

# Influencing the Regulatory Process

- 5) Fails to maintain or renew any certification which is required by law as a condition of practice or as a condition of license or certification renewal.
  
- b) Any nurse or homemaker-home health aid licensed or certified under the Nurse Practice Act, N.J.S.A. 45:11-23 et seq., who violates any provision of the Act or N.J.S.A. 45:1-14 et seq. may be subject to disciplinary action by the Board, provided that the Board notifies the licensee or certificant and provides an opportunity for a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

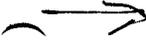
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## **SUBCHAPTER 6. NURSING PROCEDURES**

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### **13:37-6.1 NURSING PROCEDURES**

Nursing procedures shall be determined by the Nursing Practice Act of this State, subject to the interpretation and revision by the Board of Nursing.



### **13:37-6.2 DELEGATION OF SELECTED NURSING TASKS**

- a) The registered professional nurse is responsible for the nature and quality of all nursing care including the assessment of the nursing needs, the plan of nursing care, the implementation, and the monitoring and evaluation of the plan. The registered professional nurse may delegate selected nursing tasks in the implementation of the nursing regimen to licensed practical nurses and ancillary nursing personnel. Ancillary nursing personnel shall include but not be limited to: aides, assistants, attendants and technicians.
  
- b) In delegating selected nursing tasks to licensed practical nurses or ancillary nursing personnel, the registered professional nurse shall be responsible for exercising that degree of judgment and knowledge reasonably expected to assure that a proper delegation has been made. A registered professional nurse may not delegate the performance of a nursing task to persons who have not been adequately prepared by verifiable training and education. No task may be delegated which is within the scope of nursing practice and requires:
  - 1) The substantial knowledge and skill derived from completion of a nursing education program and the specialized skill, judgment and knowledge of a registered nurse;
  
  - 2) An understanding of nursing principles necessary to recognize and manage complications which may result in harm to the health and safety of the patient.

- c) The registered professional nurse shall be responsible for the proper supervision of licensed practical nurses and ancillary nursing personnel to whom such delegation is made. The degree of supervision exercised over licensed practical nurses and ancillary nursing personnel shall be determined by the registered professional nurse based on an evaluation of all factors including:
- 1) The condition of the patient;
  - 2) The education, skill and training of the licensed practical nurse and ancillary nursing personnel to whom delegation is being made;
  - 3) The nature of the tasks and the activities being delegated;
  - 4) Supervision may require the direct continuing presence or the intermittent observation, direction and occasional physical presence of a registered professional nurse. In all cases, the registered professional nurse shall be available for on-site supervision.
- d) A registered professional nurse shall not delegate the performance of a selected nursing task to any licensed practical nurse who does not hold a current valid license to practice nursing in the State of New Jersey. A registered professional nurse shall not delegate the performance of a selected nursing task to ancillary nursing personnel who have not received verifiable education and have not demonstrated the adequacy of their knowledge, skill and competency to perform the task being delegated.
- e) Nothing contained in this rule is intended to limit the current scope of nursing practice.
- f) Nothing contained in this rule shall limit the authority of a duly licensed physician acting in accordance with N.J.S.A. 45:9-1 et seq.

**13:37-6.3 (RESERVED)**

**13:37-6.4 (RESERVED)**

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**SUBCHAPTER 7.  
CERTIFICATION OF ADVANCED PRACTICE NURSES**

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**13:37-7.1 APPLICATION FOR CERTIFICATION**

- a) Advanced practice nurses shall include those individuals who have been educated as nurse practitioners, clinical nurse specialists and certified registered nurse anesthetists.

**Agriculture Industry Impact**

The Board does not believe that the proposed amendments, repeals, and new rules will have any impact on the agriculture industry of this State.

**Regulatory Flexibility Analysis**

Since nurses are individually licensed by the Board, they may be considered "small businesses" under the Regulatory Flexibility Act (the Act), N.J.S.A. 52:14B-16 et seq. N.J.S.A. 45:11-23 requires that CHHAs be employed by home care services agencies. As such, CHHAs would not be considered "small businesses" under the Act. Training programs for CHHAs and entities that employ CHHAs may be considered "small businesses" under the Act.

The economic impact on small businesses is the same as the impact on all businesses as discussed in the Economic Impact above. The Board does not believe that licensees or training programs will need to employ any professional services to comply with the requirements of the proposed amendments, repeals, and new rules. Entities that employ CHHAs may need to employ additional registered professional nurses to provide the supervision of CHHAs required by the proposed amendments, repeals, and new rules. The proposed amendments, repeals, and new rules impose compliance, reporting, and recordkeeping requirements as outlined in the Summary above.

The Board believes that because the proposed amendments, repeals, and new rules protect the welfare and safety of the public when a registered professional nurse delegates a nursing task and when the public deals with CHHAs aides by ensuring that CHHAs are properly trained and supervised. As such, the proposed amendments, new rules, and repeals must be applied uniformly to all licensees, training programs, and entities that employ CHHAs regardless of their size.

**Housing Affordability Impact Analysis**

The proposed amendments, repeals, and new rules will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the proposed amendments, new rules, and repeals concern delegation by registered professional nurses and the certification and regulation of CHHAs.

**Smart Growth Development Impact Analysis**

The proposed amendments, repeals, and new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments, new rules, and repeals concern delegation by registered professional nurses and the certification and regulation of CHHAs.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:37-6.1, 6.2, 14.3, 14.6, 14.8, 14.9, 14.12, 14.13, and 14.14.

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

**SUBCHAPTER 5. GENERAL REQUIREMENTS OF LICENSURE; LICENSE RENEWAL; FEE SCHEDULE**

**13:37-5.5 Fee schedule**

(a) (No change.)

(b) The following fees shall be charged by the Board in connection with certification of homemaker-home health aides:

1.-7. (No change.)

|   |  |
|---|--|
| 8. [Lapsed certification] Reinstatement fee<br>(after 30 days)..... | 20.00 plus the<br>certification<br>renewal fee set<br>forth in (b)6<br>above |
|---|--|

9.-10. (No change.)

(c)-(f) (No change.)

**SUBCHAPTER 6. [NURSING PROCEDURES] DELEGATION AND SUPERVISION**

**13:37-6.1 Purpose and scope**

(a) This subchapter governs the delegation of nursing tasks by a registered professional nurse to licensed practical nurses, certified homemaker-home health aides (CHHAs), or assistive persons.

(b) Only a registered professional nurse has the authority to delegate nursing tasks to a licensed practical nurse, a CHHA, or an assistive person.

(c) A registered professional nurse who delegates a nursing task is responsible for having made the determination to delegate the task, to assure that the person to whom the task is delegated is trained and competent to perform the task, for providing the appropriate oversight to the person to whom the task is delegated, and the provision of all care that has not been delegated.

(d) A registered professional nurse is responsible for the care that a patient receives under his or her direction or supervision and accountable for the manner in which the task is performed and outcomes of care.

**13:37-6.2 Definitions**

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

"Assessment" means the in-person evaluation of a patient conducted by a registered professional nurse to establish a baseline of the patient's physical and functional status and to identify the level and nature of services needed to meet the patient's needs.

"Assignment" means a decision-making process by which a nurse allocates work to another nurse.

"Assistive person" means an unlicensed individual, regardless of title, to whom tasks are delegated. "Assistive person" does not include a licensed practical nurse or a CHHA who is subject to the jurisdiction of the Board of Nursing, but may include other persons not subject to jurisdiction of the Board of Nursing, but regulated or certified by other agencies.

"CHHA" means a certified home-maker home health aide who holds a certification issued by the Board of Nursing, after completing a training program and having passed a competency examination, pursuant to N.J.S.A. 45:11-24.

"Delegation" means transferring, from a registered professional nurse to a licensed practical nurse, a CHHA, or an assistive person, the authority and responsibility to perform a nursing task, while retaining accountability for overall care.

"Direction" means the provision of guidance and instructions relating to the performance of a delegated nursing task. "Direction" requires that guidance be provided at the outset, but does not require the same degree of ongoing oversight as is required if supervision is to be provided.

"Plan of care" means a documented delineation of the proposed treatment to be provided to a patient, including, but not limited to, patient diagnoses or problems, the short-term and long-term goals for patient care and discharge, developed by a registered professional nurse, specifying any nursing tasks to be delegated to a licensed practical nurse, a CHHA, or an assistive person.

"Supervision" means the provision of on-going guidance by a registered professional nurse for a nursing task delegated to a CHHA or an assistive person at the outset, as well as the provision of on-going oversight and availability, as determined appropriate in the professional judgment of the registered professional nurse.

**13:37-6.3 Authorized delegation**

(a) Only a registered professional nurse may delegate nursing tasks.

(b) A registered professional nurse shall not delegate if the nurse, in his or her professional judgment, determines that such delegation is not consistent with standards of practice.

**13:37-6.4 Registered nurse obligations relating to delegations to a licensed practical nurse, CHHA, or assistive person**

(a) Prior to delegating any nursing task to a licensed practical nurse, a CHHA, or an assistive person, the registered professional nurse shall:

1. Conduct an assessment of the needs of the patient and develop a plan of care;
2. Determine that the task to be delegated is within the registered professional nurse's scope of practice, generally involves predictable results, without life-threatening consequences, and can be performed without requiring judgment based on nursing knowledge, repeated nursing assessments during the performance of the task, or complex observation or critical decisions;
3. Evaluate the training, knowledge, and skills of the licensed practical nurse, the CHHA, or the assistive person to whom the task is to be delegated, assuring that the tasks to be delegated do not require skills and knowledge that exceed those that have been satisfactorily established, by verifying the credentials as to licensed practical nurses and CHHAs, and assessing the competencies achieved through their training and experience, or, in the case of an assistive person, evaluating competencies through direct observation or through policy and procedures of the institution or agency that address the knowledge, and skills of the assistive person to perform the nursing task;
4. Communicate to the licensed practical nurse, the CHHA, or the assistive person the task that is being delegated and how it relates to the patient's needs and the plan of care, the directions for that task and the expectations for that task, in clear, concise, correct, and complete terms, and make efforts to ascertain that the directions have been understood;
5. Identify the nature of the direction that will be provided to the licensed practical nurse or supervision to the CHHA, or assistive person, based on consideration of the following factors:
  - i. The stability and condition of the patient;
  - ii. The nature and complexity of the task;
  - iii. The proximity and availability of the registered professional nurse to the licensed practical nurse, the CHHA, or assistive person;
  - iv. The nature of the setting where the delegated task will be performed; and
  - v. The available means of communication between the registered professional nurse and the licensed practical nurse, CHHA, or assistive person, either through physical presence of the registered professional nurse or through real-time electronic means; and
6. Convey to the licensed practical nurse, the CHHA, or the assistive person, the nature of the direction or supervision to be provided and any obligations to report changes in the patient's status or untoward reactions.

(b) After delegating the nursing task to a licensed practical nurse, CHHA, or assistive personnel, the registered professional nurse shall:

1. Document, either in facility or health care service firm patient records or in records maintained by the registered professional nurse, the tasks that the registered professional nurse has delegated and to whom and that the registered professional nurse has gone through the steps required by (a)1 through 6 above;
  2. Evaluate patient outcomes, assessing whether the desired and/or expected outcomes were achieved, addressing any problems, concerns, or changes in conditions, as may be applicable; and
  3. Provide feedback to the licensed practical nurse, CHHA, or assistive person.
- (c) When delegating the administration of a specific medication to a licensed practical nurse, a CHHA, or an assistive person, the registered professional nurse shall ensure that the facility patient record or record maintained by the registered professional nurse includes:
1. The specific medication whose administration has been delegated;
  2. Any specific instructions the registered nurse provided as part of that delegation;
  3. The duration of the delegation;

4. A timeframe for the professional registered nurse to reevaluate the patient;

5. The dosage of the medication, route of administration for the medication, and frequency of the medication;

6. Any side effects that the licensed practical nurse, the CHHA, or the assistive person should watch for;

7. Any contraindications to administering the medication;

8. Any conditions that would require the licensed practical nurse, CHHA, or assistive person to contact the registered professional nurse;

9. Any instructions on positioning of the patient prior to and after the administration of the medication; and

10. The instructions for proper preparation and maintenance of the medication.

(d) When delegating the administration of medication to a licensed practical nurse, a CHHA, or an assistive person, the registered professional nurse shall advise the person whom the task is delegated to:

1. Document every time that the medication is administered; and
2. Report immediately to the delegating registered professional nurse, if:
  - i. The medication was administered at the wrong time;
  - ii. The wrong dose of medication was administered;
  - iii. The wrong medication was administered;
  - iv. The medication was administered through the wrong route;
  - v. The medication was not administered;
  - vi. The patient refused to take the medication; or
  - vii. The patient evidences any adverse reaction or side-effects to the medication.

**13:37-6.5 Non-delegable nursing tasks**

(a) If, after undertaking the steps required by N.J.A.C. 13:37-6.4(a), as to whether a task should be delegated, a registered professional nurse determines that delegation of a task is inappropriate, the nurse shall not delegate the task.

(b) A registered professional nurse shall not delegate the physical, psychological, and social assessment of the patient, which requires professional nursing judgment, intervention, referral, or modification of care.

(c) A registered professional nurse shall not delegate the formulation of the plan of nursing care and evaluation of the effectiveness of the plan.

**13:37-6.6 Assignment**

The requirements of this subchapter apply solely to delegation. These requirements are not applicable when a registered professional nurse makes an assignment to another registered professional nurse, when a registered professional nurse makes an assignment to a licensed practical nurse, when a licensed practical nurse makes an assignment to a registered professional nurse, or when a licensed practical nurse makes an assignment to another licensed practical nurse.

**SUBCHAPTER 8. NURSING PRACTICE**

**13:37-8.2 Identification tags**

(a) Each licensee [or certificate holder] shall wear an identification tag when engaging in the practice for which the individual is licensed [or certified]. The identification tag shall be clearly visible at all times, and such tag shall bear the first name or initial, the full surname and the term reflecting the individual's level of licensure [or certification], for example, Registered Nurse or R.N. The letters on the tag shall be of equal size in type, not smaller than one-quarter inch. The size of the identification tag shall be equal to or greater than that of any other identification worn by the licensee [or certificate holder].

(b) Where a general hospital requires a facility staff member who is a licensee [or a certificate holder] to wear an identifying badge pursuant to P.L. 1997, [c.76] c. 76 (N.J.S.A. 26:2H-12.8a), that staff member need [only] wear only one identification badge, as long as the badge meets requirements of both P.L. 1997, [c.76] c. 76 (N.J.S.A. 26:2H-12.8a) and (a) above.

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*Attorney at Law*

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FAX (908) 518-1933  
kgialanella@verizon.net

NY Attorney Registration 1941848

April 3, 2015

**Via Facsimile & Regular Mail**

George Hebert, Executive Director  
State Board of Nursing  
Post Office Box 45010  
Newark, NJ 07101

**Re: Proposed Repeals and New Rules: N.J.A.C. 13:37-6.1 and 6.2  
Proposed New Rules: N.J.A.C. 13:37-6.3, 6.4, 6.5 and 6.6**

Dear Mr. Hebert,

I am writing to you to submit my comments regarding the captioned proposed repeals and proposed new rules. The proposed amendments to the rules governing delegation of nursing tasks are significant (as are the other proposed regulations for certified homemaker-home health aides) and public hearings should be scheduled so that interested stakeholders can be heard. My specific comments regarding delegation only follow:

If the proposed rules are adopted, a registered nurse (RN) who delegates tasks to a licensed practical nurse (LPN), a certified home-maker home health aide (CHHA), or an assistive person, will be required to evaluate that person's "training knowledge and skills." Although that may not seem problematic for RNs in general, the proposed amendments require that the evaluation include "verifying the credentials" of the LPN and the CHHA. Only in the case of an assistive person may the RN rely on the policy and procedures of the institution or agency at which the RN works as assurance that the assistive person has the knowledge and skills to perform a delegated nursing task. See Proposed New Rule N.J.A.C. 13:37-6.4 (a) 3.

In essence, this means that every RN in every setting must personally verify the credentials of every LPN and CHHA to whom the RN delegates a nursing task. I believe that the Board intended this to be a requirement for home-care RNs as there recently have been a number of disciplinary actions involving home care RNs who supervised aides purported to be CHHAs by health care service firms, when, in fact, the aides had no such credentials. Those nurses faced public discipline and monetary penalties because they relied on the misrepresentations of the institution or agency.

Mr. George Hebert  
April 3, 2015  
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If this proposed rule is adopted as drafted, then nurses in non-home care settings – acute, sub-acute and other settings -- will be required to verify the credentials of all LPNs to whom they delegate nursing tasks. This would be an onerous requirement. Nurses that work in hospitals, long-term care, sub-acute and other facilities, should be able to rely upon the institution where they work to perform this type of due diligence. (I also am of the opinion that home-care nurses should be able to rely upon their employers' representations regarding a CHHA, but because the health care service firm industry seems to have failed the health care consumer in this regard, the requirement to check the credentials of CHHAs makes sense.)

Of equal concern is Proposed New Rule N.J.A.C. 13:37-6.4 (b). This section requires all RNs in all settings to document in the patient record "the tasks that the registered professional nurse has delegated and to whom and that the registered professional nurse has gone through the steps required by (a) 1 through 6." (Referring to N.J.A.C. 13:37-6.4 (a) 1-6.) This is a sweeping change in documentation requirements. While such a requirement may be understandable in home-care settings, it would be onerous and further decrease the amount of time RNs have to spend with their patients in acute, sub-acute, and other settings where the number of tasks delegated during a shift may be numerous.

In addition, Proposed New Rule N.J.A.C. 13:37-6.4 (c) requires significant documentation when an RN delegates the administration of a specific medication. Once again, the documentation requirements in this section apply to all RNs in all settings. These documentation requirements are onerous and will further decrease the amount of time RNs in acute, sub-acute, and other settings have to spend with their patients.

Finally, although the nursing curriculum of all professional nursing education programs include the topics of delegation to, and supervision of LPNs and assistive persons, it might be helpful to require all RNs to complete one contact hour of continuing education about these topics as part of a biennial license renewal (as was done for organ donation) after new regulations are adopted.

It is for the above reasons that public hearings should be conducted. Thank you for your consideration of this request.

Respectfully submitted,

Kathleen M. Gialanella

KMG:ms

1355.21(c), requiring public access to the Title IV-E plan. The Division's fiscal year (FY) 2015 Title IV-E appropriation is \$80,331,998.

The Division also receives an appropriation under Title IV-B of the Social Security Act, \$10,831,000 for FY 2016. The rules in this chapter assist New Jersey to meet the requirement at 45 CFR 1355.21(c), related to public access to the Child and Family Services Plan. The plan is required at 42 U.S.C. § 622(a).

#### Federal Standards Statement

The rules proposed for readoption with amendments allow New Jersey to meet, but not to exceed, the requirements of Federal law. 45 CFR 1355.21(c) requires the state to make its Child and Family Services Plan and the Annual Progress and Services Reports and its Title IV-E plan available for public review and inspection. Subchapter 1 meets this Federal requirement by informing the public of how to access the plan. Subchapter 1 does not exceed the Federal requirement.

42 U.S.C. § 671(a)14 requires state law to have a specific numeric goal of the maximum number of Title IV-E eligible children who will remain in foster care for more than 24 months. Subchapter 2 fulfills and does not exceed that requirement.

#### Jobs Impact

The Division anticipates that the rules proposed for readoption with amendments will not result in the generation or loss of any jobs.

#### Agriculture Industry Impact

The rules proposed for readoption with amendments have no impact on the agriculture industry.

#### Regulatory Flexibility Statement

The rules proposed for readoption with amendments refer only to the Division, which is not considered a small business under N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. The rules impose no reporting, recordkeeping or other compliance requirements on small businesses. Therefore, a regulatory flexibility analysis is not required. These rules state how members of the public can review the New Jersey Child and Family Services Plan and the Title IV-E plan and a goal for the maximum number of Title IV-E eligible children who will remain in foster care in New Jersey for more than 24 months.

#### Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to the Division meeting requirements of the Titles IV-B and IV-E of the Federal Social Security Act.

#### Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to the Division's meeting requirements of Titles IV-B and IV-E of the Social Security Act.

Full text of the rules proposed for readoption with amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

#### CHAPTER 131

#### ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980 REQUIREMENTS

#### SUBCHAPTER 1. NEW JERSEY CHILD AND FAMILY SERVICES PLAN

#### 10:131-1.1 New Jersey Child and Family Services Plan

(a) New Jersey develops an annual Child and Family Services Plan. Copies of the New Jersey Child and Family Services Plan may be obtained from [ ] <http://nj.gov/dcf/>.

[Division of Youth and Family Services  
DYFS Director

50 East State Street  
PO Box 717  
Trenton, New Jersey 08625-0717]

(b) The Department of Children and Families develops a Title IV-E plan. The public may request the Title IV-E Plan from:

Office of Advocacy  
Department of Children and Families  
PO Box 717  
Trenton, NJ 08625

#### SUBCHAPTER 2. GOALS FOR CHILDREN REMAINING IN FOSTER CARE IN EXCESS OF 24 MONTHS

#### 10:131-2.1 State child welfare services permanency planning

[The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272)] Title IV-E of the Social Security Act, 42 U.S.C. § 671, mandates that specific goals be established by State law before October 1st for each fiscal year as to the maximum number of Title IV-E eligible children who will remain in foster care for more than 24 months. This requirement is consistent with the intent of the legislation to improve services provided to children and their families, therefore reducing the number of children removed from their families and increasing the number of children returned to their families from out-of-home placement. This requirement is also consistent with the goal of the Division of [Youth and Family Services] Child Protection and Permanency, under N.J.S.A. 30:4C-1 et seq., to provide all children with permanency planning, therefore minimizing the number of children in temporary out-of-home placement.

#### 10:131-2.2 State child welfare services goals

New Jersey has established the goal that no more than 1,800 Title IV-E eligible children will remain in foster care for more than 24 months during Federal fiscal year [2008] 2016 and thereafter. The Division of [Youth and Family Services] Child Protection and Permanency will make every effort within available resources to ensure that services are provided to maintain children in their own homes and to reunify children in out-of-home placement with their families as quickly as possible.

## LAW AND PUBLIC SAFETY

(a)

#### DIVISION OF CONSUMER AFFAIRS BOARD OF NURSING

#### Notice of Public Hearing and Extension of Comment Period

#### Delegation and Certification; Homemaker-Home Health Aides

Proposed Amendments: N.J.A.C. 13:37-5.5, 8.2, 8.3,  
14.1, 14.2, 14.4, 14.5, 14.7, 14.10, and 14.15

Proposed Repeals and New Rules: N.J.A.C. 13:37-  
6.1, 6.2, 14.3, 14.6, 14.8, 14.12, 14.13, and 14.14

Proposed New Rules: N.J.A.C. 13:37-6.3, 6.4, 6.5, 6.6,  
14.11, 14.15, and 14.17

Proposed Repeal: N.J.A.C. 13:37-14.9

Take notice that the Board of Nursing will conduct a public hearing for the purpose of eliciting input from the public on proposed amendments to, and new rules and repeals at, N.J.A.C. 13:37-6 and 14, the rules which regulate the delegation of nursing tasks and the certification and practice of homemaker-home health aides. While sufficient public interest, as set forth in N.J.A.C. 13:1E-4.3, has not been evidenced through the comments the Board has received on the proposal (published in the New Jersey Register on February 2, 2015, at 47 N.J.R. 406(a)), the Board believes that it would be in the interest of the nursing and certified homemaker-home health aide communities and the public to hear their concerns regarding the proposed changes to N.J.A.C. 13:37-6

and 14. The Board believes that a public hearing would provide an opportunity to gather information from nurses, certified homemaker health aides, and the public and address any concerns they may have.

The hearing will be held on Wednesday, September 23, 2015, in the Monmouth Room, 124 Halsey St., 7th Floor, Newark, NJ 07101. The hearing will begin at 10:30 A.M. The public hearing shall be conducted by a hearing officer. A verbatim transcript of the hearing will be prepared by a certified stenographic reporter. Interested parties may obtain a copy of the transcript by ordering it directly from the reporter at the hearing or thereafter. Requests to speak should be submitted in writing to Joanne Leone, Acting Executive Director, Board of Nursing, Post Office Box 45010, Newark, New Jersey 07101, no later than one week prior to the public hearing. Specific presentation times will be assigned. Individual presentations will be limited to five minutes. Those who do not preregister to speak will be given an opportunity to speak only if time permits. Individual speakers are requested to provide a copy of their prepared remarks to the hearing officer on the day of the public hearing.

**Take further notice** that the Board of Nursing is extending the public comment period on the proposed amendments, new rules, and repeals to the date of the public hearing. Submit comments by September 23, 2015, to:

George Hebert, Executive Director  
State Board of Nursing  
Post Office Box 45010  
Newark, New Jersey 07101

or electronically at: <http://www.njconsumeraffairs.gov/Proposals/Pages/default.aspx>. Please note that the address for the electronic submission of comments has changed from that included in the notice of proposal.

## TREASURY — GENERAL

### (a)

#### DIVISION OF PROPERTY MANAGEMENT AND CONSTRUCTION

##### State Leasing and Space Utilization

##### Proposed Readoption: N.J.A.C. 17:11

Authorized By: Steven M. Sutkin, Director, Division of Property Management and Construction.

Authority: N.J.S.A. 52:18A-191.1 et seq., specifically 52:18A-191.8.

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

Proposal Number: PRN 2015-098.

Submit comments by October 16, 2015, to:

Charles Connery, Assistant Deputy Director  
Division of Property Management and Construction  
33 West State Street,  
PO Box 034  
Trenton, NJ 08625-0034  
Fax: (609) 984-8495  
E-mail: [Charles.connery@treas.state.nj.us](mailto:Charles.connery@treas.state.nj.us)

The agency proposal follows:

#### Summary

The Division of Property Management and Construction ("DPMC" or "Division") proposes to readopt N.J.A.C. 17:11, which governs the State's space leasing process, without change. Pursuant to N.J.S.A. 52:14B-5.1.c., the rules in this chapter are scheduled to expire July 9, 2015. In accordance with N.J.S.A. 52:14B-5.1.c(2), the submission of this notice of proposal to the Office of Administrative Law extended the expiration date 180 days to January 5, 2016.

The Division has reviewed the rules and determined that they continue to be necessary, reasonable and proper for the purpose for which they were originally promulgated. Since their initial adoption in 1996, the rules have provided an effective framework to allow the State to

coordinate the space utilization needs of all State agencies through one division, to establish a uniform process for advertising requests for competitive proposals, and to manage the provision of facilities, products, and services to tenant agencies from space lessors and other suppliers of goods and services, such as utilities, furnishings and maintenance. Therefore, the Director proposes to readopt this chapter without amendment.

Pursuant to the rules proposed for readoption, DPMC will continue to review, evaluate, approve, and disapprove all State agency Space Planning Requests (SPR). Upon approval of the SPR, DPMC will determine whether available State-owned or leased space meets the specifications of the requesting agency. DPMC is responsible for the consolidation and reduction of leased space, while balancing the programmatic needs of State agencies. When DPMC determines that the leasing of new space is in the best interest of the State and existing inventory of space is not suitable for the intended use of the State agency, DPMC will list all available space needs on the DPMC website. DPMC will also place periodic general advertisements in the "Commercial Real Estate Wanted" or other appropriate section of various regional newspapers to notify interested parties of the existence of the website and the periodic need for leased space and the process for interested parties to follow, if they have space available that may meet the State's space needs. Leased space requirements that exceed 20,000 square feet will be advertised in the "Commercial Real Estate Wanted" or other appropriate section in the regional newspaper, which maintains the largest circulation in the location of the desired space. All proposed lease agreements must be cost effective and in compliance with the comprehensive State space utilization plan.

No proposed lease agreement negotiated by DPMC shall be valid without the prior written approval of the State Leasing and Space Utilization Committee. Before it considers a proposed lease agreement, the Committee must receive from DPMC: an approved State agency Space Planning Request; a statement that sets forth the terms and conditions of the proposed lease agreement and all costs, including rent, taxes, and renovations associated with the proposed lease agreement; a statement certifying that, based on the cost and a financial analysis, the proposed lease agreement is cost effective and in compliance with the space utilization master plan; and a statement certifying that DPMC advertised for competitive proposals and the proposed lease agreement under consideration is the most cost effective. In addition, the Committee must receive a statement from the Attorney General that the proposed lease agreement is not in conflict with any applicable State or Federal law or regulation and a certification from the Director of the Division of Budget and Accounting in the Department of the Treasury that funds have been appropriated to DPMC to cover all costs associated with the proposed lease agreement, including the cost of renovation, for the fiscal year.

As the Division has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The rules proposed for readoption create a framework for control and oversight of State leasing procedures. The process by which DPMC solicits competitive proposals has ensured and will continue to ensure fairness to potential lessors and the efficient use of public resources. The centralization of the negotiation and drafting of proposed lease agreements, and the enforcement of compliance with the provisions of the leases executed by DPMC on behalf of the State have resulted and will continue to result in consistency, fairness, and uniformity in dealing with potential lessors and tenant agencies, and the elimination of redundancy of tasks common to leasing operations.

Prior to the existence of this chapter, individual State Departments and agencies commonly negotiated and entered into their own leases for space usage, resulting in a hodgepodge of inconsistent leases and inefficient space usage. In addition to allowing the State to benefit from the efficiencies of scale and a competitive process, centralization of leasing operations in DPMC has benefited and will continue to benefit the public by ensuring DPMC's ability to ensure uniform compliance of all lessors and potential lessors with State laws protecting important State

*Kathleen M. Gialanella, Esq., P.C.*

*Attorney at Law*

*501 Lenox Avenue, Suite A-3*  
Westfield, New Jersey 07090

NJ Attorney Identification 016621983

\_\_\_\_\_  
(908) 518-1988  
FAX (908) 518-1933  
kgialanella@verizon.net

NY Attorney Registration 1941848

September 2, 2015

Joanne Leone, Acting Executive Director  
Board of Nursing  
Post Office Box 45010  
Newark, NJ 07101

**Re: Proposed Amendments to NJAC 13:37**

Dear Ms. Leone:

I am writing to request that I be given an opportunity to speak at the Board of Nursing's hearing on Wednesday, September 23, 2015 regarding the proposed amendments to NJAC 13:37. Thank you for your consideration.

Yours Truly,

Kathleen Gialanella

KMG:ag

# Influencing the Legislative Process

I wanted to let you know that A1097 passed the Assembly on Monday, January 13, 2014 – the last day of the 215<sup>th</sup> Legislative Session. A1097 is also known as S1598. The bill now is on the Governor's desk.

If Governor Christie signs this bill into law it will allow APNs to determine the cause of death and execute the death certificate for a patient if the APN is the patient's attending/primary caregiver and a physician is unavailable. This would expand the APNs scope of practice. Right now APNs can determine that a patient has died and pronounce the death, but only physicians can determine and certify the cause of death.

It is important for Governor Christie to hear from those of us who support this bill. He has ten days (until January 23) to sign the bill. If he does not sign it there will be a "pocket veto" and the bill will die. This is one battle that is important to win so that we can show our ability to influence the process as we fight for an end to joint protocols.

The Governor needs to hear from those of us who support this bill as soon as possible. This is an opportunity to demonstrate how nurses can make a difference and get laws enacted that benefit patients and the nurses who care for them.

You can send an e-mail to the Governor at [www.state.nj.us/governor/contact/](http://www.state.nj.us/governor/contact/)

You can use the following as a template if you like:

---

**Dear Governor Christie:**

**I am writing to urge you to sign A1097/S1598, which will allow Advanced Practice Nurses (APNs) to sign death certificates and indicate a patient's cause of death.**

**APNs in 20 other states, including NY and PA, have the ability to do this. Why not NJ APNs? NJ APNs have long been able to pronounce a patient's death. Giving APNs in NJ the additional responsibility of determining a cause of death and completing the death certificate of patients for whom they were the primary caregivers just makes sense. Former Governor Kean's statement when NJ APNs sought and obtained prescriptive authority applies once again: "It's the right thing to do!"**

**Signing A1097/S1598 into law will help families avoid the delays they can encounter waiting for a physician (who may have little or no familiarity with the patient) to complete a death certificate.**

**Sincerely,**

---

**ASSEMBLY, No. 1319**

---

**STATE OF NEW JERSEY**

**216th LEGISLATURE**

---

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

**Sponsored by:**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**Assemblywoman MILA M. JASEY**

**District 27 (Essex and Morris)**

**Co-Sponsored by:**

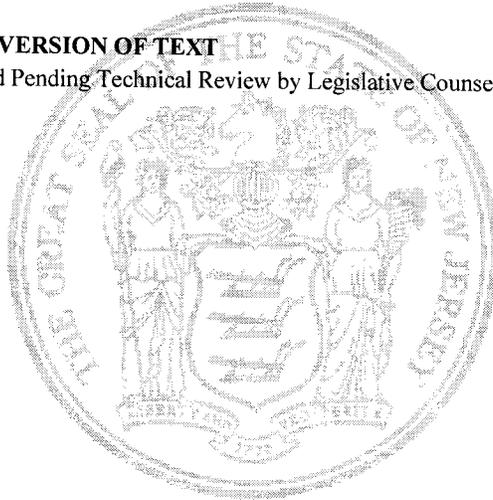
**Assemblywoman Mosquera and Assemblyman Diegnan**

**SYNOPSIS**

Permits attending advanced practice nurse to determine cause of death and execute death certification of patient if nurse is patient's primary caregiver.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 3/28/2014)**

1 AN ACT concerning the determination of cause of death and  
2 amending R.S.26:6-8 and P.L.1991, c.377.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. R.S.26:6-8 is amended to read as follows:  
8 26:6-8. In the execution of a death certificate, the personal  
9 particulars shall be obtained by the funeral director from the person  
10 best qualified to supply them. The death and last sickness  
11 particulars shall be supplied by the attending, covering or resident  
12 physician; or if there is no attending, covering or resident physician,  
13 by an attending registered professional nurse licensed by the New  
14 Jersey Board of Nursing under P.L.1947, c. 262 (C. 45:11-23 et  
15 seq.); or if there is no attending, covering or resident physician or  
16 attending registered professional nurse, by the county medical  
17 examiner.

18 Within a reasonable time, not to exceed 24 hours after the  
19 pronouncement of death, the attending, covering or resident  
20 physician, the attending advanced practice nurse pursuant to section  
21 10 of P.L.1991, c.377 (C.45:11-49), or the county medical examiner  
22 shall execute the death certification. The burial particulars shall be  
23 supplied by the funeral director. The attending, covering or resident  
24 physician, attending advanced practice nurse, the attending  
25 registered professional nurse, or the county medical examiner and  
26 the funeral director shall certify to the particulars supplied by them  
27 by signing their names below the list of items furnished, or by  
28 otherwise authenticating their identities and the information that  
29 they have provided through the NJ-EDRS. If a person acting under  
30 the direct supervision of the State Medical Examiner, a county  
31 medical examiner, funeral director, attending, covering or resident  
32 physician, advanced practice nurse, or licensed health care facility  
33 or other public or private institution providing medical care,  
34 treatment or confinement to persons, which is registered with the  
35 NJ-EDRS, is not authorized to authenticate the information required  
36 on a certificate of death or fetal death, that person may enter that  
37 information into the NJ-EDRS in anticipation of its authentication  
38 by the State Medical Examiner or a county medical examiner,  
39 funeral director, attending, covering or resident physician, attending  
40 advanced practice nurse, local registrar, deputy registrar, alternate  
41 deputy registrar or subregistrar, as applicable.  
42 (cf: P.L.2003, c.221, s.5)

43  
44 2. Section 10 of P.L.1991, c.377 (C.45:11-49) is amended to  
45 read as follows:

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

- 1       10. a. In addition to all other tasks which a registered  
2 professional nurse may, by law, perform, an advanced practice  
3 nurse may manage preventive care services, and diagnose and  
4 manage deviations from wellness and long-term illnesses, consistent  
5 with the needs of the patient and within the scope of practice of the  
6 advanced practice nurse, by:
- 7       (1) initiating laboratory and other diagnostic tests;
  - 8       (2) prescribing or ordering medications and devices, as  
9 authorized by subsections b. and c. of this section; and
  - 10       (3) prescribing or ordering treatments, including referrals to  
11 other licensed health care professionals, and performing specific  
12 procedures in accordance with the provisions of this subsection.
- 13       b. An advanced practice nurse may order medications and  
14 devices in the inpatient setting, subject to the following conditions:
- 15       (1) the collaborating physician and advanced practice nurse  
16 shall address in the joint protocols whether prior consultation with  
17 the collaborating physician is required to initiate an order for a  
18 controlled dangerous substance;
  - 19       (2) the order is written in accordance with standing orders or  
20 joint protocols developed in agreement between a collaborating  
21 physician and the advanced practice nurse, or pursuant to the  
22 specific direction of a physician;
  - 23       (3) the advanced practice nurse authorizes the order by signing  
24 his own name, printing the name and certification number, and  
25 printing the collaborating physician's name;
  - 26       (4) the physician is present or readily available through  
27 electronic communications;
  - 28       (5) the charts and records of the patients treated by the advanced  
29 practice nurse are reviewed by the collaborating physician and the  
30 advanced practice nurse within the period of time specified by rule  
31 adopted by the Commissioner of Health pursuant to section 13 of  
32 P.L.1991, c.377 (C.45:11-52);
  - 33       (6) the joint protocols developed by the collaborating physician  
34 and the advanced practice nurse are reviewed, updated and signed at  
35 least annually by both parties; and
  - 36       (7) the advanced practice nurse has completed six contact hours  
37 of continuing professional education in pharmacology related to  
38 controlled substances, including pharmacologic therapy and  
39 addiction prevention and management, in accordance with  
40 regulations adopted by the New Jersey Board of Nursing. The six  
41 contact hours shall be in addition to New Jersey Board of Nursing  
42 pharmacology education requirements for advanced practice nurses  
43 related to initial certification and recertification of an advanced  
44 practice nurse as set forth in N.J.A.C.13:37-7.2 and 13:37-7.5.
- 45       c. An advanced practice nurse may prescribe medications and  
46 devices in all other medically appropriate settings, subject to the  
47 following conditions:

- 1 (1) the collaborating physician and advanced practice nurse  
2 shall address in the joint protocols whether prior consultation with  
3 the collaborating physician is required to initiate a prescription for a  
4 controlled dangerous substance;
- 5 (2) the prescription is written in accordance with standing orders  
6 or joint protocols developed in agreement between a collaborating  
7 physician and the advanced practice nurse, or pursuant to the  
8 specific direction of a physician;
- 9 (3) the advanced practice nurse writes the prescription on a New  
10 Jersey Prescription Blank pursuant to P.L.2003, c.280 (C.45:14-40  
11 et seq.), signs his name to the prescription and prints his name and  
12 certification number;
- 13 (4) the prescription is dated and includes the name of the patient  
14 and the name, address and telephone number of the collaborating  
15 physician;
- 16 (5) the physician is present or readily available through  
17 electronic communications;
- 18 (6) the charts and records of the patients treated by the advanced  
19 practice nurse are periodically reviewed by the collaborating  
20 physician and the advanced practice nurse;
- 21 (7) the joint protocols developed by the collaborating physician  
22 and the advanced practice nurse are reviewed, updated and signed at  
23 least annually by both parties; and
- 24 (8) the advanced practice nurse has completed six contact hours  
25 of continuing professional education in pharmacology related to  
26 controlled substances, including pharmacologic therapy and  
27 addiction prevention and management, in accordance with  
28 regulations adopted by the New Jersey Board of Nursing. The six  
29 contact hours shall be in addition to New Jersey Board of Nursing  
30 pharmacology education requirements for advanced practice nurses  
31 related to initial certification and recertification of an advanced  
32 practice nurse as set forth in N.J.A.C.13:37-7.2 and 13:37-7.5.
- 33 d. The joint protocols employed pursuant to subsections b. and  
34 c. of this section shall conform with standards adopted by the  
35 Director of the Division of Consumer Affairs pursuant to section 12  
36 of P.L.1991, c.377 (C.45:11-51) or section 10 of P.L.1999, c.85  
37 (C.45:11-49.2), as applicable.
- 38 e. (Deleted by amendment, P.L.2004, c.122.)
- 39 f. An attending advanced practice nurse may determine and  
40 certify the cause of death of the nurse's patient when no attending,  
41 covering, or resident physician is available to do so, and may  
42 execute the death certification pursuant to R.S.26:6-8.  
43 (cf: P.L.2004, c.122, s.2)
- 44
- 45 3. a. The Commissioner of Health shall, in accordance with the  
46 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et

1 seq.), adopt such rules and regulations as the commissioner deems  
2 necessary to carry out the provisions of this act.

3 b. The New Jersey Board of Nursing shall, in accordance with  
4 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
5 et seq.), adopt such rules and regulations as the board deems  
6 necessary to carry out the provisions of this act.  
7

8 4. This act shall take effect on the 120th day after enactment,  
9 but the Commissioner of Health and the New Jersey Board of  
10 Nursing may take such anticipatory administrative action in  
11 advance thereof as shall be necessary for the implementation of this  
12 act.  
13

14  
15 STATEMENT  
16

17 This bill authorizes an attending advanced practice nurse (APN)  
18 to determine and certify the cause of death of the nurse's patient  
19 when no attending, covering, or resident physician is available to do  
20 so, and to execute the death certification pursuant to R.S.26:6-8.

21 Under current law (section 4 of P.L.1983, c.308; C.26:6-8.1),  
22 when there has been an apparent death, a registered professional  
23 nurse is permitted to make the actual determination and  
24 pronouncement of death (except in the case of brain death), but only  
25 a physician is authorized to determine the cause of death and certify  
26 the cause for the purpose of completing the death certificate.

27 Since the APN scope of practice includes the diagnosing and  
28 management of deviations from wellness and long-term illnesses,  
29 and an APN may be a patient's primary treating health professional,  
30 it is appropriate that, in the event of the patient's death, the  
31 attending APN be permitted to determine and certify the cause of  
32 death. This bill, therefore, expands the scope of practice for APNs  
33 to authorize them to make the determination of the cause of death  
34 and to certify the cause of death for completion of the death  
35 certificate when a physician is not available to do so.

36 The bill takes effect on the 120th day after enactment, but  
37 authorizes the Commissioner of Health and the New Jersey Board  
38 of Nursing to take such anticipatory administrative action in  
39 advance of the effective date as shall be necessary for the  
40 implementation of the bill.

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**S1152 Aca (1R) Permits attending advanced practice nurse to determine cause of death and execute death certification of patient if nurse is patient's primary caregiver.**

**Bills and Joint Resolutions Signed by the Governor**

Identical Bill Number: [A1319](#) (1R)

Last Session Bill Number: [S1598](#)

[Weinberg, Loretta](#) as Primary Sponsor

[Vitale, Joseph F.](#) as Primary Sponsor

[Madden, Fred H., Jr.](#) as Primary

Sponsor

[Quijano, Annette](#) as Primary Sponsor

[Wimberly, Benjie E.](#) as Primary

Sponsor

[Munoz, Nancy F.](#) as Primary Sponsor

[Jasey, Mila M.](#) as Primary Sponsor

[Mosquera, Gabriela M.](#) as Co-Sponsor

[Diegnan, Patrick J., Jr.](#) as Co-Sponsor

1/30/2014 Introduced in the Senate, Referred to Senate Health, Human Services and Senior Citizens Committee

3/17/2014 Reported from Senate Committee, 2nd Reading w/o recommendation

6/23/2014 Passed by the Senate (40-0)

6/23/2014 Received in the Assembly, Referred to Assembly Health and Senior Services Committee

2/5/2015 Reported out of Assembly Comm. with Amendments, 2nd Reading

3/9/2015 Substituted for A1319 (1R)

3/9/2015 Passed by the Assembly (69-5-1)

3/9/2015 Received in the Senate, 2nd Reading on Concurrence

3/16/2015 Passed Senate (Passed Both Houses) (40-0)

5/4/2015 Approved P.L.2015, c.38.

Statement - SHH 3/17/2014 - 1 pages [PDF Format](#) [HTML Format](#)

Introduced - 5 pages [PDF Format](#) [HTML Format](#)

Statement - AHE 2/5/15 - 1 pages [PDF Format](#) [HTML Format](#)

Reprint - 5 pages [PDF Format](#) [HTML Format](#)

Advance Law - 4 pages [PDF Format](#) [HTML Format](#)

Pamphlet Law - 3 pages [PDF Format](#) [HTML Format](#)

**Committee Voting:**

SHH 3/17/2014 - r w/o rec. - Yes {5} No {0} Not Voting {2} Abstains {2} - [Roll Call](#)

AHE 2/5/2015 - r/Aca - Yes {10} No {2} Not Voting {0} Abstains {0} - [Roll Call](#)

**Session Voting:**

Sen. 6/23/2014 - 3RDG FINAL PASSAGE - Yes {40} No {0} Not Voting {0} - [Roll Call](#)

Asm. 3/9/2015 - SUBSTITUTE FOR A1319 Aca - Yes {0} No {0} Not Voting {80} Abstains {0} - Voice Vote Passed

Asm. 3/9/2015 - 3RDG FINAL PASSAGE - Yes {69} No {5} Not Voting {5} Abstains {1} - [Roll Call](#)

Sen. 3/16/2015 - CONCUR ASMB AMEND - Yes {40} No {0} Not Voting {0} - [Roll Call](#)

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**Bills 2014-2015**

**A1319 Aca (1R) Permits attending advanced practice nurse to determine cause of death and execute death certification of patient if nurse is patient's primary caregiver.  
Substituted by another Bill**

Identical Bill Number: [S1152](#) (1R)  
Last Session Bill Number: [A1097](#)  
[S1598](#)

[Quijano, Annette](#) as Primary Sponsor  
[Wimberly, Benjie E.](#) as Primary  
Sponsor

[Munoz, Nancy F.](#) as Primary Sponsor  
[Jasey, Mila M.](#) as Primary Sponsor  
[Mosquera, Gabriela M.](#) as Co-Sponsor  
[Diegnan, Patrick J., Jr.](#) as Co-Sponsor

1/16/2014 Introduced, Referred to Assembly Health and Senior Services Committee  
2/5/2015 Reported out of Assembly Comm. with Amendments, 2nd Reading  
3/9/2015 Substituted by S1152 (1R)

Introduced - 5 pages [PDF Format](#) [HTML Format](#)

Reprint - 5 pages [PDF Format](#) [HTML Format](#)

Statement - AHE 2/5/15 - 2 pages [PDF Format](#) [HTML Format](#)

**Committee Voting:**

AHE 2/5/2015 - r/Aca - Yes {11} No {1} Not Voting {0} Abstains {0} - [Roll Call](#)

|                              |                             |                           |
|------------------------------|-----------------------------|---------------------------|
| Conaway, Herb, Jr. (C) - Yes | Benson, Daniel R. (V) - Yes | Angelini, Mary Pat - Yes  |
| Eustace, Tim - Yes           | Fuentes, Angel - Yes        | Green, Jerry - Yes        |
| Handlin, Amy H. - Yes        | Jimenez, Angelica M. - Yes  | Munoz, Nancy F. - Yes     |
| Peterson, Erik - No          | Pinkin, Nancy J. - Yes      | Sumter, Shavonda E. - Yes |

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## Kathleen Gialanella

---

**From:** jennifer@njsna.org  
**Sent:** Sunday, February 01, 2015 6:34 PM  
**To:** kgialanella@verizon.net  
**Subject:** Assembly Bill A-1319

Dear Kathleen:

Assembly Bill A-1319 (Quijano/Wimberly/Munoz), that permits attending advanced practice nurses to determine cause of death and execute death certification of a patient if nurse is patient's primary caregiver, will be discussed this Thursday February 5<sup>th</sup> in the Assembly's Health Committee. Please contact the members of the committee listed below and ask them to support this bill. There is a hyperlink to their webpage when you right click your mouse on the committee member's name.

We anticipate that the bill will also be posted in the Senate Health Committee (S1152 Weinberg/Vitale/Madden) in the near future. The next step will be voting for the bill in both houses of the NJ Legislature. Finally, the bill will need Governor Christie's signature to become law. We will be sending you additional emails as each step to this passage of the bill nears. We will need you to contact additional Legislators and the Governor when those dates occur. We have attempted in the past to get this bill signed by the governor after passage by the legislature. Let's us combine as one strong voice to convince our state representatives and the governor that this legislation is an imperative to be passed and to be signed.

Thank you,

Norma Rodgers, RN, President

Judy Schmidt, RN, Interim CEO

New Jersey State Nurses Association

### Health Committee Members:

Conaway, Herb - Chair

Benson, Daniel R. - Vice-Chair

Angelini, Mary Pat

Eustace, Timothy J.

Fuentes, Angel

Green, Jerry

Handlin, Amy H.

Jimenez, Angelica M.

Munoz, Nancy F.

Peterson, Erik

Pinkin, Nancy J.

Sumter, Shavonda E.

**Kathleen Gialanella**

---

**From:** jennifer@njsna.org  
**Sent:** Friday, February 06, 2015 9:14 AM  
**To:** kgialanella@verizon.net  
**Subject:** MUNOZ BILL ALLOWING APNS TO DETERMINE CAUSE OF DEATH CLEARS COMMITTEE

*Sent on Behalf of Judy Schmidt, NJSNA Interim CEO*

Thank you for all your help in getting this bill passed through the Assembly Health and Senior Services Committee.

**MUNOZ BILL ALLOWING APNS TO DETERMINE CAUSE OF DEATH CLEARS COMMITTEE**

TRENTON, N.J. – As Assembly panel today advanced legislation Assembly Deputy Republican Leader Nancy F. Muñoz sponsors that will allow an attending advanced nurse practitioner (APN) to determine their patients' cause of death.

"An APN is licensed to treat, order tests, make referrals to surgeons, diagnose and manage long-term illnesses. As the patient's primary treating health professional, they are often with the patient at time of death," said Muñoz, R-Union, Morris and Somerset. "End of life is a very emotional time for family members. It's not only appropriate, it's common sense to allow the attending APN to make such a call. Doing so in a timely manner will help the grief-stricken family."

The Assembly Health and Senior Services Committee cleared the bill, [A1319 / S1152](#), which allows an APN to determine the cause of death and execute the death certification of a patient when the nurse is the patient's primary caregiver and the collaborating physician is not available.

---

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NJSNA | 1479 Pennington Road | Trenton, NJ 08618

## Kathleen Gialanella

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**From:** apn-nj <admin@apn-nj.org>  
**Sent:** Saturday, March 07, 2015 5:36 PM  
**To:** Kathleen Gialanella  
**Subject:** IMMEDIATE Action Alert!



Dear Kathleen,

Having passed the Senate and now the Assembly Health Committee, our Death certificate Bill A-1319 (Quijano/Wimberly/Munoz), is now up for a floor vote in the Assembly again on **MONDAY**. Please email and / or call your Assembly people **before Monday and pass this email on to your network, including family and friends.**

This bill is politically important to us as we inch forward to full practice authority. As originally introduced, APNs could complete the death certification only when there is no attending, covering, or resident physician available. As amended, an APN may complete the death certification if (1) no collaborating physician is available to do so and (2) the APN is the patient's primary caregiver.

You can read amendments here:

[http://www.njleg.state.nj.us/2014/Bills/A1500/1319\\_S1.HTM](http://www.njleg.state.nj.us/2014/Bills/A1500/1319_S1.HTM)

Please email and/or call your Assembly people. Remember, you have **TWO**

[Click here](#) to find your State Assembly people.

Please contact your legislator below and ask him/her to support this bill. While this is not a perfect bill as most bills are about compromise, it is a step forward.

### **HERE ARE SOME TALKING POINTS:**

A1319 would permit attending advanced practice nurses to determine cause of death and execute death certification of a patient if nurse is patient's primary caregiver under specific circumstances as proposed in the bill/ amendments.

The legislation will give Advanced Practice Nurses the authority and responsibility to complete death certificates in the same manner as physicians ensuring the delivery of appropriate and medically-accurate postmortem care.

- Advanced Practice Nurses are registered nurses who have advanced education and clinical preparation to provide primary care, diagnose and treat acute and chronic illnesses in a variety of specialties. Under current law, they are empowered to pronounce death, ascertain the cause of death and provide the medical information required by the death certificate, but by law, they are not authorized to sign the death certificate.

**Kathleen Gialanella**

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**From:** sandy@njsna.org  
**Sent:** Monday, March 09, 2015 3:34 PM  
**To:** kgialanella@verizon.net  
**Subject:** Death Certification Bill Passes Assembly

Muñoz Bill Allowing APNs To Determine Cause of Death Advances

Legislation Assembly Deputy Republican Leader Nancy F. Muñoz sponsors that will allow an attending advanced nurse practitioner (APN) to determine their patients' cause of death today won General Assembly approval by a vote of 69-5-1. Thank you to all who contacted their Assemblyperson to support. We will keep you informed as Bill progresses.

"As the patient's primary treating health professional, the APN is often with the patient at time of death which is a very emotional time for family members," said Muñoz, R-Union, Morris and Somerset. "APNs are trained professionals who are licensed to treat, order tests, make referrals to surgeons, diagnose and manage long-term illnesses. It's not only appropriate, it's common sense to allow the attending APN to make such a call. Doing so in a timely manner will help the family move forward."

The bill, A1319 / S1152, allows an APN to determine the cause of death and execute the death certification of a patient when the nurse is the patient's primary caregiver and the collaborating physician is not available. The measure cleared the Assembly Health and Senior Services Committee last month. It now heads to the Senate for consideration.

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NJSNA | 1479 Pennington Road | Trenton, NJ 08618

## Kathleen Gialanella

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**From:** apn-nj <admin@apn-nj.org>  
**Sent:** Tuesday, March 24, 2015 2:29 PM  
**To:** Kathleen Gialanella  
**Subject:** Call To Action! Contact Gov Christie NOW!



Dear Kathleen,

If you already contacted Governor Christie, Thank You! You need not read any further, unless of course you want to walk around with your handheld device and ask everyone you know to click the red button below and ask the Governor to sign S1152 / A1319.

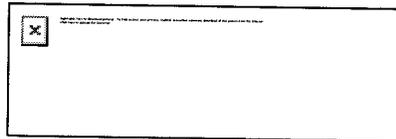
If you have not yet taken action, **PLEASE DO SO! We NEED YOU!** Governor Christie and his counsel are actively engaged now in the decision making process and your input is extremely important. This will only take a few minutes. Don't leave it to your colleagues, this is up to YOU to take action!

As you know by now, this bill is politically important to us as we move forward to full practice authority. As amended, an APN may complete the death certification if (1) no collaborating physician is available to do so and (2) the APN is the patient's primary caregiver.

You can read [The Bill Here](#):

**SO now our biggest challenge. The last step is to Call and / or email THE GOVERNOR!**

**Click the red button below to contact the Governor.**



**Ask him to sign S1152/A1319**

*(Hint: Click on Topic "Health" then Subtopic "Family Health Nutrition and be sure to click all boxes. It's easiest to create your message elsewhere, then cut and paste to the fields in the site.)*

Use some variation preferably in your own words of the **first paragraph below plus one or two points**. If you have direct experience with this situation, personal anecdotes are most powerful. Otherwise, the bullets are fine. **BTW, do not confuse certifying death with pronouncement.** All nurses are allowed by law to pronounce death.

## Kathleen Gialanella

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**From:** JoAnn Pietro <jpietro@wpslawfirm.com>  
**Sent:** Tuesday, March 24, 2015 3:31 PM  
**To:** Kathleen Gialanella  
**Subject:** RE: Call To Action! Contact Gov Christie NOW!

Done already

*JoAnn Pietro, R.N., Esq.  
Wahrenberger & Pietro LLP  
150 Morris Avenue  
Springfield, New Jersey 07081  
(973)258-9000 fax (973)258-9899  
[jpietro@wpslawfirm.com](mailto:jpietro@wpslawfirm.com)  
[www.wpslawfirm.com](http://www.wpslawfirm.com)*

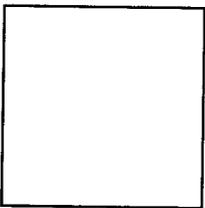
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**From:** Kathleen Gialanella [mailto:k gialanella@verizon.net]  
**Sent:** Tuesday, March 24, 2015 3:30 PM  
**To:** JoAnn Pietro  
**Subject:** FW: Call To Action! Contact Gov Christie NOW!

Welcome back. Contact the Gov if you have a chance!

**From:** apn-nj [mailto:admin@apn-nj.org]  
**Sent:** Tuesday, March 24, 2015 2:29 PM  
**To:** Kathleen Gialanella  
**Subject:** Call To Action! Contact Gov Christie NOW!



Dear Kathleen,

If you already contacted Governor Christie, Thank You! You need not read any further, unless of course you want to walk around with your handheld device and ask everyone you know to click the red button below and ask the Governor to sign S1152 / A1319.

If you have not yet taken action, **PLEASE DO SO! We NEED YOU!** Governor Christie and his counsel are actively engaged now in the decision making process and your input is extremely important. This will only take a few minutes. Don't leave it to your colleagues, this is up to YOU to take action!

**Kathleen Gialanella**

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**From:** apn-nj <admin@apn-nj.org>  
**Sent:** Monday, May 04, 2015 1:15 PM  
**To:** Kathleen Gialanella  
**Subject:** WE DID IT!!!!



**About an hour ago, Governor Christie signed into law S1152 / A1319 S1152/A1319 that will permit attending advanced practice nurses to determine cause of death and execute death certification in the same manner as physicians under specific circumstances, thus ensuring the delivery of appropriate and medically-accurate postmortem care.**

**We did it! We want to thank each and every one of you for your contributions large and small to this effort. For your contributions of money, time, energy, more money, emails, and answering our calls to action. We have seen that the system works. Nurses vote and constituents have power, but only if we use it!**

**We especially owe a HUGE debt of gratitude to our champion Assemblywoman Nancy for continuously fighting for us in both houses, and especially in the governor's office. We also want to thank Sen. Tom Kean for his help in the Governor's office as well.**

**This is the first step in getting Advanced Practice Nurses the respect we deserve.**

**So onward we go.**

**ENJOY your day!!**

**Suzanne and Grace**

[Unsubscribe](#)

## CHAPTER 38

**AN ACT** concerning the determination of cause of death and amending R.S.26:6-8, R.S.26:6-10, and P.L.1991, c.377.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. R.S.26:6-8 is amended to read as follows:

Duty to furnish particulars; verification.

26:6-8. In the execution of a death certificate, the personal particulars shall be obtained by the funeral director from the person best qualified to supply them. The death and last sickness particulars shall be supplied by the attending, covering, or resident physician; or if there is no attending, covering, or resident physician, by an attending registered professional nurse licensed by the New Jersey Board of Nursing under P.L.1947, c.262 (C.45:11-23 et seq.); or if there is no attending, covering, or resident physician or attending registered professional nurse, by the county medical examiner.

Within a reasonable time, not to exceed 24 hours after the pronouncement of death, the attending, covering, or resident physician, the attending advanced practice nurse pursuant to section 10 of P.L.1991, c.377 (C.45:11-49), or the county medical examiner shall execute the death certification. The burial particulars shall be supplied by the funeral director. The attending, covering, or resident physician, the attending advanced practice nurse, the attending registered professional nurse, or the county medical examiner and the funeral director shall certify to the particulars supplied by them by signing their names below the list of items furnished, or by otherwise authenticating their identities and the information that they have provided through the NJ-EDRS. If a person acting under the direct supervision of the State Medical Examiner, a county medical examiner, funeral director, attending, covering, or resident physician, attending advanced practice nurse, or licensed health care facility or other public or private institution providing medical care, treatment, or confinement to persons, which is registered with the NJ-EDRS, is not authorized to authenticate the information required on a certificate of death or fetal death, that person may enter that information into the NJ-EDRS in anticipation of its authentication by the State Medical Examiner or a county medical examiner, funeral director, attending, covering, or resident physician, attending advanced practice nurse, local registrar, deputy registrar, alternate deputy registrar or subregistrar, as applicable.

2. R.S.26:6-10 is amended to read as follows:

Unavailability of attending physician, advanced practice nurse.

26:6-10. In case the physician or the advanced practice nurse who last attended the deceased is unavailable, so that a certificate of death cannot be obtained from the physician or nurse in time for burial or removal:

- a. the designated covering physician shall have the primary responsibility, after examining the dead body, and being satisfied that death did not result from some unlawful means, to issue a death certificate; and
- b. in the absence of the designated covering physician, any other physician, after examining the dead body, and being satisfied that death did not result from some unlawful means, may issue a death certificate.

3. Section 10 of P.L.1991, c.377 (C.45:11-49) is amended to read as follows:

C.45:11-49 Permitted duties of advanced practice nurse.

10. a. In addition to all other tasks which a registered professional nurse may, by law, perform, an advanced practice nurse may manage preventive care services and diagnose and manage deviations from wellness and long-term illnesses, consistent with the needs of the patient and within the scope of practice of the advanced practice nurse, by:

- (1) initiating laboratory and other diagnostic tests;
- (2) prescribing or ordering medications and devices, as authorized by subsections b. and c. of this section; and
- (3) prescribing or ordering treatments, including referrals to other licensed health care professionals, and performing specific procedures in accordance with the provisions of this subsection.

b. An advanced practice nurse may order medications and devices in the inpatient setting, subject to the following conditions:

- (1) the collaborating physician and advanced practice nurse shall address in the joint protocols whether prior consultation with the collaborating physician is required to initiate an order for a controlled dangerous substance;
- (2) the order is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;
- (3) the advanced practice nurse authorizes the order by signing the nurse's own name, printing the name and certification number, and printing the collaborating physician's name;
- (4) the physician is present or readily available through electronic communications;
- (5) the charts and records of the patients treated by the advanced practice nurse are reviewed by the collaborating physician and the advanced practice nurse within the period of time specified by rule adopted by the Commissioner of Health pursuant to section 13 of P.L.1991, c.377 (C.45:11-52);
- (6) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated, and signed at least annually by both parties; and
- (7) the advanced practice nurse has completed six contact hours of continuing professional education in pharmacology related to controlled substances, including pharmacologic therapy and addiction prevention and management, in accordance with regulations adopted by the New Jersey Board of Nursing. The six contact hours shall be in addition to New Jersey Board of Nursing pharmacology education requirements for advanced practice nurses related to initial certification and recertification of an advanced practice nurse as set forth in N.J.A.C.13:37-7.2.

c. An advanced practice nurse may prescribe medications and devices in all other medically appropriate settings, subject to the following conditions:

- (1) the collaborating physician and advanced practice nurse shall address in the joint protocols whether prior consultation with the collaborating physician is required to initiate a prescription for a controlled dangerous substance;
- (2) the prescription is written in accordance with standing orders or joint protocols developed in agreement between a collaborating physician and the advanced practice nurse, or pursuant to the specific direction of a physician;
- (3) the advanced practice nurse writes the prescription on a New Jersey Prescription Blank pursuant to P.L.2003, c.280 (C.45:14-40 et seq.), signs the nurse's own name to the prescription and prints the nurse's name and certification number;
- (4) the prescription is dated and includes the name of the patient and the name, address, and telephone number of the collaborating physician;

- (5) the physician is present or readily available through electronic communications;
- (6) the charts and records of the patients treated by the advanced practice nurse are periodically reviewed by the collaborating physician and the advanced practice nurse;
- (7) the joint protocols developed by the collaborating physician and the advanced practice nurse are reviewed, updated, and signed at least annually by both parties; and
- (8) the advanced practice nurse has completed six contact hours of continuing professional education in pharmacology related to controlled substances, including pharmacologic therapy and addiction prevention and management, in accordance with regulations adopted by the New Jersey Board of Nursing. The six contact hours shall be in addition to New Jersey Board of Nursing pharmacology education requirements for advanced practice nurses related to initial certification and recertification of an advanced practice nurse as set forth in N.J.A.C.13:37-7.2.

d. The joint protocols employed pursuant to subsections b. and c. of this section shall conform with standards adopted by the Director of the Division of Consumer Affairs pursuant to section 12 of P.L.1991, c.377 (C.45:11-51) or section 10 of P.L.1999, c.85 (C.45:11-49.2), as applicable.

e. (Deleted by amendment, P.L.2004, c.122.)

f. An attending advanced practice nurse may determine and certify the cause of death of the nurse's patient and execute the death certification pursuant to R.S.26:6-8 if no collaborating physician is available to do so and the nurse is the patient's primary caregiver.

4. a. The Commissioner of Health shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and regulations as the commissioner deems necessary to carry out the provisions of this act.

b. The New Jersey Board of Nursing shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and regulations as the board deems necessary to carry out the provisions of this act.

5. This act shall take effect on the 120th day after enactment, but the Commissioner of Health and the New Jersey Board of Nursing may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act.

Approved May 4, 2015.

# Drafting Legislation

The following are some thoughts about introducing a bill to allow professional licensing boards to seal (remove from the public record) certain disciplinary actions after a period of time:

- A licensee should be able to request that the board expunge records relating to a reprimand that did not limit the licensee's professional practice after the expiration of two (2) years from the date of entry of the order imposing the reprimand, payment of any fine, penalty or costs, and satisfactory completion of any other requirements within the order of reprimand, whichever is later. For example, if a licensee was publically reprimanded for failing to complete continuing education requirements, but makes up the shortfall and pays any fine, penalty or costs, then the licensee should be able to request and be granted sealing of the public disciplinary record provided the licensee has had no prior or subsequent licensure actions and is not the subject of a current investigation by the professional board.
- A licensee should be able to request that the board expunge records relating to a suspension, stayed suspension and/or period of probation after the expiration of 5 years from the time the licensee completes all the requirements under the order for the suspension, stayed suspension and/or period of probation, including the payment of any fine, penalty or costs, and satisfactory completion of any other requirements within the order, whichever is later. For example, if a licensee was involved in a significant health care error and the board imposed a two-year period of probation during which the licensee completed some remedial education and was supervised by another licensee while remaining in active practice, thereby successfully completing the probation, then the licensee should be able to request and be granted sealing of the public record 5 years after completing the probation, provided the licensee has had no prior or subsequent licensure actions and is not the subject of a current investigation by the professional board.
- One area that has been a major concern for many licensees (especially nurses) involves the fact that there was not an alternative to discipline program available to certain licensees at the time they faced the challenges of having a substance use or mental health disorder. Thus, it would be helpful if each board had the ability to expunge certain orders that would not have been entered had there been an alternative to discipline program available to the licensee at the time the licensee was confronted by the professional board. For example, I know a number of licensees (nurses) who, years ago before there was an alternative to discipline program for them, were publicly disciplined because they had a substance use disorder, mental health or cognitive disorder. Today, those individuals can enter a confidential alternative to discipline program and avoid public discipline altogether if they comply with the program requirements. Physicians have had this ability

for years. It would be important if licensees who were publicly disciplined in the past, but who would have been eligible for a private resolution had their situations arose today, could now get their public orders sealed.

- On another note related to the above point, even though many health care providers are now allowed to enroll in alternative to discipline programs and avoid public disciplinary action if they comply with the program, health care entities are still making reports to the Division of Consumer Affairs (DCA) and/or the licensee's professional board. Although the DCA and the Board do not disclose such reports to anyone (because there is a statute which prohibits such disclosure), the health care entities do disclose to inquiring prospective employers that the licensee was reported to the DCA or professional board under the Health Care Professional Responsibility and Reporting Enhancement Act (a/k/a the "Cullen Law"). This goes on for seven years, even if the licensee is fully evaluated and released from the alternative to discipline program. For example, a licensee may be accused by a hospital of diverting medication, when in reality, the licensee was not diverting. The hospital terminates the licensee and reports her to the professional board. The licensee agrees to go into an alternative to discipline program and is fully evaluated and released from the program in 90 days because there is no substance use disorder, mental health issue or cognitive impairment. Despite that outcome, the former employer continues to report to prospective employers that it terminated the licensee and reported the licensee to the DCA or Board, but the DCA and the Boards do not report anything because it is confidential. This reporting by former employers goes on for seven years. This is highly prejudicial and makes it very difficult for the licensee to find future employment. Once a licensee is released from a monitoring program, the former employer should be relieved of its obligation to report adverse information to any inquiring prospective employers.
- A licensee, who was disciplined by a professional board as a result of an arrest and/or conviction for violation of a municipal ordinance, a conviction for a petty disorderly persons offense or a disorderly persons offense, or conviction of a crime covered by the expungement statute (N.J.S. 2C:52-1 et seq.), should be able to request that a professional board redact any language in a public document that discloses information about the arrest and/or conviction once it is expunged by the criminal court even if the board is not yet willing to seal a public order of discipline.
- A licensee who entered and successfully completed pretrial intervention (PTI) and was subsequently granted an expungement by a criminal court should be able to request that a professional board redact any language in a public document that discloses information about the arrest and/or conviction once it is expunged by the criminal court, even if the board is not yet willing to seal a public order of discipline.

- Finally, if a licensee is the subject of a Provisional Order of Discipline and the licensee convinces the Board that he/she should not be disciplined, the Board normally enters an Order Dismissing the Provisional Order. Unfortunately, both orders remain a matter of public record. Those types of orders should be sealed.
- “Sealing” of a board order should mean that all records are removed from the public domain and no longer available; that the proceedings to which they refer are deemed never to have occurred; that the board shall not report any cases that have been expunged or sealed to another state agency, to another licensing board or any other organization or entity; and that the licensee may properly reply that disciplinary records do not exist if asked. The Boards should also be required to notify the National Practitioner Data Bank, which is the federal data bank that collects information about public disciplinary actions, that the matter has been sealed.