

HEALTH AND SENIOR SERVICES

SENIOR SERVICES AND HEALTH SYSTEMS BRANCH

HEALTH FACILITIES EVALUATION AND LICENSING DIVISION

OFFICE OF CERTIFICATE OF NEED AND HEALTHCARE FACILITY

LICENSURE

Hospital Licensing Standards

Hospital Administration and General Hospital-Wide Policies

General Hospital Governing Body Training Requirements

Proposed Amendment: N.J.A.C. 8:43G-5.1

Proposed New Rules: N.J.A.C. 8:43G-5.22 and N.J.A.C. 8:43G-5.23

Authorized By: _____

Heather Howard, Commissioner,

Department of Health and Senior Services (with the
approval of the Health Care Administration Board).

Authority: N.J.S.A. 26:2H-12.34.

Calendar Reference: See Summary below for explanation of exception to
the calendar requirement.

Proposal Number: PRN .

Submit written comments by , 2008 to:

Ruth Charbonneau

Director

Office of Legal and Regulatory Affairs

New Jersey Department of Health and Senior Services

The official version of any departmental rulemaking activity (notices of proposal or adoption) are published in the *New Jersey Register* or *New Jersey Administrative Code*. Should there be any discrepancies between this document and the official version of the proposal or adoption, the official version will govern.

PO Box 360

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The agency proposal follows:

Summary

On April 30, 2007, P.L. 2007, c. 74, codified at N.J.S.A. 26:2H-12.34 (hereinafter referred to as the Act), was enacted. The Act requires any person appointed after April 30, 2007, to serve as a member of a general hospital board of trustees to complete a trustee training program approved by the Commissioner of Health and Senior Services (Commissioner) that is designed to clarify the roles and duties of a hospital trustee, and that is at least one day in length. N.J.S.A. 26:2H-12.34 a (1). The Act requires the training to be completed no later than six months after the date the person is appointed as a member of a board, except that a person who is appointed as member of a hospital board of trustees on or after the date of enactment of the Act but prior to the effective date, shall complete the training no later than six months after the Act's effective date. N.J.S.A. 26:2H-12.34 a (2). The Act became effective on October 27, 2007.

The Act provides that the Commissioner shall, in consultation with the New Jersey Hospital Association, the Hospital Alliance of New Jersey and the New Jersey Council of Teaching Hospitals: prescribe the subject matter of the training, which shall include, but need not be limited to, a review of the types of financial, organizational, legal, regulatory, and ethical issues that a hospital trustee may be required to consider in the course of discharging the trustee's governance responsibilities; arrange for, or specify, the entity or entities to provide the

training; and certify completion of the training for each trustee upon receipt of documentation thereof, as provided on a form and in a manner prescribed by the Commissioner, or otherwise arrange for certification by the training entity.

N.J.S.A. 26:2H-12.34 b.

Following is a summary of the proposed amendments and new rules:

The amendments proposed to N.J.A.C. 8:43G-5.1 would require that New Jersey hospitals file with their applications for licensure or license renewal the names of the members and the chairperson of the hospital's governing body. Although most hospitals maintain a board of trustees, use of the term governing body in N.J.A.C. 8:43G recognizes that some hospitals may maintain a different type of governing body or a differently named governing body. The proposed amendments to this section would also require hospitals to file with their license or license renewal applications the term of office and the start and end date of the term of office for each of their governing body members.

In addition, the proposal would make technical amendments to N.J.A.C. 8:43G-5.1 to correct the name of the Department's Office of Certificate of Need and Healthcare Facility Licensure

Proposed new N.J.A.C. 8:43G-5.22 (a) would require general hospitals to ensure that the members of their governing bodies complete a trustee training program conducted by an approved training provider within six months of the member's appointment or reappointment. The proposal is intended to allow a trustee training program to be provided through one or more providers.

Proposed new N.J.A.C. 8:43G-5.22 (b) would require that the trustee training program consist of at least seven hours of instruction and address each of the following subjects: the ethical and fiduciary responsibilities of a member of a hospital governing body; the role of the governing body in improving health care quality and the mechanisms available for doing so; hospital financial management and understanding the financial statements of healthcare institutions and reimbursement and finance payment systems; hospital organization and governance; and legal and regulatory compliance issues.

Proposed new N.J.A.C. 8:43G-5.22(c) would allow instruction to be offered in-person at a classroom or seminar, on-line, audio/webinar, or simulcast.

Proposed new N.J.A.C. 8:43G-5.22(d) would require a general hospital to maintain a copy of the certificate for each current governing body member issued by the training provider.

Proposed new N.J.A.C. 8:43G-5.22 (e) would require that any governing body member appointed on or after April 30, 2007, who has not completed a trustee training program conducted by an approved training provider, shall complete the trustee training program within 6 months of the effective date of this section. Proposed new N.J.A.C. 8:43G-5.22 (d) is intended to grandfather governing body members who have completed a course or program conducted by an approved provider between the enactment date of P.L.2007, c. 74 (April 30, 2007) and the effective date of this proposal so that they would not be required to re-take the trustee training program.

Proposed new N.J.A.C. 8:43G-5.23 would approve the following as training providers: accredited academic institutions which do not have a direct interest, corporate relationship, or primary mission in the support or development of the hospital offering the trustee training program; non-profit hospital trade associations and/or their affiliates; non-profit healthcare foundations which do not have a direct interest, corporate relationship, or primary mission in the support or development of the hospital offering the trustee training program; providers of board development and/or governance leadership training programs for hospitals and/or health care providers, such as, but not limited to the Governance Institute, the American Hospital Association's Center for Healthcare Governance or Estes Park Institute; non-profit providers of professional legal and/or medical continuing education with expertise in trustee education training; and any provider of continuing education training with expertise in trustee education training authorized by the International Association for Continuing Education and Training. The International Association for Continuing Education Training (IACET) approves organizations that provide continuing education and training and that can show, through the IACET application process, that their policies, procedures and processes comply with American National Standards Institute and IACET standards. (See www.iacet.org; IACET, 8405 Greensboro Drive, Suite 800, McLean, VA 22102).

Proposed new N.J.A.C. 8:43G-5.23 (b) would require the training provider to issue a certificate to attendees who successfully complete a course or program.

Proposed new N.J.A.C. 8:43G-5.23(c) would require a general hospital to submit for review the following in writing to the Department at least 60 days prior to offering the trustee training program: a description of the course goals and objectives for each of the subject matter areas required by N.J.A.C. 8:43G-5.22 (b); the course names offered by the training providers for each of the subject matter areas required by N.J.A.C. 8:43G-5.22; and, an attestation that the course provided as part of the trustee training program offers continuing education credits for the course from an approved training provider in the subjects set forth in N.J.A.C. 8:43G-5.22 (b) or that the course instructors and their qualifications demonstrate competency and expertise in the subjects set forth in N.J.A.C. 8:43G-5.22 (b).

Proposed new N.J.A.C. 8:43G-5.23 (d) would require that the information required to be filed with the Department be submitted to the Office of Certificate of Need and Healthcare Facility Licensure.

Proposed new N.J.A.C. 8:43G-5.23(d) would require that the Department issue a request for additional information within ten days of receiving the submission pursuant to N.J.A.C. 8:43G-5.23(c) or otherwise the submission would be deemed complete.

Because the Department has provided a 60-day comment period for this notice of proposal, this notice is excepted from the calendar requirement set forth at N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposal is intended to implement the requirements of N.J.S.A. 26:2H-12.34 consistent with the intent of the Legislature. The Act requires any person appointed after April 30, 2007 to serve as a member of a general hospital board of trustees to complete a trustee training program approved by the Commissioner. Nearly all New Jersey hospitals are non-profit institutions with boards that govern and oversee the hospitals. It is necessary for hospital boards to keep pace with best practices for governance, monitoring of quality and efficiency, and financial oversight.

Currently, there are 82 general hospitals in the State that would be affected by this rule proposal. The Department believes that the social impact of requiring general hospital trustees to participate in continuing education would be positive because trustees would be able to provide better and more well-informed governance and financial oversight of their hospitals. Therefore, the Department expects a positive reaction to this proposal from hospitals and the general public.

Economic Impact

The proposal would have an economic impact upon the 82 general hospitals in New Jersey because these hospitals would have to ensure that their governing body members complete a training program required by the Act. Based upon a review of the costs of existing programs that provide training in hospital management, the Department estimates that the cost of providing a one-day or seven-hour training program for governing body members would be approximately \$150 to \$450 per member. Notwithstanding that hospitals would

incur expenses in ensuring that their governing body members complete a training program, the Department believes that the overall economic impact would be positive because the continuing education requirements would ensure that governing body members receive the training necessary to provide better governance and management oversight for their hospitals. The Department believes that the proposal would have a positive impact upon the public because the training requirements would ensure that trustees have the knowledge and expertise necessary to keep their hospitals financially sound and able to provide high quality healthcare services. Although the Department would have to dedicate existing staff to review course goals and objectives under proposed new N.J.A.C. 8:43G-5.23 (c) and (d), this proposal would not have any other economic impact upon the Department, other agencies or existing funding sources.

Federal Standards Statement

The proposed amendments and new rules would not impose standards on hospitals in New Jersey that exceed those contained in Federal law or regulation. Since there is currently no Federal regulation governing training requirements for hospital trustees, as described herein, a Federal standards analysis is not necessary for this proposal.

Jobs Impact Statement

The Department does not expect that the proposed new rules and amendments would significantly increase or decrease the number of jobs

available in New Jersey, although the proposed new rules may increase the need for training providers.

Agriculture Industry Impact

The proposed amendments would have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

The proposed amendments would impose requirements only on general hospitals licensed in New Jersey, which are not considered to be “small businesses” within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as each employs more than 100 people full-time. Therefore, the proposed amendments would impose no compliance, reporting or recordkeeping requirements on small businesses, and no regulatory flexibility analysis is necessary.

Smart Growth Impact

The proposed amendments would have no impact upon the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposed new rules and amendment follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

SUBCHAPTER 5. HOSPITAL ADMINISTRATION AND GENERAL HOSPITAL-WIDE POLICIES

8:43G-5.1 Administrative and hospital-wide structural organization

(a) (No change.)

(b) The hospital shall have an established and functioning governing body responsible for establishing hospital-wide policy, adopting bylaws, maintaining quality of care, and providing institutional management and planning. The hospital shall file the following with its license application or license renewal application:

1. The name of each member of the hospital's governing body;
2. The name of the chairperson of the hospital's governing body;
3. The term of office of the chairperson and each member of the governing body; and
4. The start date and end date of the term of office of each member of the governing body.

(c) (No change.)

(d) The hospital shall advise the New Jersey State Department of Health and Senior Services, [Division of Health Facilities Evaluation and Licensing] Office of Certificate of Need and Healthcare Facility Licensure, in writing within 15 days following any change in the designation of the administrator or chief executive officer of the hospital.

(e) through (i) (No change.)

8:43G-5.22 General Hospital Governing Body Training

(a) In addition to any general orientation, a general hospital shall ensure that all members of the hospital's governing body appointed after April 30, 2007 complete a trustee training program as set forth in N.J.A.C. 8:43G-522(b) conducted by an approved training provider within six months of the member's appointment.

(b) The trustee training program shall consist at least seven hours of instruction and address each of the following subjects:

1. The ethical and fiduciary responsibilities of a member of a hospital governing body;

2. The role of the governing body in improving health care quality and the mechanisms available for doing so;

3. Hospital financial management and understanding the financial statements of healthcare institutions and reimbursement and finance payment systems;

4. Hospital organization and governance; and

5. Legal and regulatory compliance issues.

(c) Instruction may be offered in-person at a classroom or seminar, on-line, audio/webinar, or simulcast.

(d) A general hospital shall maintain a copy of the certificate for each current governing body member issued by the training provider pursuant to N.J.A.C. 8:43-5.23 (b).

(e) Any governing board member appointed on or after April 30, 2007, who has not completed a trustee training program conducted by an approved training

provider, shall complete the trustee training program within 6 months of the effective date of this section.

8:43G-5.23 Approved training providers; requirements

(a) In accordance with N.J.S.A. 26:2H-12.34 b, the Department approves the following as trustee training providers:

1. Accredited academic institutions which do not have a direct, interest, corporate relationship, or primary mission in the support or development of the hospital offering the trustee training program;

2. Non-profit hospital trade associations and/or their affiliates;

3. Non-profit healthcare foundations, which do not have a direct, interest, corporate relationship, or primary mission in the support or development of the hospital offering the trustee training program;

4. Providers of board development and/or governance leadership training programs for hospitals and/or healthcare providers such as, but not limited to The Governance Institute, the American Hospital Association's Center for Healthcare Governance or Estes Park Institute.

5. Non-profit providers of professional legal and/or medical continuing education with expertise in trustee education training; and

6. Any provider of continuing education training with expertise in trustee education training authorized by the International Association for Continuing Education and Training.

(b) The training provider shall issue a certificate to attendees who successfully complete a course.

(c) A general hospital shall submit the following in writing to the Department for review at least 60 days prior to the board member's attendance at a trustee training program or course that fulfills the requirements of N.J.A.C.

8:43G-5.22:

1. A description of the goals and objectives for each of the subject matter areas required by N.J.A.C. 8:43G-5.22;

2. The course names offered by the training providers described in (a) above for each of the subject matter areas required by N.J.A.C. 8:43G-5.22; and

3. An attestation that the course provided as part of the trustee training program offers continuing education credits for the course from an approved training provider in the subjects set forth in N.J.A.C. 8:43G-5.22 (b) or that the course instructors and their qualifications demonstrate competency and expertise in the subjects set forth in N.J.A.C. 8:43G-5.22 (b).

(d) The information required in (b) and (c) above shall be submitted to the Office of Certificate of Need and Healthcare Facility Licensure, New Jersey Department of Health and Senior Services, PO Box 358, Trenton, NJ 08625.

(e) The submission shall be deemed approved unless the Department issues a request for additional information within ten days of receipt.