

# 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 (after 30 days).....	20.00 plus the certification renewal fee set forth in (b)6 above
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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.

*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

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