



State of New Jersey

DEPARTMENT OF HEALTH AND SENIOR SERVICES

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Commissioner

TO: Health Care Administration Board Members

THROUGH: William Conroy, Acting Deputy Commissioner
Art Verpent, Acting Assistant Commissioner

FROM: John A. Calabria, Director
Certificate of Need and Healthcare Facility Licensure

SUBJECT: Notice of Adoption of New Rules and Amendment on
Licensing Rules Governing Safe Patient Handling
Codified at N.J.A.C. 8:43E-12 and 3.4

At the next available meeting of the Health Care Administration Board (HCAB), the Department of Health and Senior Services (Department) will present for final publication the notice of adoption for the publication of new rules and amendment regarding Safe Patient Handling, N.J.A.C. 8:43E-12 and 3.4. These rules are consistent with the "Safe Patient Handling Act," P.L. 2007, c. 225 (N.J.S.A. 26:2H-14.15, et seq.), which was approved on January 3, 2008.

N.J.S.A. 26:2H-14.15 requires the Commissioner of Health and Senior Services to adopt rules and regulations to implement the Act. The adopted new rules at N.J.A.C. 8:43E-12 will regulate the facilities licensed by the Department. However, State psychiatric hospitals and State developmental centers are not licensed by the Department, but are regulated by the Department of Human Services.

In addition to the adopted new rules set forth at N.J.A.C. 8:43E-12, the Department is adopting an amendment at N.J.A.C. 8:43E-3.4(a)19 and 20 that:

- (1) will establish a monetary penalty upon covered facilities of \$2,500 per violation, which may be assessed for each day noncompliance is found, for violations that result in either actual harm or an immediate and serious risk of harm to facility staff, and
- (2) will establish a monetary penalty upon covered facilities of \$1,000 per violation, which may be assessed for each day noncompliance is found, for other violations of N.J.A.C. 8:43E-12.

The adopted new rules at N.J.A.C. 8:43E-12 would include the following:

Adopted new N.J.A.C. 8:43E-12.1, “authority, scope and purpose,” identifies applicable facilities licensed by the Department, describes the purpose of the subchapter, and specifies that the subchapter will not limit the right of a patient to refuse the use of assisted patient handling.

Adopted new N.J.A.C. 8:43E-12.2 establishes definitions of the following words and terms used in the adopted new subchapter: “assessment of patient’s need for assisted patient handling” or “patient assessment,” “assisted patient handling,” “committee,” “covered health care facility” or “covered facility,” “de-identified,” “health care worker,” “injury investigation,” “near miss,” “OSHA,” “patient,” “patient handling,” “retaliatory action,” “safe patient handling program” or “program,” and “unassisted patient handling.”

Adopted new N.J.A.C. 8:43E-12.3 provides for the establishment, requirements, composition, and responsibilities of the safe patient handling committee.

Adopted new N.J.A.C. 8:43E-12.4 requires the establishment, no later than January 3, 2011, of the safe patient handling program in each covered facility; the designation of a representative from administration who would be responsible for overseeing all aspects of the safe patient handling program; and the assurance of employee input.

Adopted new N.J.A.C. 8:43E-12.5 requires a detailed written description of the program; the provision of copies to the Department, healthcare workers at the facility, and collective bargaining agents representing these workers; and translation of the description under specified circumstances.

Adopted new N.J.A.C. 8:43E-12.6 requires a covered facility to establish a written safe patient handling policy, specifies the content of the policy, describes posting requirements, and mandates translation of the policy under specified circumstances.

Adopted new N.J.A.C. 8:43E-12.7 requires the safe patient handling committee to ensure the performance of assessments of patient need for assisted patient handling, and provides standards and procedures for conducting these assessments.

Adopted new N.J.A.C. 8:43E-12.8 requires a covered facility, under the direction of the safe patient handling committee, to conduct a needs assessment for each unit within the facility to determine the type and quantity of assisted patient handling required and the units or areas within the facility where assisted patient handling is most needed.

Adopted new N.J.A.C. 8:43E-12.9 requires the safe patient handling committee to draft an implementation plan for the program and describes components of the implementation plan.

Adopted new N.J.A.C. 8:43E-12.10 requires the safe patient handling committee to establish a financial plan for a facility's program and sets forth the components of the plan.

Adopted new N.J.A.C. 8:43E-12.11 requires the safe patient handling committee to be responsible for equipment selection, maintenance and usage, and provides certain standards for equipment selection, maintenance and usage.

Adopted new N.J.A.C. 8:43E-12.12 requires a covered facility, under the direction of the safe patient handling committee, to conduct the initial training of health care workers by January 3, 2011, and at least quarterly thereafter. This section also requires interim training, specifies who would receive training, requires that training be conducted during paid work time, and specifies the content of the training program.

Adopted new N.J.A.C. 8:43E-12.13 requires the safe patient handling committee to develop materials for educating patients and their families about patient handling and mandates that such information be included in facility admissions packages and in relevant discussions with patients and their families.

Adopted new N.J.A.C. 8:43E-12.14 requires a covered facility, under the direction of the safe patient handling committee, to require injury investigation, reporting, and analysis, and requires certain standards for recordkeeping, investigation, and reporting. This section also requires a covered facility to appoint an appropriate facility department to receive and analyze reports and to generate de-identified, aggregated data reports.

Adopted new N.J.A.C. 8:43E-12.15 requires the safe patient handling committee to evaluate de-identified, aggregated data and to recommend improvements regarding the program to the facility's governing body at least annually, or more frequently as needed. This section also requires the safe patient handling committee to have access to reports and data prior to de-identification and aggregation, as determined necessary by the committee, and to determine ways to increase patient acceptance of safe patient handling.

Adopted new N.J.A.C. 8:43E-12.16 mandates that certain retaliatory actions are prohibited and that a healthcare worker who refuses to perform a patient handling task pursuant to this section will promptly notify the supervisor.

Adopted new N.J.A.C. 8:43E-12.17 mandates that a covered facility that violates the provisions of this subchapter is subject to enforcement actions and penalties specified in N.J.A.C. 8:43E-3.

The notice of proposal was published in the January 3, 2011 issue of the New Jersey Register (43 N.J.R. 10(a)) for a 60-day comment period. The Department received six supportive written comments during the public comment period that ended

on March 4, 2011. The notice therefore calls for adoption of the new rules and amendment without change.

I will be at the meeting to respond to any questions that you may have.

Attachments