

10:44A-1.7 Renewal of license

(a) Subsequent licenses will be issued effective for one year from the expiration date of the preceding license with the following exceptions:

1. Upon determination that a negative sanction in the form of a provisional license, reduction in licensed capacity, suspension of license, failure to renew a license, or a revocation is appropriate.
2. Upon receipt of full accreditation by an Accreditation Body deemed acceptable by the Director, Division of Developmental Disabilities, a license effective for a two year period will be issued.
 - i. An organization granted full accreditation shall be responsible for conducting a complete self-survey utilizing the rules in this chapter.
 - ii. The Office of Licensing and Inspections shall review the self-survey and conduct an abbreviated inspection using the self-survey document during the year when an accreditation survey is not conducted.

10:44A-1.8 Voluntary closure

The licensee shall give at least 90 days notice to the appropriate Regional Office of Community Services, Division of Developmental Disabilities of any intention to close.

10:44A-1.9 Non-compliance and negative sanctions

(a) The Department of Human Services may revoke, suspend, or reduce the license whenever the licensee or designated administrator is found to be violating the laws of the State of New Jersey or when residences fall below the standards established by the Division of Developmental Disabilities.

1. Substantial violation of any subchapter, that is, Administrative Policies and Practices, Advocacy and Rights, Habilitation and Health Services, Physical and Social Environment shall be reason for revocation or reduction in the status of the license.
2. Substantial non-compliance exists when:
 - i. The unmet licensing requirements directly endanger the health, safety, or well-being of an individual;
 - ii. When the unmet requirements exist in significant number;
 - iii. When the degree of the condition(s) is severe;
 - iv. When one or more requirements have been left unmet with great frequency; and/or
 - v. When the terms of the license have been violated;
3. Willful non-compliance exists when the applicant or licensee 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.

(b) The licensee shall be given 30 days notice by the Division of Developmental Disabilities of intentions to revoke, reduce, or suspend a license, unless the Division determines that the individuals in residence may be in danger of abuse, neglect, or other life-threatening conditions.

(c) If minor renovations or programmatic changes are required to correct violations, a plan of correction shall be submitted to the Program Development Unit within 30 days after notification to the agency. For each deficiency noted in the licensing report, the plan of correction shall provide:

1. Target dates for compliance;
2. Details of plans to correct violations.

(d) Major violations shall be corrected within the time frame established by the Division of Developmental Disabilities. If deficient conditions are not corrected within the time period designated by the Division of Developmental Disabilities, the residence may have its license reduced, revoked, or suspended under appropriate regulations in accordance with N.J.S.A. 30:11B-1 et seq. The licensee shall be informed of the specific action.

(e) Admissions may be suspended by the Division until the deficient conditions are corrected.

(f) The standards found in this chapter shall apply to supervised apartments as well as group homes, unless otherwise noted in the standard. N.J.A.C. 10:44A-8 provides specific standards for the staffing and physical plant requirements in supervised apartments.

10:44A-1.10 Appeal process

(a) A licensee aggrieved by a ruling, action, order, or notice of the licensing agency which results in a negative sanction, as defined in these rules shall be entitled to an administrative hearing. The application for the hearing shall be filed with the Director, Division of Developmental Disabilities, by the fifteenth day after receipt by the licensee of notice of the ruling, action, order, or notice.

1. All hearings shall be conducted pursuant to N.J.A.C. 10:48. The final decision shall be issued by the Director of the Division of Developmental Disabilities.

(b) An informal conference shall be granted regarding those matters involving the licensee and the licensing agency which do not constitute negative sanctions against the licensee.

(c) Upon receipt of notice from a licensee of a grievance, the licensing agency shall forward a copy of the Division's appeal procedure (Division Circular # 37) for the licensee's reference.

10:44A-1.11 Waiver or variance

(a) A waiver or variance may 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. The waiver must be requested by the licensee with substantial detail justifying the request. Issuance of a waiver or variance will be limited to the following circumstances:

1. Where strict enforcement of the standard would result in unreasonable hardship on the residence; or
2. Where a waiver or variance is in accordance with the particular needs of the developmentally disabled individuals.

SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

10:44A-2.1 General requirements

(a) The licensee shall monitor the efficiency and effectiveness of its organization by:

1. Adhering to specifications of its governing documents such as the Letter of Intent, charter, bylaws, etc., and reviewing and amending such documents annually or as necessary.
2. The licensee shall conduct a systematic assessment of its effectiveness on an annual basis.

(b) The purposes of the organization, a description of the program and services which it provides shall be made available to individuals with developmental disabilities, parents, guardians, advocates, and the general public.

1. This document shall describe, in general terms, who is served, the services provided, and the goals of the organization.
2. Although common language rather than legalistic or professional terminology shall be used, the information shall not be inconsistent with the organization's legal documents, for example, its character or statement of incorporation.

(c) The licensee may choose to employ an administrator to manage the community residence(s).

1. The relationship between the licensee, Board of Directors/Trustees (if any), and the administrator shall be documented and available for review by authorized officials of the Division.
2. **The administrator's duties shall be defined in writing.**

3. The administrator shall be delegated the authority and responsibility necessary to direct the organization in accordance with its policies/procedures.

(d) A licensee having non-profit status 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.
3. Meetings shall be held with a frequency sufficient to discharge their responsibilities effectively; in no event should the full governing body meet less than three times per year.

Case Notes

State court exercised jurisdiction over union representation election despite arguable National Labor Relations Board jurisdiction. Communications Workers of America, AFL-CIO v. Atlantic County Ass'n for Retarded Citizens, 250 N.J.Super. 403, 594 A.2d 1348 (Ch.1991).

10:44A-2.2 Staff coverage

(a) The staff schedule shall be initially approved as part of the Letter of Intent process and reviewed at each inspection.

1. Reduction of staff coverage shall be justified in writing and sent to the Office of Licensing and Inspections and the Program Development Unit for Division approval.
2. Reduction of staff coverage shall not be implemented until approval is granted by the Office of Licensing and Inspections.

(b) Staff are not required to be on-site when all individuals are in a weekday program, but trained paid agency staff, familiar with the program, shall be available for emergencies.

(c) Staff coverage may be adjusted in accordance with documented approval(s) by the Interdisciplinary Team that an individual or individuals can be left alone for specific amounts of time.

(d) A written staff schedule for at least a two week period shall be available at each group home or at the supervisor's office for supervised apartments. The employee in-charge shall be designated on the schedule for each shift.

(e) If there is documentation that an individual has health or behavioral problems which present a danger to self or others, awake overnight coverage may be required.

(f) Volunteers shall have planned duties and be supervised at all times by paid staff.