

**CHAPTER 43E****GENERAL LICENSURE PROCEDURES AND ENFORCEMENT OF LICENSURE REGULATIONS****Authority**

N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5.

**Source and Effective Date**

R.2001, d.59, effective February 20, 2001  
See: 32 N.J.R. 3041(a), 33 N.J.R. 653(b).

**Executive Order No. 66(1978) Expiration Date**

Chapter 43E, General Licensure Procedures and Enforcement of Licensure Regulations, expires on February 20, 2006.

**Chapter Historical Note**

Chapter 43E, Policy Manual for Planning and Certificate of Need Reviews of Psychiatric Health Care Facilities and Services within the State of New Jersey, was recodified as N.J.A.C. 8:33R by R.1993 d.29, effective January 4, 1993. See: 24 N.J.R. 3598(a), 25 N.J.R. 111(a).

Chapter 43E, General Licensure Procedures and Enforcement of Licensure Regulations, was adopted as R.1995 d.198, effective April 3, 1995. See: 26 N.J.R. 4527(a), 27 N.J.R. 1411(a).

Pursuant to Executive Order No. 66(1978), Chapter 43E, General Licensure Procedures and Enforcement of Licensure Regulations, expired on April 3, 2000.

Chapter 43E, General Licensure Procedures and Enforcement of Licensure Regulations, was adopted as new rules by R.2001 d.59, effective February 20, 2001. See: Source and Effective Date.

**CHAPTER TABLE OF CONTENTS****SUBCHAPTER 1. SCOPE AND GENERAL PURPOSE**

- 8:43E-1.1 Scope
- 8:43E-1.2 Purpose
- 8:43E-1.3 Definitions

**SUBCHAPTER 2. SURVEY PROCEDURES**

- 8:43E-2.1 Scope and types of surveys
- 8:43E-2.2 Deficiency of findings
- 8:43E-2.3 Informal dispute resolution
- 8:43E-2.4 Plan of correction

**SUBCHAPTER 3. ENFORCEMENT REMEDIES**

- 8:43E-3.1 Enforcement remedies available
- 8:43E-3.2 Notice of violation and enforcement actions
- 8:43E-3.3 Effective date of enforcement actions
- 8:43E-3.4 Civil monetary penalties
- 8:43E-3.5 Failure to pay a penalty; remedies
- 8:43E-3.6 Curtailment of admissions
- 8:43E-3.7 Appointment of a receiver
- 8:43E-3.8 Suspension of a license
- 8:43E-3.9 Revocation of a license
- 8:43E-3.10 Provisional license
- 8:43E-3.11 Cease and desist order

**SUBCHAPTER 4. HEARINGS**

- 8:43E-4.1 Hearings
- 8:43E-4.2 Settlement of enforcement actions

**SUBCHAPTER 5. LICENSURE PROCEDURES**

- 8:43E-5.1 Track record evaluation
- 8:43E-5.2 Facility surveys
- 8:43E-5.3 Facility licensure
- 8:43E-5.4 Conditional license
- 8:43E-5.5 Surrender of license
- 8:43E-5.6 Waiver

**SUBCHAPTER 6. PAIN MANAGEMENT PROCEDURES**

- 8:43E-6.1 Pain management standards; scope
- 8:43E-6.2 Purpose
- 8:43E-6.3 Definitions
- 8:43E-6.4 Pain assessment procedures
- 8:43E-6.5 Staff education and training programs
- 8:43E-6.6 Pain management continuous quality improvement

**SUBCHAPTER 7. REQUIREMENT TO USE NEEDLES AND SHARP INSTRUMENTS CONTAINING INTEGRATED SAFETY FEATURES OR NEEDLELESS DEVICES**

- 8:43E-7.1 Use of needles and sharp instruments containing integrated safety features
- 8:43E-7.2 Definitions
- 8:43E-7.3 Requirement and responsibilities of evaluation committees
- 8:43E-7.4 Waiver from the requirement to utilize available sharp devices with integrated safety features or needleless devices
- 8:43E-7.5 Recording requirements

**SUBCHAPTER 8. MANDATORY OVERTIME**

- 8:43E-8.1 Mandatory overtime; scope and general purpose
- 8:43E-8.2 Applicability
- 8:43E-8.3 Definitions
- 8:43E-8.4 Purpose
- 8:43E-8.5 Overtime procedures
- 8:43E-8.6 Records; dissemination of information
- 8:43E-8.7 Enforcement and administrative penalties
- 8:43E-8.8 Policies and procedures
- 8:43E-8.9 Discharge or discrimination against an employee making a complaint
- 8:43E-8.10 Complaint system
- 8:43E-8.11 Protection of the right to collective bargaining
- 8:43E-8.12 Data

**SUBCHAPTER 1. SCOPE AND GENERAL PURPOSE****8:43E-1.1 Scope**

The rules in this chapter pertain and apply to all health care facilities licensed by the Department pursuant to the Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq. The rules set forth the procedures for the conduct of surveys of health care facilities, the basis and procedures for imposition of penalties and other enforcement actions and remedies, and the rights and procedures available to facilities to request a hearing to contest survey findings and the imposition of penalties.

**8:43E-1.2 Purpose**

The rules in this chapter are intended to promote the health, safety, and welfare of patients or residents of health care facilities through establishing rules and regulations implementing the Department's legislative mandate to enforce violations of licensing regulations. The rules also are intended to afford health care facilities with appropriate and adequate due process rights and procedures upon the finding of a violation or assessment of a penalty or other enforcement action.

**8:43E-1.3 Definitions**

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

"Commissioner" means Commissioner of the New Jersey Department of Health and Senior Services.

"Curtailement" means an order by the Department which requires a licensed health care facility to cease and desist all admissions and readmissions of patients or residents to the facility or affected service.

"Deficiency" means a determination by the Department of one or more instances in which a State licensing regulation or Federal certification regulation has been violated.

"Department" means the New Jersey Department of Health and Senior Services.

"Division" means Division of Health Care Systems Analysis, New Jersey Department of Health and Senior Services.

"Facility" means the entity which has been issued a license to operate a health care facility pursuant to N.J.S.A. 26:2H-1 et seq. For the purposes of this chapter, "facility" includes ambulance and invalid coach services.

"Immediate and serious threat" means a deficiency or violation that has caused or will imminently cause at any time serious injury, harm, impairment, or even death to residents or patients of the facility and therefore requires immediate corrective action.

"Patient" means an individual under the medical and nursing care and supervision of a licensed health care facility. For purposes of this chapter, "patient" is synonymous with "resident."

"Plan of correction" means a plan developed by the facility and reviewed and approved by the Department which describes the actions the facility will take to correct deficiencies and specifies the time frame in which those deficiencies will be corrected.

"Resident" means an individual residing in a licensed health care facility and under the supervision of that facility for the purpose of receiving medical, nursing, and/or personal care services. For purposes of this chapter, "resident" is synonymous with "patient."

"Survey" means the evaluation of the quality of care and/or the fitness of the premises, staff, and services provided by a facility as conducted by the Department and/or its designees to determine compliance or non-compliance with applicable State licensing regulations, statutes, or Federal Medicare/Medicaid certification regulations or statutes.

**SUBCHAPTER 2. SURVEY PROCEDURES****8:43E-2.1 Scope and types of surveys**

(a) The Department, or another State agency to which the Department has delegated the authority for conduct of surveys either partially or fully, may conduct periodic or special inspections of licensed health care facilities to evaluate the fitness and adequacy of the premises, equipment, personnel, policies and procedures, and finances, and to ascertain whether the facility complies with all applicable State and Federal licensure regulations and statutes.

(b) The Department or its designee may also conduct periodic surveys of facilities on behalf of the U.S. Department of Health and Human Services or other Federal agency for purposes of evaluating compliance with all applicable Federal regulations or Medicare and Medicaid certification regulations.

(c) The Department may evaluate all aspects of patient care, and operations of a health care facility, including the inspection of medical records; observation of patient care where consented to by the patient; inspection of all areas of the physical plant under the control or ownership of the licensee; and interview of the patient or resident, his or her family or other individuals with knowledge of the patient or care rendered to him or her.

(d) All information pertaining to an individual patient shall be maintained as confidential by the Department and shall not be available to the public in a manner that identifies an individual patient, unless so consented to by the patient or pursuant to an order by a court of law.

(e) The Department may conduct a survey of a facility upon the receipt of complaint or allegation by any person or agency, including a patient, his or her family, or any person with knowledge of the services rendered to patients or operations of a facility.