

(b) Prior to providing services through telemedicine or telehealth, a licensee shall determine the patient's originating site and record this information in the patient's record.

(c) A licensee providing healthcare services through telemedicine shall use interactive, real-time, two-way communication technologies, which shall include, except as provided in (e) below, a video component that allows a licensee to see a patient and the patient to see the licensee during the provision of services.

(d) A licensee providing services through telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of:

1. Images;
2. Diagnostics;
3. Data; and
4. Medical information.

(e) If, after accessing and reviewing the patient's records, a licensee determines that he or she is able to meet the standard of care for such services if they were being provided in-person without using the video component described in (c) above, the licensee may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without a video component.

(f) During the provision of services through telemedicine or telehealth, and after the provision of services, a licensee, or another designated licensee, shall provide his or her name, professional credentials, and contact information to the patient. Such contact information shall enable the patient to contact the licensee for at least 72 hours following the provision of services, or for a longer period if warranted by the patient's circumstances and accepted standards of care.

(g) Prior to providing services through telemedicine or telehealth, a licensee shall review any history or records provided by a patient as follows:

1. For an initial encounter with a patient, history and records shall be reviewed prior to the provision of services through telemedicine or telehealth; and
2. For any subsequent interactions with a patient, history and records shall be reviewed either prior to the provision of services through telemedicine or telehealth or contemporaneously with the encounter with the patient.

(h) After the provision of services through telemedicine or telehealth, a licensee shall provide the patient, upon request, with his or her records created due to the services provided.

(i) A licensee shall provide, upon a patient's written request, the patient's information to the patient's primary care provider or to other health care providers.

(j) A licensee engaging in telemedicine or telehealth shall refer a patient for follow-up care when necessary.

13:44H-11.6 Records

A licensee who provides services through telemedicine or telehealth shall maintain a record of the care provide to a patient. Such records shall comply with the requirements of N.J.A.C. 13:44H-9, and all other applicable State and Federal statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a patient's record.

13:44H-11.7 Prevention of fraud and abuse

(a) In order to establish that a licensee has made a good faith effort to prevent fraud and abuse when providing services through telemedicine or telehealth, a licensee must establish written protocols that address:

1. Authentication and authorization of users;
2. Authentication of the patient during the initial intake pursuant to N.J.A.C. 13:44H-11.4(a)1;
3. Authentication of the origin of information;
4. The prevention of unauthorized access to the system or information;
5. System security, including the integrity of information that is collected, program integrity, and system integrity;
6. Maintenance of documentation about system and information usage;
7. Information storage, maintenance, and transmission; and
8. Synchronization and verification of patient profile data.

13:44H-11.8 Privacy and notice to patients

(a) Licensees who communicate with patients by electronic communications other than telephone or facsimile shall establish written privacy practices that are consistent with Federal standards under 45 CFR Parts 160 and 164, as amended and supplemented, which are incorporated herein by reference, relating to privacy of individually identifiable health information.

(b) Written privacy practices required by (a) above shall include privacy and security measures that assure confidentiality and integrity of patient information, as defined in 45 CFR 164.402, shall comply with the reporting requirements of 45 CFR Part 164.

(c) Licensees, or their authorized representatives, shall provide a patient, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the patient's written acknowledgement of receipt of the notice.

(d) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.

(e) Licensees who become aware of a breach in confidentiality of patient information, as defined in 45 CFR 164.402, shall comply with the reporting requirements of 45 CFR Part 164.

(f) Licensees, or their authorized representatives, shall provide a patient, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the patient's written acknowledgement of receipt of the notice.

(g) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.

(h) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.

(i) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.

(j) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.

(a)

**DIVISION OF CONSUMER AFFAIRS  
BUREAU OF SECURITIES  
Notice of Public Hearing  
Extension of Public Comment Period  
Fiduciary Duty of Broker-Dealers, Agents,  
Investment Advisers, and Investment Adviser  
Representatives**

**Proposed Amendment: N.J.A.C. 13:47A-6.3**

**Proposed New Rule: N.J.A.C. 13:47A-6.4**

Authorized By: Christopher W. Gerold, Bureau Chief, Bureau of Securities.

Authority: N.J.S.A. 52:14B-4(a)(3).

Proposal Number: PRN 2019-044.

**Take notice** that the Bureau of Securities will hold a public hearing in connection with its notice of proposal, published in the New Jersey Register on April 15, 2019, at 51 N.J.R. 493(a), to establish, by regulation, the common law fiduciary duty and apply it to broker-dealers and agents, and to codify it for investment advisers and investment adviser representatives. As stated in the notice of proposal, the comment period was scheduled to end on June 14, 2019. As a result of the public hearing discussed below, the comment period is extended to Thursday, July 18, 2019.

The purpose of the public hearing is to take testimony from interested parties concerning data, arguments, or views that raise a substantial issue as to the impact of the rulemaking on the regulated community or the general public that has not been anticipated by the agency.

The public hearing will be held on Wednesday, July 17, 2019, from 9:30 A.M. to 4:30 P.M., with a recess for lunch. The hearing will be held in the Morris Room at the Division of Consumer Affairs, 124 Halsey Street, 6th floor, Newark, NJ 07101. A court reporter will be present to record the proceedings.

Requests to speak should be submitted in writing to Maryann Sheehan, Director of Legislative and Regulatory Affairs, Division of Consumer Affairs, PO Box 45027, Newark, NJ 07101 or electronically at: [www.njconsumeraffairs.gov/Proposals/Pages/default.aspx](http://www.njconsumeraffairs.gov/Proposals/Pages/default.aspx) no later than July 10, 2019. Individual speakers are requested to provide a copy of their prepared remarks to the Bureau at the time of registration and on the day of the hearing. Specific presentation times will be assigned. Individual presentations will be limited to 10 minutes. Based upon the number of individuals who request to speak, the Bureau reserves the right to reduce the allotted time to speak and/or to schedule additional hearings on future dates. Those who do not pre-register to speak will be given an opportunity to do so only as time permits.

## TRANSPORTATION

### (a)

#### NEW JERSEY TRANSIT CORPORATION Private Carrier Capital Improvement Program Guidelines and Procedures Proposed New Rules: N.J.A.C. 16:76

Authorized By: New Jersey Transit Corporation, Kevin S. Corbett,  
Executive Director.

Authority: N.J.S.A. 27:25-5.e, h, and k and 6.b.

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

Proposal Number: PRN 2019-092.

Submit comments by August 16, 2019, to:

Christopher Lu  
New Jersey Transit Corporation  
One Penn Plaza East  
Newark, NJ 07105-2246  
Email: [commentsprivatecarriercapitalimprovement@njtransit.com](mailto:commentsprivatecarriercapitalimprovement@njtransit.com)

The agency proposal follows:

#### Summary

The proposed new rules repromulgate expired rules governing the procurement and leasing of capital improvements and equipment to private motorbus carriers for the operation of regular route bus service. In accordance with N.J.S.A. 52:14B-5.1, N.J.A.C. 16:76 expired on February 4, 2007, and, therefore, New Jersey Transit Corporation (NJ TRANSIT) proposes this chapter as new rules.

NJ TRANSIT was established by the New Jersey Public Transportation Act of 1979, N.J.S.A. 27:25-1 et seq., as the instrumentality of the State of New Jersey to establish and provide for the operation and improvement of a coherent public transportation system in the most efficient and effective manner. One of the programs by which NJ TRANSIT fulfills this responsibility is through the procurement and leasing of capital improvements and equipment to private motorbus carriers for the operation of regular route bus service.

The proposed new rules are designed to govern the procurement and leasing of capital improvements and equipment to private motorbus carriers pursuant to N.J.S.A. 27:25-5.h and k. Subchapter 1 describes the purpose of these proposed new rules and the applicable definitions. Subchapter 2 sets forth the guidelines and criteria to be followed in determining the eligibility of private bus carriers and the regular route bus services operated by the carriers for participation in the Private Carrier Capital Improvement Program (PCCIP); factors to be considered for eligibility for the program; disposal of capital equipment; source of funds for the program, allocation methodology of PCCIP funds to participating

carriers; eligible and ineligible uses of allocated PCCIP funds; bus rehabilitation or refurbishment program process; and sets forth special needs. Subchapter 3 sets forth the indetermination of eligibility notification and dispute process procedures to be used.

NJ TRANSIT has determined that the comment period for this notice of proposal shall be 60 days; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, this notice is excepted from the rulemaking calendar requirement.

#### Social Impact

The proposed new rules provide reasonable standards for the allocation of Private Carrier Capital Improvement Program funding to private motorbus carriers for the procurement of capital maintenance improvements and support equipment. The general purpose of NJ TRANSIT's Private Carrier Capital Improvement Program is to provide assistance to private bus carriers in acquiring capital improvements and equipment to improve regular route passenger service. The proposed new rules are designed to allocate Private Carrier Capital Improvement Program funds in a manner that is consistent with the provision of an efficient, effective, coordinated, and coherent public transportation system. For example, there may be some situations where the funds are not allocated to some private motorbus carriers because the expenditure of public funds for such private motorbus carriers is not consistent with sound transportation policy. The public benefit from the provision of capital improvements to private motorbus carriers for the provision of regular route passenger bus service is significant. The procedures delineated in the proposed new rules will protect the interests of the riding public and the taxpayers of New Jersey and aid the individual motorbus carriers who are eligible to participate in the Private Carrier Capital Improvement Program.

#### Economic Impact

The primary economic impact of these proposed new rules is on the riding public by sustaining the availability of affordable mass transit service. By reducing the need of private motorbus carriers to use financial resources for capital requirements and by making mass transit more attractive, the improvements and equipment provided may serve to hold down fares and contribute to increasing ridership. The Private Carrier Capital Improvement Program will provide needed funding to procure capital improvements, thus enabling the participating motorbus carrier to acquire, replace, and rehabilitate buses and other capital equipment and make facility improvements. The specific economic benefits to the motorbus carriers that may participate in the Private Carrier Capital Improvement Program cannot be calculated at this time.

NJ TRANSIT's recent funding of the Private Carrier Capital Improvement Program has been in the range of three to four million dollars annually. The program has provided needed capital equipment and/or improvements and enabled the participating carriers to replace major vehicle components on the buses utilized by the carriers to provide regular route bus services on various routes throughout the State.

#### Federal Standards Statement

The proposed new rules are not subject to any Federal standards and, therefore, a Federal standards analysis is not required.

#### Jobs Impact

NJ TRANSIT does not anticipate that implementation of these proposed new rules will result in the generation or loss of jobs in the State.

#### Agriculture Industry Impact

The proposed new rules have no impact on the agriculture industry.

#### Regulatory Flexibility Analysis

The proposed new rules apply to persons and entities who qualify as a motorbus carrier operating regular route bus service and who wish to participate in the program and receive capital improvements and equipment from NJ TRANSIT for use in the operation of regular route bus services. Some of these entities may be small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The proposed new rules impose recordkeeping and reporting requirements. The proposed new rules require that such requests be submitted in a specified manner. The proposed new rules provide funding for the procurement or lease of capital improvement and equipment to private carriers providing regular route bus service, thereby offering