

CHAPTER 44A**STANDARDS FOR COMMUNITY RESIDENCES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES****Authority**

N.J.S.A. 30:1-12 and 30:11B-1 et seq.

Source and Effective Date

R.2000 d.15, effective February 7, 2000.
See: 31 N.J.R. 597(a), 32 N.J.R. 454(a).

Executive Order No. 66(1978) Expiration Date

Chapter 44A, Standards for Community Residences for Individuals with Developmental Disabilities, expires on February 7, 2005.

Chapter Historical Note

Chapter 44A, Manual of Standards for Licensed Community Residences for Developmentally Disabled, was adopted as R.1978 d.330, effective September 18, 1978. See: 10 N.J.R. 283(a), 10 N.J.R. 444(b).

Chapter 44A, Manual of Standards for Licensed Community Residences for the Developmentally Disabled, was repealed and Chapter 44A was adopted as new rules by R.1983 d.23, effective February 7, 1983. See: 14 N.J.R. 531(a), 15 N.J.R. 149(b). Pursuant to Executive Order No. 66(1978), Chapter 44A expired on February 7, 1988.

Chapter 44A, Standards for Licensed Community Residences for the Developmentally Disabled, was adopted as R.1988 d.546, effective November 21, 1988. See: 20 N.J.R. 149(b), 20 N.J.R. 2898(b). Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See: 24 N.J.R. 656(a). Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See 25 N.J.R. 603(a).

Pursuant to Executive Order No. 66(1978), Chapter 44A, Standards for Licensed Community Residences for the Developmentally Disabled, was readopted as R.1993 d.633, effective November 8, 1993. See: 25 N.J.R. 4378(a), 25 N.J.R. 5528(a). Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See: 26 N.J.R. 3757(a). Pursuant to Executive Order No. 66(1978), Chapter 44A expired on November 8, 1998.

Chapter 44A, Standards for Community Residences for Individuals with Developmental Disabilities, was adopted as new rules by R.2000 d.15, effective February 7, 2000. See: Source and Effective Date.

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(a) The purpose of this chapter is to establish minimum requirements for the provision of residential services to people with developmental disabilities.

(b) This chapter shall apply to a variety of program models, to include group homes, supervised apartments, and supported living, as specified in the licensee's program description and, as applicable, in DDD contractual agreements.

(c) Community care residences, living arrangements in which a Family Care or Skill Development program is provided in a private home or apartment, are licensed under N.J.A.C. 10:44B.

(d) If none of the individuals with developmental disabilities at a particular place of residence require personal guidance, as determined by the interdisciplinary team, licensing shall be available on a strictly voluntary basis, in recognition of an individual's right to choose independent living.

10:44A-1.2 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect and to this end the provisions of this chapter are severable.

10:44A-1.3 Definitions

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

"Abuse" means any act or omission that deprives an individual of his or her rights or which has the potential to cause or causes actual physical injury or emotional harm or distress. Examples of abuse include, but are not limited to: acts that cause pain, cuts, bruises, loss of a body function; sexual abuse; temporary or permanent disfigurement, death; striking with a closed or open hand; pushing to the ground or shoving aggressively; twisting a limb; pulling hair; withholding food; forcing an individual to eat obnoxious substances; use of verbal or other communications to curse, vilify, degrade an individual or threaten an individual with physical injury. Planned use of behavioral intervention techniques which are part of an approved behavior modification plan or Individual Habilitation Plan are not abuse or neglect.

"Advocate" means a public or private officer, agency, or organization designated by State legislation, State plan, or the Governor to represent the interest of persons with developmental disabilities and speak on behalf of such individuals.

"Age appropriateness" means that aspect of normalization that reinforces recognition of an individual as a person of a certain chronological age. This includes, but is not limited to, an individual's dress, behavior, and use of language, choice of leisure and recreation activities, personal possessions and self-perception.

"Annex A" means a detailed program narrative, which includes a description of services and the staff coverage to be provided for individuals living in community based settings. The Annex A is reviewed as part of the licensing inspection process and the contract renewal process.

"Application for licensure" means a document supplied by the appropriate Division Regional Office that, when properly completed, begins the licensing process.

"Capacity" means the maximum number of individuals with developmental disabilities who may reside in the licensed residence.

"Case manager" means the authorized representative of any agency who coordinates the provision of social services and/or habilitation services to individuals with developmental disabilities.

"Community residence for the developmentally disabled" means any community residential facility housing up to 16 individuals with developmental disabilities which provides food, shelter, personal guidance, and/or training. Such residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L. 1971, c.136 (N.J.S.A. 26:2GH-1 et seq.), and shall include, but not be limited to, group homes, halfway houses, supervised apartments, supported living arrangements, and hostels. Skill development homes and family care homes are also community residences for individuals with developmental disabilities; however, these owner-occupied living arrangements are governed by N.J.A.C. 10:44B.

"Community Services" means a component of the Division of Developmental Disabilities which provides housing and supportive services to aid persons with developmental disabilities in establishing themselves in the community. Geographic regions and locations of offices are as follows:

1. Northern Regional Office, serving Sussex, Warren, Morris, Bergen, Passaic, and Hudson Counties, at the Greenbrook Regional Center, 275 Greenbrook Road, Green Brook, N.J. 08872;
2. Upper Central Regional Office, serving Essex, Somerset, and Union Counties, at the Greenbrook Regional Center, 275 Greenbrook Road, Greenbrook, N.J. 08872;
3. Lower Central Regional Office, serving Mercer, Middlesex, Ocean, Hunterdon, and Monmouth Counties, Capital Center, 50 East State St., PO Box 726, Tinton, N.J. 08625-0726; and
4. Southern Regional Office, serving Camden, Atlantic, Salem, Gloucester, Cumberland, Cape May, and Burlington Counties, 101 Haddon Avenue, Suite 17, Camden, N.J. 08103-1485.

"Deficiency" means that an applicant or licensee has not complied with a rule contained in this chapter.

“Department” means the Department of Human Services.

“Developmental disability” means a severe, chronic disability of a person which:

1. Is attributable to a mental or physical impairment or combination of mental or physical impairments;
2. Is manifest before age 22;
3. Is likely to continue indefinitely;
4. Results in substantial functional limitations in three or more of the following areas of major activity: self-care; receptive and/or expressive language; learning; mobility; self-direction; and capacity for independent living or economic self-sufficiency; and
5. Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of life-long or extended duration and are individually planned or coordinated.

“Division” means the Division of Developmental Disabilities.

“Executive director” means the person to whom the licensee may delegate administrative authority over the licensee’s community based programs regulated by, or under contract with, the Division.

“Exploitation” means any unjust or improper use of an individual or his or her resources for one’s profit, advantage or gratification.

“Falsification” means intentionally making a record or a document false, giving a false appearance to a record or a document, tampering with a record or a document.

“Fiduciary capacity” means that the licensee acts with a high degree of good faith when handling money entrusted to the licensee by individuals receiving services.

“Fire official” means a person certified by the Commissioner of the Department of Community Affairs, and appointed or designated to direct the enforcement of the Uniform Fire Safety Code by the appointing authority of a local enforcing agency and also means any certified fire inspector working under the direction of the fire official.

“Full license” means the authorization to operate based upon substantial compliance with this chapter. A full license shall be effective for up to one year.

“Group homes” means living arrangements operated in residences leased or owned by the licensee, which provide the opportunity for individuals with developmental disabilities to live together in a home, sharing in chores and the overall management of the residence. Staff in a group home provide supervision, training, and/or assistance in a variety of forms and intensity as required to assist the individuals as they move toward independence.

“Guardian” means an individual or agency appointed by a court of competent jurisdiction who is otherwise legally authorized and responsible to act on behalf of a minor or incompetent adult to assure provision for the health, safety, and welfare of the individual and to protect his or her rights.

“Imminent danger” means a situation that could reasonably be expected to cause a serious risk to the health, safety or welfare of an individual.

“Individual” means a person with developmental disabilities residing in a licensed community residence for individuals with developmental disabilities. “Individual with developmental disabilities” will be used in this chapter as necessary to distinguish between such persons and others, such as staff of the agency or staff of the Division of Developmental Disabilities.

“Individual Habilitation Plan” (IHP) means a written plan of intervention and action that is developed by the interdisciplinary team in accordance with N.J.S.A. 30:6D-10 through 12, and N.J.A.C. 10:44A-4.3. The IHP specifies both the prioritized goals and objectives being pursued by each individual and the steps being taken to achieve them, and may identify a continuum of skill development that outlines progressive steps and the anticipated outcomes of services. The IHP is a single plan that encompasses all relevant components, such as an education plan, a behavior modification plan, a program plan, a rehabilitation plan, a treatment plan and a health care plan. The complexity of the IHP will vary according to the needs, capabilities and desires of the person. In most instances, the IHP will address all of the major needs which have been identified. The major needs are prioritized. For an individual who makes only specific services requests, the IHP is a service plan that addresses only those specific requests.

“Interdisciplinary Team” (IDT) means an individually-constituted group responsible for the development of a single, integrated IHP. The team consists of the person receiving services, the legal guardian, the parents or family member (if the adult desires that the parent or family member be present), those persons who work most directly with the individual served, and professionals and representatives of service areas who are relevant to the identification of the individual’s needs and the design and evaluation of programs to meet them.

“Least restriction” means that interventions in the lives of individuals with developmental disabilities are carried out with a minimum of limitation, intrusion, disruption, or departure from commonly accepted patterns of living.

“License” means the authorization issued by the Department of Human Services to operate a community residence providing services to individuals with developmental disabilities.

"Licensee" means the individual, partnership, or corporation responsible for providing services associated with the operation of a community residence(s).

"Licensing agency" means the Office of Licensing and Inspections, within the Department of Human Services, Division of Developmental Disabilities.

"Mobile non-ambulatory individual" means an individual capable of independent bed to wheelchair transfer and capable of following procedures for evacuation from the facility.

"Negative licensing action" means an action which imposes a restriction on a licensee and may include suspension of admissions, issuance of a provisional license, a reduction in the licensed capacity, a denial of the license, a non-renewal of the license, a suspension of the license, or a revocation of the license.

"Neglect" means the failure of a paid or unpaid caregiver to provide for the care and safety of individuals under his or her supervision, or failure to provide and maintain proper and sufficient food, clothing, health care, shelter, and/or supervision.

"Normalization" means making commonly accepted patterns and conditions of everyday life available to people with developmental disabilities. Age-appropriateness and least restriction are two key aspects of normalization.

"Person-centered planning" means a process of helping persons, in accordance with their needs and preferences, to achieve a lifestyle that is consistent with the norms and patterns of general society and in ways which incorporate the principles of age appropriateness and least restrictive interventions.

"Personal advocate" means a person selected by an individual with developmental disabilities to provide assistance or act on his/her behalf in non-legal matters.

"Personal guidance" means the assistance provided to an individual with developmental disabilities in activities of daily living because he or she routinely requires help completing such activities of daily living and/or cannot direct someone to complete such activities when physical handicaps prevent self completion; or there is a documented health or mental health problem requiring supervision of the person for the protection of the individual or others. In the absence of a court determination, the interdisciplinary team determines the need for personal guidance for each individual, in accordance with N.J.A.C. 10:44A-4.3(c).

"Plan of correction" means a written response outlining actions taken or to be taken to address deficiencies cited in a licensing inspection report.

"Private placement" means the status of an individual who does not receive services from the Division of Developmental Disabilities at the time of his or her admission to a community residence governed by this chapter.

"Program description" means a document submitted to obtain a license and/or funding from the Division. A program description includes a detailed description of services provided to individuals and staff coverage, and is reviewed as part of the licensing inspection process. The program description is also included in Annex A of the contract and is amended annually as necessary.

"Provisional license" is a negative licensing action issued to prompt corrective actions in existing community residences. A provisional license is effective for less than one year.

"Relocate" means providing an individual with accommodations when the individual cannot evacuate a residence within three minutes, which arrangement meets the individual's needs and enables the individual to evacuate the residence within three minutes.

"Respite placement" means a service in which a licensee provides short term supports for an individual with developmental disabilities.

"Self-advocacy group" means a group of people with developmental disabilities who meet on a regular basis to discuss common goals, issues, needs and wishes. With the assistance of a facilitator, if needed, a self-advocacy group can serve as a united voice for people with disabilities.

"Special Response Unit" (SRU) means that component of the Division responsible to investigate serious unusual incidents in community programs licensed, contracted or regulated by the Division.

"Substantial non-compliance" means

1. The violation by an applicant, licensee or executive director of the laws of the State of New Jersey pertaining to or governing community residences for the developmentally disabled;
2. One or more licensing requirements have been left unmet and the unmet licensing requirements directly endanger the health, safety, or well-being of an individual;
3. The applicant, licensee or executive director refuses to cooperate with Division personnel in gaining admission to a residence or in conducting an investigation or inspection;
4. The applicant, licensee or executive director has failed to adhere to the approved Program description;
5. The applicant, licensee or executive director has falsified any information in order to obtain a license; or

6. The applicant, licensee or executive director has refused to furnish the Division with files, reports, or records as required by N.J.A.C. 10:44A.

“Supervised apartments” means apartments that are occupied by individuals with developmental disabilities and leased or owned by the licensee. Staff provide supervision, guidance, and training as needed in activities of daily living as defined by the individual’s needs and targeted future goals, in accordance with the requirements of this chapter.

“Supported living” means a living arrangement in which a highly flexible array of services and supports are provided in a variety of settings.

“Variance” means written recognition by the Division that the licensee has complied with the intent of a standard in a Division-approved alternative manner, in accordance with N.J.A.C. 10:44A-1.10.

“Waiver” means the temporary suspension of a standard that is granted in writing by the licensing agency.

“Willful non-compliance” means that action or non-action of an applicant or licensee who has knowledge of the violations of licensing rules and/or terms of the license, has been advised of the consequences of not achieving compliance and has not achieved compliance after being given an adequate opportunity to do so.

Amended by R.2003 d.221, effective June 2, 2003.

See: 34 N.J.R. 4298(a), 35 N.J.R. 2479(a).

In ‘Full license’ amended the length which the license shall be effective from two years to one.

10:44A-1.4 Application for licensure

(a) An application for licensure may be obtained by contacting the appropriate Regional Assistant Director’s Office (see the definition of “Community Services” at N.J.A.C. 10:44A-1.3):

1. Northern Region and Upper Central Region
c/o Greenbrook Regional Center
275 Greenbrook Road
Green Brook, NJ 08812
2. Lower Central Region
Capital Center
50 East State Street
PO Box 726
Trenton, NJ 08625-0726
3. Southern Region
101 Haddon Avenue, Suite 17
Camden, NJ 08103-1485

(b) Except as otherwise provided in the Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.), no license shall be issued to any applicant or licensee who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offenses.

(c) An application for licensure as an operator of a group home, supervised apartment, or supported living arrangement shall be submitted to the appropriate Regional Assistant Director’s Office of Community Services.

1. The application shall be composed of the following:

- i. A table of organization;
- ii. Curriculum vitae for the applicant and executive director;
- iii. Documentation that the applicant is not disqualified from licensure, as provided in (b) above;
- iv. A description of the applicant’s experience in providing services to developmentally disabled persons;
- v. Documentation that the business is incorporated or otherwise authorized to do business in the State of New Jersey;
- vi. A list of the governing body (for example, board of directors/ trustees) and their occupations;
- vii. References; and
- viii. The program description.

2. Licensees operating community residences in New Jersey on or before February 7, 2000 shall be required only to provide any changes in (c)1 above as part of the application process.

3. Applicants shall document on the application whether they will accept Division placements and/or seek Division funding.

(d) The program description shall be reviewed for completeness by staff of the Regional Office, the licensing agency and other Division staff deemed appropriate.

1. The program description shall be available for review by developmentally disabled persons, their guardians and their advocates, in accordance with N.J.A.C. 10:41-2.8(a).

(e) The applicant, the licensing agency and the Division Administrative Practice Officer shall be informed in writing of the approval or non-approval of the application, within 20 working days of such approval or non-approval.

10:44A-1.5 Procedure manual

(a) Prior to opening a residence, an applicant shall submit a procedure manual which meets the requirements of N.J.A.C. 10:44A-2.2 to the licensing agency for approval.

1. This requirement shall not extend to licensees operating community residences for the developmentally disabled in New Jersey whose procedure manuals have been approved on or before February 7, 2000.

10:44A-1.6 Issuance of an initial license

(a) Upon receipt of an approved program description, and upon approval of the licensee's policy and procedure manual, the licensing agency shall conduct an on-site initial inspection of the residence.

(b) Prior to the issuance of an initial license, the following, at a minimum, shall be available:

1. Documentation which demonstrates compliance with all certificate of occupancy (CO) requirements, including any required inspection by the Fire Official and registration with the Department of Community Affairs.

2. A fire evacuation plan;

3. A first aid kit that meets the requirements of N.J.A.C. 10:44A-5.1(g);

4. Functioning utilities, including an operable telephone;

5. If the building is not serviced by a public water supply, written approval from the local health department that the water supply is safe for human consumption;

6. Furniture and food for each individual served;

7. A staff schedule which conforms to the program description approved by the Division in accordance with N.J.A.C. 10:44A-1.4;

8. A copy of the deed or lease; and

9. Documentation that all necessary residential and vehicle insurance is in force.

(c) The Department shall issue a non-transferable full license, effective from the date of the on-site inspection, upon compliance with (a) and (b) above.

(d) If licensure is not approved, an applicant or licensee shall submit a plan of correction regarding all deficiencies within 30 days after notification to the licensee.

1. Following receipt of the plan of correction, the licensing agency shall conduct an on-site review to verify the corrective action taken.

(e) The license shall document the location of each residence and shall specify the maximum number of individuals with developmental disabilities that may occupy the home or apartment, excluding licensee's staff.

10:44A-1.7 Renewal of a license

(a) A full license shall be effective for up to one year from the expiration date of the preceding license, unless otherwise specified by the Division by the issuance of a provisional license, a non-renewal of license, suspension of license or revocation of license.

(b) Upon imposition of a provisional license or a non-renewal of license a licensee shall submit a plan of correction regarding all deficiencies within 30 days or in accordance with a shorter time frame as established by the licensing agency.

1. A shorter time frame shall be established by the Division in those instances where prompt remediation of a deficiency is required in order to protect the health, safety, welfare and rights of individuals receiving services.

(c) Following receipt of the plan of correction, the licensing agency may conduct an on-site review to verify the corrective action taken.

1. Following an on-site review, the findings of the licensing agency regarding the licensee's plan of correction shall be provided to the licensee. These findings shall indicate that each deficiency is corrected, partially corrected, not corrected, or that further review is required by the licensing agency.

- i. Should there be continuing deficiencies, or if new deficiencies are noted which document substantial or willful noncompliance, the findings shall indicate that a second plan of correction is required or that the licensing agency may impose a negative licensing action.

(d) If a second plan of correction is required by the licensing agency, the licensee shall submit the plan of correction within the time frame specified by the licensing agency.

(e) Following receipt of the second plan of correction, the licensing agency may conduct an on-site review to verify the corrective action taken.

1. Subsequent to an on-site review, the findings of the licensing agency regarding the licensee's second plan of correction shall be provided to the licensee. These findings shall indicate whether or not each deficiency is corrected.

- i. Should there be continuing deficiencies which the licensee has stated in the plan of correction have been corrected, or if other deficiencies are noted which jeopardize the health, safety, welfare and rights of the individuals, or which document substantial or willful noncompliance, the licensing agency shall impose a negative licensing action.

Amended by R.2003 d.221, effective June 2, 2003.

See: 34 N.J.R. 4298(a), 35 N.J.R. 2479(a).

In (a), amended the length which a full license shall be effective from two years to up to one.

10:44A-1.8 Denial, revocation, non-renewal or suspension of a license

(a) The licensing agency may deny, suspend, revoke, or refuse to renew a license for substantial non-compliance, or for willful non-compliance.

(b) If the licensing agency denies, revokes or refuses to renew a license, the licensee shall be prohibited from re-applying for a license for one year from the date of license

revocation or non-renewal. After the one year period has elapsed, the licensee may submit to the licensing agency a new application for a license.

1. When a negative licensing action is based upon falsification, willful noncompliance, criminal activity on the part of the applicant, licensee or executive director, or when individuals have suffered physical harm due to the applicant's, licensee's or executive director's actions or failure to act, the Division may refuse to accept any subsequent application.

(c) When a license is suspended, the licensing agency shall reinstate the license when the licensee achieves compliance with the provisions of this chapter. The Division shall not require the licensee to submit a new application for a license unless such application is expressly made a condition of the reinstatement of the license.

(d) Each license issued to a licensee shall remain the property of the Department of Human Services. If the licensing agency suspends or revokes a license, the licensee shall, upon notification, return the license to the licensing agency.

10:44A-1.9 Administrative hearings

(a) Upon imposition of a negative licensing action, the licensee shall have the opportunity to request an administrative hearing pursuant to N.J.A.C. 10:48-1.

(b) In the event of the imposition of a non-renewal, suspension or revocation, if the Division determines that individuals are not at risk and that no imminent danger(s) exist(s), the Division may permit a residence, operated by a licensee who has requested an administrative hearing as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

(c) If it is determined that the occupants of a home are at risk, the Division may:

1. Remove the individuals from the residence; or
2. Place staff approved by the Division at the residence to ensure the safety of the individuals.

10:44A-1.10 Waiver or variance

(a) A waiver or variance shall be granted by the licensing agency, provided that such a waiver or variance would present no danger to the health, safety, welfare or rights of the individuals receiving services.

1. The licensee shall request the waiver with substantial detail justifying the request.
2. Issuance of a waiver or variance shall be limited to the following circumstances:
 - i. Where enforcement of the standard would result in unreasonable hardship on the residence; or
 - ii. Where the waiver or variance is in accordance with the particular needs of the individuals with developmental disabilities.

10:44A-1.11 Complaints

(a) The Division shall have the authority to investigate any complaint received regarding a licensee.

1. The licensee shall cooperate with the Division in any investigation.

10:44A-1.12 Voluntary closure

A licensee shall give at least 60 days notice to the appropriate Regional Office of Community Services, Division of Developmental Disabilities of any planned closure.

SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

10:44A-2.1 General requirements

(a) The purposes of the licensee's organization and a description of the services that it provides shall be made available to individuals with developmental disabilities, parents, guardians, advocates and the general public. This document shall describe, in general terms, who is served, the services provided, and the goals of the licensee's organization.

(b) The licensee shall keep the following on file:

1. A record of all admissions and discharges, including names and dates, for the previous 24 month period;
2. A current copy of this chapter;
3. Copies of all current licenses; and
4. Written descriptions of any religious practices or restrictions that are observed if a licensee has a particular religious orientation, approved as part of the program description, in accordance with this chapter.

(c) A licensee having nonprofit status in accordance with 26 U.S.C. § 501(c)(3) shall have a Board of Trustees which meets the following criteria:

1. A minimum of five persons shall comprise the board;
2. Provisions shall exist for the orientation of new board members; and
3. Meetings shall be held with a frequency sufficient to discharge their responsibilities effectively; in no event shall the full governing body meet less than three times a year.

10:44A-2.2 Development and maintenance of procedure manual

(a) The licensee shall develop and implement a manual of written procedures to ensure that the service delivery system complies with State law and rules governing commu-

nity residences for individuals with developmental disabilities.

1. The procedures shall be reviewed annually and revised as necessary.

2. Each procedure shall be designed in accordance with the principles of normalization, age appropriateness, least restriction, person centered planning and shall be consistent with the organizational structure and management philosophy of the licensee.

3. While specific content for inclusion in a procedure shall be identified on an as-needed basis in these rules, to ensure consistency, each procedure shall include:

- i. A descriptive title which is unique so as to permit easy reference and retrieval of each document;
- ii. An explanation regarding the purpose of the document;
- iii. A description of sequential steps required to successfully complete a task or action;
- iv. Assignment of staff responsibilities at each step in the implementation; and
- v. Reporting and recording requirements for each person involved.

(b) The licensee shall maintain a procedure manual containing the following documents and/or procedures:

1. A statement of philosophy, values and goals so as to govern the organization's direction and character;

2. A table of organization that illustrates lines of authority, responsibility and communication;

3. A procedure for implementing a plan to deal with major emergencies requiring evacuation from the residence, such as a fire or a gas leak;

4. A procedure for handling medical emergencies;

5. A procedure for reporting all unusual incidents;

6. A procedure for the reporting of suspected abuse, neglect or exploitation of the individuals receiving services, including, at a minimum:

- i. A written statement expressly prohibiting abuse, neglect or exploitation;
- ii. A written statement regarding the obligation to report each allegation as required by N.J.S.A. 9:6-8.10, N.J.S.A. 52:27G-1 et seq. and Division policy; and
- iii. A written statement regarding specific agency investigation procedures;

7. A procedure to ensure sound fiscal management of individual's funds;

8. A procedure for resolving complaints and grievances of individuals receiving services;

9. A procedure, separate from individuals' records, for internal communication, to include the use of a log to document critical information and the associated action taken as necessary;

10. A procedure for admissions, including admission criteria, discharges, and changes in supports/services, which comply with the requirements of N.J.A.C. 10:44A-4;

11. A procedure to address the development, implementation, review and evaluation of each individual's habilitation plan as required by N.J.S.A. 30:6D-10 et seq.;

12. A statement regarding maintaining confidentiality of individuals receiving services and records as required by N.J.A.C. 10:41-2;

13. Written procedures for medication administration, including procedures for self-medication; and

14. A continuous quality improvement system to identify opportunities to improve services and/or supports and to resolve identified problems. The system shall include, at a minimum:

- i. A written plan to identify how data is collected, analyzed and utilized to determine patterns which identify process or systemic problems requiring further in-depth review;
- ii. Input from a variety of sources, including persons receiving services, family members and others;
- iii. A written summary of satisfaction surveys;
- iv. A written summary of outcomes assessments; and
- v. An action plan based upon an analysis of (b)14i through iv above.

10:44A-2.3 Implementation of procedure manual

(a) The procedure manual shall be available and accessible for staff use.

(b) All staff shall be able to describe procedures that they routinely implement.

(c) The procedure manual shall be available for review by authorized representatives of the Division of Developmental Disabilities.

10:44A-2.4 Personnel

(a) Personnel practices shall comply with all applicable Federal, State and local laws, ordinances, rules and regulations pertaining to employment, including civil rights, retirement plans or social security, minimum wages, hours and workers compensation.

(c) Staff are not required to be on-site when no individuals are present in the residence, but trained, paid agency staff, familiar with the individual(s), shall be available for emergencies.

(d) A written staff schedule, for at least a two-week period, shall be available for review at each residence. The employee in-charge shall be designated on the schedule for each shift.

1. At least one staff, currently trained and certified in first aid and CPR, shall be on duty for each shift.

10:44A-2.9 Records; individuals receiving services

(a) An individual file shall be maintained for each individual receiving services in a licensed community residence for individuals with developmental disabilities.

1. The file shall be legibly marked with the individual's name.

(b) Files shall be maintained at the residence or at the predetermined location stated in the program description/Annex A.

(c) An individual shall have access to his or her records, unless clinically contraindicated and documented.

(d) Individual records shall include:

1. Pre-admission information, as follows:
 - i. The individual's full name, date of birth, and sex;
 - ii. The individual's Social Security, Medicaid numbers or medical insurance numbers;
 - iii. The date(s) of admission, re-admission, transfer or discharge;
 - iv. The names and addresses of persons or agencies responsible for placement;
 - v. The names and addresses of all personal physicians and dentists;
 - vi. The name, address and telephone number of the legal guardian (or guardianship worker), next of kin, and other interested person(s), and a copy of the guardianship determination, if applicable;
 - vii. Religious preference;
 - viii. Pre-admission data including diagnosis, a psychological evaluation, as appropriate and/or available and developmental history, including behavioral characteristics;
 - ix. The IHP as amended or modified as specified at N.J.A.C. 10:44A-4.2(c);
 - x. The results of a physical examination completed within 90 days prior to the scheduled admission date;

xi. The results of a Mantoux Skin Test, completed within the past year, obtained within 30 days prior to admission;

xii. Certification from a physician stating the individual is free of communicable disease (written documentation shall be provided to the licensee within 72 hours of admission); and

xiii. An immunization record, as available as required for individuals under the age of 22.

2. The results of an annual physical examination and the results of the Mantoux Skin Test, readministered every year;

3. Annual reports from the dentist of dental examinations and corrective work done;

4. Initial reports of unusual incidents;

5. Seizure records, where indicated;

6. The current IHP;

7. Monthly reports of individuals' social and behavioral progress to correspond to the current IHP;

8. A medically prescribed diet, if required;

9. Documentation of known allergies;

10. Medication administration records;

11. An inventory of valuable personal property; and

12. Financial records pursuant to N.J.A.C. 10:44A-2.10.

10:44A-2.10 Individual financial records: individual funds

(a) Each individual shall have the right to manage his or her own personal funds consistent with his or her abilities as documented in his/her IHP.

1. If it has been determined that the individual cannot independently manage his or her funds/finances, the IDT shall determine how much money, if any, can be managed by the individual at any given time.

(b) The licensee shall develop procedures regarding the management of individuals' funds for individuals who have been determined in need of assistance by the IDT.

(c) At the time of admission each individual shall be provided with a written statement listing the services regarding the safekeeping and management of funds.

(d) The licensee shall obtain written authorization for any of the individual's funds to be entrusted.

1. The authorization shall specify which funds are to be entrusted to the licensee, including, but not limited to, Personal Needs Allowance, paychecks, Patient Trust Fund, monetary gifts, payment from family members, transportation reimbursements, public assistance, income tax rebates and insurance claims.

2. The individual and his or her guardian, where applicable, shall sign the authorization.

(e) For all funds entrusted to the licensee, the licensee shall maintain records and receipts of all income received and all disbursements of the individual's funds.

1. All receipts related to disbursements of an individual's funds and purchases made on behalf of an individual shall be maintained while the individual resides at the residence.

(f) If an individual's funds are entrusted to an agency, moneys received by an individual in excess of \$100.00 shall be placed in an interest bearing account unless otherwise determined by the IDT.

1. The account shall be in a form that clearly indicates that the licensee is acting in a fiduciary capacity regarding the individual's funds and that any interest from the account shall accrue to the individual.

2. The licensee may keep up to \$100.00 of an individual's money in a non-interest bearing account or petty cash fund, to be readily available for current expenditures, providing it is kept for safekeeping in an account separate from all other funds for the residence.

i. Any increase in this amount shall be authorized by the individual and his or her guardian, where applicable.

(g) The licensee shall, upon written request from the individual and his or her guardian, where applicable, return any or all of the individual's funds given to the licensee for safekeeping, including the interest accrued from deposits.

(h) There shall be no loans of finances, resources or property from an individual receiving services to the licensee, staff member, or any other individual receiving services.

(i) The licensee to whom the individual entrusts his or her funds shall assure that the management of such funds does not jeopardize the individual's entitlements to any appropriate Federal or private benefit.

(j) The licensee shall allow each individual and guardian, where applicable, access to a written record of all financial arrangements and transactions involving the individual's funds, upon request.

1. Copies of this record shall be made available to the individual and his/her guardian, upon request.

SUBCHAPTER 3. ADVOCACY AND RIGHTS

10:44A-3.1 General requirements

(a) The provision of services and support shall demonstrate recognition that people with disabilities have the same rights as all other citizens.

1. An individual's exercise of his or her rights shall not be prohibited or be used as a cause for retribution against him or her.

(b) Upon admission to the program and then upon subsequent request, the licensee shall provide the individual receiving services and his or her guardian, where applicable, with the following:

1. A copy of the Division's rights document;

2. The names, addresses and telephone numbers of advocates available to assist the individual in understanding and enforcing these rights, to include, at a minimum:

i. New Jersey Protection and Advocacy, Inc.;

ii. Community Health Law Project;

iii. Office of Licensing and Inspections;

iv. Bureau of Guardianship, if applicable;

v. His or her case manager;

vi. Division of Youth and Family Services' Child Abuse Control number (1-800-792-8610), if applicable; and

vii. Office of the Ombudsman (1-877-582-6995), if applicable.

3. A copy of the licensee's rules which apply to the individual's residence; and

4. A copy of the licensee's grievance procedure for appealing agency decisions, which shall have a minimum of two levels of appeal, the last of which shall involve the executive director or the licensee.

(c) If an individual is unable to read (b)1 through 4 above, the text shall be read or the meaning conveyed to the individual in a language or manner the individual understands.

1. The licensee shall make provisions to explain portions that are not understood and answer any questions the individual may have regarding (b)1 through 4 above.

(d) A copy of a written acknowledgment that (b)1 through 4 above has been explained and understood shall be immediately signed and dated by the individual, the licensee's representative(s) and the individual's guardian, if present.

1. If the guardian is not present, the signed acknowledgment shall be sent to the guardian within five days.

i. Documentation shall be maintained in the individual's record.

2. The acknowledgment may also be witnessed by a personal advocate, if present.

3. The acknowledgment shall be placed in the individual's record.

(e) The licensee shall ensure that staff are familiar with and observe the rights and responsibilities enumerated in the approved rights document.

(f) Individuals receiving services shall receive training and support in order to understand options, make choices and exercise rights and responsibilities.

1. The exercise of rights is not limited when an individual has a guardian or interested family.

(g) The licensee shall be responsible for utilizing a Human Rights Committee in accordance with N.J.A.C. 10:41-4.

Administrative change.
See: 33 N.J.R. 3746(a).

10:44A-3.2 Rules governing a residence

(a) The licensee may establish reasonable rules that govern the conduct of individuals in a particular residence, including, but not limited to, rules regarding smoking, pets and visitors, provided:

1. The rules are commensurate with the individuals' abilities and rights;

2. Individuals and their guardians, where applicable, are informed of the rules governing a residence prior to their admission;

3. The individuals affected by such rules are consulted whenever a revision is considered, and there is evidence the rules are necessary to promote order and to benefit the collective group;

4. The rules include provisions to ensure that an individual exercising his or her rights does so in such a way so as to not infringe upon the rights of, or endanger, others; and

5. The licensee complies with the rules contained in this chapter regarding the requirements for a grievance process/appeal of a licensee decision (see N.J.A.C. 10:44A-2.2(b)8).

(b) An individual or a group of individuals shall be given a copy of such rules, and additional copies shall be made available upon subsequent request.

(c) Each copy of the rules shall contain a statement that an individual or a group of individuals has the right to challenge such rules as to their appropriateness through the licensee's grievance procedure, in accordance with N.J.A.C. 10:44A-2.2(b)8.

(d) The process of conducting house meetings shall include the individual as much as possible unless the IDT has determined otherwise. The scheduling of such meetings shall include the individuals living in the home. Staff shall assist the individuals with setting the schedules and agendas for house meetings.

10:44A-3.3 Self-advocacy

(a) The licensee shall identify individuals who want a personal advocate or who wish to participate in a self-advocacy group.

(b) Individuals with developmental disabilities shall be given the opportunity to participate in a self-advocacy group of their choice.

(c) Notices of advocacy or self-advocacy conferences, seminars or meetings shall be made available to all individuals in each residence unless determined otherwise by the IDT.

SUBCHAPTER 4. SERVICE DELIVERY/HABILITATION

10:44A-4.1 Pre-admission and admission

(a) The licensee shall have written criteria for admission to a particular program, including temporary (respite) placements. These criteria shall include, at a minimum:

1. Specific services provided;

2. A non-discrimination statement regarding admissions, assuring no one will be denied admission on the grounds of race, sex, color, national origin, religion, age, physical or mental disability, ancestry, sexual preference/affiliation, including AIDS or HIV infection, atypical cellular hereditary blood traits or any other legally protected status;

3. A statement regarding any limitations an agency may have in providing services to an individual with a specific developmental disability;

4. A statement affording all individuals and/or their guardians the opportunity of preplacement visits to the residence;

5. A statement regarding any minimum and/or maximum age restrictions;

6. A statement regarding respite criteria; and

7. Fee structures.

(b) The appropriate Regional Office shall make referrals to licensed community residences funded by the Division of Developmental Disabilities.

1. All admissions of private placements shall be reported in writing to the licensing agency within five days.

(c) The number of individuals with developmental disabilities admitted to a residence shall not exceed the licensed capacity.

(d) Prior to admissions, the appropriate Regional Office shall provide the licensee with the following:

1. Information which complies with N.J.A.C. 10:46 which addresses eligibility for services;
2. Results from a medical examination conducted no more than 90 days prior to admission;
3. A current immunization record, as available and hepatitis B screening results in accordance with N.J.A.C. 10:48-2;
4. The results of a Mantoux Skin Test for tuberculosis, administered within one year prior to the date of admission; and
5. Pre-admission information required under N.J.A.C. 10:44A-2.9(a)1i through xi.

(e) The licensee shall, at the time of admission, and without cost to the individual, provide the following:

1. A copy of the written procedures for safekeeping of valuable personal possessions;
2. A written statement explaining the individual's rights;
3. A copy of the rules governing the residence, as applicable;
4. A copy of the grievance procedure; and
5. A copy of the procedure regarding toll calls/charges.

(f) The licensee shall make provisions to explain (e)1 through 5 above and answer any questions the individuals may have regarding this information.

(g) The individual's guardian shall be notified, in writing, that the individual has had this information explained to him or her.

1. A copy of the notifications shall be maintained in the individual's record.

(h) Within 30 days of an admission, an IHP shall be developed or modified in conjunction with the IDT in accordance with N.J.S.A. 30:6D-10 et seq.

10:44A-4.2 Changes in supports/services

(a) Any major change in an individual's residential service and/or supports shall include the utilization of the IDT.

1. In the case of a planned transfer or discharge, at least 30 days prior to the anticipated discharge date, at a minimum:
 - i. An addendum to the IHP shall update the existing plan and include the specifics of the transition.

ii. The development of the discharge plan shall include the licensee, the individual and his or her guardian, as appropriate, the IDT and a representative of the placing agency.

iii. The discharge plan shall assess the individual's continuing needs and recommend a plan for provision of follow-up services in the individual's new environment.

iv. The appropriate Division regional office shall be notified.

v. The individual's full records shall be transferred.

2. Should the licensee and the placing agency determine a residence is no longer suitable or no longer meets the needs of an individual, the individual shall not be maintained at that residence, provided substantive evidence is given to the placing agency.

i. All discharges of private placements shall be reported in writing to the licensing agency within five days.

10:44A-4.3 Individual Habilitation Plan (IHP)

(a) The licensee shall establish and implement a procedure to address the development, implementation, review and evaluation of each individual's habilitation or service plan as required by N.J.S.A. 30:6D-10 et seq.

(b) The individual's plan and monthly documentation of progress shall be maintained as part of the individual's record.

(c) The comprehensive IHP shall include, at a minimum, the following elements:

1. A cover page;
2. Evaluation summaries;
3. A summary of progress toward previous IHP goals and objectives;
4. Identification of person's preferences, capabilities and needs;
5. Goals;
6. Behaviorally stated, measurable, sequential objectives;
7. A clearly stated method of achieving each objective;
8. Identification of IDT members and persons responsible for ensuring the delivery of services/programs described in the plan;
9. A listing of all current and planned services/programs and their dates of initiation, anticipated duration and frequency;
10. Barriers to meeting the individual's needs;
11. A review of guardianship status;

1. If a minor is living in residence, the telephone number for the Division of Youth and Family Services' Office of Child Abuse Control (toll free in New Jersey at 1-800-792-8610) shall also be easily accessed and located by each telephone.

2. If an individual 60 years of age or older is living in the residence, the telephone number for the Office of the Ombudsman (toll free in New Jersey at 1-800-624-4262) shall also be easily accessed and located by each telephone.

10:44A-5.5 Food

(a) Sanitary practices shall be utilized in the storage, handling, preparation and serving of all food and drink.

(b) All appliances, equipment and utensils used for eating, drinking, preparation and serving of food shall be kept clean and in good condition and thoroughly washed after each use.

(c) Food shall be readily accessible to individuals receiving services unless limitations have been approved by the IDT.

(d) The licensee shall ensure that each individual is provided the opportunity for the following:

1. Three nutritionally balanced meals, varietal in nature, in the home or in the community; and
2. Reasonable adjustments to individual preferences, habits, customs and appetites.

(e) Individuals shall be afforded the choice of dining with other individuals or dining by themselves.

(f) Food shall meet the medical and dietary needs of the individuals receiving services.

1. When a medical or otherwise specified diet is required, the licensee shall assure that all necessary equipment is readily accessible.

2. Documentation of all such diets shall be maintained on the menu.

(g) An individual shall be allowed to eat at his or her own pace, unless otherwise determined by the IDT.

(h) Menus, to include all meals and available snacks, shall be dated, prepared at least one week in advance, and retained on file for a period of 30 days, unless an individual's IHP documents independence in meal purchase and planning.

(i) Consistent with their abilities, the individuals receiving services shall be consulted for preferences in determining the weekly menu and/or changing it as desired.

(j) Any substitution of food from the menu shall be of equal nutritional value and shall be documented on the menu.

10:44A-5.6 Clothing

(a) Each individual shall have the opportunity to select and purchase clothing according to individual taste and preference.

(b) The licensee shall provide assistance to individuals who require assistance in order to maintain their own clothing.

(c) The licensee shall provide laundry facilities without additional charge to individuals, unless there is documentation in an individual's IHP that the individual is to pay for the laundering of his or her own clothing or there is a provision in the licensee's contract for the individual to pay for the laundering of his or her clothing.

10:44A-5.7 Vehicle safety

(a) All agency vehicles used to transport individuals with developmental disabilities shall have the following:

1. Emergency equipment which shall include spare tire, jack and at least three portable red reflector warning devices;
2. A first aid kit to include:
 - i. Antiseptic;
 - ii. Rolled gauze bandages;
 - iii. Sterile gauze bandages;
 - iv. Adhesive paper or ribbon tape;
 - v. Scissors; and
 - vi. Adhesive bandages (for example, band-aids).
3. Snow tires, all weather tires, or chains when weather conditions dictate their use; and
4. A 10:BC dry chemical extinguisher.

(b) The licensee shall verify that all vehicles under the auspices of the licensee used to transport individuals with developmental disabilities shall comply with all applicable safety and licensing regulations established by the New Jersey Division of Motor Vehicles.

1. The licensee shall maintain or document valid liability insurance on all vehicles used to transport individuals with developmental disabilities.

2. All drivers shall have a driver's license valid in the State of New Jersey.

3. Individuals receiving services whose IHP has determined that being left unattended in a vehicle would present a danger to themselves or others shall be supervised accordingly.

4. The interior of each vehicle shall be maintained in a clean, safe condition and shall be free of obstacles obstructing clear passage to operable doors.

10:44A-5.8 Workplace safety

(a) The licensee shall comply with the Occupational Safety and Health Administration's (OSHA) regulations (29 CFR) as they may apply to a particular type of residence the licensee operates, and shall ensure consistent and sound enforcement.

1. The licensee shall maintain on file all inspection reports and correspondence documenting noncompliance with OSHA requirements.

2. All such reports and correspondence shall be available for review by authorized representatives of the Division.

SUBCHAPTER 6. FIRE SAFETY AND PHYSICAL ENVIRONMENT

10:44A-6.1 Fire safety

(a) Each community residence operated by the licensee shall be registered with the Department of Community Affairs (DCA) and shall be subject to inspection on an annual basis, consistent with N.J.S.A. 52:27D-192 et seq., and rules promulgated thereunder.

1. All written reports from such inspections shall be maintained on file.

(b) Each community residence for individuals with developmental disabilities shall comply with the provisions of N.J.S.A. 52:27D-192 et seq. (Uniform Fire Safety Act).

1. The Division may identify, in a contract with a licensee, any additional fire safety precautions required.

(c) Variances from regulations may be requested in accordance with N.J.S.A. 52:27D-200.

10:44A-6.2 Fire evacuation plans

(a) The licensee shall design an evacuation plan for each residence in accordance with the Uniform Fire Safety Act (N.J.S.A. 52:27D-192 et seq.) and the individual characteristics of the home.

1. The plan shall be further developed by evaluating each individual according to the following risk factors:

- i. Mobility;
- ii. Ability to problem-solve;
- iii. Ability to evacuate;
- iv. Compliance issues;

v. Medical factors; and

vi. Behavioral factors.

(b) The evacuation plan shall be reviewed at least annually and revised as needed:

1. Whenever a new individual moves into the residence; and
2. Whenever current occupants develop problems evacuating the residence.

(c) All individuals shall be able to evacuate the residence in less than three minutes.

10:44A-6.3 Egress protocols

(a) Individuals residing in a community residence are presumed to have a prompt self-evacuation capability when the following conditions are met:

1. A site-specific evacuation plan is drawn up and followed;
2. Fire drills, supervised by staff, are performed a minimum of once per month;
3. Each shift performs at least four fire drills a year;
4. Fire drills are performed at random times so that individuals are engaged in a variety of routine activities during the drills;
5. Fire drills assume different fire location simulations that require that all means of egress be used;
6. The evacuation plan includes a designated meeting spot at which the individuals assemble after evacuating the premises;
7. A prompt egress time of three minutes or less is attained and maintained;
8. Individuals are free from physical restraint and are not locked in at any time; and
9. Written records are maintained including the following information:
 - i. The date and time of the fire drill;
 - ii. The location of the simulated fire;
 - iii. The evacuation plan followed; and
 - iv. The names of individuals and staff who participated in the drill.

(b) In the event that an individual exceeds the allotted evacuation time, the licensee shall take one of the following steps:

1. Provide training in evacuation to the individual;
2. Add awake staff to assure the three-minute time is met;