

CHAPTER 43E

GENERAL LICENSURE PROCEDURES AND STANDARDS APPLICABLE TO ALL LICENSED FACILITIES

Authority

N.J.S.A. 26:2H-1 et seq., specifically 26:2H-5, 5b, 5c, 5e, 5.12, 5.16, 5.23, 7, 7.21, 13, and 14; and N.J.S.A. 34:11-56a31 et seq., particularly 56a38.

Source and Effective Date

R.2006 d.332, effective August 18, 2006.
See: 38 N.J.R. 1121(b), 38 N.J.R. 3898(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 43E, General Licensure Procedures and Standards Applicable to All Licensed Facilities, expires on August 18, 2013. See: 43 N.J.R. 1203(a).

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: 32 N.J.R. 3041(a), 33 N.J.R. 653(b).

Subchapter 6, Pain Management Procedures, was adopted as new rules by R.2004 d.38, effective January 20, 2004. See: 35 N.J.R. 1828(a), 36 N.J.R. 426(a).

Subchapter 8, Mandatory Overtime, was adopted as new rules by R.2004 d.71, effective February 17, 2004. See: 35 N.J.R. 4195(a), 36 N.J.R. 1017(a).

Subchapter 7, Requirement to Use Needles and Sharp Instruments Containing Integrated Safety Features or Needleless Devices, was adopted as new rules by R.2004 d.301, effective August 2, 2004. See: 35 N.J.R. 3513(a), 36 N.J.R. 3536(a).

Chapter 43E, General Licensure Procedures and Enforcement of Licensure Regulations, was readopted as R.2006 d.332, effective August 18, 2006. See: Source and Effective Date.

Chapter 43E, General Licensure Procedures and Enforcement of Licensure Regulations, was renamed General Licensure Procedures and Standards Applicable to All Licensed Facilities, and Subchapter 10, Patient or Resident Safety Requirements and Reportable Events, was adopted as new rules by R.2008 d.52, effective March 3, 2008. See: 39 N.J.R. 314(a), 40 N.J.R. 1094(a).

Pursuant to Reorganization Plan No. 002-2005 and by notice of administrative change, Subchapters 2 and 3 of Chapter 43E of Title 8 were duplicated as Subchapters 17 and 18 of Chapter 27A of Title 5, effective December 2, 2008. See: 41 N.J.R. 225(a).

Subchapter 11, Violence Prevention in Health Care Facilities, was adopted as new rules by R.2011 d.231, effective September 6, 2011. See: 43 N.J.R. 12(a), 43 N.J.R. 2337(a).

Subchapter 12, Safe Patient Handling, was adopted as new rules by R.2011 d.232, effective September 6, 2011. See: 43 N.J.R. 17(a), 43 N.J.R. 2341(a).

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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.

“Curtailed” 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

5. Provide refresher training, as needed.

(b) A covered facility shall require all health care workers responsible for patient handling to participate in the annual safe patient handling training.

1. Training shall be mandated for supervisors, all equipment users, members of the safe patient handling committee and all departments and staff that are engaged in patient handling activities.

(c) A covered facility shall provide patient handling training in a manner and language that employees can understand.

1. If a language other than English is the exclusive language spoken by at least 10 percent of a facility's health care workers, the training shall be conducted in that language and handouts shall be made available in that language.

(d) Training shall include, at a minimum, the following:

1. An explanation of the covered facility's safe patient handling policies and practices;

2. Causes and prevention of musculoskeletal injuries and disorders;

3. How to recognize and address early indications of musculoskeletal injuries and disorders before serious injury develops;

4. Identification, assessment and control of patient handling risks, including use of assessments of patient need for assisted patient handling and appropriate communication with patients;

5. A demonstration of safe, appropriate and effective use of patient handling equipment;

6. Trainee participation in operating unit-specific patient handling equipment and demonstration that they are proficient in using such equipment for patients with a range of physical limitations;

7. The facility's procedures for reporting work-related injuries and illnesses pursuant to the New Jersey Public Employees' Occupational Safety and Health Act, as required by N.J.S.A. 34:6A-40, or OSHA's injury and illness recording and reporting requirements at 29 CFR Part 1904; and

8. Explanation, demonstration and practice of researched and proven methods and techniques that one or more health care workers may use for patient handling of a patient who refuses assisted patient handling.

(e) The safe patient handling committee shall, at least once a year, or more frequently as needed, review the training content and methods and make necessary revisions.

8:43E-12.13 Educational materials

(a) The safe patient handling committee shall appoint a person or persons to:

1. Develop educational materials to help orient patients and their families to the facility's assisted patient handling program; and

2. Include the information specified in (a)1 above in the covered facility's admissions package and in a discussion with the patient and family following an assessment of a patient's need for assisted patient handling.

8:43E-12.14 Injury investigation, reporting, analysis and recordkeeping

(a) A covered facility, under the direction of the safe patient handling committee, shall:

1. Encourage employees to report injuries and near misses in a non-punitive environment;

2. Designate a person or persons to develop procedures for performing injury investigations, preparing investigation reports and educating staff when an injury or near miss occurs;

3. Establish a mechanism for reporting all incidents, including near misses and injuries, resulting from patient handling;

4. Appoint an appropriate facility department to receive and analyze the reports required by (a)3 above, and to generate de-identified, aggregated data reports that take into account, at a minimum, items identified at N.J.A.C. 8:43E-12.8(b); the safe and proper use of assisted patient handling equipment; patient refusals of assisted patient handling associated with injuries to healthcare workers; and the overall efficacy of the safe patient handling program;

5. Establish a system for monthly reporting of the reports generated pursuant to (a)4 above to the safe patient handling committee;

6. Inform the safe patient handling committee of any violations of this subchapter; and

7. Maintain records of work-related musculoskeletal injuries and disorders to help identify problem areas in accordance with the New Jersey Public Employees' Occupational Safety and Health injury and illness recordkeeping requirements (N.J.A.C. 12:110-5), or OSHA's injury and illness recording and reporting requirements at 29 CFR Part 1904.

8:43E-12.15 Evaluation and recommendations

(a) The safe patient handling committee shall:

1. Evaluate the de-identified, aggregated data developed pursuant to N.J.A.C. 8:43E-12.14(a)4 in order to, at a minimum, identify units and shifts with ongoing injuries related to patient handling and track the impact of injuries on employee turnover;

2. Have access to reports and data collected pursuant to N.J.A.C. 8:43E-12.14 prior to de-identification and aggregation, as determined necessary by the committee and in keeping with procedures established by the committee, in order to fulfill its obligations specified in (a)1 above and in N.J.A.C. 8:43E-12.3(e);

3. Determine what measures to take to increase patient acceptance of safe patient handling, including changes to the education of healthcare workers, patients and family members; and

4. Provide evaluation results and recommended improvements regarding the safe patient handling program to the facility's governing body at least annually, or more frequently as needed.

8:43E-12.16 Prohibition of certain retaliatory actions

(a) As used in this section, "retaliatory action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment, in accordance with section 2 of P.L. 1986, c. 105 (N.J.S.A. 34:19-2).

(b) A covered health care facility shall not take any retaliatory action against a health care worker because the worker refuses to perform a patient handling task due to a reasonable concern about worker or patient safety, or the lack of appropriate and available patient handling equipment.

1. A health care worker who refuses to perform a patient handling task pursuant to this section shall promptly notify her or his supervisor of the refusal and the reason for refusing.

8:43E-12.17 Enforcement and penalties

A covered health care facility licensed pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.), that is in violation of the provisions of this subchapter shall be subject to enforcement actions and penalties specified in N.J.A.C. 8:43E-3.