

(i) By September 30, 2005, all individuals licensed under N.J.A.C. 10:44B, Standards for Community Care Residences for Individuals with Developmental Disabilities, shall be trained by the Department in the requirements of these rules.

(j) After the initial certification of training under (h) above, each facility shall submit an annual certification by the CEO or Executive Director that all staff have been trained in the procedures to call 911 as follows:

1. For facilities licensed under N.J.A.C. 10:44A, Standards for Community Residences for Individuals with Developmental Disabilities, N.J.A.C. 10:44C, Standards for Community Residences for Persons with Head Injuries, or N.J.A.C. 10:47, Standards for Private Licensed Facilities for Persons with Developmental Disabilities, the certification shall be submitted for review at the time of the annual licensing inspection. Licensing staff shall be responsible to review the training records at the time of the annual inspection. The certification shall cover all facilities licensed by the Department or under contract with the Division;

2. For developmental centers, the certification shall be provided to the Director annually by August 1. The Office of Quality Management within the Division shall be responsible to monitor the training; and

3. For facilities that are not licensed but are under contract with the Division, the certification shall be provided to the Assistant Commissioner at the time of the renewal of the contract. The Office of Quality Management within the Division shall be responsible to monitor the training.

(k) Procedures for calling 911 and reporting life-threatening emergencies shall be incorporated into the standard training curriculum for the facility.

(l) For individuals licensed under N.J.A.C. 10:44B, Standards for Community Residences for Individuals with Developmental Disabilities, documentation of completion of training shall be provided to the Department at the time of the annual licensing inspection.

(m) The facility shall keep a record of every 911 call and every failure to make a 911 call in the event of a life-threatening emergency.

(n) Every 911 call and every failure to make a 911 call in the event of a life-threatening emergency shall be reported to the Department as an unusual incident and the facility shall maintain a record of all such calls and failures to make such a call.

Amended by R.2011 d.076, effective March 7, 2011.
See: 42 N.J.R. 1964(a), 43 N.J.R. 620(c).

In (j)3, substituted "Assistant Commissioner" for "Director" and a period for a comma following the second occurrence of "contract".

10:42A-2.2 Life-threatening emergencies

(a) When a life-threatening emergency is detected, a 911 call shall be made immediately. If a staff member is not certain if the situation is a life-threatening emergency, then a 911 call shall be made immediately. Examples of life-threatening emergency shall include, but not be limited to:

1. Unconsciousness;
2. Persistent chest pain or discomfort;
3. Not breathing or having trouble breathing;
4. No signs of circulation;
5. Severe bleeding; or
6. Seizures that are unusual, prolonged or multiple, last more than five minutes, result in injury or occur in someone who is pregnant or diabetic.

SUBCHAPTER 3. MONITORING

10:42A-3.1 Enforcement

(a) The Department shall maintain a record of:

1. All reports received in which a 911 call was made in a life-threatening emergency;
2. All reports in which it is identified that a 911 call was not made in life-threatening emergencies; and
3. Any other instance in which the Department determines that a 911 call should have been made.

(b) The reports under (a) above shall not be considered public records under the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(c) The Department shall conduct a review of all reports and instances under (a)2 and 3 above, and any complaints that a 911 call was not made, to determine whether there was a life-threatening emergency, whether a 911 call was made and any other relevant facts. The Department shall report all findings to the Assistant Commissioner. Reports containing aggregate data of all calls are considered government records and are subject to disclosure under Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

(d) The Assistant Commissioner shall determine whether a staff member has violated Danielle's Law, N.J.S.A. 30:6D-5.3.

(e) A staff member who violates N.J.S.A. 30:6D-5.3 shall be liable to a civil penalty of \$5,000 for the first offense, \$10,000 for the second offense and \$25,000 for the third and each subsequent offense.

(f) When the Assistant Commissioner has determined that a staff member has violated N.J.S.A. 30:6D-5.3, the Division shall notify that staff member of this determination by certified mail (return receipt requested) or by personal service. A copy of that notice shall be sent to the chief executive officer or executive director of the facility. The notice of violation shall:

1. Identify the section of the statute or rule violated;
2. Concisely state the facts which constitute the violation;
3. Specify the amount of the penalty to be imposed; and
4. Advise the staff member of how the notice of violation may be appealed.

(g) If an appeal of the notice of violation is not requested, the notice of violation shall become the final decision of the Department upon expiration of the 30-day period following the receipt thereof.

(h) A request for appeal shall be submitted in writing to the Assistant Commissioner within 30 days of the date of receipt of the notice of violation and shall contain the information required below. This information shall be the basis of an initial pleading should the matter be transmitted to the Office of Administrative Law. If the required information is not provided, an appeal shall be denied and the notice of violation becomes the final decision of the Department upon receipt of notice of such denial. The request shall include:

1. The name, address and telephone number of appellant and any authorized representative;
2. A brief statement of the matter under appeal;
3. A list of potential witnesses; and
4. A statement as to whether the staff member agrees to the Department's holding the request for a reasonable period prior to referral to the Office of Administrative Law to allow for possible settlement of the dispute as provided by N.J.A.C. 1:1-8.1(b).

(i) If a request for an appeal meets the requirements set forth in (h) above and is timely submitted, this matter shall be considered a contested case and shall be referred to the Office of Administrative Law for a hearing, in accordance with the

Administrative Procedure Act at N.J.S.A. 52:14B-2(b) and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(j) If the contested matter is not settled and the staff member has not agreed to the Department's holding the appeal request for a reasonable period prior to referral to the Office of Administrative Law for purposes of possible settlement of the dispute, the Assistant Commissioner shall transmit the matter to the Office of Administrative Law within 30 days of the receipt of the appeal.

(k) The Assistant Commissioner shall notify the appellant that the matter has been transmitted to the Office of Administrative Law.

(l) An initial decision rendered by Office of Administrative Law shall be adopted, rejected or modified by the Commissioner within 45 days of its receipt (N.J.S.A. 52:14B-10(c)). The decision of the Commissioner constitutes the final decision of the Department.

(m) Upon issuance, the final decision of the Department shall be sent to the involved parties with notice that any further appeal must be to the Appellate Division of the Superior Court of New Jersey.

(n) The Commissioner shall take appropriate action on any final decision of the Department which may include a referral to the Attorney General to collect a civil penalty in a summary proceeding pursuant to the "Penalty Enforcement Act of 1999," P.L. 1999, c. 274 (N.J.S.A. 2A:58-10 et seq.).

(o) The Department shall report to professional licensing boards for appropriate action any final decision of the agency that finds violations of N.J.S.A. 30:6D-5.3.

(p) The Department shall maintain a record of violations of N.J.S.A. 30:6D-5.3 and these rules which shall be included in the criteria that the Department considers in making a decision on whether to revoke or not renew the license of a facility licensed under N.J.A.C. 10:44A, 10:44B, 10:44C or 10:47 or whether to terminate or not renew a contract with a public or private agency, as applicable.

Amended by R.2011 d.076, effective March 7, 2011.
See: 42 N.J.R. 1964(a), 43 N.J.R. 620(c).

In (c), (d), the introductory paragraph of (f), and (h), (j) and (k), substituted "Assistant Commissioner" for "Director" throughout.