d.339	11 N.J.R. 530(a)
19:8-1.9(b)	Amend use of Garden State Parkway and tolls	R.1979 d.469	12 N.J.R. 57(c)
19:8-2.11	Amend concerning Garden State Arts Center	R.1980 d.189	12 N.J.R. 355(e)
19:8-3.1(b)	Amend Garden State Parkway	R.1979 d.131	12 N.J.R. 294(a)
19:8-7.3(b)	Amendments concerning inspection and obtaining authority records regarding State Police reports	R.1980 d.131	12 N.J.R. 294(a)
19:9-2.1	Amend pre-qualification of bidders and award of contracts	R.1979 d.500	12 N.J.R. 97(c)
19:25-4.8	Political action committees	R.1979 d.391	11 N.J.R. 597(b)
19:30-3	Payment of prevailing wages	R.1979 d.337	11 N.J.R. 530(b)
19:30-4	Targeting authority assistance	R.1979 d.338	11 N.J.R. 530(c)
19:40-2.1, 2.2	Rules on child labor laws	R.1979 d.378	11 N.J.R. 599(d)
19:41-1.3	Amend employee licenses applications	R.1979 d.379	11 N.J.R. 559(e)
19:41-7.16	Amend applications and additional copies	R.1979 d.357	11 N.J.R. 530(e)
19:41-8.6	Amend withdrawal of applications	R.1980 d.159	12 N.J.R. 295(a)
19:41-8.8	Reapplication by natural persons	R.1980 d.160	12 N.J.R. 295(b)
19:43-1.14	Rules on Casino service industry licenses	R.1979 d.376	11 N.J.R. 599(b)
19:45	Amend internal and accounting controls	R.1979 d.336	11 N.J.R. 530(d)
19:45-1.11	Amend casino licensee's organization	R.1980 d.232	12 N.J.R. 447(c)
19:46-1.1	Amend chip specifications	R.1979 d.358	11 N.J.R. 531(a)
19:46-1.13	Amend Big Six Wheel Game rules	R.1979 d.429	11 N.J.R. 600(b)
19:47-2.6—2.9	Amend Blackjack and peek rules	R.1979 d.380	11 N.J.R. 600(a)
19:47-5.5	Amend Big Six Wheel Game	R.1979 d.429	11 N.J.R. 600(b)
19:47-5.7	Amend rules on minimum and maximum wagers	R.1979 d.377	11 N.J.R. 599(c)
19:47	Amend rules of the games	R.1980 d.132	12 N.J.R. 294(c)
19:47	Corrected version of amendments to rules of the games	R.1980 d.186	12 N.J.R. 357(a)
19:47-5.7(d)	Amend minimum wagers on Big-Six Wheel	R.1980 d.133	12 N.J.R. 294(d)
19:54	Amendments concerning the gross revenue tax	R.1980 d.134	12 N.J.R. 294(e)

(Title 19, Transmittal 13 dated July 19, 1979 includes all rules through September 6, 1979 N.J. Register.)

(a)

## HEALTH

### THE COMMISSIONER

#### Amendments on Effective Dates of Portion of Standards for Long Term Care Facilities

On June 10, 1980, Allen N. Koplin, Acting Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments altering the effective dates of portions of chapter 39, and delaying the repeal of chapters 30 and 37 in Title 8 of the New Jersey Administrative Code concerning the standards for long term care facilities as proposed in the Notice published May 8, 1980 at 12 N.J.R. 262(b).

An order adopting these amendments was filed on June 17, 1980 as R.1980 d.257 to become effective on July 10, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## HEALTH

### THE COMMISSIONER

#### Amendments to Manual of Standards For Licensure of Long Term Care Facilities

On June 10, 1980, Allen N. Koplin, Acting Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:39-1.15(i)1 and 8:39-1.25(c)4 regarding the Manual of Standards for Licensure of Long Term Care Facilities as proposed in the Notice published May 8, 1980 at 12 N.J.R. 271(a).

An order adopting these amendments was filed on June 17, 1980 as R.1980 d.258 to become effective on July 10, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

(c)

## HEALTH

### DRUG UTILIZATION REVIEW COUNCIL

#### Additions to the New Jersey List of Interchangeable Drug Products

On June 10, 1980, Robert Kowalski, Chairman of the Drug Utilization Review Council in the Department of Health, pursuant to authority of N.J.S.A. 24:6E-6(b) and in accordance with applicable provisions of the Administrative Procedure Act, adopted additions to the New Jersey list of interchangeable drug products in N.J.A.C. 8:71 substantially as proposed in the Notice published March 6, 1980, at 12 N.J.R. 116(b) but with subsequent, substantive changes not detrimental to the public in the opinion of the Drug Utilization Review Council.

The following portions of the proposed additions are still pending:

Generic Name	Manufacturer
Beclomethasone dipropionate inhalation	Allen & Hanburys
Chlorpropamide	Premo
Levothyroxine sodium tabs, 0.1 mg, 0.2 mg	Generic, WRL
Levothyroxine sodium tabs, 0.3 mg, 0.4 mg	WRL
Potassium chloride liquid, 10%	Gentek
Sulfisoxazole tabs, 0.5 g	Chelsea
Theophylline/guaifenesin caps (150 mg)	Banner

An order adopting these additions was filed and became effective on June 18, 1980 as R.1980 d.263.

Howard H. Kestin  
Director  
Office of Administrative Law

(d)

## HEALTH

### THE COMMISSIONER

#### 1981 Hospital Rate Setting Rules in the SHARE Manual

On June 19, 1980, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted the 1981 hospital rate setting rules in the SHARE Manual, which will be referenced to in N.J.A.C. 8:31A-6, as proposed in the Notice published April 10, 1980 at 12 N.J.R. 183(a).

An order adopting these rules was filed on June 19, 1980 as R.1980 d.269 to become effective on January 1, 1981.

Howard H. Kestin  
Director  
Office of Administrative Law

(e)

## HEALTH

### THE COMMISSIONER

#### 1981 SHARE Guidelines

On June 17, 1980, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted the 1981 SHARE guidelines, which will be referenced to in N.J.A.C. 8:31A-7, substantially as proposed in the Notice published April 10, 1980 at 12 N.J.R. 183(b) with only inconsequential structural or language changes in the opinion of the Department of Health.

An order adopting these guidelines was filed and became effective on June 19, 1980 as R.1980 d.270.

Howard H. Kestin  
Director  
Office of Administrative Law

(a)

## HEALTH

### THE COMMISSIONER

#### Amendments Concerning Hospital Cost Reporting Procedures

On June 17, 1980, Dr. Joanne E. Finley, Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 8:13A-5.5 concerning hospital cost reporting procedures as proposed in the Notice published May 8, 1980 at 12 N.J.R. 260(c).

An order adopting these amendments was filed and became effective on June 19, 1980 as R.1980 d.271.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## HEALTH

### THE COMMISSIONER

#### Emergency Amendments Delaying Expiration Date Of Standards for Licensure of Alcohol Abuse Residential and Inpatient Treatment Facilities

On June 11, 1980, Allen N. Koplin, Acting Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 8:42-3 which delayed the expiration date of the standards for licensure and inpatient treatment facilities from June 30, 1980 to June 30, 1981.

An order adopting these amendments was filed and became effective on June 19, 1980 as R.1980 d.272 (Exempt, Emergency Rule).

Howard H. Kestin  
Director  
Office of Administrative Law

(c)

## HEALTH

### THE COMMISSIONER

#### Emergency Amendment Delaying Expiration Date Of Standards for Licensure of Ambulatory Care Facilities-Alcohol Abuse Treatment Services

On June 11, 1980, Allen N. Koplin, Acting Commissioner of Health, pursuant to authority of N.J.S.A. 26:2H-1 et seq., with the approval of the Health Care Administration Board, adopted emergency amendments to N.J.A.C. 8:43A-1.72 by delaying the expiration date of the standards for licensure of ambulatory care facilities-alcohol abuse treatment services from June 30, 1980 to June 30, 1981.

An order adopting these amendments was filed and became effective on June 19, 1980 as R.1980 d.273 (Exempt, Emergency Rule).

Howard H. Kestin  
Director  
Office of Administrative Law

(d)

## HIGHER EDUCATION

### BOARD OF HIGHER EDUCATION

#### Proposed Rules Concerning Reduction in Force at State Colleges of New Jersey

The Board of Higher Education in the Department of Higher Education, pursuant to authority of N.J.S.A. 18A:3-14(h), proposes to adopt new rules concerning reductions in personnel at the State's four year colleges in the event of fiscal exigency.

Full text of the proposal follows:

#### SUBCHAPTER 3. STATE COLLEGE REDUCTION IN FORCE POLICIES

##### PREFACE

These policies govern the procedures to be used by the State colleges when it becomes necessary to reduce the number of employees of a college due to a fiscal crisis. The policies also address the rights of non-civil service employees at the State colleges of New Jersey under such circumstances. Rights and procedures for civil service employees are contained in the regulations of the Department of Civil Service.

##### 9:2-3.1 Declaration of fiscal exigency

The Board of Trustees of any State college may declare a state of fiscal exigency for the State college by a majority vote of the appointed members of the Board.

##### 9:2-3.2 Plans and recommendations

Once a state of fiscal exigency is declared, the Board of Trustees shall direct the President to develop a plan and formulate recommendations to deal with the state of fiscal exigency. Such plan shall consider a full range of alternatives, from the curtailment of college operations and programs to the layoff of employees.

##### 9:2-3.3 Consultation with college community

The president shall consult with the college community in developing the plan and recommendations to be presented to the Board of Trustees.

##### 9:2-3.4 Affirmative action

The president's plan and recommendations shall be developed in accordance with the State's commitment to Affirmative Action. The Affirmative Action Officer of the college shall prepare an analysis of the affirmative action impact of any recommended personnel layoffs to assist the president in developing the recommendations.

##### 9:2-3.5 Review of recommendations

The Board of Trustees shall review the president's recommendations, which shall include the Affirmative Action Officer's assessment of their impact, and may accept, reject, or modify such recommendations. If such recommendations include the layoff of employees, the Board shall notify the representative of the negotiating unit and fulfill such obligations as are indicated in the agreement between the State and the negotiating unit. The determination by the Board of Trustees as to which teaching, library or administrative areas are to be reduced shall be based on academic or administrative considerations. The Board shall request an affirmative action analysis of its proposed action. Every effort must be made to protect those programs and functions which are of major

instructional or administrative significance at the College. Layoff units need not be coincident with established departments or other subdivisions or units, but may include identifiable programs or further subdivisions or specialties within academic programs as appropriate. Each teaching, library or administrative area to be reduced shall constitute a layoff unit. To the extent it is not inconsistent to the preservation of the institutions academic integrity and educational purpose, layoffs within a faculty layoff unit shall be made in order of years of service, laying off faculty with the fewest years of service first.

#### 9:2-3.6 Notice requirements; time period

In the event that the Board determines it must implement layoffs, it shall give notice to the academic community of all individuals subject to the proposed layoff at least two weeks prior to the formal Board action on said layoffs.

#### 9:2-3.7 Employee notice

The Board of Trustees shall notify each employee who is to be laid off of such fact as soon as possible.

#### 9:2-3.8 Reemployment lists; generally

With respect to reemployment rights, the College President shall establish a reemployment list, including the names and qualifications of all tenured or multi-year contract employees on layoff status. The College shall not fill a vacancy in an administrative, library, or teaching area without first making a written offer of reemployment by certified mail to those employees on the reemployment list who the President believes, as a result of his academic judgment, are qualified to fill the position. In the event that two or more employees on the reemployment list have accepted an offer of reemployment for a single vacancy, the College shall give reemployment preference in faculty positions and non-teaching positions in reverse of the order in which they were laid off; i.e.: last laid off, first rehired. Employees offered reemployment shall have two weeks from receipt to respond to an offer, which shall be sent via certified mail, return receipt requested, after which it shall be deemed to have expired. Employees on a reemployment list shall have the obligation to keep the College President informed of current addresses.

#### 9:2-3.9 Reemployment lists; time period

Non-tenured or non-multi year contract employees shall remain on the reemployment list until the end of the annual contract pursuant to which they were employed at the date of layoff. Employees who are tenured or on multi-year contracts at the date of layoff shall remain on the reemployment list for a period of two years from the date of layoff.

#### 9:2-3.10 Reappointment of laid-off employees

Any employee on layoff status who is reemployed after layoff shall be reappointed with a rank and salary at least equivalent to his or her rank and salary step when laid off, provided however that an employee may agree to take a position at a lower salary and rank if the college has no senior position available.

#### 9:2-3.11 Other colleges

Rights established under this chapter for employees pertain only to the College at which they are employed. Therefore, an employee who is laid off at one College has no rights to reemployment at another College. Nevertheless, Colleges shall share layoff lists with each other, and laid off employees shall be given consideration for any vacancies for which they may be qualified.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before

July 30, 1980 to:

Eric Perkins  
Administrative Practice Officer  
N.J. Department of Higher Education  
225 West State St.  
Trenton, N.J. 08625

The Board of Higher Education may thereafter adopt rules concerning this subject without further notice.

T. Edward Hollander  
Chancellor of Higher Education  
Secretary, State Board of Higher Education  
Department of Higher Education

(a)

## HIGHER EDUCATION

### BOARD OF HIGHER EDUCATION

#### Proposed Amendments Concerning Resident/Non-Resident Tuition Charges at Public Colleges and Universities

The Board of Higher Education in the Department of Higher Education, pursuant to authority of N.J.S.A. 18A:62-4, proposes to delete the current text of N.J.A.C. 9:5-1.1 and 9:5-1.2 and amend N.J.A.C. 9:5-1.3 and 9:5-1.4 concerning resident/non-resident tuition charges at public colleges and universities.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

The current text of N.J.A.C. 9:5-1.1 and N.J.A.C. 9:5-1.2 are deleted in their entirety.

#### 9:5-1.1 Definitions

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

"Dependent student" means a student who:

1. Resides with his or her parents or guardians for more than six consecutive weeks last, this, or next year; or
2. Is dependent upon them for food, clothing, or shelter last, this or next year; or
3. Is claimed, or will be claimed, as dependent for income tax purposes for last, this, or next year.

"Domicile" means the place where a person has his or her true, fixed, permanent home and principal living establishment, and to which, whenever he or she is absent, he or she has the intention of returning. The domicile of a dependent student is that of his or her parents or legal guardians. Residence established solely for the purpose of attending a particular college or university cannot be considered as fulfilling the definition of domicile.

"Independent student" means a student who:

1. Has not lived, and will not live, with parents or guardians for more than six consecutive weeks last, this, and next year; and
2. Has not received, and will not receive, financial assistance from parents or more than \$750 in support of any kind including food, clothing, and shelter last, this, and next year; and
3. Has not been claimed and will not be claimed as an exemption on parents or guardians tax return last, this, and next year; and
4. Has resources, which should be at least equal to the level of public assistance in the preceding calendar year. For 1978-79 and subsequent years, unless revised, this level is \$1,400.

#### 9:5-1.2 Eligibility for New Jersey resident tuition

Persons who have been domiciled within this State for a period of 12 months prior to enrollment in a public institution of higher education are presumed to be domiciled in this State for tuition purposes. Persons who have been domiciled within this State for less than 12 months prior to enrollment are presumed to be nondomiciliaries for tuition purposes. Persons presumed to be nondomiciled or persons who are presumed to be domiciled but whose domiciliary status is challenged by the institution, must prove their domicile according to these regulations.

#### 9:5-1.3 Proof of domicile

(a) For the purposes of the previous section, primary evidence of domicile shall include the following:

1. A notarized affidavit by the student setting forth his/her domicile; and

2. For an independent student, a copy of his/her New Jersey income tax return or evidence of withholding of said tax; or

3. For a dependent student, a copy of his/her parents New Jersey income tax return or evidence of withholding of said tax.

(b) Each person required to prove domicile pursuant to these regulations must provide the items mentioned in subsection (a) of this section and as much supplementary evidence as is required by the institution.

(c) Supplementary evidence may include proof of voter registration, motor vehicle license and/or registration, or such other material as is acceptable in the opinion of the institution.

(d) In unusual circumstances, if primary evidence is not available, the institution may make a determination of New Jersey domicile based exclusively on supplementary evidence.

(e) In every instance a record of the evidence utilized in determining domicile pursuant to this section shall be maintained with the student's records.

#### [9:5-1.3] 9:5-1.4 Foreign nationals

The governing board of an institution may approve the remission of non-resident fees in excess of resident fees for students of foreign nationality, up to one per cent of the full time enrollment.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Eric M. Perkins  
Administrative Practice Officer  
N.J. Department of Higher Education  
225 West State St.  
Trenton, N.J. 08625

The Board of Higher Education may thereafter adopt rules concerning this subject without further notice.

T. Edward Hollander  
Chancellor of Higher Education  
Secretary, State Board of Higher Education  
Department of Higher Education

(a)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Proposed Rules on Provider Reinstatement

Ann Klein, Commissioner of Human Services, pursuant

to authority of N.J.S.A. 30:4D-1 et seq., proposes to adopt new rules concerning provider reinstatement.

Full text of the proposal follows.

#### SUBCHAPTER 7. PROPOSED PROVIDER REINSTATEMENT

##### 10:49-7.1 Definitions

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

"Director" means the Director of the Division of Medical Assistance and Health Services.

"Division" means the Division of Medical Assistance and Health Services.

"Person" means any natural person, company, firm, corporation, professional association, partnership, or other entity, who has been excluded from participation in the New Jersey Medical Assistance and Health Services Program.

"Committee" means the Provider Reinstatement Committee.

##### 10:49-7.2 Requests for reinstatement

Any person who has been debarred, disqualified or suspended from participating in the New Jersey Medical Assistance and Health Services Program must petition the Director for reinstatement in writing.

##### 10:49-7.3 Petition by debarred, disqualified or suspended person

(a) Any person debarred or disqualified for a definitely stated period of time may petition the Director for reinstatement 90 days prior to the expiration of the period of debarment or disqualification.

(b) Any person disqualified for an indefinitely stated period of time may petition the Director for reinstatement after a disqualification period of eight years.

(c) Any person who has been suspended, debarred or disqualified as the result of an indictment, conviction or license revocation may immediately petition the Director for reinstatement upon acquittal, reversal of the conviction upon appeal or restoration of the license, whichever is applicable.

##### 10:49-7.4 Director's powers

The Director may on his own motion order the reinstatement of the debarred, disqualified or suspended person or he may refer the matter to the Provider Reinstatement Committee.

##### 10:49-7.5 Provider Reinstatement Committee

(a) The Provider Reinstatement Committee is a non-standing committee that is convened for the purpose of evaluating a person's request for reinstatement.

1. The committee will be composed of three impartial officials of the Division appointed by the Director.

i. Under this requirement, the committee members must not have been directly involved in the debarment, disqualification or suspension of the person requesting reinstatement.

ii. The chairman of the committee will be an attorney from the Bureau of Research and Development.

iii. Whenever possible, the associate members of the committee will be composed of one member of the Division staff from the same discipline as the debarred, disqualified or suspended person and one member from the general administrative staff of the Division.

##### 10:49-7.6 Criteria for reinstatement

(a) The committee will not recommend reinstatement unless it is reasonably certain that the causes which led

to the debarment, disqualification or suspension will not be repeated. In formulating its recommendation, the committee may consider among other factors:

1. A statement from the person setting forth the reasons why he should be reinstated.
2. Statements from private health insurers, indicating whether there have been any questionable claims submitted during the period of exclusion from program participation.
3. Statements from peer review bodies, probation or parole officers or professional associates, attesting to their belief, supported by facts, that the causes which led to the debarment, disqualification or suspension will not be repeated.
4. The absence of any pending criminal licensing or professional disciplinary proceedings.
5. Full restitution and the payment of any criminal fines imposed.
6. Full satisfaction of any civil penalties imposed.

10:49-7.7 Committee procedures

(a) The committee will meet at the Division offices in Trenton.

(b) The person requesting reinstatement and/or his representative will be notified, in writing, as to the time, date and place of the meeting.

(c) All correspondence concerning the meeting should be directed to the chairman of the committee.

(d) The person requesting reinstatement may appear in his own behalf or be represented by counsel.

(e) The committee will be governed by the New Jersey Administrative Procedure Act concerning admissibility of evidence at the meeting.

(f) The chairman of the committee will rule on all procedural questions and objections that may be raised at the meeting.

(g) The person requesting reinstatement will have the burden of providing his fitness for reinstatement by a preponderance of the evidence.

(h) The person may present evidence of his fitness for reinstatement by the testimony of witnesses under oath or by documentary evidence, or both.

(i) After reviewing the testimony and documentation presented, the committee will prepare a written report which discusses the testimony, contains findings of facts and recommended disposition.

(j) At least two members of the committee must concur in the recommended disposition.

(k) Copies of the committee's report will be sent to all parties at the meeting. Upon receipt of the committee's report, the parties will have the opportunity to submit written objections or exceptions to said report within the time period specified by the committee.

(l) After the expiration of the time period prescribed for the filing of the exceptions, the committee's report, exceptions or objections thereto, evidence and any transcripts will be forwarded to the Director.

(m) The Director will have final decisional authority and may adopt, reverse or modify the committee's recommended determination. The Director may also, for cause, remand the matter back to the committee for further testimony.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Administrative Practice Officer  
Division of Medical Assistance  
and Health Services  
P.O. Box 2486  
Trenton, N.J. 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(a)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Proposed Repeal of Rule Concerning Payment for Pharmaceutical Consultants

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to delete the current text of N.J.A.C. 10:51-4.5 concerning payment for pharmaceutical consultants.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

10:51-4.5 [Basis of payment] (Reserved)

[(a) Reimbursement for consultant pharmacist services shall be the lower of the following.

1. \$0.05 per patient per day; or
2. The fee received by the consultant pharmacist for services provided to Non-Medicaid patients in the long-term care facility.

Note: Each Medicaid-approved long-term care facility receives an appropriate amount of money each month to cover this cost and is responsible for reimbursement to the consultant pharmacist.]

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Administrative Practice Officer  
Division of Medical Assistance  
and Health Services  
P.O. Box 2486  
Trenton, N.J. 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(b)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### BUREAU OF PHARMACEUTICAL SERVICES Proposed Amendments to Pharmaceutical Services Manual, Concerning Pharmaceutical Assistance to the Aged (PAA)

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-24, proposes to delete the current text of N.J.A.C. 10:51, subchapter 5, entitled

Pharmaceutical Assistance to the Aged, and insert the new text therein.

A summary of the proposed changes requires PAA beneficiaries to pay the difference between the generic and brand name drug, if the beneficiary insists on the brand name drug, and if the prescriber has allowed substitution. Also, the concept of maximum allowable cost (MAC) will be applied to the PAA program.

Said regulations are designed to implement the statutory provisions of N.J.S.A. 30:4D-22.

A copy of the full text (29 pages) of this proposal may be obtained from or made available for review by contacting the following individual:

Administrative Practice Officer  
Division of Medical Assistance  
and Health Services  
P.O. Box 2486  
Trenton, New Jersey 08625

Interested persons may send written comments on or before July 30, 1980 to the above address.

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly  
Acting Commissioner  
Department of Human Services

(a)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Proposed Amendments to Pharmaceutical Services Manual

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend N.J.A.C. 10:51 (Appendices B and D of subchapter 1) concerning the Pharmaceutical Services Manual.

The proposed amendments provide a listing of non-legend drugs and the corresponding National Drug Code, and legend devices (Debrisan).

Copies of the 28 pages of the full text of the proposal may be obtained from or made available for review by contacting:

Administrative Practice Officer  
Division of Medical Assistance  
and Health Services  
P.O. Box 2486  
Trenton, New Jersey 08625

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to the Division of Medical Assistance and Health Services at the above address.

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Gerald J. Reilly  
Acting Commissioner  
Department of Human Services

(b)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Proposed Amendments Concerning Covered and Non-Covered Outpatient Hospital Services

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend several sections of the Hospital Services Manual and Special Hospital Services Manual concerning covered and non-covered outpatient hospital services.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

10:52-1.7(a) Approved hospital outpatient departments may provide the following services to outpatients when medically necessary:

1.-4. (No change)

5. Drugs dispensed by the hospital pharmacy (for regulations on take-home drugs, see section [4] 12 of this subchapter;

6.-14. (No change)

15. Screening services, limited to:

i. EPSDA Screening

ii. Vision Screening

Delete current text of N.J.A.C. 10:52-1.8 and substitute therefore:

10:52-1.8 Noncovered outpatient hospital services

(a) Approved hospital outpatient departments will not be reimbursed for any of the following:

1. Elective cosmetic surgery;

2. Private duty nursing services;

3. Services and supplies not related to patient care;

4. Research or teaching studies;

5. Services rendered prior to the date of application for medical assistance;

6. Services or items requiring prior authorization where such authorization has not been obtained or has been denied;

7. Any service, admission or item which is not medically required for the diagnosis or treatment of a disease, injury or condition;

8. Transportation, including nonemergency ambulance;

9. Screening services, except for:

i. EPSDT Screening

ii. Vision Screening

10:53-1.1 Definitions

"Outpatient" means a person registered in the outpatient department in an approved hospital in order to obtain services other than those requiring bed occupancy as an inpatient.

"Partial hospitalization" means a psychiatric service whose primary purpose is to provide a planned program of milieu therapy and other treatment modalities. The service is designed for nonresidential patients who spend only a part of a 24-hour (three or more hours) period in the hospital. Examples of partial hospitalization facilities are day hospitals and night hospitals (see section 6 of this subchapter, "Covered outpatient hospital services").

10:52-1.6 Covered outpatient hospital services

(a) Approved special hospital outpatient departments

may provide the following services to outpatients when medically necessary:

1. (No change)

2. [Emergency room services, including hospital-based ambulance services when outpatient is not subsequently admitted;] Hospital-based ambulance services when outpatient is not subsequently admitted;

3-4. (No change)

5. Drugs dispensed by the hospital pharmacy (for regulations on take-home drugs, see section 11 of this subchapter);

6-13. (No change)

[14. Sterilization, outpatient services: Payment will be made for sterilization services subject to the following limitations;

i. No nonemergency sterilization may be performed unless:

(1) Such sterilization is performed pursuant to a voluntary request for such services made by the person on which the sterilization is to be performed; and

(2) Such person is advised at the outset and prior to the solicitation or receipt of his or her consent to such sterilization that no benefits provided by programs or projects may be withdrawn or withheld by reason of his or her decision not to be sterilized; and

(3) Such hospital obtains legally effective informed consent from the individual on whom the sterilization is to be performed.

ii. The hospital shall not perform a nontherapeutic sterilization sooner than 72 hours following the giving of informed consent;

iii. No sterilization procedures shall be performed on a person who has been judicially declared mentally incompetent, or is in fact legally incompetent under applicable State laws to give informed and binding consent to the performance of such an operation because of age or mental capacity;

iv. No sterilization procedure may be performed on individuals under the age of 21 or legally incapable of consenting to the sterilization.]

14. Sterilization, outpatient services: Payment will be made for sterilization procedures and hysterectomies only if the following requirements were met:

i. The individual is at least 21 years old at the time consent is obtained;

ii. The individual is not mentally incompetent or institutionalized;

iii. The individual has voluntarily given informed consent;

iv. At least 30 days, but not more than 180 days, have passed between the date of informed consent and the date of the sterilization, except in the case of premature delivery or emergency abdominal surgery. An individual may consent to be sterilized at the time of premature delivery or emergency abdominal surgery, if at least 72 hours have passed since he or she gave informed consent for sterilization. In the case of premature delivery, the informed consent must be given at least 30 days before the expected date of delivery;

v. The Medicaid agency obtained documentation showing that all of these requirements were met. This documentation must include a consent form or an acknowledgement of receipt of hysterectomy information.

15. Screening services, limited to:

i. EPSDT Screening

ii. Vision Screening

(b) Partial hospitalization, as defined in section 1 of this subchapter is covered as an outpatient service. Day, evening or night care (night care must include overnight stay) does not require prior authorization from the New Jersey Division of Medical Assistance and Health Services for the first thirty calendar days.

1. Prior authorization is required for partial hospitalization after the first thirty calendar days. Each authorization for this service may be granted for a maximum period of six months. Additional authorizations may be requested.

i. When prior authorization is required for psychiatric services, the request is to be submitted on a "Request for Authorization of Psychiatric Services" form (FD-07) to the Chief, Bureau of Mental Health Services, P.O. Box 2486, Trenton, New Jersey 08625. Items 1 through 17 must be completed.

ii. The request must include the diagnosis, as set forth in the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association (latest edition), and also must include the treatment plan and progress in detail. No post facto authorization will be granted.

iii. If request for authorization is approved, the contractor and provider copy will be returned to the provider who retains the provider copy and attaches the contractor copy to the "Outpatient Hospital Claim" form (MC-4) when submitting the claim for payment.

iv. If request for authorization is denied, the provider shall be notified of the reason, in writing, by the Chief of Mental Health Services.

Delete current text of N.J.A.C. 10:53-1.7 and substitute therefore:

10:53-1.7 Noncovered outpatient hospital services

(a) Approved hospital outpatient departments will not be reimbursed for any of the following:

1. Elective cosmetic surgery;

2. Private duty nursing services;

3. Services and supplies not related to patient care;

4. Research or teaching studies;

5. Services rendered prior to the date of application for medical assistance;

6. Services or items requiring prior authorization where such authorization has not been obtained or has been denied;

7. Any service, admission or item which is not medically required for the diagnosis or treatment of a disease, injury or condition;

8. Transportation, including nonemergency ambulance;

9. Screening services, except for:

i. EPSDT Screening

ii. Vision Screening.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Administrative Practice Officer  
Division of Medical Assistance  
and Health Services

P.O. Box 2486

Trenton, N.J. 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice

Ann Klein

Commissioner

Department of Human Services

(a)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Proposed Amendments Concerning Reimbursement for Anesthesia Time

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend N.J.A.C. 10:54-1.6 in the Physicians Services Manual concerning the reimbursement for anesthesia time.

Full text of the proposed new text follows.

10:54-1.6 Note 6: Reimbursement for anesthesia time is defined as that period which includes:

1. Those professional activities of the anesthesiologist directly related to the pre-operative preparation of the patient in the operating room or pre-induction room preceding the proposed surgery;

2. Introduction of the anesthetic agent;

3. Continuous supervision during the surgery;

4. Continuous supervision during the immediate post-operative period until release of the patient in a satisfactory physiologic state to a competent recovery room staff.

5. Anesthesia time is reported in the time element of 15 minutes (1 unit). Should the time element of 15 minutes (1 unit) in #1 or #4 above be exceeded, the reason(s) must be documented on the anesthesia record and the Practitioner Claim Form.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Administrative Practice Officer  
Division of Medical Assistance  
and Health Services  
P.O. Box 2486  
Trenton, N.J. 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(b)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Proposed Deletion of Independent Clinic Manual

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to repeal N.J.A.C. 10:58, entitled Independent Clinic Services Manual.

This chapter should be marked "reserved" for future use by the Division.

The material contained in N.J.A.C. 10:58 is now included in N.J.A.C. 10:66, including the revisions thereto published at 12 N.J.R. 275(b).

Interested persons may send written comments on or before July 30, 1980 to:

Administrative Practice Officer  
Division of Medical Assistance  
and Health Services  
P.O. Box 2486  
Trenton, New Jersey 08625

The Department of Human Services may thereafter repeal chapter 58 without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(c)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Proposed Amendments Concerning Nurses' Notes In Long Term Care Facilities

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq., proposes to amend N.J.A.C. 10:63-1.14, concerning requirements for nurses' notes in long term care facilities.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

10:63-1.14(c)3.iii. Nursing entries shall be made as often as necessary [to] based on the Medicaid recipient's condition. [but] The minimal requirements by level of care are:

(1) Skilled nursing care (Level III) Medicaid patients shall have daily summaries for the first five days after admission written by staff of each shift and [weekly summaries thereafter as a minimum] thereafter summaries written at least once every thirty days, or more frequent as necessary.

(2) Intermediate care (Level IV-A) Medicaid patients shall have daily summaries for the first five days after admission written by each shift and [biweekly summaries, including nursing social care, thereafter, as a minimum.] thereafter summaries written at least once every 30 days, or more frequent as necessary.

(3) Intermediate care (Level IV-B) Medicaid patients shall have daily summaries for the first five days after admission written by staff of each shift and [monthly summaries related to nursing-social care, thereafter, as a minimum.] thereafter summaries written at least once every 60 days, or more frequent as necessary.

Note: The Medicaid program reserves the right to further evaluate the effectiveness of nurses' progress notes in reference to its impact upon acceptable patient care. As circumstances warrant, the Medicaid program may impose more stringent requirements for nurses' progress notes as a condition for continued Medicaid approval. The more stringent requirements shall be agreed upon with the health department on a facility-by-facility basis.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Administrative Practice Officer  
Division of Medical Assistance  
and Health Services  
P.O. Box 2486  
Trenton, New Jersey 08625

The Department of Human Services may thereafter adopt rules concerning this subject without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(a)

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

#### Proposed Amendments Concerning The Inclusion of Burial Plots As an Exempt Resource

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7-6 and 44:10-3, proposes to amend a portion of the Assistance Standards Handbook concerning the inclusion of burial plots as an exempt resource.

Full text of the proposal follows (additions indicated in boldface thus).

10:82-3.2(b)4. Life insurance policies and burial plots.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

G. Thomas Riti  
Director  
Division of Public Welfare  
Box 1627  
Trenton, N.J. 08625

The Division of Public Welfare may thereafter adopt rules concerning this subject without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(b)

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

#### Proposed Amendments Concerning The Disregard of Certain Allowances and Payments in AFDC

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7-6 and 44:10-3, proposes to amend a part of the Assistance Standards Handbook concerning the disregard of certain allowances and payments in AFDC.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

10:82-4.6(a) Incentive allowances of \$30.00 per week to AFDC recipients who are trainees in a CETA program and training allowances received by clients for their classroom attendance in the Youth Employment and Training Program (YETP) and the Youth Incentive Entitlement Pilot Projects (YIEPP) are exempt in the determination of eligibility and grant entitlement. Additional incentive allowances, except as indicated below, are to be counted as unearned income; all other payments through CETA are earned income and shall be treated accordingly.

1. Earnings received by any youth under any of the following [four] three programs of [Title III, Part C Youth Employment and Training Act of 1973] Title IV, Part A of CETA as authorized by the Youth Employment and Demonstration Projects Act (YEDPA) of 1977 shall be disregarded in determining this public assistance payment:

- i. The Youth Incentive Entitlement Pilot Project (YIEPP);
- ii. The Youth Community Conservation and Improvement Project (YCCIP);
- iii. The Youth Employment and Training Programs (YETP)[;].
- iv. The Young Adults Conservation Corps.]

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

G. Thomas Riti  
Director  
Division of Public Welfare  
Box 1627  
Trenton, N.J. 08625

The Division of Public Welfare may thereafter adopt rules concerning this subject without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(c)

## HUMAN SERVICES

### DIVISION OF PUBLIC WELFARE

#### Proposed Amendments Concerning Contributions of Support by a Legally Responsible Relative

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7-6 and 44:10-3, proposes to amend part of the Assistance Standards Handbook concerning contributions of support by a legally responsible relative.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

10:82-4.13(b) When shelter is being provided by a legally responsible relative who has a capacity to support, the actual cash value shall, whenever possible, be determined and recognized as unearned income to the eligible unit. Where the actual value cannot be established, [monthly monetary values in Schedule VI, shall be used.] and is not stipulated by a court order to be made in an identifiable cash amount to a third party, the monthly monetary values shall be recognized according to Schedule VI and shall not exceed the LRR's evaluated capacity.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

G. Thomas Riti  
Director  
Division of Public Welfare  
Box 1627  
Trenton, N.J. 08625

The Division of Public Welfare may thereafter adopt rules concerning this subject without further notice.

Ann Klein  
Commissioner  
Department of Human Services

(a)

## HUMAN SERVICES

### DIVISION OF YOUTH AND FAMILY SERVICES

#### Proposed Amendments Concerning Boarding Homes

Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7-87, proposes to amend the rules concerning boarding homes by deleting the current text of N.J.A.C. 10:123-2 and adopting new text therein.

Full text of the proposed new rules follows.

#### SUBCHAPTER 2. BOARDING HOMES

##### 10:123-2.1 Purpose

(a) The purpose of these regulations is to delineate the responsibility of the Division of Youth and Family Services and the County Welfare Agencies in accordance with P.L. 1979, c. 496, The Rooming and Boarding House Act of 1979.

(b) The purpose of the law is to:

1. Provide for the health, safety and welfare of all those who reside in rooming and boarding houses in this state;
2. Promote the growth and continued improvement of residential health care facilities;
3. Ensure that all agencies of this state work in unison for the protection and care of the residents of rooming houses, boarding houses, and residential health care facilities; and
4. Ensure that needed social and remedial services are made available to the residents of such facilities through the efforts of county welfare agencies.

##### 10:123-2.2 Authority

(a) All provisions of these rules and regulations, unless otherwise expressly noted, were adopted pursuant to authority of section 3 of P.L. 1973, c. 256 (c. 44:7-87) and Title 30 of the Revised Statutes as amended and supplemented by The Rooming and Boarding House Act of 1979 (P.L. 1979, c. 496).

(b) The Commissioner of the Department of Human Services hereby authorizes and directs the Division of Youth and Family Services to act on behalf of the Department with all the authority thereof, as the official designated lead agency in taking the necessary and appropriate action in accord with the provisions of section 3 of P.L. 1973, c. 256 (c. 44:7-87) and Title 30 of the Revised Statutes as amended and supplemented by The Rooming and Boarding House Act of 1979 (P.L. 1979, c. 496, effective September 1, 1980), sections 34, 35, and 36, except for subsection (d)4. Section 35(d)4 pertains to the provision of mental health and mental retardation services.

(c) The Division of Youth and Family Services is thus specifically authorized and directed to assist and supervise the county welfare agencies in their provision of services to eligible residents of rooming houses, boarding houses, and residential health care facilities.

##### 10:123-2.3 Division of Youth and Family Services responsibility and supervision

(a) It shall be the responsibility of the Division of Youth and Family Services, in supervising the county welfare agency, to:

1. Maintain a statewide central registry of all reports received concerning abuse, exploitation, unsafe conditions, unsanitary conditions, and violations of P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979) in rooming houses, boarding houses, and residential health care facilities.

2. Provide statistical data for all involved state and local agencies regarding reports made to the statewide central registry.

3. Maintain a record of:

- i. The state and local agencies to which reports have been referred by county welfare agencies for remedial action;

- ii. Follow up on all such reports to determine whether appropriate remedial action has been taken.

4. Develop appropriate standards, policy, and procedures for services to eligible residents.

5. Periodically monitor and evaluate services provided to eligible residents by county welfare agencies.

6. Maintain a 24-hour, seven day-per-week, toll-free hotline (800-792-8672) for the receipt of all reports of violations of the law and abuse and exploitation in rooming houses, boarding houses, and residential health care facilities. Reports received through the hotline will be referred to the county welfare agency for investigation, coordination, and/or follow-up.

7. In order to effectively implement the provisions of P.L. 1979, chapter 496, the Division of Youth and Family Services and County Welfare Agencies will publicize County Welfare Agency service provision in rooming houses, boarding houses, and residential health care facilities and the toll-free hotline.

##### 10:123-2.4 County Welfare Agency responsibility

(a) Under the supervision of the Division of Youth and Family Services, County Welfare Agencies shall provide services to eligible residents of rooming houses, boarding houses, and residential health care facilities which shall include, but not be limited to, the following:

1. Outreach: The County Welfare Agency shall visit rooming houses, boarding houses, and residential health care facilities at a minimum of two visits per year. These visits shall be for the purpose of:

- i. Providing information and referral to residents regarding services they may need and be eligible for;

- ii. Determining whether residents are receiving needed services and appropriate levels of care.

2. Investigation of reports:

- i. County Welfare Agencies shall investigate and evaluate reports of abuse or exploitation. This investigation and evaluation responsibility includes reports initiated by the County Welfare Agency as well as reports received from other sources. The County Welfare Agency shall, independently or in conjunction with other agencies:

- (1) Evaluate the situation in terms of the allegations specified in the report and also in terms of any other risk of danger to the resident;

- (2) Explore alternatives for removing or limiting danger and determine the necessary steps and services needed to assure the resident's well being;

- (3) Provide needed services or make arrangements for the provision of such services.

- ii. The investigation and evaluation shall begin within 24 hours of County Welfare Agency receipt of a report when it is alleged that:

- (1) A resident is currently being physically abused;

- (2) A resident has been physically injured by abuse and may need medical treatment;

- (3) A resident is without supervision and may not be competent to provide for his/her own care.

- iii. For all other reports of abuse or exploitation, the investigation and evaluation shall begin within 72 hours of County Welfare Agency receipt.

- iv. If there is question regarding the severity of a referral situation, an investigation should be conducted within 24 hours.

3. Coordination: The County Welfare Agency shall coordinate all services provided to eligible residents with services provided by other state and local agencies. This coordination includes, but is not limited to, the following activities:

i. The receipt and compilation of reports from other involved agencies including reports of abuse, exploitation, unsafe conditions, unsanitary conditions, and other violations of P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979).

ii. Notification and referral of reports to the appropriate agencies with legal jurisdiction and responsibility for the investigation and follow up.

iii. The development of a plan for investigation in cooperation with other agencies as necessary.

iv. Cooperative on-site visits as deemed appropriate.

v. Follow-up with agencies when a report has been referred until the matter has been resolved.

4. Personal needs allowance: The personal needs allowance is a monthly amount intended to meet the personal expenses of Supplemental Security Income recipients. The Commissioner of the Department of Human Services has the responsibility for establishing a monthly personal needs allowance. The personal needs allowance shall be no less than \$25 per month as per P.L. 1979, Chapter 496. The County Welfare Agencies shall assist eligible residents in the receipt of their personal needs allowance. In situations where the County Welfare Agency is unable to resolve problems in residential health care facilities, violation of licensure standards shall be referred to the Department of Health and/or the Office of the Ombudsman as appropriate.

5. Additional services:

i. Services provided by the County Welfare Agencies may include, but are not limited to the following:

- (1) Information and referral;
- (2) Adult protective services;
- (3) Case management services;
- (4) Housing-related services;
- (5) Health-related services;
- (6) Transportation;
- (7) Legal services;
- (8) Recreational services;
- (9) Companionship services.

ii. Such services may only be provided with the resident's consent. Where the resident refuses to accept services and the situation warrants, the County Welfare Agency may initiate legal action to obtain legal protection and appropriate services for the resident.

iii. Eligible residents will be referred to state, county, and local agencies and organizations for any services which the County Welfare Agency cannot provide. The County Welfare Agency shall follow up on referrals to determine whether the service(s) are being provided.

(b) County Welfare Agency reporting:

1. The County Welfare Agencies shall compile reports received from other agencies regarding abuse, exploitation, unsafe conditions, unsanitary conditions, and violations of P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979). These reports shall be forwarded to the Central Registry of the Division of Youth and Family Services.

2. The County Welfare Agencies shall report findings to the County Prosecutor when a determination is made that a resident may have suffered abuse or exploitation. The County Welfare Agencies and the County Prosecutor's Office should establish agreements for instances in which such findings are reported to the County Prosecutor.

3. The County Welfare Agencies, upon receiving a report that a resident of a rooming house, boarding house, or

residential health care facility may be suffering or may have suffered abuse or exploitation, shall promptly notify the Ombudsman for the Institutionalized Elderly when the report involves an elderly person as defined in section 2 of P.L. 1977, c. 239 (C. 52:27G-2). Similarly, cooperation and coordination provisions of P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979) require that the Ombudsman for the Institutionalized Elderly shall, at a minimum, refer all reports received concerning services and conditions at rooming houses, boarding houses, and residential health care facilities to the Division of Youth and Family Services, through the County Welfare Agency.

10:123-2.5 Full and free access

(a) In order to fulfill their responsibilities under P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979), the County Welfare Agencies and the Division of Youth and Family Services shall be entitled to receive full and free access to rooming houses, boarding houses, and residential health care facilities from the owners and operators of such facilities. The County Welfare Agencies shall receive cooperation and assistance from State and local law enforcement officials as needed.

(b) Where such access cannot be obtained by the County Welfare Agency on a voluntary basis or in cooperation with other government agencies as deemed appropriate, the County Welfare Agency shall obtain access pursuant to legal process. In accord with existing law, regulations, and applicable court rules, the County Welfare Agency shall seek administrative/civil search warrants as necessary to be executed in conjunction with appropriate law enforcement officials such that lawful access can be obtained.

10:123-2.6 Confidentiality

(a) The County Welfare Agencies and the Division of Youth and Family Services shall maintain confidentiality with respect to the Central Registry and all matters in relation to any report or investigation and evaluation. The identities of the complainants, witnesses, residents, and other involved parties and all evaluations, findings, recommended actions and all the information received and compiled, shall not be a public record and shall not be disclosed or released. This confidentiality provision is in accordance with P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979), N.J.S.A. 30:4-24.3, Department of Human Services Administrative Order 2:01, 45 CFR 205.50, and other applicable state and federal laws and regulations. Exceptions to prohibited disclosure are limited to situations where:

1. The individual identified or his legal guardian has consented to the release of information in writing;

2. The disclosure or release is necessary to enable the County Welfare Agency or the Division of Youth and Family Services to perform its duties, coordinate investigations, and to support any opinions or recommendations that may result from a report of investigation; or

3. A court, upon its determination, directs that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest.

10:123-2.7 General reporting

(a) In accord with the provisions of P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979):

1. Any person, including any government, public, or private agency who has reasonable cause to suspect that a resident of a rooming house, boarding house, or residential health care facility is suffering or has suffered abuse or exploitation shall report such information in a timely manner to the appropriate County Welfare Agency

or the toll-free hotline (number 800-792-8672) of the Division of Youth and Family Services. Reports may be made by calling the County Welfare Agency, the toll-free hotline, in person, or by mail. Such reports shall contain the name and address of the resident, information regarding the nature of the suspected abuse or exploitation and any other information which might be helpful in an investigation of the case and the protection of the resident.

2. Any governmental agency shall report unsafe and unsanitary conditions in rooming houses, boarding houses, and residential health care facilities and any suspected violations of the provisions of P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979) directly to the County Welfare Agency.

#### 10:123-2.8 Immunity

Any person, including any complainant or employee of the County Welfare Agency or the Division of Youth and Family Services, who acts in accord with the provisions of P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979) and any regulations promulgated pursuant thereto, acting in good faith without malicious purpose, shall have immunity from any civil or criminal liability on account of such action.

#### 10:123-2.9 Definitions

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

"Abuse" means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement; or the willful deprivation of services which are necessary to maintain a person's physical or mental health.

"Boarding house" means any building, together with any related structure, accessory building, any land appurtenant thereto, and any part thereof, which contains two or more units of dwelling space arranged or intended for single-room occupancy, exclusive of any such unit occupied by an owner or operator, and wherein personal or financial services are provided to the residents, including any residential hotel or congregate living arrangement, but excluding any hotel, motel, or established guest house wherein a minimum of 85 percent of the units of dwelling space are offered for limited tenure only, any foster home as defined in section 1 of P.L. 1962, c. 137 (C. 30:4C-26.1), and community residence for the developmentally disabled as defined in section 2 of P.L. 1977, c. 448 (C. 30:11B-2), any dormitory owned or operated on behalf of any nonprofit institution or primary, secondary, or higher education for the use of its students, any building arranged for single-room occupancy wherein the units of dwelling space are occupied exclusively by students enrolled in a full-time course of study at an institution of higher education approved by the Department of Higher Education, and any facility or living arrangement operated by, or under contract with, any State department or agency, upon the written authorization of the Commissioner.

"Department" means the Department of Human Services.

"Eligible resident" means a resident of a rooming house, or residential health care facility who is eligible to receive services under the latest New Jersey Comprehensive Annual Services Program Plan for the use of funds appropriated under Title XX of the Federal Social Security Act, and as otherwise defined in P.L. 1979, c. 496 (The Rooming and Boarding House Act of 1979).

"Exploitation" means the act or process of using a person or his resources for another person's profit or advantage.

"Full and free access" means the lawful authority to enter any rooming house, boarding house, or residential health care facility without notice to meet with the residents and employees in private and, after notifying a person in charge, to inspect the premises of any such facility and inspect any books, files, medical records, or other records that pertain to the residents or the operations of the facility and which are required by law or regulation to be maintained by the facility.

"Limited tenure" means residence at a rooming or boarding house on a temporary basis for a period lasting no more than 90 days, when a resident either maintains a primary residence at a location other than the rooming or boarding house or intends to establish a primary residence at such a location and does so within 90 days after taking up original residence at the rooming or boarding house.

"Residential health care facility" means a facility, whether in single or multiple dwellings, whether public or private, whether incorporated or unincorporated, whether for profit or nonprofit, operated at the direction of or under the management of an individual or individuals, corporation, partnership, society, or association which furnishes food and shelter to four or more persons 18 years of age or older who are unrelated to the proprietor, and which provides dietary services, recreational activities, supervision of self-administration of medications, supervision of and assistance in activities of daily living and assistance in obtaining health services to any one or more of such persons, excluding, however, any community residence for the developmentally disabled as defined in section 2 of P.L. 1977, c. 488 (C. 30:11B-2), any facility or living arrangement operated by or under contract with any State department or agency, upon the written authorization of the Commissioner of the Department of Health, and any privately operated establishment licensed under Chapter 11 of Title 30 of the Revised Statutes.

"Rooming house" means a boarding house wherein no personal or financial services are provided to the residents.

"Single-room occupancy" means an arrangement of dwelling space which does not provide a private, secure dwelling space arranged for independent living, which contains both the sanitary and cooking facilities required in dwelling spaces pursuant to the "Hotel and Multiple Dwelling Law," P.L. 1967, c. 76 (C. 55:13A-1 et seq.), and which is not used for limited tenure occupancy in a hotel, motel, or established guest house, regardless of the number of individuals occupying any room or rooms.

"Units of dwelling space" means any room, rooms, suite, or portion thereof, whether furnished or unfurnished, which is occupied or intended, arranged, or designed to be occupied, for sleeping or dwelling purposes by one or more persons.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Larry Hatton  
Boarding Home Coordinator  
Division of Youth and Family Services  
Department of Human Services  
One South Montgomery St.  
Trenton, N.J. 08625

The Division of Youth and Family Services may thereafter adopt rules concerning this subject without further notice.

Ann Klein  
Commissioner  
Department of Human Services

**(a)**

## **HUMAN SERVICES**

### **DIVISION OF PUBLIC WELFARE**

#### **Amendments Concerning Payment Of Burial and Funeral Costs**

On June 6, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7-6, 44:10-3 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J. A.C. 10:81-7.22 and 10:81-7.26 in the Public Assistance Manual substantially as proposed in the Notice published April 10, 1980 at 12 N.J.R. 190(a) with only inconsequential structural or language changes in the opinion of the Department of Human Services.

An order adopting these amendments was filed on June 6, 1980 as R.1980 d.244 to become effective on July 1, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

**(b)**

## **HUMAN SERVICES**

### **DIVISION OF PUBLIC WELFARE**

#### **Amendments Concerning Criteria For Medical Eligibility for Persons Entering New Jersey Medical Facilities from Out-of-State**

On June 6, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:8-111 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:85-3.2(f) in the General Assistance Manual concerning the criteria for medical eligibility for persons entering New Jersey medical facilities from out-of-State substantially as proposed in the Notice published April 10, 1980 at 12 N.J.R. 191(a) with only inconsequential structural or language changes in the opinion of the Department of Human Services.

An order adopting these amendments was filed on June 6, 1980 as R.1980 d.245 to become effective on July 1, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

**(c)**

## **HUMAN SERVICES**

### **DIVISION OF PUBLIC WELFARE**

#### **Amendments Concerning Payment of Burial and Funeral Costs**

On June 6, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:7 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:100-3.5, 10:100-3.6 and 10:100-3.7 concerning the payment of burial and funeral costs substantially as proposed in the Notice published April 10, 1980 at 12 N.J.R. 192(b) with only inconsequential structural or language changes in the opinion of the Department of Human Services.

An order adopting these amendments was filed on June 6, 1980 as R.1980 d.246 to become effective on July 1, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

**(d)**

## **HUMAN SERVICES**

### **DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

#### **Amendments Concerning Nondiscrimination Of Handicapped Recipients**

On June 3, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J. A.C. 10:49-1.18 and 10:49-1.23 concerning nondiscrimination of handicapped recipients substantially as proposed in the Notice published February 7, 1980 at 12 N.J.R. 84(a), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Human Services.

An order adopting these amendments was filed on June 9, 1980 as R.1980 d.247 to become effective on July 1, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

**(e)**

## **HUMAN SERVICES**

### **DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

#### **Amendments Concerning Changes Of Reimbursement for Independent Clinics**

On June 4, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J. A.C. 10:66-1.15 concerning changes of reimbursement for independent clinics as proposed in the Notice published January 10, 1980 at 12 N.J.R. 26(a).

An order adopting these amendments was filed on June 9, 1980 as R.1980 d.248 to become effective on June 30, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

**(f)**

## **HUMAN SERVICES**

### **DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES**

#### **Amendments to Independent Clinic Manual**

On June 4, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.

A.C. 10:66 concerning the Independent Clinic Manual substantially as proposed in the Notice published May 8, 1980 at 12 N.J.R. 275(b), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Human Services.

An order adopting these amendments was filed on June 9, 1980 as R.1980 d.249 to become effective on June 30, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

(a)

## HUMAN SERVICES

### DIVISION OF PUBLIC HEALTH

#### Amendments Concerning General Assistance Clients in Certain Municipalities

On June 13, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 44:8-111 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 10:85-3.2, 10:85-5.3, 10:85-5.4, 10:85-5.8, 10:85-5.9 and 10:85-6.8 concerning general assistance clients in certain municipalities substantially as proposed in the Notice published May 8, 1980 at 12 N.J.R. 275(c) with only inconsequential structural or language changes in the opinion of the Department of Human Services.

An order adopting these amendments was filed on June 13, 1980 as R.1980 d.252 to become effective on July 1, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## HUMAN SERVICES

### DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

#### Emergency Amendments Concerning Medicaid Reimbursement for Abortions

On June 9, 1980, Ann Klein, Commissioner of Human Services, pursuant to authority of N.J.S.A. 30:4D-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 10:52-1.16, 10:53-1.14 and 10:54-1.23 concerning Medicaid reimbursement for abortions.

Full text of the amended rules follows.

10:52-1.16 Medicaid reimbursement for abortions

10:53-1.14 Medicaid reimbursement for abortions

10:54-1.23 Medicaid reimbursement for abortions

(a) Effective May 1, 1980, Medicaid will pay for all medically necessary abortions.

(b) A physician may take the following factors into consideration in determining whether an abortion is medically necessary:

1. Physical, emotional, and psychological factors;
2. Family reasons;
3. Age.

(c) The determinations of medical necessity are subject to review by Medicaid in accordance with existing rules and regulations of the Medicaid Program. Effective May 1, 1980, reimbursement will be made to Medicaid participating providers for medically necessary abortions within the following guidelines:

1. Medically necessary abortions may be performed up to and during the 12th week of pregnancy in a licensed hospital, licensed physician's office or licensed independent abortion clinic.

2. Medically necessary abortions performed after the 12th week of pregnancy must be performed in a licensed hospital.

i. Exception: Termination of pregnancy using the dilation and evacuation procedure, within a period of gestation not exceeding 16 menstrual weeks and/or 14 gestational weeks size as determined by a physician, may be performed in a licensed independent abortion clinic approved for participation in the Medicaid Program.

3. A physician certification, (form FD-179, Rev. 4/80) must be attached to the physician's Medicaid claim form.

i. A copy of the completed FD-179 must also be attached to:

(1.) The hospital's or independent clinic's Medicaid claim form as appropriate;

(2.) The anesthesiologist's Medicaid claim form.

10:52-1.16(d) and 10:53-1.14(d) New Jersey hospitals with tape-to-tape or teleprocessing billing capabilities will be required to submit hard-copy inpatient MC-1 or outpatient MC-4 claim forms for all abortion claims.

An order adopting these amendments was filed and became effective on June 18, 1980 as R.1980 d.264 (Exempt, Emergency Rule).

Howard H. Kestin  
Director  
Office of Administrative Law

(c)

## CORRECTIONS

### THE COMMISSIONER

#### Proposed Repeal of Rules Concerning County Correctional Facilities

William H. Fauver, Commissioner of Corrections, pursuant to authority of N.J.S.A. 30:1b-1 et seq., proposes to delete the current text of N.J.A.C. 10A:34-1.1 through 10A:34-4.11 concerning county correctional facilities since such rules were superseded and repealed by N.J.A.C. 10A:31.

The text of the rules involved in this appears in Title 10A of the New Jersey Administrative Code.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Louis J. Scavo, Chief  
N.J. Department of Corrections  
Bureau of County Services  
Whittlesey Road  
P.O. Box 7387  
Trenton, N.J. 08628  
Telephone (609) 292-6158

The Department of Corrections may thereafter adopt rules concerning this subject without further notice.

William H. Fauver  
Commissioner  
Department of Corrections

Christopher Dietz  
Chairman, State Parole Board  
P.O. Box 7387  
Whittlesey Road  
Trenton, N.J. 08628

(a)

## CORRECTIONS

### STATE PAROLE BOARD

#### Proposed Deletion of Portion of Rules Concerning Temporary Postponement of Certain Provisions of the Parole Act of 1979

Christopher Dietz, Chairman of the State Parole Board in the Department of Corrections, pursuant to authority of N.J.S.A. 30:4-123.45 et seq., proposes to delete N.J.A.C. 10A:70-10.11(b)13 concerning the temporary postponement of certain provisions of the Parole Act of 1979.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

10A:70-1.11(b)13. [P.L. 1979, c. 441, section 21 (Duration of time served;)] (Reserved);

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Thomas R. Stephens  
Administrative Practice Officer  
State Parole Board  
Department of Corrections  
P.O. Box 7387  
Trenton, N.J. 08628

The State Parole Board may thereafter adopt rules concerning this subject without further notice.

Christopher Dietz  
Chairman, State Parole Board  
Department of Corrections

(b)

## CORRECTIONS

### STATE PAROLE BOARD

#### Proposed Amendments Concerning Parole Board Rules

The State Parole Board in the Department of Corrections, pursuant to authority of N.J.S.A. 30:4-123.45 et seq., proposes to repeal the entire current text of N.J.A.C. 10A:70-1.1 et seq. and adopt new rules and regulations of the Parole Board, to be cited as N.J.A.C. 10A:71.

The proposed new rules concern board organization; general administrative provisions; parole release hearings; appeals; suspending or rescinding a parole release date; supervision; and revocation of parole.

Copies of the approximately 52 pages of the full text of this proposal may be obtained from or made available for review by contacting:

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 31, 1980 to the State Parole Board at the above address.

The State Parole Board may thereafter adopt rules concerning this subject without further notice.

Christopher Dietz  
Chairman, State Parole Board  
Department of Corrections

(c)

## INSURANCE

### THE COMMISSIONER

#### Proposed Minimum Standards for Health Insurance

James J. Sheeran, Commissioner of Insurance, pursuant to authority of N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:22-1 and 17B:26-1 et seq., proposes to adopt rules concerning minimum standards for health insurance.

Full text of the portions changed from the rules on the same subject recently disapproved by the Legislature follows.

#### 11:4-16.8(b) Outline of coverage - general

1. No individual health insurance policy shall be delivered or issued for delivery in this State unless the appropriate outline of coverage in section 8(c) through (n) is completed as to such policy and:

i. for policies offered for sale as Medicare Supplement Coverage the outline is delivered to the applicant at the time application is made and, except for the direct response policy, acknowledgement of receipt or certification of delivery of such outline of coverage is provided to the insurer; and

ii. for all other policies, the outline is either:

(1) delivered with the policy; or

(2) delivered to the applicant at the time application is made and acknowledgement of receipt or certification of delivery of such outline of coverage is provided to the insurer.

2. If an outline of coverage was delivered at the time of application and the policy is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy must accompany the policy when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued."

3. Completed copies of all original and corrected outlines of coverage shall be retained by the insurer.

2. - 6. Renumber as 4. through 8.

Delete the signature requirements in N.J.A.C. 11:4-16.8 (c) through (n).

**11:4-17.6 Complaint records to be Maintained**

(a) N.J.S.A. 17B:30-13.2 requires the maintenance of complaint records. The following requirements prescribe the minimum information to be maintained in a record of complaints in order to comply with the statute.

1. The minimum information required to be contained in a person's complaint record is set forth in section 6(b). Refinements and additions to the information specified may, of course, be maintained in such complaint record.

2. Section 6(b) is the suggested format for the complaint record required to be maintained. Refinements, deviations from or additions to this suggested format are permitted so long as the minimum information contemplated by such format can be obtained for Insurance Department review within a reasonable time following a request therefor by an authorized representative of the Department.

3. Section 6(c) contains an explanation of the various headings, codes, and other notations contained in section 6(b). The codes are used in order to simplify both the identification of the action underlying the complaint and the keeping of the records.

4. The complaint record shall be kept on a calendar year basis and the number of complaints by line of insurance, function, reason, disposition and state of origin shall be compiled at least annually.

5. "Complaint" shall mean a written communication primarily expressing a grievance.

(b) Complaint record format:

**(c) Explanation of Complaint Record Codes:**

1. Column A: Company Identification Number. As noted, this refers to the identification number of the complaint and shall also include the license number or other means of identifying any licensee of the Insurance Department that may have been involved in the complaint.

2. Column B: Function Code. Complaints are to be classified by function(s) of the company involved. Separate classifications are to be maintained for underwriting, marketing and sales, claims, policyholder service and miscellaneous.

3. Column B: Reason Code. Complaints are also to be classified by the nature of the complaint. The following is the classification required for each function specified above.

**i. Underwriting:**

- (1) Company underwriting;
- (2) Individual's application underwriting (this refers to any complaint where misrepresentations or declarations in an application for insurance resulted in company action involved in the complaint);
- (3) Cancellation;
- (4) Rescission;
- (5) Nonrenewal;
- (6) Premiums and rating;
- (7) Delays;
- (8) Refusal to insure;
- (9) Miscellaneous (not covered by above).

**Complaint Record Format**

Column A	Column B		Column C	Column D	Column E	Column F	Column G	Column H
Company Identification Number  (Agent's Number)	Function Code	Reason Code	Line Type	Company Disposition after Complaint Receipt	Date Received	Date Closed	Insurance Department Complaint	State of Origin

**ii. Marketing and sales:**

- (1) General advertising;
- (2) Direct response advertising;
- (3) Agent handling;
- (4) Replacement;
- (5) Dividend illustration;
- (6) Delays;
- (7) Alleged misleading statement or misrepresentation;
- (8) Miscellaneous (not covered by above).

**iii. Claims:**

- (1) Claims procedure;
- (2) Delays;
- (3) Unsatisfactory settlements;
- (4) Natural disaster adjusting (hurricane or flood situations or other situations which produce a large number of claims);

(5) Unsatisfactory settlement offers;

- (6) Denial of claim;
- (7) Miscellaneous (not covered by above).

**iv. Policyholder service:**

- (1) Failure to respond;
- (2) Delays;
- (3) Miscellaneous (not covered by above).

**v. Miscellaneous:**

4. Column C: Line Type. Complaints are to be classified according to the line of insurance involved. To complete this column, insert 9) which indicates individual health.

5. Column D: Company Disposition After Receipt. The complaint record shall note the disposition of the complaint.

i. The following examples illustrate the type of information called for, but are not intended to be required language or to exhaust the possibilities:

- (1) Corrective action was taken;
- (2) No action was deemed necessary;
- (3) Satisfactory explanation was given to the complainant.

ii. The complaint record need not note the specific action taken with respect to the complaint, so long as the action was appropriate to the circumstances. If the company wishes it may use a code for entries in this column.

6. Column E: Date Received. This refers to the date the complaint was received.

7. Column F: Date Closed. This refers to the date on which the complaint was disposed of whether by one action or a series of actions as may be present in connection with some complaints.

8. Column G: Insurance Department Complaint. Complaints are to be classified so as to indicate if the origin of the complaint was from an Insurance Department.

9. Column H: State of Origin. The complaint record should note the state from which the complaint originated. Ordinarily this will be the state of residence of the complainant.

#### 11:4-17.7 Penalties

(a) Any person who, after notice and hearing, is determined by the Commissioner to be in violation of this regulation shall be liable to a penalty not exceeding \$2,000 for each violation. In addition to, or in lieu thereof, the Commissioner may revoke or suspend the license or certificate of authority of any such agent, broker, solicitor, or insurer.

(b) An insurer may be held legally accountable for violations of this regulation by any of its agents. If any agent is fined pursuant to this regulation, an equivalent fine may be levied against the insurer responsible for the agent's actions.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 31, 1980 to:

Barbara R. Diamond  
Special Assistant to the Commissioner  
Department of Insurance  
P.O. Box 1510  
201 East State St.  
Trenton, N.J. 08625

The Department of Insurance may thereafter adopt rules concerning this subject without further notice.

James J. Sheeran  
Commissioner  
Department of Insurance

(a)

## INSURANCE

### REAL ESTATE COMMISSION

#### Proposed Amendments Concerning Rental Location Operations

The New Jersey Real Estate Commission in the Department of Insurance, pursuant to authority of N.J.S.A. 45:15-17, proposes to amend N.J.A.C. 11:5-1.32 concerning rental location operations.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

#### 11:5-1.32 Rental location operations

(a) Every licensee involved in the business of referring prospective tenants to possible rental units or locations shall enter into a written contract with the prospective tenant and give such person a copy of the contract. The licensee must disclose the manner in which the listings or units had been obtained. [Any fee charged in excess of \$10.00 shall be repaid or refunded to the prospective tenant if the prospective tenant, after bona fide effort does not obtain a rental, conforming to his specifications, through the listings furnished by the licensee.] No licensee shall charge, accept, or receive from a prospective tenant a fee in excess of \$10.00, until such time as the prospective tenant obtains a rental through the listings furnished by the licensee. [All contracts must contain a provision to this effect.] If the information concerning rentals furnished by the licensee is not current or accurate in regard to the

type of rental desired, the full fee shall be repaid or refunded to the prospective tenant upon demand.

(b) No licensee shall refer a prospective tenant to:

1. A nonexistent address;

2. Property which was not for lease or rent;

3. A possible rental unit or location for which the licensee does not have the lessor's, or his duly authorized agent's verbal or written consent to refer prospective tenants. Any such verbal consent shall be confirmed by the licensee, in writing, within twenty-four (24) hours of the licensee's receipt of such consent.

(c) All contracts must contain a copy of this regulation or a certification in 10-point bold type or larger placed directly above the space provided for the signature of the prospective tenant that a separate copy of the rule has been provided.

A public hearing respecting this proposal will be held at 10:00 A.M. on July 22, 1980, in the Department of Insurance, Real Estate Commission, hearing room on the second floor at 201 East State Street in Trenton, New Jersey.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Joan Haberle  
Director, Real Estate Commission  
201 East State St.  
Trenton, N.J. 08625

The New Jersey Real Estate Commission may thereafter adopt rules concerning this subject without further notice.

Joan Haberle  
Director, Real Estate Commission  
Department of Insurance

(b)

## INSURANCE

### THE COMMISSIONER

#### List of Municipalities Requiring Insurance Companies to Pay Unpaid Liens

On June 17, 1980, James J. Sheeran, Commissioner of Insurance, pursuant to authority of P.L. 1978, c. 184, as amended by P.L. 1979, c. 369, filed a list of municipalities that have passed an ordinance requiring insurance companies writing fire insurance on risks located in that municipality to pay unpaid liens out of any claimed payments in excess of \$2,500.

Full text of the additions to the prior list follows.

The Township of Mount Laurel 08054 (Burlington County)	May 27, 1980
The City of Trenton 08608 (Mercer County)	June 12, 1980
The Borough of Tenafly 07670 (Bergen County)	June 17, 1980

This list was filed on June 19, 1980, as R.1980 d.268. Such list is not subject to codification but will appear in Title 11 for informational purposes.

Howard H. Kestin  
Director  
Office of Administrative Law

(a)

## INSURANCE

### THE COMMISSIONER

#### Notice of Recertification of Need for Extended Notice of Cancellation and Nonrenewal

Take notice that James J. Sheeran, the Commissioner of Insurance, has recertified to the Legislature, pursuant to N.J.S.A. 29C-3 and N.J.S.A. 39:6A-3, the need for the continuation of the Notice of Cancellation and Nonrenewal requirement applicable to property and casualty insurance policies, as set forth in N.J.A.C. 11:1-5.5 which regulation continues in full force and effect.

This Notice is published as a matter of public information.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## INSURANCE

### THE COMMISSIONER

#### Notice Concerning the Legislature's Disapproval of Rules Establishing Minimum Standards for Health Insurance Policies Issued in New Jersey

Take notice that the Senate of the State of New Jersey on June 12, 1980, passed a resolution that stated that it does not favor the rules cited as N.J.A.C. 11:4-16 through 11:4-18 concerning minimum standards for health insurance policies issued in New Jersey that were filed and became effective on April 21, 1980, as R.1980 d.176 (See: 12 N.J.R. 342(c)).

Pursuant to P.L. 1979, c. 78, such action by the Legislature voids the rules cited above.

These rules will be removed from the New Jersey Administrative Code.

Howard H. Kestin  
Director  
Office of Administrative Law

(c)

## INSURANCE

### THE COMMISSIONER

#### Rules Concerning Life Insurance Policies that Provide a Limited Death Benefit in the Early Years as an Alternative to Underwriting

On June 5, 1980, James J. Sheeran, Commissioner of Insurance, pursuant to authority of N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:25-18 and in accordance with applicable provisions of the Administrative Procedure Act, adopted new

rules, to be cited as N.J.A.C. 11:4-21, concerning life insurance policies that provide a limited death benefit in the early years as an alternative to underwriting as proposed in the Notice published May 8, 1980 at 12 N.J.R. 279(b).

An order adopting these rules was filed and became effective on June 18, 1980 as R.1980 d.265.

Howard H. Kestin  
Director  
Office of Administrative Law

(d)

## INSURANCE

### REAL ESTATE COMMISSION

#### Emergency Amendments Concerning Contracts of Sale and Listing Agreements

On June 18, 1980, Joan Haberle, Director of the New Jersey Real Estate Commission in the Department of Insurance, pursuant to authority of N.J.S.A. 45:15-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted emergency amendments to N.J.A.C. 11:5-1.16(c) concerning contracts of sale and listing agreements.

Full text of the adoption follows (additions indicated in boldface thus).

11:5-1.16(c) The commission clause or provision in all listing agreements for the sale of real property, or any interest therein, or in all contracts if there is no listing agreement, shall contain, in print larger than the predominant sized print in the writing, the language: "As seller, you have the right to individually negotiate any fee, commission or other valuable consideration with your broker or salesperson. No fee, commission or other consideration has been fixed by any governmental authority or by any trade association or multiple listing service." Presently licensed individuals, partnerships, firms or corporations shall have until November 1, 1980, to bring all listing agreements and contracts into compliance with these subsections.

An order adopting these amendments was filed and became effective on June 19, 1980 as R.1980 d.274 (Exempt, Emergency Rule).

Howard H. Kestin  
Director  
Office of Administrative Law

(e)

## LABOR AND INDUSTRY

### STATE BOARD OF MEDIATION

#### Proposed Amendments Concerning Arbitration

John F. Tesauro, Executive Director of the Board of Mediation in the Department of Labor and Industry, pursuant to authority of N.J.S.A. 34:13A-1 et seq., proposes to amend Chapter 105 in Title 12 of the New Jersey Ad-

ministrative Code concerning arbitration, by deleting existing text and substituting new text therefor.

Full text of the proposed new rules follows.

## CHAPTER 105. ARBITRATION

### SUBCHAPTER 1. GENERAL PROVISIONS

#### 12:105-1.1 Rules incorporated in arbitration agreements

(a) The rules and regulations contained in this chapter shall be deemed a part of an arbitration agreement between parties whenever in their collective bargaining agreements or submissions they have provided for arbitration through the New Jersey State Board of Mediation or under its rules.

(b) This chapter, or any amendments thereof, properly adopted by the board, shall apply in the form obtaining at the time the procedure is instituted.

#### 12:105-1.2 Interpretation and application of rules

(a) The arbitrator shall interpret and apply the rules in this chapter insofar as they relate to his powers and duties.

(b) If there is more than one arbitrator and a difference arises among them concerning the meaning or application of any such rules, it shall be decided by a majority vote.

(c) All other rules shall be interpreted by an authorized representative of the board.

### SUBCHAPTER 2. INITIATION OF ARBITRATION

#### 12:105-2.1 Collective bargaining agreement designation

(a) Arbitration proceedings may be instituted in any one of the following methods:

1. Under collective bargaining agreements wherein the Board is designated as the agency through which action is to be taken as the final step of the grievance procedure.

2. Either party to such collective bargaining agreement may demand arbitration under the terms of the agreement by sending to the other party and to the board a statement outlining the nature of the dispute and the remedy sought. The statement to the board also should contain a copy of the collective bargaining agreement or of the contract grievance procedure.

#### 12:105-3.2 Collective bargaining agreement non-designation

Request for arbitration may be made by either party under a general arbitration clause in a collective bargaining agreement where the parties have agreed by stipulation or otherwise to arbitrate under the administration and rules of the Board.

#### 12:101-3.3 Mutual request for arbitration

Arbitration may also be initiated by the board, whether or not a collective bargaining agreement exists, upon filing of a copy of a written agreement by the parties to arbitrate under the rules and regulations of the Board.

#### 12:105-3.4 Expedited arbitration

(a) Pursuant to written mutual agreement by the parties certain provisions of the arbitration appointment procedure (as prescribed in Subchapter 3) may be modified in order to provide the expedited designation of an arbitrator.

(b) The board will endeavor to conform with the wishes of the parties wherever possible.

(c) Upon designation of an arbitrator, all rules and regulations not specifically modified shall remain in force.

(d) Pursuant to written mutual agreement by the parties in disputes where pension and welfare fund pay-

ments delinquencies is the sole issue alleged, the moving party may request an expedited designation of an arbitrator by proceeding directly to a "third list" panel (as prescribed in N.J.A.C. 12:105-3.1. The board will notify the employer representative of the claimed dispute and the request for expedited arbitration by certified mail, return receipt requested. Immediately thereafter, the board will proceed in accordance with the provisions of N.J.A.C. 12:105-3.1(c).

#### 12:105-2.5 Procedural determinations

(a) Should questions arise in connection with the request of either party to combine grievances to be heard before the arbitrator, said questions shall be determined by the arbitrator as a threshold issue and in no way will a determination be made by the board.

(b) Should questions arise in connection with arbitrability of a grievance, said questions shall be determined by the arbitrator as a threshold issue and in no way will a determination be made by the board.

### SUBCHAPTER 3. APPOINTMENT OF ARBITRATORS

#### 12:105-3.1 Nomination of arbitrators

##### (a) First list:

1. Upon receipt of a Demand or submission for arbitration, the Board shall submit simultaneously to the parties an identical list of ten names chosen from the panel, including a biographical sketch and a per diem fee for each arbitrator.

2. Each party within ten working days from the date of mailing said lists shall strike those names deemed unacceptable and return said list to the Board. Parties may list a preference among those deemed acceptable.

3. The board shall designate as arbitrator a person available from those lists who is acceptable to both parties.

4. If either party objects to the complete list of ten names as submitted, it may request that the board submit a new list of ten names.

##### (b) Second list:

1. If requested, the board will forward a second list of ten names to the parties.

2. Each party within five working days from the date of mailing said list shall strike those names deemed unacceptable and return said list to the board. Parties may list a preference among those deemed acceptable.

3. The board shall designate as arbitrator a person available from those lists who is acceptable to both parties.

4. If either party objects to the complete second list of ten names as submitted, it may request a third and final list of three names.

##### (c) Third list:

1. If requested, the board will forward a third and final list of three names to the parties.

2. The parties shall have five working days from the date of mailing the third list to return it to the board.

3. The parties may strike one name; however, any name not stricken shall be deemed acceptable.

4. If the parties in writing make a joint request to waive the third list and authorize the board to appoint an arbitrator, the board shall honor such joint request.

(d) If at any point in the arbitrator appointment process:

1. Both parties fail to return a list within the specified time period, all arbitrators shall be deemed acceptable and the board shall be empowered to designate any arbitrator so listed.

2. One party fails to return a list within the specified time period, the board shall appoint an arbitrator from the list received, by the order of listing, if any.

(e) Where a collective bargaining agreement calls for an arbitration board as the final step of a grievance procedure and where the board is designated as the agency to appoint an impartial arbitrator in situations when the company and union appointed arbitrators cannot agree upon such arbitrator, the parties shall submit the names and addresses of their arbitrators in a letter addressed to the board. In such case, a list of ten panel members will be sent to the parties or to their arbitrators, as requested, for selection as prescribed in this section.

#### 12:105-3.2 Conflict of interest

A member of the panel shall not serve as arbitrator in any proceeding if he has any financial or personal interest in the result of the arbitration unless the parties, in writing, waive such disqualification.

#### 12:105-3.3 Vacancies

If after designation any arbitrator resigns, dies, withdraws, refuses or is unable to perform his duties, the board shall rescind the appointment and shall fill the vacancy in the same manner as the original appointment (as prescribed in section 1 of this subchapter) and the matter shall be heard in its entirety by the new arbitrator.

### SUBCHAPTER 4. THE HEARING

#### 12:105-4.1 Date, time and place

(a) An arbitrator, once appointed, shall communicate with the parties and endeavor to make satisfactory arrangements for the date, time and place of the hearing. In the event that satisfactory arrangements cannot be made with the parties, the arbitrator shall have the power to set the date and time.

(b) If satisfactory arrangements cannot be made as to the place of the hearing, the arbitrator may use the offices of the board subject to availability. Arbitrators are required to keep the board informed of arrangements made and of any changes.

#### 12:105-4.2 Oath of arbitrator

Prior to the hearing, arbitrators shall sign an oath of arbitrator. The arbitrator is required to provide the board with a signed oath.

#### 12:105-4.3 Submission

The parties to the arbitration shall sign an original and three copies of the submission form prior to arbitration. The original shall be retained by the board, the arbitrator and the parties to the dispute shall each retain a copy.

#### 12:105-4.4 Status of arbitrator after appointment

After appointment, the legal relationship of an arbitrator is with the parties and not with the board.

#### 12:105-4.5 Postponements and adjournments

(a) The postponing of a scheduled hearing or the adjourning of a hearing is entirely within the discretion of the arbitrator.

(b) If either or both of the parties seek a postponement or cancellation within 48 hours (two working days) of the time agreed upon for the conduct of a hearing or the continuance of a hearing, the party or parties responsible for the postponement or cancellation shall be liable for payment of the arbitrator's full fee for the cancelled or postponed day.

#### 12:105-4.6 Representation by counsel

Any party may be represented at the hearing by counsel, subject to existing state laws, provided that any party intending to be so represented shall notify the other party and the board at least three days prior to the date set for the hearing at which counsel is to first appear. When the initiation of any arbitration is made by counsel or the reply of the other party is given by counsel, such notice is deemed to have been given.

#### 12:105-4.7 Taking of stenographic record

A stenographic record of arbitration proceedings may be taken. Should one of the parties desire to make such a record at its own expense and the other party refuses to share in the cost, it shall not be necessary for the party arranging for such record to supply a copy to the other party, but a copy, if transcribed, shall be sent to the arbitrator.

#### 12:105-4.8 Attendance at hearings

(a) Persons having a direct interest in the arbitration are entitled to attend hearings, but it shall be discretionary with the arbitrator to determine the propriety of attendance of any other persons.

(b) Such arbitrator shall have the power to require the retirement of any witness or witnesses during the testimony of other witnesses.

(c) Failure of a party to appear at or participate in a hearing duly scheduled may be deemed by the arbitrator, at his discretion, as a waiver of the right to appear at or participate in such hearing. The arbitrator, at his discretion, may proceed with the hearing in the absence of or without participation of said party.

#### 12:105-4.9 Majority decision

Where more than one arbitrator is sitting in a case, all decisions of the arbitration board shall be by majority vote unless the power of making such decision is delegated to the chairman; all awards shall be by majority vote unless concurrence of all is specifically required in the arbitration agreement.

#### 12:105-4.10 Evidence

(a) At the arbitration hearing, the parties may offer such evidence as they desire and shall produce such additional evidence as the arbitrator may deem necessary. Conformance to legal rules of evidence is not necessary, and the arbitrator shall be the judge of the relevancy and materiality of the evidence offered.

(b) All evidence shall be taken in the presence of all of the arbitrators and of all the parties, except where any of the parties is absent in default or has waived his right to be present.

(c) The arbitrator may accept or require briefs to aid in his determination of the case where arrangement for exchange of such briefs are made at a hearing.

(d) Time limits for submission of such briefs shall be determined by the arbitrator and the right to submit briefs shall be waived unless they are submitted within the time limits or an extension of time is granted.

#### 12:105-4.11 Inspection

If the arbitrator deems it necessary, he may make an inspection in connection with the subject matter of the dispute after written notice to the parties who may, if they so desire, be present at such inspection.

#### 12:105-4.12 Close of hearings

(a) The arbitrator shall specifically ask the parties whether they have further evidence or witnesses to produce before terminating the hearings. If not, the arbitrator shall declare the hearings closed.

(b) The arbitrator shall declare the hearings closed as of the final date established for the submission of briefs or other evidence by the parties.

(c) In the absence of other agreements by the parties, the time limit within which the arbitrator is required to make and submit his award shall start as of the closing date.

#### 12:105-4.13 Reopening of hearings

The hearing may be reopened by the arbitrator upon his own motion or at the request of either party for good cause shown at any time before the award is made, with the arbitrator to be the sole judge of the sufficiency of the reason. When hearings are reopened, the effective date of closing the hearings shall be the closing date of the reopened hearings.

### SUBCHAPTER 5. THE AWARD

#### 12:105-5.1 Time

(a) The award shall be made promptly within the time limit set in the agreement between the parties or a mutually agreed upon extension but in no case more than 30 days after the closing of hearing.

(b) If a decision is not rendered after 30 days, it is the obligation of the parties to contact the board so it can attempt to expedite a decision. If a decision is not rendered after 60 days either party can request in writing that the hearing be voided and another arbitrator be selected by means of the normal selection procedure; such a request will be automatically granted unless the parties individually agree to an extended award date. If the board invalidates a hearing due to a late decision, the parties shall not be obligated to pay the arbitrator's fee.

(c) The arbitrator shall not release arbitration decisions for publication or distribution without the written consent of the parties.

#### 12:105-5.2 Form

(a) The award shall be in writing, signed by the sole arbitrator or by the majority of an arbitration board, and the signature or signatures shall be witnessed by a qualified notary.

(b) The award may or may not be followed or accompanied by an opinion by the sole arbitrator or the majority of the arbitration board.

(c) An opinion, if written, shall set forth the findings of facts, conclusions and remedial actions.

(d) Dissenting opinion, if any, shall be mailed to the parties and the board.

#### 12:105-5.3 Award on settlement

If a dispute is settled during the course of an arbitration, the arbitrator may, upon request of the parties, set forth the terms of the agreed settlement in an award.

#### 12:105-5.4 Delivery of the award

The award shall be sent to the parties and to the board. The parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mails addressed to such parties or their attorneys at their last known addresses. It is the responsibility of the parties to inform the arbitrator of the names and addresses of the persons to be served the award.

#### 12:105-5.5 Finality of the award

After an award has been delivered to the parties, such award shall be final and binding upon them subject only to due process of law.

#### 12:105 5.6 Arbitrator's status subsequent to rendering a decision

An arbitrator becomes *functus officio* upon signing his award and he may not add to, subtract from or in any way explain, correct or modify his award unless all parties, in writing, agree to reinstate his authority.

#### 12:105-5.7 Waiver of right to object

Any party who proceeds with an arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state his objection thereto in writing shall be deemed to have waived his right to appeal.

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

John F. Tesauro, Executive Director  
New Jersey State Board of Mediation  
1180 Raymond Boulevard—Room 830  
Newark, New Jersey 07102

The Board of Mediation may thereafter adopt rules concerning this subject without further notice.

John F. Tesauro  
Executive Director  
State Board of Mediation  
Department of Labor and Industry

(a)

## LABOR AND INDUSTRY

### THE COMMISSIONER

### EMPLOYMENT SECURITY AGENCY

### DIVISION OF UNEMPLOYMENT AND TEMPORARY DISABILITY INSURANCE

#### Proposed New Rules for Determination and Demand for Refund of Unemployment Benefits

John J. Horn, Commissioner of Labor and Industry, pursuant to authority of N.J.S.A. 43:21-1 et seq., proposes to adopt a new Subchapter 10 in Chapter 17 of Title 12 concerning the determination and demand for refund of unemployment benefits.

Full text of the proposal follows.

#### SUBCHAPTER 10. DETERMINATION AND DEMAND FOR REFUND OF UNEMPLOYMENT BENEFITS

##### 12:17-10.1 Issuance of demand for refund

A demand for refund of unemployment benefits will be issued in each case when a determination of overpayment is made.

##### 12:17-10.2 Full waiver of recovery of overpayment

(a) Full waiver of recovery of overpayment will be granted by the Director when the claimant is deceased or permanently disabled and no longer able to work and overpayment is determined to be the result of Agency error or the claimant did not misrepresent or withhold any material fact in obtaining benefits. The claimant's entitlement to Social Security disability benefits will be considered as proof of disability. In the absence of such proof, an investigation will be conducted, including but not confined to an independent doctor's diagnosis and prognosis at the expense of the state.

(b) The demand for refund will advise the claimant of the right to waiver of recovery in the situations described above.

#### 12:17-10.3 Repayment of unemployment benefits

All overpayments for which waiver of recovery is not granted pursuant to N.J.A.C. 12:17-10.2 must be repaid in full; provided that any claimant whose overpayment is determined to be the result of Agency error or who did not misrepresent or withhold any material fact in obtaining benefits will be given the additional option of having such overpayment offset by future benefits. Upon written request by the claimant, any such offset shall be limited to 50 per cent of the claimant's weekly benefit rate for each week of benefits subsequently claimed.

#### 12:17-10.4 Certificate of debt

A certificate of debt will be filed in all cases where the amount of overpayment exceeds \$200.00, except those cases where overpayment was caused by Agency error or where the claimant did not misrepresent or withhold any material fact pursuant to N.J.S.A. 43:21-16(d).

Interested parties may submit data, views or arguments in writing relevant to these proposed rules on or before July 30, 1980 to:

Joseph S. Viviani, Director  
Division of Unemployment and Temporary  
Disability Insurance  
Department of Labor and Industry  
Trenton, New Jersey 08625

The Department of Labor and Industry may thereafter adopt rules concerning this subject without further notice.

John J. Horn  
Commissioner  
Department of Labor and Industry

**(a)**

## **(JOINT PROPOSAL)**

### **LAW AND PUBLIC SAFETY**

#### **DIVISION OF MOTOR VEHICLES**

#### **DEFENSE OFFICE OF THE CHIEF OF STAFF**

#### **Proposed New Rules Concerning Special National Guard Plates**

John A. Waddington, Director of the Division of Motor Vehicles in the Department of Law and Public Safety and Major General Wilfred C. Menard, Jr., Chief of Staff of the Department of Defense, pursuant to authority of N.J.S.A. 39:3-27.14, proposes to adopt new rules, to be cited as N.J.A.C. 13:20-36, concerning special National Guard plates.

Full text of the proposal follows.

#### **SUBCHAPTER 36. SPECIAL NATIONAL GUARD PLATES**

##### 13:20-36.1 Application; certification; fees

(a) Application for special National Guard plates may be made by any person who is an active member of the New Jersey National Guard. An active member of the New Jersey National Guard may make application for one motor vehicle owned by him. The Division of Motor Vehicles will issue only one set of special National Guard

plates to each active member of the New Jersey National Guard.

(b) An application for special National Guard plates must be obtained from the commander of the National Guard unit of which the applicant is an active member. The commander shall certify that the applicant is an active member of the New Jersey National Guard. The commander shall forward the completed application together with the fee established in this section to the division's special plate unit. The special plate unit shall notify the Department of Defense when the special National Guard plates are issued to an applicant.

(c) A fee of \$15.00 shall be paid at the time of application for special National Guard plates. A fee of \$5.00 shall be paid for replacement of lost, stolen or obliterated special National Guard plates.

##### 13:20-36.2 Surrender of special plates

Whenever the holder of special National Guard plates ceases to be an active member of the New Jersey National Guard, he shall obtain replacement plates from the Division of Motor Vehicles, within five days of his separation from the New Jersey National Guard and he shall then surrender the National Guard plates to the Department of Defense. The Department of Defense shall forward the surrendered plates to the Division of Motor Vehicles. If the special National Guard plates are not surrendered to the Department of Defense within five days from the date the holder of special plates ceases to be an active member of the New Jersey National Guard, the Department of Defense shall notify the Division of Motor Vehicles of the holder's failure to surrender the special plates.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

John A. Waddington  
Director, Division of Motor Vehicles  
Department of Law and Public Safety  
25 South Montgomery St.  
Trenton, N.J. 08666

Wilfred C. Menard, Jr.  
Chief of Staff  
Department of Defense  
P.O. Box 979  
Eggert Crossing Road  
Trenton, N.J. 08621

The Division of Motor Vehicles and the Department of Defense may thereafter adopt rules concerning this subject without further notice.

John A. Waddington  
Director, Division of Motor Vehicles  
Department of Law and Public Safety

Wilfred C. Menard, Jr.  
Chief of Staff  
Department of Defense

**(b)**

## **LAW AND PUBLIC SAFETY**

### **DIVISION OF MOTOR VEHICLES**

#### **Proposed New Rules Concerning Motor Vehicle Frames and Shells**

John A. Waddington, Director of the Division of Motor

Vehicles in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 39:10-4, proposes to adopt new rules, to be cited as N.J.A.C. 13:21-19 concerning motor vehicle frames and shells.

Full text of the proposal follows.

#### SUBCHAPTER 19. MOTOR VEHICLE FRAMES AND SHELLS

##### 13:21-19.1 Definitions

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

"Motor vehicle frame" means the structural unit in a motor vehicle chassis supported on the axles and supporting the rest of the chassis and the body.

"Motor vehicle shell" means the exterior unit of a motor vehicle including the front fire wall, the rear-end panel, the underbody and the roof panel.

##### 13:21-19.2 Necessary certificates

Every person shall have for each motor vehicle frame or if the same is connected to a motor vehicle shell, for the combination thereof, a certificate of ownership or a junk title certificate therefore in conformity with N.J.S.A. 39:10-1 et seq.

##### 13:21-19.3 Separation of motor vehicle frame and motor vehicle shell

(a) Whenever a combination of a motor vehicle frame and motor vehicle shell for which certificate of ownership or junk title certificate has been issued in conformity with N.J.S.A. 39:10-1 et seq. is separated into two distinct units, the certificate of ownership or junk title certificate shall be surrendered to the Division of Motor Vehicles within seven days of said separation.

(b) Whenever the certificate of ownership or junk title is surrendered to the Division of Motor Vehicles in compliance with subsection (a) of this section, the Division of Motor Vehicles shall issue separate documents of ownership in the form prescribed by the director for the motor vehicle frame and motor vehicle shell.

##### 13:21-19.4 Seizure and disposal for non-compliance

A motor vehicle frame, motor vehicle shell, or combination thereof may be seized and disposed of pursuant to N.J.S.A. 39:10-21 if the possessor thereof fails to produce a document of ownership upon demand of the Director or a police officer.

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980.

John A. Waddington, Director  
Division of Motor Vehicles  
Department of Law and Public Safety  
25 South Montgomery Street  
Trenton, New Jersey 08666

The Division of Motor Vehicles may thereafter adopt rules concerning this subject without further notice.

John A. Waddington  
Director, Division of Motor Vehicles  
Department of Law and Public Safety

(a)

## LAW AND PUBLIC SAFETY

### DIVISION OF MOTOR VEHICLES

#### Proposed New Rules Concerning Motor Home Title Certificates

John A. Waddington, Director of the Division of Motor Vehicles in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 39:10-4, proposes to adopt new rules, to be cited as N.J.A.C. 13:21-20, concerning motor home title certificates.

Full text of proposal follows.

#### SUBCHAPTER 20. MOTOR HOME TITLE CERTIFICATES

##### 13:21-20.1 Definitions

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

"Complete vehicle" means a multi-stage motor home that does not require any additional manufacturing operations for it to perform its intended functions, except addition of readily attachable components or completion of minor finishing operations.

"Final-stage or multi-stage manufacturer" means a person who performs manufacturing operations on an incomplete motor vehicle in making it a completed motor home.

"First-stage manufacturer" means a person who manufactures an incomplete motor vehicle that can be made into a completed motor home.

"Incomplete motor vehicle" means an assemblage of power train, steering system, and braking system to the extent that those systems are to be a part of the completed vehicle and that requires additional manufacturing operations, except addition of readily attachable components or completion of minor finishing operations, to make it a completed motor home.

"Minor finishing operations" include painting, upholstering, or other cosmetic modifications.

"Motor home" means a vehicular unit, built into as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van, that is designed to provide temporary living quarters. The vehicle must contain permanently installed, independent life support systems meeting the American National Standards Institute standard A 119.2, and provide at least four of the following facilities: cooking, refrigeration, or ice box; self-contained toilet; heating or air conditioning; a portable water supply system including a faucet and sink; separate 110-125 volt electrical power supply or a liquid petroleum gas supply.

1. "Type A motor home" means a chassis upon which is built a driver's compartment and an entire body which provides temporary living quarters.

2. "Type B motor home" means a van-type vehicle, bus, truck, or other motor vehicle that has been altered to provide temporary living quarters.

3. "Type C motor home" means an incomplete vehicle upon which is permanently attached a body designed to provide temporary living quarters.

"Multi-stage vehicle" means a motor vehicle that requires manufacturing operations performed by separate manufacturers to provide a completed motor home.

“Readily attachable components” include any mirror, light, or tire and rim assembly.

13:21-20.2 Assignment and affixation of vehicle identification number

(a) First-stage manufacturers of motor homes shall assign and affix a vehicle identification number to each new vehicle that conforms to the American Association of Motor Vehicle Administrators’ Vehicle Equipment Safety Committee’s standards.

(b) First-stage manufacturers of motor homes shall affix the vehicle identification number on the incomplete chassis or van.

(c) Multi-stage manufacturers of type “A” motor homes shall affix the vehicle identification number assigned by the first-stage manufacturers in a conspicuous place on the completed vehicle.

(d) The vehicle identification number assigned by the first-stage manufacturer shall be used on applications for certificates of ownership and registration.

13:21-20.3 Certificate of origin

(a) First-stage manufacturers and multi-state manufacturers of motor homes shall execute and deliver a certificate of origin for each new motor vehicle in accordance with N.J.S.A. 39:10-8.

(b) First-stage manufacturers and multi-stage manufacturers of motor homes shall comply with the provisions of N.J.A.C. 13:21-4.1 when executing and delivering certificates of origin.

13:21-20.4 Transfer of ownership of new motor homes

(a) Whenever ownership of a new motor home is transferred the owner thereof shall assign the multi-stage manufacturer’s certificate of origin and deliver it together with the first-stage manufacturer’s certificate of origin to the new owner.

(b) When applying for a certificate of ownership for a new motor home, the new owner shall submit to the Division of Motor Vehicles the first-stage manufacturer’s certificate of origin and the multi-stage manufacturer’s certificate of origin with proper assignment.

(c) The certificate of ownership issued to the owner of a new motor home shall reflect the vehicle identification number assigned by the first-stage manufacturer and the name of the multi-stage manufacturer.

13:21-20.5 Certificate of ownership for used motor vehicles converted into motor homes

(a) Certificates of ownership may be issued to owners of used motor vehicles that have been converted into motor homes upon submission of the following:

1. Application with proper fee;
2. Certificate of ownership for the used motor vehicle;
3. Photographs of exterior and interior of used motor vehicle clearly depicting the permanently installed life support systems;
4. Certified weight slip for the converted motor vehicle, and;
5. Pencil tracing of the vehicle identification number for the used motor vehicle.

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

John A. Waddington, Director  
Division of Motor Vehicles  
Department of Law and Public Safety  
25 South Montgomery Street  
Trenton, New Jersey 08666

The Division of Motor Vehicles may thereafter adopt rules concerning this subject without further notice.

John A. Waddington  
Director, Division of Motor Vehicles  
Department of Law and Public Safety

(a)

LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF DENTISTRY

Proposed Amendments Concerning  
Announcement of Practice in a  
Special Area of Dentistry

Samuel E. Furman, President of the State Board of Dentistry in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the authority of N.J.S.A. 45:6-1 et seq., proposes to amend the rule regarding the announcement of practice in a special area of dentistry as follows.

Full text of the proposed amendment follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

13:30-8.4 Announcement of practice in a special area of dentistry

(a) Any licensee who seeks to announce to the public that he is a specialist, specializes in or limits his practice to one or more area(s) of dental practice listed in subsection (b) shall first obtain a permit to do so from the Board of Dentistry for the licensee’s main office and all branch office locations.

(b) [a] The following special areas of dentistry are hereby recognized as suitable for the announcement of limited dental practices:

1. Endodontics;
2. Oral surgery;
3. Oral pathology;
4. Orthodontics;
5. Pedodontics;
6. Periodontics;
7. Prosthodontics;
8. Public health.

[b] [Announcements to the public of the limitation of practice shall be in one special area of dentistry, and the announcement shall be made for the main office and all branch office locations, but nothing herein shall prevent a dentist from announcing in more than one special area of dentistry if he has announced in such areas prior to October 15, 1975.]

(c) (No change)

(d) A licensed dentist who wishes to announce the limitation of practice in a special area of dentistry in subsection (b) of this section and who is permitted to do so under subsection (c) of this section [shall use the phrase “practice limited to .....,” and no other printed matter or signs.] may use any of the following words and phrases in all advertisements as permitted by N.J.A.C. 18:30-8.6:

1. “Practice limited to .....” or “Specializing in .....” using the appropriate name for the special area of dentistry in subsection (b), in which the licensee was granted permission to announce limitation of practice,

such as Endodontics, Oral Surgery, etc., and/or the name that identifies an individual licensee permitted to announce in that special area, such as Endodontist, Oral Surgeon, etc.

2. The post-graduate degree received from a recognized accredited academic institution.

3. The name of the current specialty board certification.

4. The limitation of practice certificate permit number issued by this Board.

(e) All licensed dentists who are not permitted by subsection (c) of this section to announce the limitation of practice in a special area of dentistry shall be prohibited from doing so and shall not hold out to the public as being qualified in any special area of dentistry by:

1. Announcement through the press, sign, card, letterhead or printed matter, or any other means of public advertising;

2. Use of a term as "specialist";

3. Use of the name of a specialty or any phrase customarily used to imply to the public the limitation of practice in a special area of dentistry as contained in subsection (b) and (d).

(f) A licensed dentist permitted to announce[ment] by subsection (d) of this section shall [must] avoid any inference, implication or announcement by press, sign, card, letterhead or printed matter or any other means of public advertising that another licensed dentist not permitted to announce, and associated or employed in the same practice, is also qualified for the announcement in the limited practice area.

(g) These rules regarding the announcement of limited practice [do] shall not prohibit any licensed dentist from engaging in any aspect of the practice of dentistry in accord with applicable laws or other rules and regulations of the Board.

(h) Prior to making any announcement of limitation of practice in accord with the preceding paragraphs, a licensed dentist shall apply to the Board for permission to do so. Application to the Board for permission to announce in a special area of dental practice shall be upon such form and contain such information as the Board may direct. When granted a permit of announcement of limited practice in a designated area(s) of dentistry, a licensee shall display this permit or a copy thereof, in the main (and all branch) office location(s) during the period of limited practice. If a licensee discontinues a limited practice, the Board shall be so notified.

(i) A licensed dentist granted a permit of announcement of limited practice by these Rules, but who wishes to conduct general practice combined with a practice in a special area(s) contained in subsection (b) shall:

1. Inform the Board of such intentions and retain the permit of announcement in accord with paragraph (h);

2. Announce such a practice to the public by stating "General Practice of Dentistry and ....." using the appropriate name of the special area(s) in which the permit of announcement has been granted contained in subsection (b);

3. Conform to subsection (d), except for paragraph i;

4. Not use the term "specialist" nor any term which would convey a singular area of expertise;

(j) Noncompliance with these rules for announcement of limitation of practice may subject [subjects] the licensee to suspension or revocation of his or her license to practice dentistry.

(k) (No change)

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 31, 1980 to:

Samuel E. Furman, President  
New Jersey State Board of Dentistry  
150 East State Street, Trenton, N.J. 08608  
Telephone: (609) 292-5416

The New Jersey State Board of Dentistry may thereafter adopt the above amendment substantially as proposed without further notice.

Samuel E. Furman  
President, Board of Dentistry  
Department of Law and Public Safety

(a)

## LAW AND PUBLIC SAFETY

### DIVISION OF CONSUMER AFFAIRS

### BOARD OF DENTISTRY

#### Proposed Amendments Regarding General Anesthesia

Samuel E. Furman, President of the Board of Dentistry in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the authority of N.J. S.A. 45:6-1 et seq., proposes to amend a certain rule regarding the use of general anesthesia. A prior proposal concerning the same subject matter was published at 12 N.J.R. 346(b) on June 5, 1980.

Full text of the revised proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

13:30-8.3(c)3. [An] Each and every anesthesia facility shall be inspected and approved by the State Board of Dentistry or its designee.

(d) This certificate shall be renewed biennially upon satisfactory proof being submitted to the Board that the holder has completed at least 100 credit points every two years in continuing education courses devoted to general anesthesia and approved by the Board. Permit holders failing to apply for timely renewal shall be subject to a monetary penalty of \$200 and shall have said office anesthesia facility inspected and approved by the State Board of Dentistry or its designee before a certificate of renewal will be granted.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 31, 1980 to:

Mr. Robert Siconolfi  
Executive Secretary  
N.J. Board of Dentistry  
Room 306, 150 E. State Street  
Trenton, N.J. 07102  
Tel. No. (609) 292-5235

The New Jersey State Board of Dentistry may thereafter adopt the above amendment as proposed without further notice.

Samuel E. Furman  
President, Board of Dentistry  
Department of Law and Public Safety

(a)

## LAW AND PUBLIC SAFETY

### DIVISION OF CONSUMER AFFAIRS

#### BOARD OF MEDICAL EXAMINERS

##### Proposed Amendments Concerning Approval of Colleges of Chiropractic

Edwin H. Albano, President of the Board of Medical Examiners in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:9-2 and 45:9-41.6, proposes to delete the current text of N.J.A.C. 13:35-1.4 and adopt new text therein concerning approval of colleges of chiropractic.

Full text of the proposed new rules follow.

#### SUBCHAPTER 10. REQUIREMENTS FOR APPROVAL OF COLLEGES OF CHIROPRACTIC

##### 13:35-10.1 Legal charter

The chiropractic college shall be incorporated as a non-profit institution of learning and shall be lawfully chartered to grant the degree of doctor of chiropractic within the state of its residence.

##### 13:35-10.2 Faculty

(a) The basic science division and each department within such division shall be headed by a person possessing at least a Master of Science degree.

(b) Each member of the chiropractic science division shall be headed by a person possessing a degree of doctor of chiropractic and shall be eligible for licensure within the state in which the institution resides.

##### 13:35-10.3 Plant

(a) The school shall have sufficient space to provide lecture rooms, laboratories, library, administrative and faculty offices, as well as out-patient clinics for men and women.

(b) The library shall be headed by a full-time librarian with a degree in library science, and shall consist of at least 10,000 volumes whose quality reflects current knowledge in the field.

(c) There shall be a medical museum containing sufficient pathological, embryological, histological and anatomical specimens to augment the teaching of related subjects.

(d) There shall be sufficient, useful auxiliary equipment sufficient for the teaching of the student body, such as mannikins, charts, skeletons, models, projectors, microscopes, adjusting tables and other equipment peculiar to the teaching of chiropractic.

##### 13:35-10.4 Clinical facilities

Each college of chiropractic shall operate a general chiropractic clinic or clinics in which the student shall gain clinical chiropractic practice with patients in chiropractic case management, which shall include the chiropractic clinical aspects of the courses which are required in the curriculum, for a proper understanding of the knowledge gained from the classroom and laboratory instruction. The clinic shall include proper experience in various aspects of patient examination for the purpose of determining the appropriateness of chiropractic care. Clinical instruction shall encourage the student to refer patients to doctors in the practice of medicine when impressions obtained as a result of a chiropractic examination indicate a consultation is in the patient's best interest.

##### 13:35-10.5 Resources

The school shall have sufficient resources to ensure financial stability and continuous operation.

##### 13:35-10.6 Administration

(a) There shall be responsible supervision of the entire school by the dean or other executive officer who, by training and experience, is qualified to interpret the prevailing standards in chiropractic and therapeutic education and who shall possess sufficient authority to integrate such standards into the school's curriculum.

(d) There shall be a comprehensive system of records

showing conveniently and in detail the credentials, grades and accounts of the students, by means of which an exact knowledge of each student's work can be obtained. Records should also be kept showing the clinical work of each student and attendance. Except for good cause, such an illness, no credit shall be given for any course when the attendance has been less than 80% of the full time, or when the student fails to satisfactorily complete course requirements.

##### 13:35-10.7 Admission regulations

Prior to commencing a course of study in the approved school of chiropractic, the student shall have successfully completed at least two years of study in a school or college of arts and sciences accredited or recognized by the New Jersey State Department of Education, no less than one and one-half years of which shall have been completed prior to commencing his or her courses of study in the approved school of chiropractic, pursuant to the terms of N.J.S.A. 45:9-41.7.

##### 13:35-10.8 Publications

The school shall issue, at least annually, a bulletin setting forth the nature and content of the courses of study offered. Such announcements shall contain a list of the faculty with their respective qualifications, academic degree received and the name of the degree-granting institution. The courses available should be set forth by departments, (Anatomy, Physiology, Pathology, etc.) showing for each course its contents, character, number of hours, etc. Information should be given regarding entrance requirements, tuition and other fees.

##### 13:35-10.9 Curriculum

(a) The entire course of four years shall consist of 3600 to 4400 class hours of not less than 45 minutes each, distributed as from 900 to 1100 hours per year, and shall be grouped as set forth in the following schedule. Each group is to be allotted approximately the percentage of the whole number of hours in the course as follows:

SUBJECT	PERCENTAGE OF TOTAL
1. Anatomy, including dissection wherever possible, embryology and history	25%
2. Principles of Chiropractic	37½%
3. Physiology	6¼%
4. Diagnosis and Symptomatology	7½%
5. Pathology, Bacteriology and Laboratory Technique	8¾%
6. Chemistry	2½%
7. Neurology	5%
8. Hygiene	1¼%
9. Jurisprudence	1¼%

10. Gynecology, Obstetrics, Spinography  
Endocrinology, Dermatology,  
Pediatrics, Special Senses

5%

100%

13:35-10.10 American Chiropractic Association

Acceptable schools, institutions or colleges teaching chiropractic may include schools, colleges or institutions approved by the American Council on Education of the American Chiropractic Association. However, this does not preclude inspection by the board before final approval of such school, college or institution.

13:35-10.11 Effective date

This rule shall become effective three years after filing.

Interested persons may present statements or arguments by letter or other written form relevant to the proposed amendment on or before July 31, 1980 to:

New Jersey State Board of Medical Examiners  
28 West State Street  
Trenton, New Jersey 08608

The Board of Medical Examiners may thereafter adopt the amendment to the rule without further notice.

Edwin H. Albano  
President, Board of Medical Examiners  
Department of Law and Public Safety

(a)

## LAW AND PUBLIC SAFETY

### DIVISION OF CONSUMER AFFAIRS

#### BOARD OF NURSING

##### Proposed Amendments Concerning Foreign Nurses and Licensure by Endorsement

Dorothy DeMaio, President of the Board of Nursing in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the authority of N.J. S.A. 45:11-24(d)(19), proposes to amend certain regulations concerning foreign nurses and licensure by endorsement.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

13:37-3.6 Canadian nurses

Canadian nurses shall [not] be considered "foreign nurses" for the purposes of this subchapter.

13:37-4.1 Initial inquiry

(a) Upon receipt of an initial inquiry from an applicant who has been licensed by examination or original waiver in another state [or Canada], the applicant shall be required to submit:

1. License to practice professional nursing;
2. Official application for licensure by endorsement, form R-1;

3. Verification of licensure in another state, Form R-2, to be completed by the state board in the state of licensure. In the event such form is incomplete concerning high school or school of nursing data, the applicant shall be required to provide a high school diploma or school of nursing record.

Interested persons may present statements or arguments in writing relevant to the proposed actions on or before July 30, 1980 to:

Richard David, Executive Director  
New Jersey State Board of Nursing  
1100 Raymond Boulevard, Room 319  
Newark, New Jersey 07102  
Telephone: (201) 648-2570

The New Jersey State Board of Nursing may thereafter adopt the above amendment as proposed without further notice.

Dorothy De Maio  
President, State Board of Nursing  
Department of Law and Public Safety

(b)

## LAW AND PUBLIC SAFETY

### NEW JERSEY RACING COMMISSION

#### Proposed Rule Concerning Pick-Six

Harold G. Handel, Acting Deputy Director of the New Jersey Racing Commission in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 5:5-22 et seq., proposes to adopt a new rule concerning Pick-Six wagering.

Full text of the proposed new rule follows.

13:70-29.56 Pick-Six

(a) The Pick-Six (or other approved name) is a form of pari-mutuel wagering. Each bettor selects the first horse in each of six consecutive races designated as the Pick-Six races by the association. The principle of a Pick-Six is in effect a contract by the purchaser of a Pick-Six ticket to select the winners of each of the six races designated as the Pick-Six.

(b) The Pick-Six pool shall be held entirely separate from all other pools and is no part of a daily double, exacta, trifecta or other wagering pool. The Pick-Six pool is a pool wherein the bettor is required to select six consecutive winning horses and is not a parlay.

(c) Pick-Six tickets shall be sold in not less than \$2.00 denominations and only from machines capable of issuing six numbers.

(d) Races in which Pick-Six pools shall be conducted shall be approved by the Commission and clearly designated in the program.

(e) The design of Pick-Six tickets shall be clearly and immediately distinguishable from other pari-mutuel tickets.

(f) The Pick-Six pari-mutuel pool shall be calculated as follows:

1. 75 per cent of the net amount in the pari-mutuel pool subject to distribution among winning ticket holders shall be distributed among the holders of pari-mutuel tickets which correctly designate the official winner in each of the six races comprising the Pick-Six. The remaining undistributed 25 per cent of the net pool shall be distributed among the holders of pari-mutuel tickets which correctly designate the most winning selections less than the six winning selections hereinbefore described.

2. In the event there is no pari-mutuel ticket held which correctly designates the winner of all races comprising the Pick-Six, 75 per cent of that racing date's net amount available for distribution shall be distributed among the holders of pari-mutuel tickets correctly designating the

most winning selections of the six races comprising the Pick-Six, and the remaining undistributed 25 per cent of said pool shall be distributed among those ticket holders who have designated the next most winning selections among those races constituting the Pick-Six.

(g) Those horses constituting an entry or a field as defined within the rules and regulations of the Commission shall race in any Pick-Six race as a single wagering interest for the purpose of the Pick-Six pari-mutuel pool calculations and payouts to the public. A scratch after wagering has begun of any part of an entry of field selection in such a race shall be of no effect with respect to the status of such entry and/or field as a viable wagering interest.

(h) In the event a horse is excused in any Pick-Six race, the amount representing the purchase price of that pari-mutuel ticket shall be withdrawn from the gross distributable amount in the pool and the total net value of all such withdrawn tickets shall be distributed as a consolation award among the holders of such withdrawn Pick-Six tickets designating the most winning selections. No ticket holder shall receive such a consolation prize in the event said ticket holder is a recipient of monies pursuant to section (f)(1)(2).

(i) After off-time, there shall be no refund in either of the above cases, provided for in section (h) of this rule.

(j) For the purpose of this rule, when horses are prevented from starting by any malfunction of the starting gate itself they shall be considered as having been excused by the Stewards.

(k) If, for any reason, any race or races of a Pick-Six program is cancelled and declared "No Race," the Pick-Six pool shall be distributed to the holders of the most winning selections of the remaining races pursuant to section (f)(2). In the event the Stewards cancel or declare as "No Race" three or more of the Pick-Six races for any given date, all pari-mutuel tickets for that Pick-Six pool shall be refunded and the Pick-Six cancelled for that day.

(l) In the event of a dead heat for win between two or more horses in any Pick-Six race, all such horses in the dead heat for win shall be considered as the winning horse in the race for the purpose of distributing the Pick-Six pari-mutuel pool.

(m) No person shall disclose the number of tickets sold in the Pick-Six pool or the number or amount of tickets selecting winners of Pick-Six races prior to the time the Stewards have declared the last Pick-Six race on any given date official.

(n) No pari-mutuel ticket for the Pick-Six pool shall be sold, exchanged or cancelled after the time of the closing of wagering in the first of the six races comprising the Pick-Six, except for refunds as required by this section.

(o) This rule shall be prominently displayed throughout the betting area of each association conducting a Pick-Six program.

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It should be noted that rules concerning Pick-Six wagering have already been advertised, see N.J.R. 282(C) published on May 8, 1980. The foregoing rules are proposed in the event legal impediments exist in the rules as advertised on May 8, 1980.

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Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

Harold G. Handel  
Acting Deputy Director  
c/o New Jersey Racing Commission  
404 Abbington Drive  
East Windsor, New Jersey 08520

The New Jersey Racing Commission may thereafter adopt rules concerning the subject without further notice.

Harold G. Handel, Acting Deputy Director  
New Jersey Racing Commission  
Department of Law and Public Safety

(a)

## LAW AND PUBLIC SAFETY

### DIVISION OF CONSUMER AFFAIRS

#### BOARD OF BEAUTY CULTURE CONTROL

##### Amendments Concerning Exemption Of Male Beauty Students from Performing Manicuring and Facial Work

On May 7, 1980, Richard G. Griswold, Executive Secretary of the Board of Beauty Culture Control in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:4A-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 13:28-2.24 concerning the deletion of the rule exempting male beauty students from performing manicuring and facial work as proposed in the Notice published April 10, 1980 at 12 N.J.R. 207(b).

An order adopting these amendments was filed and became effective on May 21, 1980 as R.1980 d.228.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## LAW AND PUBLIC SAFETY

### DIVISION OF CONSUMER AFFAIRS

#### BOARD OF BEAUTY CULTURE CONTROL

##### Rule on Mandatory Price Posting

On May 7, 1980, Richard G. Griswold, Executive Secretary of the Board of Beauty Culture Control in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:4A-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J.A.C. 13:28-1.56, concerning mandatory price posting as proposed in the Notice published April 10, 1980 at 12 N.J.R. 206(a).

An order adopting this rule was filed and became effective on May 21, 1980 as R.1980 d.229.

Howard H. Kestin  
Director  
Office of Administrative Law

(a)

## LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF PHARMACY

Amendments Concerning  
Reciprocal Licensure

On November 28, 1979, Edward Tarloski, President of the Board of Pharmacy in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:14-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 13:39-5.7, 13:39-5.11 and 13:39-5.15 concerning reciprocal licensure substantially as proposed in the Notice published November 8, 1979 at 11 N.J.R. 571(b), but with subsequent, substantive changes not detrimental to the public in the opinion of the Department of Law and Public Safety.

An order adopting these amendments was filed and became effective on June 17, 1980 as R.1980 d.259.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF PHARMACY

Rules on Availability of Records

On June 2, 1980, Watson E. Neiman, Chairman of the State Board of Pharmacy in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:14-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted new rules, to be cited as N.J. A.C. 13:39-6.9, concerning the availability of records as proposed in the Notice published January 10, 1980 at 12 N.J.R. 44(c).

An order adopting these rules was filed and became effective on June 17, 1980 as R.1980 d.260.

Howard H. Kestin  
Director  
Office of Administrative Law

(c)

## LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF BEAUTY CULTURE CONTROL

Amendments Concerning  
Names of Schools

On May 7, 1980, Richard G. Griswold, Executive Secretary of the Board of Beauty Culture Control in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:4A-1

et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 13:28-2.6 concerning the names of schools as proposed in the Notice published April 10, 1980 at 12 N.J.R. 206(b).

An order adopting these amendments was filed and became effective on June 17, 1980 as R.1980 d.261.

Howard H. Kestin  
Director  
Office of Administrative Law

(d)

## LAW AND PUBLIC SAFETY

DIVISION OF CONSUMER AFFAIRS

BOARD OF BEAUTY CULTURE CONTROL

Amendments Concerning Student  
Standards and Requirements

On May 7, 1980, Richard G. Griswold, Executive Secretary of the Board of Beauty Culture Control in the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to authority of N.J.S.A. 45:4A-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J. A.C. 13:28-2.24(a) concerning student standards and requirements as proposed in the Notice published April 10, 1980 at 12 N.J.R. 207(a).

An order adopting these amendments was filed and became effective on June 17, 1980 as R.1980 d.262.

Howard H. Kestin  
Director  
Office of Administrative Law

(e)

## TRANSPORTATION

THE COMMISSIONER

Proposed Amendments Concerning  
Restricted Parking on Parts of  
Routes 168, U.S. 30, U.S. 130 and 41

Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 39:4-138.1, proposes to amend certain rules concerning restricted parking on parts of Routes 168, U.S. 30, U.S. 130 and 41.

Full text of the proposed amendments follows (additions indicated in boldface thus).

16:28A-1.21(a)1. **No stopping or standing along both sides within the corporate limits of the City of Egg Harbor.**  
Renumber paragraph 1 as 2.

16:28A-1.46(a)1. **No stopping or standing in Pennsville Township along the westerly (southbound) side from Jackson Road southerly to the point of the junction of Route 49.**  
Renumber paragraphs 1-4 as 2-5.

16:28A-1.51(a)2i(4) **Evesham Road (120 feet);**  
16:28A-1.51(a)3. **All far side bus stops shall be 105 feet, except where otherwise indicated, . . .**

16:28A-1.161 Route 41

(a) The certain parts of State Highway Route 41 described herein below shall be, and hereby are, designated and established as "no parking" zones where stopping or standing is prohibited at all times except as provided in N.J.S.A. 39:4-139.

1. No stopping or standing in Deptford Township along both sides from the southerly curb line of Deptford Center Road to the northerly curb line of McKee Avenue.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Charles L. Meyers  
Administrative Practice Officer  
N.J. Department of Transportation  
1035 Parkway Ave.  
Trenton, N.J. 08625

The Department of Transportation may thereafter adopt rules concerning this subject without further notice.

Louis J. Gambaccini  
Commissioner  
Department of Transportation

(a)

## TRANSPORTATION

### THE COMMISSIONER

#### Proposed Amendments Concerning Speed Zones on Parts of Routes U.S. 206, 29 and 49

Louis J. Gambaccini, Commissioner of Transportation, pursuant to authority of N.J.S.A. 39:4-98, proposes to amend certain rules concerning speed zones on parts of Routes U.S. 206, 29 and 49.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

16:28-1.72(a) The rate of speed designated for the certain part of State highway Route U.S. 206 described herein below shall be and hereby is established and adopted as the maximum legal rate of speed thereat for both directions of traffic.

1. (No change)

2. Zone two: 55 mph from Route 537 in Springfield Township through Mansfield Township, to [southernmost intersection of Route U.S. 130] Farnsworth Avenue (Route 545) in Bordentown Township (milepost 26.8 to [35.6] 35.1).

3. Zone three: [Fifty] 40 mph (also part Route U.S. 130) in the City of Bordentown from [southernmost intersection of Route U.S. 130 extending into] Farnsworth Avenue, (Route 545) Bordentown Township to the northernmost intersection of Route U.S. 130 (milepost [35.6] 35.1 to 36.4).

16:28-1.77 Route 29

(a) The rate of speed designated for the certain part of State highway Route 29 described herein below shall be and hereby is established and adopted as the maximum legal rate of speed thereat:

1. For both directions of traffic:

i. - viii. (No change)

ix. Zone nine: [30] 35 mph in the City of Lambertville to Cherry Lane (milepost 16.45) [extending into Delaware Township to Route U.S. 202 (milepost 16.8)]; thence

x. Zone ten: 45 mph in City of Lambertville extending

into [in] Delaware Township to 1,200 feet south of Brookville Hollow Road (milepost [18.2] 18.1); thence  
xi. - xiv. (No change)

16:28-1.81(b)1.ii.(1) Except 30 miles per hour for the Shiloh Elementary School Zone during recess or while children are going to or leaving school, during opening or closing hours.

Interested persons may present statements or arguments in writing relevant to the proposed action on or before July 30, 1980 to:

Charles L. Meyers  
Administrative Practice Officer  
N.J. Department of Transportation  
1035 Parkway Ave.  
Trenton, N.J. 08625

The Department of Transportation may thereafter adopt rules concerning this subject without further notice.

Louis J. Gambaccini  
Commissioner  
Department of Transportation

(b)

## TREASURY

### DIVISION OF PENSIONS

#### TEACHERS' PENSION AND ANNUITY FUND

#### BOARD OF TRUSTEES

#### Proposed Amendment Concerning The Election of Member-Trustee

A. Steven LaBrutte, Secretary of the Teachers' Pension and Annuity Fund Board of Trustees in the Division of Pensions in the Department of the Treasury, pursuant to authority of N.J.S.A. 18A:66-56, proposes to amend N.J. A.C. 17:3-1.4, concerning the election of member-trustee.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

17:3-1.4(w) Delegates and alternates will be reimbursed for actual travel expense incurred in connection with the convention at the rate of [\$0.16] \$0.18 per mile for travel by auto, actual tax exempt fare for travel by bus or train, and meals not in excess of \$2.50 per day.

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

A. Steven LaBrutte, Secretary  
Teachers' Pension and Annuity Fund  
Board of Trustees  
Division of Pensions  
20 West Front Street  
Trenton, New Jersey 08625

The Teachers' Pension and Annuity Fund Board of Trustees may thereafter adopt rules concerning this subject without further notice.

A. Steven LaBrutte, Secretary  
Teachers' Pension and Annuity Fund  
Board of Trustees  
Division of Pensions  
Department of the Treasury

(a)

## TREASURY

### STATE INVESTMENT COUNCIL

#### Amendments Concerning Common Treasury Fund A

On May 22, 1980, Clifford A. Goldman, State Treasurer, pursuant to authority of N.J.S.A. 52:18A-89, on behalf of the State Investment Council and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments concerning the Common Treasury Fund A (New Jersey Cash Management Fund).

Full text of the adoption follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

#### 17:16-31.7 Valuation

[Upon each valuation date, as defined below, there shall be a valuation for every investment in the common fund in the method provided for in these regulations. The valuation shall be for the calculation of net income available for distribution as determined in section 9 of this subchapter. These calculations are designed so that] The net asset value per unit of participation shall remain at \$1.00, except only in an instance where net income available for distribution might be negative, in which case the net asset value per unit would be reduced by each participant's proportionate share of such negative amount.

#### 17:16-31.8 Date of valuation

The valuation shall be determined at the opening of business on each business day, and shall be based on realized gains or losses [market prices as of the close of the most recent business day and] accruals, and amortization as of the close of the previous day as set forth in section 9 of this subchapter.

#### 17:16-31.9 Calculation of daily income per participating unit

(a) The income due to the participants in the State of New Jersey Cash Management Fund shall be calculated daily. For the purpose of this calculation, net income available for distribution shall equal the sum of daily interest income, daily discount income, realized gain on sales, [unrealized market gain] and amortized discount, from which sum shall be deducted the sum of realized loss on sales, [unrealized market lose] amortized premium and total daily expenses. Such net income available for distribution shall then be divided by the number of outstanding participating units to determine the daily income per participating unit.

(b) In the case of participating funds of counties, municipalities, school districts and agencies or authorities created by either such entities or the State, (the "other than state funds"), daily income per participating unit shall be further reduced by both a charge to establish a reserve and a charge for administrative expenses.

(c) The charge to establish a reserve shall be in the sum of up to and not to exceed 1/10 of one per cent per annum of the aggregate value of the units owned by the other than State funds, and the daily income per participating unit owned by such other than State funds shall reflect their pro rata share of such sum. [Such charge shall be made only until such time as the value of the fund, (the "Reserve fund") aggregates \$1,000,000, at which time the charge will be discontinued.] The reserve fund shall be a participating fund in the State of New Jersey

Cash Management Fund and shall be credited with and will retain daily income per participating unit in the manner of participating State funds. In the event of a loss occasioned by the bankruptcy of an issuer of a security held by the State of New Jersey Cash Management Fund, or a loss realized upon the sale of a security, such loss will be shared pro rata by all participants in the fund, but the assets of the reserve fund will be applied pro rata in the manner approved by the State Investment Council to that portion of the loss accruing to the "other than State funds." In no event will the application of the assets of the Reserve Fund exceed the loss accruing to the other than State funds, and no State funds will share in the disposition of the assets of the reserve fund. [Similarly, the other than State participants' pro rata share of any gains realized upon the sale of securities by the Fund should be credited to the reserve fund.]

(d) The charge for administrative expenses shall be in the sum of up to and not to exceed 1/10 of one per cent per annum of the aggregate value of the units owned by the other than State funds, and the daily income per participating unit owned by such other than State funds shall reflect their pro rata share of such sum. The charge for administrative expenses shall be paid into a fund whose assets shall be at the disposal of the Treasurer.

(e) The method of calculation of each of the above terms will be in accordance with an agreement between the Treasurer of the State of New Jersey and the custodian bank.

#### 17:16-31.10 Guidelines for valuation of securities

[(a) The Director of the Division of Investment shall use a recognized pricing service approved prior to use by the State Investment Council.

(b) Those securities priced on a yield basis shall be converted to a dollar price.]

[(c)] (a) An investment purchased and awaiting payment against delivery shall be included for valuation purposes as a security and the cost thereof recorded as an accounts payable.

[(d)] (b) An investment sold but not delivered pending receipt of proceeds shall be valued at the net sales price.

[(e)] (c) For the purposes of valuation of an investment, with the exception of investments sold but not delivered, it shall not be necessary to deduct from the value ascertained by this regulation, brokers' commission or other expenses which would be incurred on a sale thereof.

An order adopting these amendments was filed on May 30, 1980 as R.1980 d.235 (Exempt, Procedure Rule) to become effective on July 1, 1980.

Howard H. Kestin  
Director  
Office of Administrative Law

(b)

## TREASURY

### DIVISION OF TAXATION

#### Emergency Amendments Concerning Home Improvement Exemption

On June 13, 1980, Sidney Glaser, Director of the Division of Taxation in the Department of the Treasury, pursuant to authority of N.J.S.A. 54:50-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C.

18:12-6 deleting existing text and substituting new text therein concerning home improvement exemptions.

Full text of the new rules follows.

## SUBCHAPTER 6. ONE- AND TWO-UNIT RESIDENCES

### 18:12-6.1 Definitions

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

"Act" means N.J.S.A. 54:4-3.72 et seq. (P.L. 1975, c. 104, as amended and supplemented).

"Assessor" means the assessor, board of assessors or other official or body charged with the duty of assessing real property for the purpose of general taxation.

"Qualified municipality" means any municipality in which residential neighborhoods have been declared by the county planning board, or by the Commissioner of the Department of Community Affairs, after an administrative hearing, to be in need of rehabilitation pursuant to N.J.S.A. 54:4-3.74.

### 18:12-6.2 Municipal appeals; administrative hearing

(a) A municipality seeking qualified municipality status pursuant to the Act, which has not been granted such status by the county planning board within 30 days of the submission by the municipality to the county planning board of a petition requesting such status, shall be given an opportunity to present oral or written testimony at an administrative hearing at which it shall be represented by its counsel. The administrative hearing shall be conducted by an administrative law judge of the Office of Administrative Law and the final decision in the matter shall be made by the Commissioner of the Department of Community Affairs.

(b) Together with the hearing request, the municipality shall submit copies of all documents previously submitted to the county planning board and any new material that it wishes to submit. Copies of any such new material shall be submitted to the county planning board at least ten days prior to the hearing.

(c) The county planning board shall in all cases be served with notice of the hearing and be given an opportunity to appear and present evidence in opposition to the municipality's petition requesting qualified municipality status.

### 18:12-6.3 Neighborhoods in need of rehabilitation

(a) In any administrative hearing on qualified municipality status, the existence of any of the following characteristics in a residential neighborhood shall establish a rebuttable presumption that it is in need of rehabilitation.

1. The neighborhood has previously been declared, pursuant to N.J.S.A. 40:55-21.1 et seq., to be blighted or is in close proximity to an area that has been so declared to be blighted; or

2. There is evidence of substantial housing or health code violations in at least 25 per cent of the dwelling units in the neighborhood; or

3. At least 25 per cent of the dwelling units in the neighborhood are in buildings at least 40 years old; or

4. At least 25 per cent of the dwelling units in the neighborhood are in buildings having real property tax arrearages in at least the amount of one year's taxes.

(b) Factors other than those set forth in subsection (a) of this section may also be considered if germane to the question of whether a municipality's residential neighborhoods are in need of rehabilitation.

(c) The establishment of standards in this section shall in no way affect the status of any municipality heretofore determined to be a qualified municipality.

### 18:12-6.4 Supplemental procedural rules for assessors

(a) The assessor shall designate any exemption allowed pursuant to the Act by the symbol "H" under "Specific exemptions" on the real property tax list and reflect it in column 7 on the said list.

(b) The provisions of N.J.S.A. 54:4-63.1 to 63.11, the Added and Omitted Assessment Laws, shall not apply to the allowable increase in the amount of assessed valuation in the year in which the improvements qualify for the exemption.

(c) When application for exemption is made with respect to an improvement or improvements which do not qualify, the assessor shall notify the claimant of the disallowance in writing upon form H.I.E.-2 within 20 days after disallowance and properly note thereon the specific reasons for the disallowance.

(d) Any improvement that has the effect of modernizing or rehabilitating a dwelling shall be deemed to be a home improvement qualifying for tax exemption pursuant to the Act, including, without limitation, swimming pools assessable as real property and fireplaces.

## SUBCHAPTER 6A. MULTIPLE DWELLINGS

### 18:12-6A.1 Definitions

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

"Act" means P.L. 1979, c. 233, Sections 1 through 9.

"Conversion" means the alteration or renovation of a nonresidential building or structure, or hotel, motel, motor hotel or guesthouse, in such manner as to convert such building from its previous use to use as a multiple dwelling.

"Multiple dwelling" means any building or structure of one or more stories, and any land appurtenant thereto, and any portion thereof, in which three or more units of dwelling space are occupied, or are intended to be occupied, by three or more persons who live independently of each other. This definition shall not include hotels, motels, motor hotels, guesthouses, properties subject to the Rooming and Boarding House Act of 1979, or dwelling units of any mutual housing corporation constructed under the Lanham Act (National Defense Housing) on or before June 1, 1941.

### 18:12-6A.2 Areas in need of rehabilitation

(a) Standards for determining if an area is in need of rehabilitation are as follows:

1. Pursuant to Section 3 of the Act, the governing body of any municipality may determine that areas within such municipality are in need of rehabilitation and that one or more multiple dwellings located within such areas are in need of rehabilitation, or that one or more other buildings or structures located within such areas are in need of rehabilitation and could advantageously be converted to multiple dwellings, or both.

2. No area within a municipality shall be determined to be in need of rehabilitation pursuant to the Act unless:

i. The area has been previously declared, pursuant to N.J.S.A. 40:55-21.1 et seq., to be blighted; or

ii. There is evidence of substantial housing or health code violations in at least 25 per cent of the dwelling units in the area; or

iii. At least 25 per cent of the dwelling units in the area are in buildings at least 40 years old; or

iv. At least 25 per cent of the dwelling units in the area are in buildings having real property tax arrearages in at least the amount of one year's taxes; or

v. The demand for multi family housing within the municipality exceeds the supply and the conversion of non-residential buildings or structures, hotels, motels, motor hotels or guesthouses within the area to use as multiple dwellings would help satisfy the existing demand.

3. No area within a municipality shall be determined to be in need of rehabilitation pursuant to the Act unless there is located therein at least one building which is either:

i. A multiple dwelling deemed to be in need of rehabilitation; or

ii. A non-residential building or structure or hotel, motel, motor hotel or guesthouse deemed to be in need of rehabilitation and capable of being advantageously converted into a multiple dwelling.

4. Any area delineated pursuant to the Act shall bear a reasonable relationship to existing neighborhood boundaries or zones.

5. No boundary shall be established for any area, pursuant to the Act, which unreasonably includes or excludes any particular property.

6. No area shall be so delineated that more than 15 per cent of the privately-owned land contained therein consists either of a single property or of two or more contiguous properties under common ownership or control.

#### 18:12-6A.3 Buildings in need of rehabilitation

(a) Standards for determining if a building is in need of rehabilitation are as follows:

1. A multiple dwelling shall not be deemed to be in need of rehabilitation unless it either:

i. Contains substantial housing or health code violations in or affecting at least 25 per cent of the dwelling units therein; or

ii. Is at least 40 years old.

2. A building, other than a multiple dwelling, shall not be deemed to be in need of rehabilitation unless it either:

i. Contains substantial violations of applicable housing, health, building or safety codes in or affecting at least 25 per cent of the units, in the case of a hotel, motel, motor hotel or guesthouse, or 25 per cent of the area of the building, in the case of any industrial or other non-residential building; or

ii. Is at least 40 years old; or

iii. Cannot feasibly be continued in its present use as a result of functional or economic obsolescence.

#### 18:12-6A.4 Conversion of buildings into multiple dwellings

(a) Standards for determining if a building, other than a multiple dwelling, can be advantageously converted into a multiple dwelling are as follows:

1. No building shall be deemed to be capable of being advantageously converted into a multiple dwelling unless it is either a non-residential building or a hotel, motel, motor hotel or guesthouse.

i. No health care facility licensed or subject to licensure by the State Department of Health shall be deemed to be capable of being advantageously converted into a multiple dwelling.

ii. No building licensed or subject to licensure by the Department of Community Affairs pursuant to the Rooming and Boarding House Act of 1979 shall be deemed to be capable of being advantageously converted into a multiple dwelling.

iii. No building containing sleeping or dwelling accommodations for transient or permanent occupants shall be deemed to be capable of being advantageously converted into a multiple dwelling in the absence of certification by the State Department of Health that the property is neither licensed nor subject to licensure by it or in the absence of certification by the Department of Community

Affairs that the property is neither licensed by it pursuant to the Rooming and Boarding House Act of 1979 not subject to licensure pursuant thereto.

2. No building shall be deemed to be capable of being advantageously converted into a multiple dwelling unless:

i. The building has been vacant for at least one year immediately prior to the filing of any request for exemption pursuant to the Act with any officer of the municipality; or

ii. Proof is presented to the municipality that all persons employed at such building, or who were employed at the building at any time during the preceding twelve-month period and who ceased to be so employed for any reason having to do with the desire of the owner to convert the building into a multiple dwelling, can be or have been readily re-employed in comparable jobs reasonably accessible to them without any reduction in wages or salary.

#### 18:12-6A.5 Relocation assistance

The rehabilitation of any building pursuant to the Act shall be deemed to be part of a "program of voluntary rehabilitation of buildings or other improvements conducted pursuant to governmental supervision" with the meaning of N.J.S.A. 20:4.1.

An order adopting these amendments was filed and became effective on June 16, 1980 as R.1980 d.253 (Exempt, Emergency Rule).

Howard H. Kestin  
Director  
Office of Administrative Law

(a)

## HACKENSACK MEADOWLANDS DEVELOPMENT COMMISSION

### Proposed Amendments Concerning Master Plan and Zoning Regulations

The Hackensack Meadowlands Development Commission, pursuant to authority of N.J.S.A. 13:17-1 et seq., proposes to amend a portion of its rules concerning the Master Plan and zoning regulations.

A new planned park and recreation zone is proposed which will be cited as N.J.A.C. 19:4-4.146 - 4.152, park and recreation zone development restriction is proposed which will be cited as new N.J.A.C. 19:4-4.24A and amending N.J.A.C. 19:4-4.144, and changes on the zoning map are proposed.

Full text may be obtained from:

Gary Rosensweig  
Hackensack Meadowlands Comm.  
200 Murray Hill Parkway  
East Rutherford, N.J. 07073

Please take notice that on July 23, 1980 at 7:30 P.M. at the offices of the Hackensack Meadowlands Development Commission, 200 Murray Hill Parkway, East Rutherford, New Jersey, a public hearing will be held to consider amendments to the Master Plan and zoning regulations in relation to property within the park and recreation zone in the Townships of North Arlington, Kearny, and Lyndhurst. The Commission will also consider adopting a Master Plan for development of land located within the area proposed

for DeKorte State Park. Copies of the proposed zoning amendments and Master Plan are available for inspection at the office of the Commission.

Interested persons may present arguments or statements in writing or orally relevant to the proposed action at this hearing. Any persons may present a written statement on or before the date of the hearing. The Commission may thereafter adopt the proposed changes substantially as proposed without further notice.

Development Commission  
Howard Goldberg  
Acting Executive Director  
Hackensack Meadowlands  
Development Commission

(a)

## ELECTION LAW ENFORCEMENT COMMISSION

### Proposed Amendments Concerning Lobbying

The New Jersey Election Law Enforcement Commission, pursuant to authority of N.J.S.A. 19:44A-6, proposes to amend various sections of Chapter 25, Title 19, New Jersey Administrative Code, concerning lobbying.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

#### 19:25-1.7 Definitions

"Election-related ["Political] activity" means election activity related to a candidate or public question as set forth in the act and all campaign efforts during any election, or the provision by any means of political information on any candidate or public question [, or efforts to seek to influence the content, introduction, passage or defeat of legislation in the State of New Jersey.] in the State of New Jersey.

"Political club" means any organization (other than a political party committee) having a recognized ongoing relationship to a political party. See N.J.A.C. 19:25-4.6.

["Political information organization" means any two or more persons acting jointly, or any corporation, partnership or any other incorporated or unincorporated association, whether or not it is required to be registered pursuant to the "Legislative Activities Disclosure Act of 1971" (L. 1971, c. 183), which is organized for the purpose of providing, or which provides political information concerning any candidate or candidates for public office or with respect to any public question, or which seeks to influence the content, introduction, passage or defeat of legislation. The term shall not apply to any bona fide newspaper, magazine, radio or television station or other bona fide news medium disseminating political information, advertising and comment in the normal course of its business; nor to any recognized school or institution of higher education, public or private, in conducting, sponsoring or subsidizing any classes, seminars, forums, discussions or other events in which political information or the discussion thereof or comment thereon is an integral part.]

Repeal N.J.A.C. 19:25-4.7, 5.2(e), 6.3 and 11.2(b).

19:25-11.5(a)[3. A contribution to a political information organization from a member of the general public in an

amount not exceeding \$10.00, or the purchase by a member of the general public of an item having some tangible value as merchandise, at a price in excess of the value of such merchandise, but not exceeding \$10.00 per item, when the net proceeds of such purchase are to be used by or on behalf of such political information organization; provided, however, that this provision is not applicable to any contribution or purchase where the net proceeds are to be used in whole or in part in furtherance or in aid of the candidacy of any candidate.]

3. An anonymous contribution to a person or organization which engages in election-related activity shall not be deemed to be a contribution to aid the passage or defeat of a public question within the meaning of the prohibition on anonymous contributions contained in Section 20 of the Act (N.J.S.A. 19:44A-20) unless the contribution is made for the express purpose of election-related activity, or is made to a person or organization whose major purpose is to engage in election-related activity. Any person or organization which engages in election-related activity and receives anonymous contributions must report the aggregate amount of all anonymous contribution(s) for purposes of its annual report pursuant to N.J.A.C. 19:25-8.6. For purposes of this section, any person or organization shall be deemed to engage in election-related activity as its major purpose for any calendar year in which expenditures for such activity constitute more than 50 per cent of its total expenditures.

Repeal N.J.A.C. 9:25-12.1(e) and (f).

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

Gregory E. Nagy, Esq.  
New Jersey Election Law Enforcement Commission  
28 West State Street, Suite 1114  
Trenton, N.J. 08608

The Election Law Enforcement Commission may thereafter adopt rules concerning this subject without further notice.

Lewis B. Thurston, III  
Executive Director  
N.J. Election Law Enforcement Commission

(b)

## ELECTION LAW ENFORCEMENT COMMISSION

### Proposed Amendments Concerning Election Activity

The New Jersey Election Law Enforcement Commission, pursuant to authority of N.J.S.A. 19:44A-6, proposes to amend various sections of Chapter 25, Title 19, New Jersey Administrative Code, concerning election activity.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

#### 19:25-5.3 Filing with the commission

Each candidate[, or committee [or organization] shall promptly file the name and address of the treasurer or campaign treasurer and depository or campaign depository with the commission, on a form designated by the commission and made available through the State and county committees of the major political parties, the county clerk

of each county, the municipal clerk of each municipality, the county superintendent of schools (as to school board elections only) and directly from the office of the commission.

#### 19:25-5.4 Deputies

(a) (No change.)

(b) A campaign treasurer of a political party committee or a political committee may appoint deputy campaign treasurers as may be required and may designate additional campaign depositories. [The treasurer of a political information organization may appoint deputy treasurers as may be required and may designate additional depositories.] Such committees [or organizations] shall promptly file the names and addresses of deputy treasurers or campaign treasurers and additional depositories or campaign depositories with the commission.

#### 19:25-5.5 Removal or resignation of treasurers

In the case of the death, resignation or removal of a treasurer or campaign treasurer, the candidate or committee [or organization] shall appoint a successor as soon as practicable and shall file his name and address with the commission within three days of such appointment.

#### 19:25-7.6 Earmarked funds

Whenever funds in excess of \$100.00, which are earmarked or intended for the use of any candidate[,] or committee [or organization] are transferred or retransferred through an intermediate candidate[,] or committee, [or organization] the funds shall be accompanied by a statement of the name, address and amount of the original contributor of such fund, and the reports filed by each transferee shall identify the original source and amount of such contribution.

#### 19:25-9.1 Report (form [R-1]) R-1

Form R-1 is to be used for preelection and post-election reports by all candidates (except those filing an affidavit in accordance with Section 5 of this subchapter) and by all committees [or organizations] which receive contributions or make expenditures respecting a candidate or public question in any election and are required to file.

#### 19:25-9.9 Sixty-day interval report

Form R-1 shall be used for the report whenever a candidate[,] or committee [or organization] shall be required to file one or more 60-day interval reports because all business in connection with a past election has not yet been wound up, or because it has received contributions or made expenditures with respect to such election after the date of the final report subsequent to such election, or has conducted a testimonial affair or public solicitation for the purpose of raising funds to cover any part of the expenses relating to such election. Such report shall cover the time period beginning with the day succeeding the last day covered by the most recent previous report and ending with the day preceding the date on which this report is due. Such report shall be filed with the office of the commission.

#### 19:25-9.10 Final report

(a) A candidate (or a committee [or organization] formed for a particular election) must certify in the final report that the business of the election for which it was formed has been wound up and the fund dissolved.

(b) A political committee, political party committee[,] or political club [or political information organization] which continues its activities beyond the election must certify in the final report that all business regarding the election has been wound up and shall state the final dis-

position of any balance of funds on hand or the arrangements which have been made for the discharge of any unpaid obligations.

#### 19:25-10.1 Report (form R-2)

Form R-2 is used for the annual report by all political party committees (including permanent political clubs) [and by all political information organizations] which are required to file.

#### 19:25-11.1 General provisions

Except as otherwise provided in N.J.A.C. 19:25-12.1, every contribution to aid or promote the nomination, election or defeat of any candidate or candidates for public office, or to aid or promote the passage or defeat of a public question in any election [, or which seeks to influence the content, introduction, passage or defeat of legislation,] must be reported.

#### 19:25-11.2 Contributions for election-related [political] activity

(a) Every contribution to a candidate, political committee, political party committee or a political club shall be deemed to be a contribution for election-related [political] activity as described in section 1 of this subchapter, unless it shall clearly appear that such contribution is not for political purposes:

#### 19:25-11.3 Computation of contributions

(a) Candidates (or committees [or organizations] formed for a particular election) must report as contributions the total amount of contributions and the name, address and amount of contributions made by any contributor who contributed in the aggregate more than \$100.00.

(b) (No change)

(c) Nonprofit corporations, organizations and associations must report as contributions the total amount of contributions for election-related [political] activity as described in section [2(b)] 1.7 of this [sub]chapter, and the name, address and amount of contribution made by any contributor who contributed more than \$100.00 in the aggregate for election-related [political] activity:

1. Examples: American Civil Liberties Union, League of Women Voters.

(d) Trade associations, business associations, unions and other organizations and associations (other than nonprofit) must report as contributions the total amount of contributions, dues and assessments for election-related [political] activity as described in section [26(b)] 1.7 of this [sub]chapter, and the name, address and amount of such contribution made by any contributor whose contribution, dues or assessment for political activity exceeded \$100.00 in the aggregate:

1. Examples: Chamber of Commerce, AFL/CIO, COPE.

(e) Corporations, partnerships and other business or professional associations must report as contributions the total amount of money initially budgeted or initially allocated for election-related [political] activity and deposited in a [political information organization] political committee or political action committee fund, together with any additional sums later so budgeted or allocated or deposited; plus the allocated value of other expenses reasonably attributable to election-related [political] activity, where payment for such expenses has not been made through a [political information organization] political committee or political action committee fund (for example, payments from payroll account, or rental or office supply payments through normal business accounts); plus all amounts contributed to candidates[,] or committees [or political information organizations] for election-related [political] activity; plus any contribution or

money utilized for election-related [political] activity not otherwise described above:

1. Examples: General Motors Corporation, Ford Motor Company, business organizations generally.

[(f) Legislative agents (not otherwise covered in subsections (c), (d) or (e) of this section) as defined in the Legislative Activities Disclosure Act of 1971 (N.J.S.A. 52:13C-19), including individual legislative agents, must report as contributions the total amount of contributions, fees or other amounts paid to them for or in connection with any political activity undertaken by them on behalf of other persons during the reporting period; plus any contributions or moneys utilized for political activities or expended from personal or firm funds for political activity, whether or not chargeable to clients for other persons.]

19:25-11.4(a) Where contribution of goods is made for election-related [political] purposes, the value of the contribution shall be the fair market value of the goods to the candidate[,] or committee [or organization] receiving them.

#### 19:25-11.5 Anonymous contributions

(a) Except as otherwise provided in subsection (b) of this section, no contribution or expenditure shall be made anonymously, or in a fictitious name, or by one person or group in the name of another for [a] an election-related [political] purpose, and no person shall contribute or purport to contribute to any candidate[,] or committee [or organization,] funds or property not actually belonging to him and in his full custody and control, or which have been given or furnished to him by any other person or groups for the purpose of making a contribution thereof.

(b) (No change)

#### 19:25-12.1 Reporting of expenditures

(a) Candidates shall maintain records with respect to all expenditures in aid or furtherance of aid of their candidacy and (except for a candidate filing an affidavit under N.J.A.C. 19:25-9.5) shall report such expenditures in accordance with the provisions of subchapter 9 (pre-election[s] and post-election[s] report) of this chapter. Payment by cash for expenditures is not unlawful; in case of such payments, receipts must be obtained from the ultimate payees and accurate records must be maintained by the campaign treasurer and included in the report for such candidate to reflect the identity of each payee, the date and amount of payment and a brief statement of the purposes of such expenditure. Expenditures incurred by lawful payment to workers on election day are expenditures on behalf of candidates. Victory parties or other similar celebrations held after the close of the polls and not held for the purpose of raising funds are not expenditures for purposes of N.J.A.C. 19:25-3.1 but must nonetheless be reported.

(b) (No change)

(c) A political committee acting on behalf of a candidate shall be subject to the same requirements as candidates with respect to reporting expenditures, except that no political committee or political party committee [or political information organization] shall be required to file pre-election or post-election reports as to any candidate who is not required to file such reports by virtue of his having filed an affidavit pursuant to N.J.A.C. 19:25-9.5. A political party committee [or a political information organization] may become a political committee with respect to a candidate if it is organized to or aids or promotes the nomination, election or defeat of such candidate:

1. A political committee for one or more public questions shall record and report expenditures in the same

manner as described for candidates[;]. [provided, however, that a political committee which is a political committee solely as to one or more public questions with respect to any election shall not be subject to the reporting or other requirements of the act if the total amount of its expenditures for such election do not exceed \$100.00. A political party committee or political information organization] A political party committee whose political activity in any election is solely to aid or promote the passage or defeat of a public question in such election is a political committee within the meaning of this paragraph for such public question.

(d) (No change)

#### 19:25-12.3 Public question reporting threshold

A political committee which is a political committee solely as to one or more public questions with respect to any election shall not be subject to the reporting or other requirements of the act if the total amount of its expenditures for such election does not exceed \$2,500.

#### 19:25-12.4 Independent expenditures

(a) Independent expenditures shall not be deemed to be expenditures within the meaning of section 7 of the Act, but such expenditures shall be subject to all of the reporting and disclosure requirements of the Act, subject to the provisions of N.J.A.C. 19:25-12.5. Every person or political committee making an independent expenditure and required to report under the Act shall include in the reports required under the Act a sworn statement on a form provided by the commission that such independent expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

(b) Any advertisement which is an independent expenditure shall include a clear and conspicuous statement that the advertisement is not authorized by any candidate and shall state the name and address of the person or organization making the expenditure.

#### 19:25-12.5 Reporting of independent expenditures

(a) Any political committee, not acting in concert with a candidate or any other political committee in support or defeat of a candidate or public question, which expends more than \$1,000.00 to support or defeat such candidate or more than \$2,500.00 to aid the passage or defeat of such public question shall be required to report all such expenditures in accordance with subsection (c) of this section.

(b) Any person, not acting in concert with any other person or committee, who expends personally from his own funds without being reimbursed more than \$1,000.00 to support or defeat a candidate or more than \$2,500.00 to aid the passage or defeat of a public question shall be required to report all such expenditures in accordance with subsection (c) of this section.

(c) Expenditures required to be reported pursuant to subsections (a) and (b) of this section shall be reported either:

1. To the campaign treasurer of the candidate, political party committee or political committee on whose behalf such expenditure or contribution was made, or to his deputy, who shall cause the same to be included in his report to the Election Law Enforcement Commission subject to the provisions of sections 8 and 16 of the Act; or

2. Directly to the Election Law Enforcement Commission at the same time and in the same manner as a political committee subject to the provisions of section 8 of the Act.

#### 19:25-15.31 Independent expenditures

(a) Independent expenditures shall not be deemed to be expenditures within the meaning of section 7 of the Act, but all such expenditures shall be subject to [all of the reporting and disclosure requirements of the Act.] the provisions of N.J.A.C. 19:25-12.5. Every person or political committee making independent expenditures and required to report under the Act shall include in the reports required under the Act a sworn statement on a form provided by the commission that such independent expenditure was not made with the cooperation or prior consent of, or in consultation with or at the request or suggestion of, the candidate or any person or committee acting on behalf of the candidate.

(b) (No change)

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

Gregory E. Nagy, Esq.  
New Jersey Election Law Enforcement Commission  
28 West State Street, Suite 1114  
Trenton, N.J. 08608

The Election Law Enforcement Commission may thereafter adopt rules concerning this subject without further notice.

Lewis B. Thurston, III  
Executive Director  
N.J. Election Law Enforcement Commission

(a)

## ELECTION LAW ENFORCEMENT COMMISSION

### Proposed New Rules Concerning Lobbying Disclosure

The New Jersey Election Law Enforcement Commission, pursuant to authority of N.J.S.A. 19:44A-6, proposes to adopt new rules to be cited as N.J.A.C. 19:25-8.1 et seq. concerning lobbying disclosure.

Full text of the proposal follows.

#### SUBCHAPTER 8. LOBBYING DISCLOSURE

##### 19:25-8.1 Scope of subchapter

The provisions of subchapter 8 of this chapter, covering the financial disclosure obligations of certain political information organizations ("lobbyists") are promulgated pursuant to the New Jersey Campaign Contributions and Expenditures Reporting Act, L. 1973, c. 83 as amended, N.J.S.A. 19:44A-1 and following ("the Act").

##### 19:25-8.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless a different meaning clearly appears from the context:

"Lobbying" or "lobbying activities" shall mean attempts to influence a legislator with respect to the content, introduction, passage or defeat of any legislation, including attempts to influence the formulation, drafting, introduction, consideration, modification, adoption, rejection, approval, veto, enactment or defeat of any legislation. Lobbying shall include, among other things, preparation and analysis and distribution of lobbying materials, monitoring of legislation, attendance at hearings and floor debates on legislation, preparation of testimony and pre-

sentations and arranging for and preparation of witnesses as well as communication with legislators, when done by a contract lobbyist or covered employee, as hereinafter defined, but shall not include activity with respect to legislation consisting solely of communications by a corporation to its management employees or stockholders and their families, or by a labor organization to its members and their families, or by an association to its members and their families.

"Contract lobbyist" shall mean and include any person, corporation, partnership or association, retained or designated by any other person, corporation, partnership or association, who, on behalf of such entity and pursuant to such retainer, or designation engages in lobbying or lobbying activities.

"Covered employee" shall mean and include any employee of a lobbyist or lobbyist organization who spends over the course of a reporting year, a total of 10 per cent of his time, or 180 hours, whichever is less, in lobbying activity on behalf of his employer.

"Political information organization", hereinafter referred to as "lobbyist", shall mean and include:

1. Any contract lobbyist;

2. Any two or more persons acting jointly, or any corporation, partnership or association which receives contributions or makes expenditures for lobbying activities. Lobbyist under this paragraph includes, but is not limited to, trade and business associations, clubs, political action committees, unions, public interest groups, and corporations whose salaried employees engage in lobbying activity for their employer or which retain contract lobbyists.

3. Any two or more persons acting jointly, or any corporation, partnership or association which receives contributions or makes expenditures for election-related activity (as defined in N.J.A.C. 19:25-1.7) shall be deemed a political committee, and its reporting and other obligations under the Act, if any, shall be those applicable to political committees.

"Legislator" means any member of the Senate or General Assembly of the State of New Jersey or a member-elect thereof, and any member of a committee or commission of the State Legislature or of either House; the term shall also include any staff member, assistant or employee (but excluding secretarial and clerical or similar employees) of the State Legislature, whether or not he received compensation from the State of New Jersey, and the Governor, Acting Governor, Secretary to the Governor, Counsel to the Governor and any other employee of the Chief Executive's Office, but excluding secretarial and clerical or similar employees.

"Legislation" includes all bills, resolutions, amendments, nominations or appointments, proposed but not yet introduced or pending in either House of the Legislature and all bills and resolutions which, having passed both Houses of the Legislature, are pending approval by the Governor.

"Direct, express and intentional communication with legislators undertaken for the specific purpose of affecting legislation," as used in sections 4 and 5 of this subchapter shall mean and include oral or written communications directed to or at a legislator (including telephone, correspondence, literature, advertising, or use of communication media), regardless of whether the communication is in person or through an agent, and having the effect of transmitting information, opinions, or ideas which reasonably can be said to be addressed to or connected with proposed or pending legislation for the purpose of lobbying. This shall include the preparation and distribution of material for such communication by a contract lobbyist or covered employee for the purpose of such lobbying.

### 19:25-8.3 Other definitions

(a) "The Act" means The New Jersey Campaign Contributions and Expenditures Reporting Act, L. 1973, c. 83, as amended, N.J.S.A. 19:44A-1 and following.

(b) "Commission" means the New Jersey Election Law Enforcement Commission.

(c) The term "contribution" includes every loan, gift, subscription, advance or transfer of money or other thing of value, including any item of real property or personal property, tangible or intangible, and paid personal services (but not including voluntary services provided without compensation) made to any lobbyist and any pledge or other commitment or assumption of liability to make such transfer. For purposes of subchapter 8, the term "contribution" shall include receipts of salary, fees, allowances, retainers or other similar compensation. Any such commitment or assumption shall be deemed to have been a contribution upon the date when such commitment is made or liability assumed.

(d) The term "expenditure" includes every loan, gift, advance, subscription or transfer of money or other thing of value, including any item of real or personal property, tangible or intangible and paid personal services (but not including volunteer services provided without compensation) made by any lobbyist and any pledge or other commitment or assumption of liability to make such transfer. Any such commitment or assumption shall be deemed to have been an expenditure upon the date when such commitment is made or liability assumed.

(e) The pronouns "its" and "his," used interchangeably throughout this subchapter, apply to lobbying organizations or lobbyist individuals of either gender, unless a different meaning clearly appears from the context.

(f) The term "principal" includes any person, corporation, partnership or association who or which employs or pays another person, corporation, partnership or association to engage in lobbying activities on its behalf.

(g) The term "unreimbursed travel expenses" means unreimbursed transportation expenses of individuals engaged in lobbying activities who are not compensated by a lobbyist or otherwise for such activities. A travel expense is deemed to be reimbursed if such cost is paid for by a lobbyist, returned to such individual in any way or if such cost is deducted, in any part, as a business expense on any state or federal tax return of the individual or a lobbyist.

### 19:25-8.4 Exemptions from the Act

(a) The provisions of the Act regarding lobbying activity shall not apply to:

1. Any lobbyist who or which receives contributions or receipts of not more than \$2,500 and makes expenditures of not more than \$2,500 (exclusive of unreimbursed travel expenses) in any calendar year for direct, express and intentional communication with legislators, undertaken for the specific purpose of affecting legislation. In calculating its reporting threshold hereunder, the lobbyist shall include the receipts, contributions and expenditures set forth in section 5(b) of this subchapter.

2. The government of the United States or of the State of New Jersey or of any other state or of any of the political subdivisions of any of the foregoing, or any official, employee, counsel or agent of the government of the United States or of the State of New Jersey or of any other state or of any of the political subdivisions of any of the foregoing, when acting in such official capacity;

3. Any bona fide newspaper, magazine, radio or television station or other bona fide news medium and the owners and employees thereof, disseminating political in-

formation, advertising or comment in the normal course of its business; nor to any recognized school or institution of higher education, public or private, in conducting, sponsoring or subsidizing any classes, seminars, forums, discussions or other events, in the normal course of its business, in which political information or discussion thereof or comment thereon is an integral part;

4. Any bona fide religious group acting solely for the purpose of protecting the public right to practice the doctrine of such religious group;

5. Any duly organized national, state or local committee of a political party;

6. Any person who testifies before a legislative committee or commission or at a public hearing duly called by the Governor on legislative proposals or on legislation passed and pending his approval in behalf of a nonprofit organization incorporated as such in this State who receives no compensation therefor beyond the reimbursement of necessary actual expenses and who makes no other communication to a legislator in connection with the subject of his testimony; and

7. Any person who communicates with a legislator if such communication is undertaken by him as a personal expression and not incident to his employment, even if it is upon a matter relevant to the interests of a person by whom or by which he is employed, and if he receives no additional compensation or reward, in money or otherwise, for or as a result of such communication.

### 19:25-8.5 Threshold calculation

(a) Any lobbyist who or which receives contributions or receipts of more than \$2,500 or makes expenditures of more than \$2,500 (exclusive of unreimbursed travel expenses) in any calendar year for direct, express and intentional communication with legislators, undertaken for the specific purpose of affecting legislation shall file with the Commission, not later than March 1st of each year, an annual report of contributions and expenditures for the previous calendar year, computed in accordance with the provisions below, on forms supplied by the Commission.

(b) In calculating its reporting threshold hereunder, the lobbyist shall include all contributions or expenditures related to direct, express and intentional communication with legislators for the specific purpose of affecting legislation. Such calculation shall include, without limitation, that portion of the following expenditures which relate to direct, express and intentional communication with legislators for the specific purpose of affecting legislation:

1. Costs of preparation and distribution of lobbying material by a contract lobbyist or covered employee;

2. Costs of purchase and preparation of media, including production expenses and expenses of time and space (e.g., billboards, newspapers, radio, television);

3. Entertainment;

4. Food and beverage;

5. Travel and lodging;

6. Honoraria;

7. Loans;

8. Gifts;

9. Overhead expenses of a contract lobbyist or of a lobbyist as defined in section 2(d)2 of this subchapter attributable to its covered employees (including among other things, rent, utilities, telephone and photocopying);

10. Salary, fees, allowances or other compensation paid to a contract lobbyist by its principal;

11. Compensation paid to a covered employee of a firm, association, partnership or corporation who engages in lobbying activity on behalf of his employer.

(c) The reporting threshold calculation shall also include, without limitation, that portion of the following contributions which relate to direct, express and intentional communication with legislators for the specific purpose of affecting legislation:

1. Salary, fees, allowances or other compensation received by a contract lobbyist from its principal;

2. Subject to the provisions of section 6(a)5ii. of this subchapter, fees or dues contributed by its members to a lobbyist as defined in section 2(d)2 of this subchapter which engages in lobbying activity.

(d) A lobbyist retained by or representing more than one principal shall include in its annual report, and for purposes of determining aggregate threshold expenditure figures pursuant to this section, expenditures made on behalf of all of its principals.

#### 19:25-8.6 Annual report

(a) The annual report shall contain the following:

1. Name, business address, telephone number of lobbyist.

2. Name, address and occupation or business of lobbyist's principal(s), if applicable.

3. Name of all legislative agents registered under the Legislative Activities Disclosure Act of 1971, (N.J.S.A. 52:13C-18 and following) who are employed by reporting lobbyist during a calendar year.

4. Description of the general subject or subjects in which the lobbyist engaged in lobbying.

5. Contributions to a lobbyist, including:

i. Fees, salary or other compensation in full, or that pro rata share attributable to lobbying activities, received by a contract lobbyist. Compensation required to be reported pursuant to this subparagraph shall be detailed as to amount, from whom received and for what purpose. A law firm, advertising agency, public relations firm, accounting firm or similar organization which spends only a portion of its time lobbying on behalf of a principal shall be required to report only that portion of its fees as are attributable to its lobbying activity on behalf of each principal.

ii. Contributions, loans (except for loans from financial institutions made in the ordinary course of business on substantially the same terms as those prevailing for comparable transactions with other persons) or membership fees or dues of an organization, association, or union. Such contributions, loans, membership fees or dues shall not be deemed to be contributions to influence legislation within the meaning of section 8 (N.J.S.A. 19:44A-8) and other reporting sections of the Act and of these regulations, unless made for the express purpose of lobbying, or made to a person or organization whose major purpose is to engage in lobbying activity. For purposes of this subparagraph, any person or organization shall be deemed to engage in lobbying activity as its major purpose for any calendar year in which expenditures for such activity constitute more than 50 per cent of its total expenditures. Such contributions, loans, membership fees or dues (other than those made for the express purpose of lobbying) shall be reportable in the same proportion as the activities of the organization, association or union are for a lobbying purpose; such contributions, loans, membership fees and dues made for the express purpose of lobbying shall be reported in full. Contributions, fees or dues required to be reported pursuant to this subparagraph shall be reported in the aggregate, along with the name and address of the contributor and the date and amount of contributions, fees or dues contributed by any contributor or member, who contributed in the aggregate more than \$100.00 for lobbying activities during the calendar year.

#### 6. Expenditures of lobbyist, including:

i. Fees, salary or other compensation in full, or that pro rata share attributable to lobbying activities, paid to a contract lobbyist. Compensation required to be reported pursuant to this subparagraph shall be detailed as to amount, to whom paid and for what purpose.

ii. Pro rata share of salary or other compensation attributable to lobbying or lobbying activities paid to a covered employee by his employer for lobbying activity on behalf of the employer.

iii. Contributions or membership fees or dues, or that pro rata share attributable to lobbying activity, paid by the lobbyist. This category shall include contributions or dues paid to an organization, association or union, and shall be reportable in the same proportion as the activities of the organization, association or union are for a lobbying purpose. Contributions, fees or dues required to be reported pursuant to this subparagraph shall be reported in the aggregate, along with the name of any organization, association or union to whom the lobbyist made a contribution for lobbying activity in excess of \$100.00 for a calendar year as well as the date and amount of each such contribution, fees or dues.

iv. Preparation and distribution of materials by a contract lobbyist or covered employee for the purpose of lobbying, including all disbursements for preparation and distribution of printed materials, correspondence, newsletters, flyers, publications, films, slides, recordings and video tapes; but this category shall not include costs for internal communications by a corporation to its management employees or stockholders and their families, or by a labor organization to its members or their families, or by an organization to its members and their families.

v. Costs of purchase and preparation of media for the purpose of lobbying (e.g., billboards, newspapers, radio, television), including production expenses and expenses of time and space.

vi. Fees and allowances for the purpose of lobbying, including consulting, legal and other fees, for services performed or to be performed, as well as expenses incurred in rendering such services.

vii. Travel and lodging expenses for the contract lobbyist, or covered employee for the purpose of lobbying.

viii. Other expenses for the purpose of lobbying, attributable to a lobbyist or covered employee, of general office overhead, including rent, utilities, telephone, telegraph, postage and photocopying, incurred for the purpose of lobbying.

ix. The following expenditures, when made by a lobbyist required to report pursuant to the Act, to or on behalf of a legislator or the immediate family of a legislator, shall be presumed to be made for the purpose of influencing the content, introduction, passage or defeat of legislation. An expenditure is deemed to be made by a lobbyist if such cost is reimbursed by or to the lobbyist or if such cost is deducted as a business expense on any state or federal tax return of the lobbyist.

(1) Entertainment, including, but not limited to, disbursements for sporting, theatrical and musical events provided to legislators, paid for by a lobbyist as well as the cost of entertainment for a contract lobbyist or covered employee when in the company of the legislator.

(2) Food and beverages provided to legislators, paid for by a lobbyist as well as food and beverages for the contract lobbyist or covered employee when in the company of the legislator, and payments by lobbyists of food or beverages of legislators at conferences, conventions, banquets, or other similar functions.

(3) Travel and lodging expenses paid for by a lobbyist on behalf of a legislator.

(4) Honoraria paid to a legislator by a lobbyist.

(5) Loans to a legislator from a lobbyist, except for loans from financial institutions made in the ordinary course of business on substantially the same terms as those prevailing for comparable transactions with other persons.

(6) Gifts, including, but not limited to, material goods, entertainment, food, beverage, travel and lodging, given or paid by the lobbyist to a legislator.

7. Expenditures required to be reported pursuant to paragraph 6i through 6viii of this subsection shall be listed in the aggregate by category.

8. Expenditures required to be reported pursuant to paragraph 6ix of this subsection shall be listed in the aggregate by category, and shall be detailed as set forth below.

i. Where expenditures required to be reported pursuant to paragraph 6ix of this subsection in the aggregate on behalf of a legislator, exceed \$25.00 per day, they shall be detailed separately as to name of legislator, date and type of expenditure, amount of expenditure, and to whom paid.

ii. Where expenditures required to be reported pursuant to paragraph 6ix of this subsection in the aggregate on behalf of any one legislator exceed \$100.00 per year, such expenditures, together with the name of such legislator, shall also be detailed in the same manner as in subparagraph i of this paragraph.

iii. With respect to any public event, such as a reception, to which a majority of all members of the Legislature or of either House of the Legislature is invited, the report shall include the date, purpose, place and total cost of the public event. The costs of any public event need not be allocated among the legislators present at the event for inclusion in the daily or annual calculations under subparagraphs i. and ii. of this paragraph.

iv. For the purposes of calculation for subparagraphs i. and ii. of this paragraph, such expenditures made on behalf of staff and assistants assigned to a legislator shall also be counted towards the aggregate of such expenditure for such legislator.

9. Where a contribution of goods or services is made to a lobbyist for the purposes of lobbying, the value of the contribution shall be the reasonable commercial value of the goods to the lobbyist receiving them. Where an expenditure of goods or services, including travel, is made by a lobbyist to a legislator, the value of the expenditure shall be the reasonable commercial value of the goods or services to the legislator.

10. The Treasurer, designated pursuant to Section 9 of this subchapter, of any lobbyist required to file an annual report hereunder shall certify to the correctness of such report.

#### 19:25-8.7 Anonymous contributions

An anonymous contribution to a person or organization which engages in lobbying shall not be deemed to be a contribution to influence legislation within the meaning of the prohibition on anonymous contributions contained in section 20 of the Act (N.J.S.A. 19:44A-20) unless the contribution is made for the express purpose of lobbying, or is made to a person or organization whose major purpose is to engage in lobbying activity. Any person or organization which engages in lobbying and receives anonymous contributions must report the aggregate amount of all anonymous contribution(s) for purposes of its annual report pursuant to section 6 of this subchapter. For purposes of this section, any person or organization shall be deemed to engage in lobbying activity as its major purpose for any calendar year in which expenditures for such ac-

tivity constitute more than 50 per cent of its total expenditures.

#### 19:25-8.8 Audit by commission; recordkeeping

(a) All annual reports of lobbyists required to be filed pursuant to the Act and these Regulations shall be subject to review and audit by the Commission.

(b) Every lobbyist subject to reporting under this Act shall maintain for a period of three years all records and documents relating to its lobbying activity in New Jersey including but not limited to checks, bank statements, contracts and receipts, so as to provide evidence to support statements in reports filed with the Commission and to permit an adequate basis for auditing by the Commission.

#### 19:25-8.9 Responsibilities for filing annual reports

(a) The lobbyist and its designated Treasurer shall have the responsibility of filing annual reports.

(b) Every principal which itself has a filing obligation pursuant to this subchapter is not relieved of that obligation by virtue of the fact that a contract lobbyist employed by it has a filing obligation as a lobbyist. Every lobbyist which has a filing obligation pursuant to this subchapter is not relieved of that obligation by virtue of the fact that its principal has or may have a filing obligation as a lobbyist.

(c) The covered employee of a corporation or other principal shall not have an obligation of filing an annual report; the obligation to file the annual report will be that of the corporation or other principal.

#### 19:25-8.10 Appointment of treasurer and depository

(a) Every lobbyist required to file an annual report pursuant to section 5 of this subchapter, or which reasonably anticipates making expenditures requiring it to report pursuant to section 8 of this subchapter, shall appoint a treasurer and name a depository and file the names and addresses of such with the Commission on forms designated by the Commission on or before January 31 of each year or as soon thereafter as the obligation to report becomes known to such lobbyist.

(b) Nothing in the Act or these regulations shall be construed to require designation of a corporate treasurer or chief financial officer as treasurer hereunder, or be interpreted to impose depository requirements prohibited by the Commissioner of Banking or the Supreme Court of New Jersey as to the Canons of Ethics for attorneys, of the Public Utilities Commission for utility companies, or of other regulatory agencies.

(c) Every treasurer appointed pursuant to this section shall either be a resident of the State of New Jersey or, in the alternative, the lobbyist must file with the Commission a consent to service of process and submission to jurisdiction in a form satisfactory to the Commission.

(d) In naming a depository pursuant to this section, a lobbyist may designate a separate account for lobbying contributions, receipts and expenditures or it may designate its normal business account for such purpose; provided, however, in either case, a lobbyist must keep records sufficient to permit the Commission to identify and audit such contributions, receipts and expenditures.

(e) The treasurer of a lobbyist may appoint deputy treasurers as may be required and may designate additional depositories. Such lobbyist shall promptly file the names and addresses of deputy treasurers and additional depositories with the Commission.

(f) In the case of the death, resignation or removal of a treasurer, the lobbyist shall appoint a successor as soon as practicable and shall file his name and address with the Commission within three days of such appointment.

#### 19:25-8.11 Advisory opinions

The Commission is authorized, pursuant to section 6 of the Act, to render advisory opinions as to the applicability of the Act to a given specific set of facts and circumstances.

#### 19:25-8.12 Investigations by the commission

(a) The Commission may, pursuant to N.J.S.A. 19:44A-6(b), on its own motion or on the application of any person, conduct investigations to determine the extent to which any candidate, committee, organization or other person or group of persons is complying with the Act.

(b) In the conduct of such investigations, all investigatory powers granted by N.J.S.A. 19:44A-6(b) shall be available to the Commission.

#### 19:25-8.13 Severability clause

If any regulation, or sentence, paragraph or section of these regulations, or the application thereof to any persons or circumstances shall be adjudged by a court of competent jurisdiction to be invalid, or if by legislative action any regulation shall lose its force and effect, such judgment or action shall not affect, impair or void the remainder of these regulations.

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

Gregory E. Nagy, Esq.  
New Jersey Election Law Enforcement Commission  
28 West State Street, Suite 1114  
Trenton, N.J. 08608

The Election Law Enforcement Commission may thereafter adopt rules concerning this subject without further notice.

Lewis B. Thurston, III  
Executive Director  
N.J. Election Law Enforcement Commission

### (a)

## CASINO CONTROL COMMISSION

### Proposed Amendments Concerning Definitions and License Requirements Regarding Casino Service Industries

Joseph P. Lordi, Chairman of the New Jersey Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq., proposes to amend N.J.A.C. 19:43-1.1 and 19:43-1.2 concerning definitions and license requirements regarding casino service industries.

Full text of the proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

#### 19:43-1.1 Definitions

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

"Gaming equipment" means any mechanical electrical or electronic contrivance or machine used in connection with gaming or any game and includes, without limitation, roulette wheels, roulette tables, big six wheels, craps tables, tables for card games, layouts, slot machines, cards, dice, chips, placques, card dealing shoes, drop boxes, and other devices, machines, equipment, items or articles determined by the Commission to be

so utilized in gaming as to require licensing of the manufacturers, distributors or servicers or as to require Commission approval in order to contribute to the integrity of the gaming industry or to facilitate the operation of the Commission or the Division.

["On a regular or continuing basis" means on a regular basis, on a continuing basis or at such time as the Commission determines that an enterprise has continued, is continuing, or is likely to continue to do business with or provide goods or services to a casino, a casino licensee, its employees or agents.]

#### 19:43-1.2 License requirements

(a) No enterprise shall, on a regular or continuing basis, provide goods or services directly related to casino or gaming activity to, or otherwise transact business directly related to casino or gaming activity [to] with, a casino licensee, its employees or agents unless licensed in accordance with Sections 92a and b of the Act[.]; provided, however, that upon a showing of good cause by a casino licensee for each business transaction, the Commission may permit an applicant for a casino service industry license to conduct business transactions with such casino licensee prior to the licensure of that applicant pursuant to N.J.S.A. 5:12-92a.

##### 1. (No change)

(b) No enterprise shall, on a regular or continuing basis, provide goods or services or otherwise transact business not included in subsection (a) of this section and not directly related to casino or gaming activity to a casino licensee, its employees or agents unless licensed or exempted in accordance with Sections 92c and d of the Act or authorized to do so pursuant to N.J.A.C. 19:41-11.3(g), which enterprise shall include but not be limited to suppliers of alcoholic beverages, food and non-alcoholic beverages, garbage handlers, vending machine providers, linen suppliers, maintenance companies, shopkeepers located within the approved hotel, and limousine services contracting with casino licensees.

(c) Unless otherwise determined by the Commission, persons and enterprises which provide or imminently will provide goods or services to, or otherwise transact business with any casino licensee or casino licensees, their employees or agents shall be deemed to be transacting business on a regular or continuing basis if:

i. The total dollar amount of such transactions is or will be equal to or greater than \$5,000.00 within any 12 month period, and the number of such transactions is or will be three or more within any three month period; or

ii. The total dollar amount of such transactions is or will be equal to or greater than \$30,000.00 within any 12 month period and provide for a warranty, service or maintenance plan.

(d) In determining if a person or enterprise not meeting the criteria of subsection (c) of this section does or will, on a regular or continuing basis, provide goods or services to or otherwise transact business with any casino licensee or casino licensees, their employees or agents, the following factors shall be considered:

1. Number of transactions;
2. Frequency of transactions;
3. Dollar amounts of transactions;
4. Nature of goods or services provided or business transacted;
5. Maximum potential period of time necessary to fully provide the goods, perform the services or complete the business which is the subject of the transaction;

6. The recommendation of the Division of Gaming Enforcement;

7. The public interest and the policies established by the Act.

(e) "Transaction", for the purpose of this regulation, shall be construed to effectuate the public interest and the policies of the Act.

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980, to:

Joseph P. Lordi, Chairman  
Casino Control Commission  
379 West State Street  
Trenton, New Jersey 08625

The New Jersey Casino Control Commission may, thereafter, adopt rules concerning this subject without further notice.

Joseph P. Lordi  
Chairman  
Casino Control Commission

(a)

## CASINO CONTROL COMMISSION

### Proposed Amendments Concerning Casino Service Industries and Duration of Licenses

Joseph P. Lordi, Chairman of the New Jersey Casino Control Commission, pursuant to the authority of the N.J.S.A. 5:12-1 et seq., proposes to adopt amendments relating to Casino Service Industries, N.J.A.C. 19:43-1.8, Duration of licenses.

Full text of this proposal follows (additions indicated in boldface thus; deletions indicated in brackets [thus]).

19:43-1.8(a) Licensure pursuant to N.J.S.A. 5:12-92a is granted for one year. Licensure pursuant to N.J.S.A. 5:12-92c is granted for three years. An application for renewal of a license shall be filed no later than [one month] 120 days prior to the expiration of that license. The application for renewal of a license need contain only that information which represents or reflects changes, deletions, additions or modifications to the information previously filed with the commission.

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

Joseph P. Lordi, Chairman  
Casino Control Commission  
379 West State Street  
Trenton, New Jersey 08625

The New Jersey Casino Control Commission may, thereafter, adopt rules concerning this subject without further notice.

Joseph P. Lordi  
Chairman  
Casino Control Commission

(b)

## CASINO CONTROL COMMISSION

### Proposed Amendments Concerning Accounting and Internal Controls

Joseph P. Lordi, Chairman of the New Jersey Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq., proposes to adopt amendments to various sections in Chapter 45 in Title 19 of the New Jersey Administrative Code concerning accounting and internal controls.

Copies of the 91 pages of the full text of the proposed revisions relating to Accounting and Internal Controls may be obtained or made available for review by contacting the person indicated below.

Interested persons may present statements or arguments in writing relevant to the proposal on or before July 30, 1980 to:

Joseph P. Lordi, Chairman  
Casino Control Commission  
379 West State Street  
Trenton, New Jersey 08625

The New Jersey Casino Control Commission may, thereafter, adopt rules concerning this subject without further notice.

Joseph P. Lordi  
Chairman  
Casino Control Commission

(c)

## CASINO CONTROL COMMISSION

### Amendments Concerning Casino Licensee's Organization

On May 27, 1980, Joseph P. Lordi, Chairman of the New Jersey Casino Control Commission, pursuant to authority of N.J.S.A. 5:12-1 et seq. and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments to N.J.A.C. 19:45-1.11 concerning the casino licensee's organization as proposed in the Notice published November 8, 1979 at 11 N.J.R. 599(a).

An order adopting these amendments was filed and became effective on May 27, 1980 as R.1980 d.232.

Howard H. Kestin  
Director  
Office of Administrative Law

(d)

## DELAWARE RIVER BASIN COMMISSION

### Amendments Concerning Water Quality

On March 10, 1980, the Delaware River Basin Commission, pursuant to authority of N.J.S.A. 32:11D-88 and in accordance with applicable provisions of the Administrative Procedure Act, adopted amendments concerning its water quality regulations.

Such amendments concern the addition of suspended solids requirements and the rescission of INCODEL standards.

# INDEX FOR THIS ISSUE

(Continued from Front Cover)

## HIGHER EDUCATION

- Prop. personnel reduction in state colleges .....407(d)
- Prop. amend non-resident tuition .....408(a)

## HUMAN SERVICES

- Prop. medical assistance provider reinstatement 409(a)
- Prop. repeal payment to pharmaceutical consultants .....410(a)
- Prop. amend PAA .....410(b)
- Prop. amend non-legend drugs .....411(a)
- Prop. amend out-patient services .....411(b)
- Prop. amend anesthetic time .....413(a)
- Prop. repeal independent clinic .....413(b)
- Prop. amend long-term care .....413(c)
- Prop. amend ASH: Exempt resources .....414(a)
- Prop. amend ASH: Allowances in AFDC .....414(b)
- Prop. amend ASH: Legally responsible relative ..414(c)
- Prop. amend boarding homes .....415(a)
- Amend PAM: Burial and funeral costs .....418(a)

Full text of the amendments to the Comprehensive Plan and Article 3 of Basin Regulations-Water Quality are as follows:

Amend Section 3.10.4D1. by the addition thereto of the following new subsection:

- a. Suspended solids.
  - 1. For wastewater treatment facilities, not to exceed:
    - (i) 30 mg/1 as a 30-day average.
    - (ii) 45 mg/1 as a 7-day average.
  - 2. For industrial wastewater treatment facilities' discharges with a concentration greater than 1(i) or 1(ii):
    - (i) up to 100 mg/1 as a 30-day average may be permitted; and
    - (ii) at least 85 percent reduction as a 30-day average is achieved as may be modified by Section 3.10.6D3.
    - (iii) the limit in 2(i) may be waived upon application, if it is determined that there is an established USEPA best conventional pollutant control technology (BCT) effluent limitation and that the treatment level meets the applicable BCT limitation.

Delete Sections 3.20.2D3., 3.20.2D4., 3.20.3D3., 3.20.3D4., 3.20.4D3., 3.20.4D4., 3.20.5D3., 3.20.5D4., 3.20.6D3., 3.20.6D4., 3.20.8D3., and 3.30.2D3.

Interpretive Guideline No. 1 is amended by deleting Section B(1) and Section B(3)(e) and (i), and renumbering remaining sections as appropriate.

An order adopting these amendments was filed on May 16, 1980 as R.1980 d.227 (Exempt, Exempt Agency). These amendments are not subject to codification and will not appear in the New Jersey Administrative Code but will be incorporated by reference in Title 18, Part 410, of the Code of Federal Regulations.

Howard H. Kestin  
Director  
Office of Administrative Law

- Amend GAM: Medical eligibility .....418(b)
- Amend burial and funeral .....418(c)
- Amend Medicaid handicap nondiscrimination ...418(d)
- Amend independent clinic reimbursement .....418(e)
- Amend independent clinic .....418(f)
- Amend GAM .....419(a)
- Emerg. amend abortions .....419(b)

## CORRECTIONS

- Prop. repeal county correctional facilities .....419(c)
- Prop. amend parole act postponements .....420(a)
- Prop. amend parole .....420(b)

## INSURANCE

- Prop. amend minimum health insurance standards 420(c)
- Prop. amend real estate rental .....422(a)
- Notice of fire insurance payments .....422(b)
- Notice of rule recertification .....423(a)
- Note of disapproval of minimum health insurance standard .....423(b)
- Limited death benefit policies .....423(c)
- Emerg. amend listing contracts .....423(d)

## LABOR AND INDUSTRY

- Prop. amend arbitration .....423(e)
- Prop. unemployment refund .....426(a)

## LAW AND PUBLIC SAFETY

- Prop. National Guard License Plates .....427(a)
- Prop. motor vehicle frames and shells .....427(b)
- Prop. motor home title certificates .....428(a)
- Prop. amend dental practice announcements ...429(a)
- Prop. amend dental anesthesia .....430(a)
- Prop. amend chiropractor colleges .....431(a)
- Prop. amend foreign nurse licensure .....432(a)
- Prop. racing pick-six .....432(b)
- Repeal male manicuring and facial exemption ...433(a)
- Beauty shop price posting .....433(b)
- Amend reciprocal pharmacy licensure .....434(a)
- Pharmacy records .....434(b)
- Amend naming of beauty culture schools .....434(c)
- Amend beauty culture student standards .....434(d)

## TRANSPORTATION

- Prop. amend parking .....434(e)
- Prop. amend speed limits .....435(a)

## TREASURY

- Prop. amend teachers pension board .....435(b)
- Amend common Treasury Fund A .....436(a)
- Emerg. amend home improvement exemption ...436(b)

## OTHER AGENCIES

- Prop. amend HMDC zoning and master plan ....438(a)
- Prop. amend lobbying .....439(a)
- Prop. amend election activities .....439(b)
- Prop. lobbying disclosure .....442(a)
- Prop. amend casino service .....446(a)
- Prop. amend casino accounting .....447(a)
- Prop. amend casino service licenses .....447(b)
- Amend casino licensee's organization .....447(c)
- Amend Delaware River Basin water quality ....447(d)

ADMINISTRATIVE CODE—Interim Index ..... 395

Next Rules Filing DEADLINE ..... July 17