

CHAPTER 37A

**COMMUNITY RESIDENCES FOR
MENTALLY ILL ADULTS**

Authority

N.J.S.A. 30:11B-1 et seq., specifically 30:11B-4.

Source and Effective Date

R.2010 d.168, effective July 6, 2010.
See: 41 N.J.R. 4394(a), 42 N.J.R. 1732(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 37A, Community Residences for Mentally Ill Adults, expires on July 6, 2017. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 37A, Community Residences for Mentally Ill Adults, was adopted as R.1994 d.292, effective June 6, 1994. See: 25 N.J.R. 2672(a), 26 N.J.R. 2271(b).

Pursuant to Executive Order No. 66(1978), Chapter 37A, Community Residences for Mentally Ill Adults, was readopted as R.1999 d.203, effective June 4, 1999. See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).

Chapter 37A, Community Residences for Mentally Ill Adults, was readopted as R.2005 d.1, effective November 29, 2004. See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 37A, Community Residences for Mentally Ill Adults, was extended by gubernatorial directive from May 28, 2010 to July 27, 2010. See: 42 N.J.R. 1053(a).

Chapter 37A, Community Residences for Mentally Ill Adults, was readopted as R.2010 d.168, effective July 6, 2010. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:37A-1.1 Scope and purpose

(a) Provider agencies (PA) operating community residences for adults with mental illness shall comply with the physical and program standards contained within this chapter. These residences include group homes serving a maximum of 15 persons, PA supportive housing residences with a purchase of service contract with the Division or supportive housing residences formally owned or leased by an organized entity with an affiliation agreement with a PA, PA apartments, and family care homes with a services agreement with the PA. These residences shall be approved for a purchase of service contract pursuant to this chapter and Department contract rules, including N.J.A.C. 10:4, and shall not be considered health care facilities within the meaning of N.J.S.A. 26:2H-1 et seq.

(b) The PAs shall provide a residential care program to all enrolled consumer residents. Such a program shall consist of the services described in this chapter and shall be provided in facilities owned or leased by the PA or in a supportive housing residence, or through services agreements with private operators.

(c) The major goal of the community residence program for mentally ill adults shall be to support and encourage the development of life skills required to sustain successful living within the community. Residential housing and services shall be organized around the principle of consumer resident responsibility and participation. An integral component of the community residence program is the assistance of consumer residents in gaining the life skills necessary to move to a less restrictive environment, unless otherwise restricted by specific contract provision.

(d) The residential care program shall have a rehabilitation focus designed to develop and improve skills necessary for successful community integration. Programming shall focus on empowering the consumer resident's use of generic community supports, where available, to meet physical, psychological and social needs as a means to promote an improved quality of life and emotional well-being. Consumer residents shall live in the most normalized, least restrictive environment possible to promote individual growth and safety.

(e) Services provided to residents shall include those designed to accommodate ongoing, non-acute health care maintenance. Clients shall be considered medically cleared if they do not have an acute medical condition requiring inpatient hospitalization, do not need nursing home level of care (that is, 2.5 hours of nursing care per day), are able to evacuate the residence within three minutes, and are capable of self-managing incontinence or other medical care needs. Aspects of a patient's medical condition which can be accommodated by staff training and support or which can be self-managed should not automatically serve as a bar to admission.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote (a); in (b), inserted "or in a supportive housing residence" preceding "or through services"; substituted references to consumer residents for references to clients throughout.

Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

In (c), added the third sentence; added (e).

Case Notes

Although the Court understood Plaintiff's claim that New Jersey law did not require community residences to provide for the safety of the surrounding community, standards of care for mentally ill residents must be understood, by extension, to provide some degree of community safety by offering at least a basic level of care focused on successful community integration. *Township of West Orange v. Whitman*, 8 F.Supp.2d 408 (D.N.J. 1998).

10:37A-1.2 Definitions

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

"Assessment and evaluation" means activities that will analyze an individual consumer resident's desires, functioning, strengths, needs and environment to determine appropriate interventions. An opportunity will be given for the consumer resident to provide a self-assessment and for any family member or significant other of the consumer resident's choice to provide an assessment of the consumer resident as well.

"Commissioner" means the Commissioner of the Department of Human Services.

"Community residence for the mentally ill" (residence) means any community residential facility approved by the Department which provides food, shelter, and personal guidance under such level of care as required, to not more than 15 mentally ill persons who require assistance, temporarily or permanently, in order to live independently in the community. Agencies operating community residences for the mentally ill must have an approved purchase of service contract pursuant to the Department's contract rules and this chapter. These residences are not considered health care facilities, within the meaning of the "Home Care Facilities Planning Act," P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.) and are limited to, group homes, supervised apartments, family care homes and supportive housing residences as defined in this chapter.

“Comprehensive service plan” (CSP) means a document that summarizes the periodic formulation of goals, objectives, and interventions for residential services for an individual consumer resident.

“Conditional license” means a licensing action indicating that although certain prompt corrective actions in existing community residences are necessary before a full license can be issued, sufficient compliance exists to confer operational authority upon the licensed provider.

“Consumer resident” means a person diagnosed with a mental illness who is a resident of a community residence for mentally ill adults.

“Consumer resident service agreement” means a written agreement between the PA and consumer resident which includes responsibilities of both the PA and the consumer resident.

“Crisis intervention counseling” means an attempt to facilitate crisis stabilization through the use of specific, time-limited counseling techniques. Crisis intervention counseling focuses on the present, providing pragmatic solutions to identified problems.

“Crisis intervention services” means the implementation of the PA’s written emergency policies and procedures focusing primarily on consumer resident and staff safety. Examples include provision of behavior management techniques, and request for outside assistance. Behavioral management techniques exclude physical and chemical restraint, aversive conditioning and punishment. Crisis intervention services shall be documented and shall be supported by such policies and procedures which reflect adequate responses to emergent situations.

“Department” means the Department of Human Services.

“Discharge” means (with reference to supervised apartments, family care homes, and group homes) that the consumer resident has vacated the physical premises and that services to that consumer resident have ceased, for any of the reasons delineated at N.J.A.C. 10:37A-9.2. In the context of a supportive housing residence subject to a lease agreement, discharge means either:

1. That the consumer resident has chosen to leave the premises; or
2. That the consumer resident was removed from the premises through eviction procedures under New Jersey landlord/tenant law.

“Division” means the Division of Mental Health Services, within the Department of Human Services.

“Dwelling unit” means a single unit providing complete, independent living facilities for one or more persons living

as a single housekeeping unit, including permanent provisions for living, sleeping, eating, cooking and sanitation.

“Education” means instruction for consumer residents in basic skills, including academics, and increasing learning capabilities, in the areas of psychoeducation and health.

“Exclusion” means the immediate and temporary removal of a consumer resident from the Level A+, A, B, C or D residence when the individual’s behavior presents a substantial, immediate and emergent threat to the physical safety of others, or to the emotional or psychological health of other consumer residents. The consumer resident may be prevented from returning until the immediate threat has been obviated.

“Family care home” means a private home or apartment in which an individual resides and provides services to as many as three consumer residents who also reside in the home (except that residences where four resided in the home prior to January 3, 2005 shall be considered family care homes). The PA provides mental health services to the consumer resident and consultation to this individual, based on a services agreement.

“Group home” means any leased or owned single family residence or any single structure containing three or more dwelling units, all of which are utilized for the provision of residential care services, wherein staff reside or are stationed either onsite or in close proximity and for which a contract exists with the Division. “Group homes” do not include family care homes, supportive housing residences or PA apartments where individuals may receive regular or periodic rehabilitation services and/or visits from staff, except where such PA apartments are contained in a structure of three or more dwelling units and all units are operated under contract with the Division.

“Individual services coordination” means those staff activities which are aimed at linking the consumer resident to the mental health and social service system and the arranging of the provision of appropriate services. Coordination activities include intake and referral, admission and acceptance, placement, termination and follow-up, individual services planning and treatment reviews, advocacy with non-mental health systems, and documentation of services provided.

“Level A+ Care” means, regarding licensed group homes, family care homes or supervised apartments, community mental health rehabilitation services are provided to consumer residents 24 hours per day, seven days per week. This includes awake, overnight staff coverage.

“Level A Care” means, regarding licensed group homes, family care homes, or supervised apartments, community mental health rehabilitation services are available to consumer residents 12 or more hours per day (but less than 24 hours per day), seven days per week.

"Level B Care" means, regarding licensed group homes, family care homes, or supervised apartments, community mental health rehabilitation services are available to consumer residents for four or more hours per day (but less than 12 hours per day), seven days per week.

"Level C Care" means, regarding licensed group homes, family care homes, or supervised apartments, community mental health rehabilitation services are available to consumer residents for one or more hours per week (but less than four hours per day).

"Level D Care" means, regarding licensed group homes, family care homes, or supervised apartments, community mental health rehabilitation services are available to consumer residents for 24 hours per day by a Family Care Home provider.

"MICA" means mentally ill, chemical abuser.

"Other life support services" means activities that provide basic personal support which are provided to maintain successful community living whenever possible. These services include, but are not limited to, providing transportation, providing prepared meals and performing household tasks, providing clothing, relocating client belongings, and providing direct assistance in securing household furnishings, utilities and other needed building services.

"Provider agency" (PA) means a public or private organization which has a mental health service contract with the Division and has been licensed to provide residential services to individuals 18 years of age and older.

"PA apartment" means any unit in a multi-unit dwelling owned or leased by the PA in which clients reside and receive the services described in this subchapter in accordance with a residential services contract with the Division. The term "PA apartment" does not include any dwelling unit licensed as a supportive housing residence and any dwelling unit or multiple dwelling unit structure licensed as a group home.

"Recreation" means social or recreational activities of a relaxing or entertaining nature designed to promote the ability to socialize and manage leisure time.

"Related work or life experience" means activity in a supportive role with an individual(s) providing assistance, advice, guidance, instruction or direction in completing activities of daily living or coping with ongoing stressful life circumstances.

"Registered professional nurse (RN)" means a person who is licensed by the State of New Jersey as a professional nurse pursuant to N.J.S.A. 45:11-26 et seq.

"Residential counseling" means verbal interventions provided to consumer residents and families to assist the consumer resident in accessing and utilizing all planned or needed services. It may include problem-solving, advice, encouragement and emotional support to enhance stability in the living arrangement.

"Services agreement" means an agreement between a PA and another agency or service provider which describes the program or service provided to consumer residents in the community residence, including responsibilities for both the PA and the provider of the program or service. Only the governing body (or its official designee) of the PA makes such agreements with service or program providers.

"Supportive housing affiliation agreement" means a written agreement between the owner of any residence (who is not directly contracted by the Division to provide services) and any PA contracted to provide supportive housing services. The agreement provides information about the agency providing services to the residents as well as who will maintain the license of the residence.

"Supportive housing program" means a program of services to consumer residents living in supportive housing residences, private residences, and other dwelling units other than a Level A+, A, B, C or D residence. The PA has a DMHS contract for the provision of the supportive housing program.

"Supportive housing residence (SHR)" means any dwelling unit owned or leased by a PA (or organized entity with a supportive housing affiliation agreement with a PA) in which three or more individuals reside and whose occupancy is based on a diagnosis of serious mental illness and for which each consumer resident signs a lease or sublease and receives mental health supportive services from the PA. As opposed to the PA, the consumer resident is responsible for lease payments, safety, cleanliness, property protection, etc. and bears the responsibility for those aspects of residential living. The consumer resident has the key to the home and has control over access to it. No lease or residential agreement shall contain the provision of mandatory mental health program participation as a requirement for the consumer resident to maintain housing.

"Support services" means services which include, at a minimum, providing or assisting a resident to maintain living environments which are safe, secure, and clean and in compliance with this chapter. These services may include, but are not limited to, providing transportation, assistance in preparing meals and performing household tasks, providing clothing, relocating consumer resident belongings, and providing direct assistance in securing household furnishings, utilities and other needed building services. This also includes assistance in maintaining contact with family members; and developing, using and strengthening relationships with family members and other natural support systems.

“Termination” means the discontinuation of supportive housing services.

“Training in daily living skills” means activities designed to develop and maintain the knowledge, behaviors, skills and attitudes needed to improve or maintain quality of life, for example, budget management and housekeeping skills training.

Amended by R.2002 d.57, effective March 4, 2002.
 See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
 Rewrote the section.
 Amended by R.2005 d.1, effective January 3, 2005.
 See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
 Rewrote the section.

Case Notes

Staffing at group home for mentally ill adults, which staffing provided for on-site staffing a minimum of one hour per week but contemplated that staff typically would be on-site providing services three to four hours per week, met requirements of rule requiring that group home for mentally ill adults have staff that reside or are stationed either on-site or in immediate close proximity, where home contained persons who required no more than four hours of supervision weekly. Borough of Merchantville v. State Department of Human Resources, Division of Mental Health Services, 325 N.J.Super. 258, 738 A.2d 981 (N.J.Super.A.D. 1999).

SUBCHAPTER 2. LICENSING, SITE REVIEW AND WAIVERS

10:37A-2.1 Initial licensing process

(a) All inquiries related to licensure of community residences shall be made to:

New Jersey Department of Human Services
 Office of Licensing, Mental Health Services
 PO Box 727
 Trenton, NJ 08625-0727

(b) To become a licensed PA, an agency shall:

1. Demonstrate the intent and ability to operate a residence in accordance with this chapter;
2. Be a mental health services provider with a service contract with the Division. Such a service contract shall include provisions for the operation of community residences; and
3. Pay the fee(s) required by N.J.A.C. 10:37A-2.2.

(c) The PA shall be in compliance with this chapter as well as N.J.A.C. 10:37 and 10:37D.

(d) The PA shall apply for licensure to the Department. Applications shall indicate the type or types of community residences intended, the specific geographical location in which residences would be located, and the number of residents to be served. Such application shall be made to the Department at the address in (a) above.

Amended by R.2002 d.57, effective March 4, 2002.
 See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Amended by R.2004 d.91, effective March 1, 2004.
 See: 35 N.J.R. 4200(b), 36 N.J.R. 1203(a).
 In (b), added 3; in (d), deleted the last sentence.
 Amended by R.2005 d.1, effective January 3, 2005.
 See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

In (a), updated the address; in (c), added N.J.A.C references.

10:37A-2.2 Licensure fees

(a) Group homes, apartments, and family care providers applying for a new license shall pay an initial application fee of \$575.00. Supportive housing residence providers shall pay an initial application fee of \$100.00. PAs are not required to pay a separate initial application fee for programs for which they are licensed under N.J.A.C. 10:190 as of July 1, 2003.

(b) On an annual basis, the PA shall submit the fee(s) listed at (c) below to the Division. Checks shall be made payable to the “State of New Jersey.” No license shall be issued where payment of this fee has not been received in full by the Division. Failure to pay the fees applicable to an existing license shall result in revocation of that license.

(c) PAs applying for renewed licensure shall pay the following annual licensure renewal fees:

1. For group homes (GH):
 - i. For the first GH license\$575.00
 - ii. For each additional GH license.....\$287.50
2. For apartment (APT) or family care (FC) license:
 - i. For the first APT or FC license.....\$575.00
 - ii. For each additional APT or FC license.....\$287.50
3. For each supportive housing residence (SHR)\$100.00

(d) The renewal fee shall be paid upon receipt of a bill from the Division.

New Rule, R.2004 d.91, effective March 1, 2004.
 See: 35 N.J.R. 4200(b), 36 N.J.R. 1203(a).
 Former N.J.A.C. 10:37A-2.2, Licensing of group homes, recodified to N.J.A.C. 10:37A-2.3.
 Administrative change.
 See: 39 N.J.R. 455(a).
 Amended by R.2009 d.374, effective December 21, 2009.
 See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).
 In (b), deleted “with its application for renewed licensure” following “submit”, a comma following “below” and “at the address listed at N.J.A.C. 10:37A-2.1(a)” following the first occurrence of “Division”; and rewrote (d).

10:37A-2.3 Conditional licensure

(a) A conditional license may be issued whenever:

1. Compliance with a standard pertaining to the consumer resident’s safety or rights or staffing is lacking during a housing inspection or triennial program review;
2. A corrective action plan required by these rules at N.J.A.C. 10:37A-2.11, is not submitted to the Department by the PA at the designated time, or it is determined by the Department to be inadequate; or
3. An investigation of a complaint or serious incident identifies deficiencies that warrant conditional status.

(b) A conditional license shall be upgraded to a full license when a determination is made, on the basis of a follow-up review or a review of documents submitted by the PA, that all relevant licensing requirements are met.

New Rule, R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.3, Licensing of group homes, recodified to N.J.A.C. 10:37A-2.4.

Amended by R.2009 d.374, effective December 21, 2009.

See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).

In (a)1, deleted a comma following "rights" and substituted "a" for "an annual" preceding "housing".

10:37A-2.4 Licensing of group homes

(a) The Department shall inspect any proposed group home site, and shall review all program operations or descriptions for compliance with the provisions of this chapter.

(b) The Department shall notify the PA in writing of any violations.

(c) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability.

(d) A license shall be issued once intent and capability to comply with all program requirements is demonstrated, inspections are satisfactory (including satisfactory inspection by the fire official with jurisdiction), life hazard use registration (pursuant to Department of Community Affairs rules at N.J.A.C. 5:70-2.4(c)) is initiated and there is reasonable assurance that the residence shall be operated in a manner required by this chapter. For new construction, a certificate of occupancy issued under the Uniform Construction Code shall be accepted in lieu of inspection by the Fire Official. Group homes shall not be occupied until licensed.

(e) The license shall be issued by the Department.

(f) The license shall be limited to a specifically identified facility, issued for a period of two years, and shall indicate the maximum number of persons to be served within that facility.

(g) The original license (not a copy) shall be available on the agency's premises for review by the Division, or any interested members of the public, during normal business hours.

Recodified from N.J.A.C. 10:37A-2.3 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.4, Licensing PA apartments, recodified to N.J.A.C. 10:37A-2.5.

Amended by R.2009 d.374, effective December 21, 2009.

See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).

In (f), substituted "two years" for "one year".

10:37A-2.5 Licensing PA apartments

(a) The Department may inspect any proposed PA apartment site(s), and review all program operations or de-

scriptions for compliance with the provisions of this subchapter.

(b) The Department shall notify the PA in writing of any and all violations.

(c) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability if requested by the Department.

(d) A license shall be issued once intent and capability to comply with all program requirements is demonstrated, inspections, if any, are satisfactory and there is reasonable assurance that the PA apartment(s) shall be operated in a manner required by this chapter.

(e) The license shall be issued by the Department.

(f) The license shall be issued to the PA for a specific number of PA apartments and total capacity for consumer residents within a county for a period of two years. The PA shall notify the Office of Licensing, Mental Health Services of any new apartment (before it is occupied) if occupying the apartment will exceed the licensed capacity for apartments operated by the PA in the county. The PA shall not allow the consumer resident(s) to occupy the new apartment(s) until the licensed capacity is increased. The PA shall not occupy a new apartment in a county in which it is not licensed to operate apartments until such a license is issued. The PA shall have the right to relocate PA apartments within the county, as needed, without notifying the Office of Licensing, Mental Health Services, as long as the total licensed capacity for apartments and consumer residents in the county is not exceeded. The new facilities shall comply with all requirements of this chapter. The PA shall notify the Office of Licensing, Mental Health Services of all PA apartments at the time of the housing inspection.

(g) The license shall be available on the agency's premises for review by the Division and/or Department, and any members of the public, during normal business hours.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (f), added last sentence beginning with "The PA shall notify". Recodified from N.J.A.C. 10:37A-2.4 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.5, Licensing family care homes, recodified to N.J.A.C. 10:37A-2.6.

Amended by R.2009 d.374, effective December 21, 2009.

See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).

In (f), substituted "two years" for "one year" and deleted "annual" preceding "housing".

10:37A-2.6 Licensing family care homes

(a) The PA shall develop a written services agreement with the individual who operates the family care home.

(b) The content of the services agreement between the PA and the individual who operates the family care home shall

have been approved by the Division in accordance with N.J.A.C. 10:37A-4.4.

(c) The Department may inspect any proposed family care home and review all program operations for compliance with the provisions of this chapter. The PA shall notify the Office of Licensing, Mental Health Services, at the address noted in N.J.A.C. 10:37A-2.1(a), of any proposed family care home (before placing a consumer resident in it) if the PA is not licensed to provide family care homes in the county and/or if placing the consumer resident in the family care home will exceed the capacity specified on the license. The PA shall not place a consumer resident in the new family care home until the licensed capacity is increased. The PA shall not place a consumer resident in a new family care home in a county in which it is not licensed to operate family care homes until such a license is issued. The PA shall have the right to relocate family care homes within the county, as needed, without notifying the Office of Licensing, Mental Health Services, as long as the total licensed capacity for family care homes and consumer residents in the county is not exceeded. The PA shall notify the Office of Licensing, Mental Health Services, of all family care homes at the time of the housing inspection.

(d) The Department shall notify the PA in writing of any violations.

(e) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability if requested by the Department.

(f) A license shall be issued once intent to comply with all program requirements is demonstrated, inspections, if any, are satisfactory and there is reasonable assurance that the family care home(s) shall be operated in a manner required by this chapter.

(g) The license shall be issued by the Department.

(h) The license shall be issued to the PA for a period of two years and shall be limited to a defined number of family care homes within a county and shall indicate the maximum number of consumer residents to be served. No family care home shall serve more than three consumer residents at any one time (unless up to four consumer residents were being served prior to January 3, 2005). The PA shall not exceed the capacity specified on the license.

(i) The license shall be available on the PA's premises for review by the Division and/or Department, and any members of the public, during normal business hours.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (b) and (h), substituted references to consumer residents for references to clients; in (c), added last sentence beginning with "The PA shall notify".

Recodified from N.J.A.C. 10:37A-2.5 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.6, Licensing supportive housing residences, recodified to N.J.A.C. 10:37A-2.7.

Amended by R.2009 d.374, effective December 21, 2009.

See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).

In (c), deleted "annual" preceding "housing"; and in (h) substituted "two years" for "one year".

10:37A-2.7 Licensing supportive housing residences

(a) The Department may inspect any proposed supportive housing residence and review all program operations for compliance with the provisions of this chapter.

(b) The Department shall notify the PA in writing of any violations.

(c) Inspections of supportive housing residences to be licensed will be in accordance with provisions contained in N.J.A.C. 10:37A-6.1 through 6.12 unless specifically excluded.

(d) Licenses shall be issued once intent and capability to comply with all program requirements is demonstrated, inspections, if any, are satisfactory and there is reasonable assurance that the supportive housing residence shall be operated in a manner required by this chapter.

(e) All licensed supportive housing residences shall be evaluated on site every two years by the Office of Licensing, Mental Health Services and at the discretion of the Division, as needed.

(f) The license shall be issued by the Department to the PA for two years.

(g) The license shall be available on the PA's premises for review during normally scheduled business hours.

(h) Should all occupants of the supportive housing residence refuse or not receive services for a period of 90 days, the PA shall notify the Department's Office of Licensing, Mental Health Services at which time the license will be terminated.

Recodified from N.J.A.C. 10:37A-2.6 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.7, Provisional license, repealed.

Amended by R.2009 d.374, effective December 21, 2009.

See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).

In (e), substituted "every two years" for "annually" and deleted a comma following "Services"; and in (f), substituted "two years" for "one year".

10:37A-2.8 Licensing supportive housing programs

(a) A license shall be issued once intent and capability to comply with all program requirements is demonstrated, policies and procedures are satisfactory and there is reasonable assurance that the supportive housing program shall be operated in a manner required by this chapter.

(b) The license shall be issued by the Department.

(c) The license shall be available on the PA's premises for review during normally scheduled business hours.

(d) A review to assess the PA's compliance with the programmatic requirements contained in this chapter shall be conducted by the Department once the program is established, every three years thereafter and at the discretion the Department. The requirements in N.J.A.C. 10:37A-2.11(k) and (l) shall be met for these reviews. The Department may also randomly inspect residences of supportive housing consumers as long as the residence is purchased with capital funding from the Division of Mental Health Services.

(e) The Department shall notify the PA in writing of any violations.

(f) The requirements in N.J.A.C. 10:37A-6, Facility, and the requirements in N.J.A.C. 10:37A-8.1(b)1 shall not apply to supportive housing programs, with the exception of those residences licensed as supportive housing residences and residences purchased with Division capital funds.

(g) The recordkeeping requirements at N.J.A.C. 10:37A-4.5(d) shall apply to supportive housing programs.

New Rule, R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.8, Waiver of standards, recodified to N.J.A.C. 10:37A-2.9.

10:37A-2.9 Waiver of standards

(a) Requests for waivers shall be made to the Department, in writing, at the address identified at N.J.A.C. 10:37A-2.1(a), with supporting information justifying the request.

(b) Waivers of specific program rules shall be considered, at the discretion of the Department in consultation with the Director, or designee, of the Division, provided that one or more of the following conditions have been met:

1. Where strict enforcement of the rule would result in unreasonable hardship on the consumer resident;
2. The waiver addresses a particular need of a consumer resident(s) but does not adversely affect the health, safety, welfare, or rights of the consumer resident; or
3. There is a clear clinical or programmatic justification for such a waiver that will enhance a PA's effectiveness or efficiency without an adverse effect on any consumer resident's health, safety, welfare or rights.

Recodified from N.J.A.C. 10:37A-2.8 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.9, License renewal, recodified to N.J.A.C. 10:37A-2.10.

10:37A-2.10 License renewal

(a) All licenses shall be subject to renewal every two years except for the supportive housing program license. The supportive housing program license shall be renewed at the time of the triennial program review.

(b) Determination of license renewal shall be based on the housing inspection and triennial program review conducted

by the Department's Office of Licensing, Mental Health Services. A housing inspection shall be conducted at least every two years.

(c) The Department shall make the determination of renewal.

(d) In the event that a license expires prior to the determination of renewal, the license shall remain in effect until such a determination is made.

(e) Unless the licensure renewal fee has been waived pursuant to N.J.A.C. 10:37A-2.9, the PA shall submit a licensure renewal fee in accordance with the schedule delineated at N.J.A.C. 10:37A-2.2(c). Failure to pay any portion of a required fee shall result in denial of the application for renewal.

Recodified from N.J.A.C. 10:37A-2.9 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.10, Evaluation and monitoring, recodified to N.J.A.C. 10:37A-2.11.

Amended by R.2009 d.374, effective December 21, 2009.

See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).

In (a), substituted "renewal every two years" for "an annual renewal"; and in (b), deleted "annual" preceding "housing" and inserted the last sentence.

10:37A-2.11 Inspection and monitoring of residences

(a) All PAs and residences shall be subject to site reviews in accordance with N.J.A.C. 10:190.

(b) All group homes shall be inspected on site every two years by the Department and at the discretion of the Department or Division, as needed.

(c) All PA apartments shall be inspected on site every two years by the Department and at the discretion of the Department or Division, as needed.

(d) All PA family care homes shall be inspected every two years by the Department and at the discretion of the Department or Division, as needed.

(e) All licensed supportive housing residences shall be evaluated on site every two years by the Department and at the discretion the Department or Division, as needed, unless the consumer residents refuse the Office of Licensing, Mental Health Services access to a particular SHR. If access is denied, the PA shall submit documentation of an annual inspection conducted by the PA, required by N.J.A.C. 10:37A-8.1(b)1.

(f) A written report of, residence inspections including all deficiencies and violations, shall be provided to the PA by the Department within 60 days from the date of the site review.

(g) A review shall be conducted by the Department at least every three years to assess the PA's compliance with the programmatic requirements contained in this chapter. A written report shall be provided to the PA within 90 days of the review.

(h) No later than 40 days after receipt of an inspection or review report, the PA shall provide a corrective action plan to the Department. The corrective action plan shall document which specific violations have been corrected and the actions taken or planned, as well as the anticipated date of full correction, for each specific outstanding violation.

(i) The PA shall be notified in writing within 30 days whether the corrective action plan, or portions thereof, are approved for implementation and whether there are any areas that need to be addressed further.

(j) For any violations cited by the Department as presenting an imminent threat to the health or safety of a consumer resident, the PA shall correct them or remove the threat created by such violations immediately and shall provide written notice, within 48 hours, to the Department that such action has been taken.

(k) If the Department report identifies violations other than those presenting an imminent threat to the health and/or safety of a consumer resident, representatives from the Division, as part of their ongoing monitoring responsibilities, shall visit the specified facility or program and provide a report to the Division on progress toward remediation of deficiencies every 60 days until compliance is achieved.

(l) When the PA is cited for a physical violation and the maintenance is the responsibility of another party, there must be documented evidence that the PA has informed the building owner and his or her agent of the need to correct any violations. If such violations are not corrected, the PA shall take further action as appropriate.

Recodified from N.J.A.C. 10:37A-2.10 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.11, Appeal of the Division's findings, recodified to N.J.A.C. 10:37A-2.12.

Administrative change.

See: 39 N.J.R. 455(a).

Amended by R.2009 d.374, effective December 21, 2009.

See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).

In (b), (c), (d) and (e), substituted "every two years" for "annually" and deleted a comma following the first occurrence of "Department".

10:37A-2.12 Appeal of the Department's findings

(a) The PA may appeal findings of the Department's Office of Licensing, Mental Health Services pursuant to N.J.A.C. 10:37A-2.14, (Review of Administrative Sanction). In the case of life-threatening violations, such appeal shall be conducted pursuant to N.J.A.C. 10:37A-2.15, Emergency situation.

(b) The appeal of findings shall be directed to the Commissioner or designee, with a copy sent to the Division, within 20 days of receipt of the written report of findings. Such appeals shall be submitted to the Department of Human Services, Office of Licensing, Mental Health Services, PO Box 727, Trenton, New Jersey 08625. Copies of these appeals

shall be sent to Director's Office, Division of Mental Health Services, PO Box 727, Trenton, New Jersey, 08625-0727.

(c) A decision on the merits of the appeal shall be provided within 20 days of its receipt. This decision shall be made by the Department, in consultation with the Division.

Recodified from N.J.A.C. 10:37A-2.11 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.12, Administrative sanction, recodified to N.J.A.C. 10:37A-2.13.

10:37A-2.13 Administrative sanction for PA's failure to adequately address violations

(a) In the event that the PA does not submit the corrective action plan specified in N.J.A.C. 10:37A-2.11(g), (h) and (k) by the required date, or if violations have not been abated within time frames specified in the report or other Department correspondence, the Department shall have the option of directing the Division to suspend payments to which the PA may be entitled under any agreements with the Division, and the Department shall have the option of imposition of a moratorium on admissions to the residence, revocation of the current license to operate the residence, non-renewal of the license to operate the residence or imposition of other administrative sanctions.

(b) In the event that the Department requires the revocation or non-renewal of the license and the relocation of the consumer residents, a written order shall be directed to the PA's executive director and to the President of the Board of Directors of the PA.

(c) Under the supervision of the Division, the PA shall be responsible for placement of consumer residents when an order to vacate the premises and the revocation of a license has been issued by the Department.

Recodified from N.J.A.C. 10:37A-2.12 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.13, Review of administrative sanctions, recodified to N.J.A.C. 10:37A-2.14.

10:37A-2.14 Review of administrative sanctions

(a) Where an administrative sanction exists or a negative licensing action has been taken pursuant to N.J.A.C. 10:37A-2.13 and the PA denies the basis of the sanction or licensing action, the PA may submit a written request for a review of the action to the Department within 20 days of receipt of the sanction or licensing action at the address indicated in N.J.A.C. 10:37A-2.12(b). A decision shall be rendered by the Department within five working days of the receipt of the written request for a review.

(b) If the PA chooses to appeal a final decision made by the Department regarding an administrative sanction or licensing action pursuant to the provisions of (a) above, the PA may request an administrative hearing, which shall be

conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Recodified from N.J.A.C. 10:37A-2.13 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-2.14, Administrative hearing of appeal, repealed.

10:37A-2.15 Emergency situation

The Department, when it determines that the health, safety or welfare of the consumer residents warrant it, may immediately suspend the license of a PA, and take the necessary action to ensure the well-being of consumer residents. The PA shall have the right to make a written request to the DHS Commissioner for a review of an emergency license suspension. The Commissioner, or designee, shall review this request on an expedited basis. The PA shall have the right to appeal the Commissioner's decision by requesting an administrative hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Recodified from N.J.A.C. 10:37A-2.13 and amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Substituted "consumer residents" for "clients" throughout.

Recodified from N.J.A.C. 10:37-2.14 by R.2004 d.91, effective March 1, 2004.

See: 35 N.J.R. 4200(b), 36 N.J.R. 1203(a).

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

SUBCHAPTER 3. POLICIES AND PROCEDURES; CONFIDENTIALITY

10:37A-3.1 Written policies and procedures

(a) The PA shall develop and implement written policies and procedures to ensure that the service delivery system complies with applicable statutory and regulatory provisions governing community residences for the mentally ill.

1. The PA shall develop, maintain and revise, as is necessary, a program-oriented policy and procedures manual. Said manual shall be reviewed annually, as evidenced by dated signatures of the reviewer(s).

2. Policies and procedures shall promote the principles of normalization, age-appropriateness, consumer resident empowerment and least restriction, and shall be consistent with the PA's organizational structure and management philosophy.

3. The PA shall document that consumers and their families are consulted in the development and review of policies and procedures. Such documentation shall reflect that any suggestions so generated shall be seriously considered.

4. PAs shall document that all staff providing services to consumer residents receive training prescribed by the New Jersey Division of Medical Assistance and Health Services in N.J.A.C. 10:77A. Documentation shall include the date(s) training was provided, the topic covered, the instructor's name and credentials, the amount of time spent on each topic and the training location. This training shall be documented in each staff member's personnel file.

5. An up-to-date policy and procedure manual (including staff training requirements) shall be located in a manner readily available to direct care staff at all times.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (a), substituted "consumer resident" for "client" in 2 and added 4.

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

In (a), added 4, recodified existing 4 as 5.

10:37A-3.2 Confidentiality

(a) All certificates, applications, records, and reports made pursuant to the provisions of Title 30 of the New Jersey Statutes and directly or indirectly identifying any individual presently or formerly receiving mental health services from a provider agency, or for whom such services shall be sought shall be kept confidential and shall not be disclosed by any person, except insofar as:

1. The individual identified or his or her legal guardian, attorney, personal representative, if any, or, if the consumer is a minor, his or her parent, shall authorize the disclosure; or

2. Disclosure may be necessary to carry out any of the provisions of Title 30 or of article 9 of chapter 82 of Title 2A of the New Jersey Statutes (N.J.S.A. 2A:82-41); or as required by other Federal or State law; or

3. A court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest.

(b) Nothing in this section shall preclude disclosure, upon proper inquiry and after the consumer has had the opportunity to object and does not express an objection, of information as to a patient's current medical condition to any relative or friend. Information may be disclosed to the patient's personal physician if it appears that the information is to be used for the treatment of the patient.

(c) Nothing in this section shall preclude the professional staff of a community agency under contract with the Division of Mental Health Services in the Department of Human Services, or of a screening service, short-term care or psychiatric facility as those facilities are defined in section 2 of P.L. 1987, c.116 (N.J.S.A. 30:4-27.2) from disclosing information that is relevant to a patient's current treatment to the staff of another such agency, so long as such disclosure is in compliance with 45 C.F.R. Parts 160 and 164 (HIPAA).

(d) The PA shall maintain compliance with the provisions of N.J.S.A. 30:4-24.3 cited in (a) above and the provisions regarding information in client records in N.J.A.C. 10:37-6.79 and shall comply with Federal requirements regarding retention, access by consumers, amendment of records, and accounting of disclosures.

Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
Rewrote the section.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (a), deleted the second sentence in the introductory paragraph, inserted "written" preceding "description" and substituted references to consumer residents for references to clients in 1.
Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
Rewrote the section.

Case Notes

Statutes and regulation were invalid; they purported to make person acquitted of criminal charge by reason of insanity ineligible for admission without determination that the person would be dangerous to himself or to public if released to specific placement. Matter of Commitment of J.W., 288 N.J.Super. 197, 672 A.2d 199 (A.D.1996).

SUBCHAPTER 4. CONSUMER RESIDENT SERVICES

10:37A-4.1 Population/admission priorities

(a) First priority for admissions into residences shall be given to persons with severe and persistent mental illness and in accordance with target populations, as defined in N.J.A.C. 10:37A-5.2. PAs may establish additional admission criteria with respect to consumer resident characteristics, provided such criteria comply with the applicable laws against discrimination on account of race, ethnic origin, gender, age, religion, sexual orientation and/or disability, and does not categorically exclude classes of potential residents (as further described in (a)3 below).

1. The PA shall have a clear written description of each level of service intensity provided in each residence which it operates and shall identify all consumer resident characteristics which are appropriate for each level of care or specialized residence. The provider agency shall also have written inclusionary and exclusionary criteria for acceptance of consumer residents into the residential program.

2. There shall be written procedures that describe how intakes and referrals are managed, to give priority to persons with severe and persistent mental illness, and in accordance with target populations, as defined in N.J.A.C. 10:37-5.2.

3. All PAs shall submit all proposed admission policies and all substantive revisions thereto to the Division for review prior to implementation. The Division shall disapprove any such policy if it fails to comply with law or if it categorically excludes certain types of consumer residents where there is a clinically appropriate method of accommodating the agency's programs to the needs of those consumer residents, consistent with available resources.

4. Pursuant to Title VI and VII of the Civil Rights Act of 1964 as amended and Section 504 of the Rehabilitation Act of 1973, discrimination in the provision of services, on the basis of race, sex, religion, national origin, age, or physical handicap in the provision of services is prohibited.

10:37A-4.2 Services to be provided by the Level A+, A, B, C and D Residential Program

(a) Based upon the needs of the consumer residents served, a range of services shall be offered to residents in the Level A+, A, B, C, and D residential program, specifically addressing the maintenance or enhancement of consumer resident self-sufficiency. These services are intended to foster a sense of belonging, both within the residential setting and the greater community. They are designed to enhance the consumer resident's interest and participation in all spheres of community living (such as religious, social, political and cultural). The PA shall empower the consumer resident to use the full range of community services.

(b) Following assessment and evaluation of individual needs and services and in consultation with the consumer resident, the following minimum services shall be directly provided by the PA to enrolled consumer residents as individually appropriate and agreed to by the resident, and shall be documented in the clinical record:

1. Individual services coordination;
2. Training in daily living skills;
3. Residential counseling;
4. Support services;
5. Crisis intervention services;
6. Medication education and facilitation of proper administration techniques; and
7. Health care monitoring and oversight services.

(c) Service agreements with local screening services shall be developed. These agreements shall address the timely sharing of information and procedures for follow-up on the care and disposition of the consumer resident.

(d) The PA shall document that it has the capability to provide or arrange the services listed below based on individual consumer resident need. This capability may be documented through such means as policies and procedures, schedules of services, and logs. In addition, the PA shall document that such services were in fact provided. Provided services shall be documented in the clinical record, sched-

ules, logs, or other means of documentation presented by the PA.

1. Support services;
2. Recreation;
3. Education. Instruction shall minimally be provided or arranged in physical and mental health maintenance, alcohol and drug abuse prevention, family planning, prevention of sexually transmitted diseases and education about self-help and recovery programs; and
4. Vocational and academic services. These services shall be arranged as needed for each consumer resident and include, but not be limited to, basic academics, formal academics, career exploration and development, supported employment, transitional employment, sheltered work and job placement.

(e) The PA shall maintain ongoing communication with all other providers of needed treatment and generic human services, so that appropriate adjustments are made in the services provided to the consumer resident. Such services include, but are not limited to, partial care, hospitalization, outpatient treatment, vocational services, medical services, education programs, community activities (such as YMCA, church), clinical case management, substance abuse counseling, acute care services and entitlements.

1. Clinical records shall identify all relevant service providers serving the consumer resident.
2. The PA shall maintain policies for emergency and routine case conferences.
3. The PA shall document ongoing communication with other service providers in the clinical record.
4. The PA shall maintain service agreements as needed.
5. The PA shall participate in local systems planning activities as needed.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote the section.

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

10:37A-4.3 Services to be provided by the supportive housing program

(a) Providers are responsible for ensuring access to a flexible and responsive system of support services that can assist individuals to maintain independence and a lifestyle of their choosing. Supportive housing offers individuals opportunities for community integration and involvement in community life and citizenship.

(b) Emphasis is placed on the development and strengthening of natural supports and access to community services and programs.

(c) Following discussion with the consumer resident of individual needs and services desired, the following services shall be directly provided by the PA to enrolled consumer residents as individually appropriate and agreed to by the resident, and shall be documented in the clinical record:

1. Housing search: Assist consumer resident in locating housing opportunities, landlord negotiations, saving for or obtaining security deposits, furnishing the home, accessing household supplies, moving in and on-going advocacy with landlord/property manager. Housing preferences, experiences and resources should be examined as well as household management strengths and weaknesses, financial responsibilities, and long-term housing goals;

2. Moving in: Assist the consumer resident in setting up utility accounts and identifying natural supports to develop and carry out a move-in plan. Assist the consumer resident and natural supports to set up and decorate their new home, help them to become familiar with the local community resources, accessing transportation services and locating resources such as the supermarket, bank, library, post office and pharmacy;

3. Landlord/neighbor relationship: Educate residents on their rights and obligations as tenants/neighbors as well as fair housing laws and landlord-tenant laws. Coach consumer residents in terms of social skills needed to deal with and maintain good relationships with landlords and neighbors. Establish relationships with landlords, provide contact information and encourage landlords to bring unresolved problems to the supportive housing team;

4. Supportive services planning: Develop a support plan which creates an agreement between the consumer resident and support team, defining the type and amount of supports necessary according to the consumer residents expressed needs and desires in order for the individual to succeed in their housing. The plan shall be adjusted over time to meet ongoing personal goals, life style choices and needs. The plan shall anticipate that more intensive supports will be needed at the time of move-in, for the first six to eighteen months after moving, during holidays and other dates that may be uniquely stressful for the individual consumer resident;

5. Skill development training: Provide direct training, provided in-vivo to model skills in the areas of: problem solving, roommate conflict resolution, housecleaning, recycling, household maintenance, grocery shopping and laundry; money management skills; use of available transportation; meal planning and preparation; caring for and personalizing living space; taking care of personal hygiene; defining a daily activity plan; and illness self-management. The first goal is for the resident to develop the full array of life skills that are essential for successful community living. The consumer resident and staff shall meet on a regular basis to work on these skills on a daily, weekly and/or monthly basis as deemed necessary. The second goal is to reduce the amount of staff initiation and support over time;

6. **Physical healthcare linkages:** Ensure that the consumer resident has access to medical and dental care, including routine care, prevention and wellness services. Identify and address chronic and long-term medical conditions;

7. **Mental health medication and illness self-management:** Develop a plan to help the consumer resident monitor their symptoms, track early warning signs, develop coping skills and prepare a plan to prevent or minimize a relapse. Observe the consumer resident's symptoms, help the consumer resident manage symptoms not reduced with medication; and assist the consumer resident to adapt and cope with internal and external stresses. Assist consumer residents in advocating for themselves regarding medication concerns and act as a liaison to clinical service providers. Consumer residents shall have access to an on-call staff 24 hours per day, seven days per week for times of stress and crisis;

8. **Employment, volunteer and educational opportunities:** Assist the consumer resident with linkages and referrals to available resources necessary for the resident to gain and maintain full or part-time community-based supportive and/or competitive employment. This would include assisting the consumer resident in finding available resources, making and keeping appointments, completing necessary paperwork, etc. Assist the consumer resident to develop job skills, coaching for interviews, etc.;

9. **Finances, budgeting and banking:** Provide training and support in all areas concerned with the consumer resident's finances, including weekly/monthly budgeting, establishing bank accounts, balancing checkbooks, looking for sales, using coupons and rebate offers, avoiding impulse buys, responding to telemarketing or mail "schemes," establishing a savings plan designed for emergencies and enhancing self-sufficiency;

10. **MICA and substance abuse services linkages:** Inquire about substance use/abuse history, and when a problem is identified, help consumer residents identify triggers for relapse and focus on a lifestyle centered on recovery. Refer to substance abuse and MICA treatment if necessary. Educate the consumer resident on the interactive effects of substance use on psychiatric symptoms, psychiatric and other medications, and social behavior. Share Alcoholics Anonymous (AA) and local MICA group meeting lists with consumer residents and accompany to local groups and/or meetings in order to encourage attendance. Encourage an alcohol and substance free-living environment in shared living arrangements. If necessary, assist consumer resident in accessing in-patient rehabilitation facilities;

11. **Transportation services:** Where there are no transportation options or where they have been exhausted, provide direct transportation in an agency vehicle for appointments, shopping, education courses, etc. when public transportation is not available. Provide coaching in the use of Medicaid taxi service, carpools, buses, trains,

etc. and help consumer residents access low-cost transportation resources if available. Assist with reading maps, reading bus/train schedules, locating bus stops/train stations, etc. Assist residents to save for bicycles or other low-cost methods of transportation;

12. **Access to natural supports:** Assist consumer resident to develop a support network other than professionals, which may include neighbors, family, friends, co-workers, ministers or church members, shopkeepers, etc. Explore with the consumer resident opportunities for social networks and coaches the consumer resident to strengthen these connections. Explore/encourage joining or re-joining a social organization, recreational group, or church/synagogue to enhance quality of life and promote community integration;

13. **Social, recreational, leisure and community involvement:** Support consumer residents' efforts to develop friendships and a social life. Encourage participation in agency and community social and recreational events as well as local self-help centers. Assist the consumer resident in planning, scheduling and implementing seasonal events, educational events and vacations. Regularly inform the consumer resident of community cultural events and encourage involvement; and

14. **Benefits/entitlements:** Assess and support consumer residents efforts in obtaining public entitlements and benefits, including, but not limited to, Social Security, Medicaid, Medicare, welfare, food stamps and Section 8. Assist with the applications and paperwork required. Help residents schedule appointments, accompany the consumer resident when necessary. Model and coach the consumer resident so that he/she can increasingly manage these interactions independently.

New Rule, R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-4.3, Settings to provide residential programs, repealed.

10:37A-4.4 Consumer resident service agreements

(a) All consumer residents enrolled in a residential program shall have a written agreement which clearly articulates the roles and responsibilities of the PA and rules that apply to the consumer resident. This agreement shall be individualized according to the needs of the consumer resident and shall be made in a language sufficiently well understood by the consumer resident to assure comprehension. The agreement shall provide acknowledgement by the consumer resident that he or she understands the following:

1. A list of available services;
2. The expected duration of services;
3. The fees for services to be provided (if any);
4. The consumer resident's rights (as specified in N.J.A.C. 10:37-4.5(h)1 through 7 and 10:37A Appendix A) and responsibilities (including expectations of the pro-

gram and complaint process as specified in N.J.A.C. 10:37-4.6b);

5. The PA roles and responsibilities;
6. The consumer resident's responsibilities;
7. Service termination procedures, to include any behaviors that could lead to dismissal from the program; and
8. The location and accessibility of residential policy and procedure manuals.

(b) The agreement shall include the signature of the consumer resident and the PA representative, and in family care homes, the homeowner or operator. A copy of this signed agreement shall be maintained in the consumer resident's clinical record.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote the section.

Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote (a).

10:37A-4.5 Recordkeeping

(a) The PA shall maintain a record for each client enrolled in the program, marked with the individual's name.

(b) The PA shall maintain the confidentiality of all records (in accordance with all applicable Federal and State laws) and shall store such records in a manner as to provide access only to authorized persons. The PA shall execute a business associate agreement in compliance with 45 C.F.R. 164.504(e)(2), if required to do so by the Division.

(c) Individual records for consumer residents in group homes, supervised apartments and family care homes shall be maintained in an up-to-date, organized fashion containing all relevant information about the consumer resident and shall include all required contents under N.J.A.C. 10:37-6.4 as well as those listed below.

1. A comprehensive intake assessment shall be completed for each consumer resident by the 14th day of admission. This assessment shall include: identifying information (name, gender, DOB, religion, race and SSN), referral date and source, presenting problem(s)/reason for referral, social support system (friends, etc.), relationship with family, psychiatric history, current mental status and multi-axial diagnosis, if such diagnosis can be obtained (by an appropriately licensed professional), previous living situation, physical health (including medical status and physical health needs), allergies, adverse reactions to medications, medication history including current medication/dose/frequency and name of prescribing physician, educational history and current needs, work history and current needs, functional skills and deficits including activities of daily living, recreational/social needs, current and prior involvement with other agencies/mental health services, legal information relevant to treatment, abuse, neglect and domestic violence history if applicable, alcohol, tobacco and other drug use history, and risk factors.

2. A nursing assessment shall be completed by the 14th day of admission, annual re-assessments and any clinically necessary re-assessments to include documentation of the justification for the continuation of services and a recommendation for the appropriate level of care (Level A+, A, B, C or D).

3. The comprehensive intake assessment shall include consumer resident identified goals and clinical treatment recommendations to be used as an initial service plan (this may be completed as a separate document).

4. The Comprehensive Service Plan (CSP) shall be formulated for each consumer resident by the 30th day after admission. This plan shall be based on the comprehensive intake assessment and all other relevant information. For consumer residents receiving Level A+, A, B, C or D care, the CSP shall also be based on the 14-day nursing assessment and shall include the RN's input and signature.

- i. To assure family participation in developing the comprehensive service plan and revisions, residential program staff shall seek the input of family members during service plan development and revisions, provided that the consumer resident has given written consent to release information related to the residential comprehensive service plan.

- ii. If the consumer resident refuses to give written consent to release information, the residential staff shall document in the consumer resident's record that efforts were made at each service plan review to obtain such consent.

5. The CSP shall include goals and time-framed, measurable objectives which are stated in behavioral terms. The CSP shall also include staff interventions and frequency of interventions and the titles (or name(s) if specific staff person is assigned) of the staff member(s) responsible for implementation of each intervention.

6. The CSP shall be properly authenticated with dates and signatures of appropriate treatment team members. The CSP shall be developed with the consumer resident's active participation and input, and shall contain his or her signature indicating same. If the consumer resident is unwilling or unable to sign (or participation is contraindicated), such shall be documented.

7. The CSP shall include specific measurable criteria for termination or reduction in services and the current level of care (A+, A, B, C or D).

8. The CSP shall be reviewed and revised as necessary, by the 90th day of admission and then no less frequently than every 90 days thereafter during the first year of treatment and six months thereafter. Revisions shall be based on updated nursing assessments and all other relevant information.

9. The RN shall document face-to-face health care monitoring visits with each consumer resident every 90 days. These notes shall:

- i. Indicate review of the service plan; indicate review of the observations and progress notes made by the direct care staff;
- ii. Provide an assessment of the consumer resident's health; and
- iii. Indicate any changes needed in treatment approaches in the service plan. Service recommendations, specific to level of service, must be updated upon significant change in the client's condition.

10. The PA staff shall document in progress notes the consumer resident's clinical course of treatment and community living skills while enrolled in a residential program. Progress shall be documented by a weekly summary. At least monthly, the aggregate notes shall:

- i. Reflect the consumer resident's status towards goals and objectives and any significant events or illnesses;
- ii. Describe interventions provided by staff;
- iii. Describe consumer resident response to treatment;
- iv. Reflect collateral contacts and communication with persons other than the consumer resident which impact on the consumer resident's status or service provision; and
- v. Be properly authenticated with staff signature, title, date, and time for each entry.

(d) Each consumer resident record for a supportive housing residence shall be maintained in an up-to-date, organized fashion and shall include the following:

1. A comprehensive intake assessment by the 14th day of admission that includes:
 - i. Identifying information and presenting problem(s);
 - ii. Income verification;
 - iii. Supportive housing services needed/desired;
 - iv. Social and family information;
 - v. Current physical health (including medications);
 - vi. Medical and psychiatric history (including current service providers); and
 - vii. Specific diagnosis, if such diagnosis can be made by an appropriately licensed professional.
2. A comprehensive service plan completed by the 14th day of admission into the program and reviewed within 90 days of admission, every three months for the first year, and every six months thereafter. The service

plan shall be developed based on the consumer resident's input and stated needs (goals and objectives) and interventions the consumer resident would like from the staff member, and shall contain the signatures of the resident and responsible staff member, and the date. If the consumer resident is unwilling/unable to sign, this shall be documented.

3. Monthly progress notes documented by PA staff, indicating level of goal/objective attainment, services provided, significant events, and contacts with other service providers. This note shall be signed (with staff title) and dated.

(e) A termination or discharge summary shall be completed for all consumer residents within 30 days of termination from Supportive Housing Services, or discharge from Level A+, A, B, C or D to include:

1. Primary presenting problem;
2. Treatment provided and response;
3. Clinical condition at termination;
4. Recommendations and referrals, including medications;
5. Reason for program termination or discharge; and
6. Residential address/housing status at termination.

(f) In addition to the recordkeeping requirements found in N.J.A.C. 10:37-6.73, 6.74, 6.76, 6.77 and 6.79, PAs who charge fees to consumer residents shall keep appropriate financial records.

Financial records shall include, for each consumer resident, specific charges for all service-related items.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote (c), inserted new (d), and recodified and rewrote existing (d) as (e).

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

SUBCHAPTER 5. STAFF

10:37A-5.1 Staffing requirements

(a) The PA shall employ a sufficient number of residential counselors and senior residential counselors to provide all needed residential services to all enrolled consumer residents, based upon the numbers of consumer residents served, the level of functioning and disability of the consumer residents served, the types of residences utilized, and the geographical distribution of residences. The PA shall maintain the staffing pattern approved by the Division reflected in the purchase of service contract. The staff requirements,

qualifications and duties described within this subchapter shall only apply to PA staff hired after March 23, 1990.

(b) The PA shall employ at least one residential program coordinator.

(c) Provider agencies providing Level A+, A, B, C or D care shall retain the services of an RN to provide nursing assessments as well as periodic evaluation of the consumer resident's clinical condition and the appropriateness of care provided by staff to meet each consumer resident's needs.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (a), substituted "consumer residents" for "clients" throughout, and inserted "the level of functioning and disability of the consumer residents served" preceding "the types of residences"; in (b), substituted "program coordinator" for "clinical specialist"; deleted (c).

Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote (a); added (c).

10:37A-5.2 Registered nurse requirements, qualifications, and duties

(a) At a minimum, the RN must be licensed by the State of New Jersey as a professional nurse pursuant to N.J.S.A. 45:11-26 et seq.

(b) The duties of the RN shall, at a minimum, include the following:

1. Sign-off on and participate in the development of the Comprehensive Service Plan (CSP);
2. Completion of the nursing assessment, annual re-assessment and any clinically necessary re-assessments;
3. Provision of education and consultation on medication and health maintenance issues and topics; and
4. Face-to-face health care monitoring every 90 days with each consumer resident.

New Rule, R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-5.2, Residential counselor requirements, qualifications and duties, recodified to N.J.A.C. 10:37A-5.3.

10:37A-5.3 Residential counselor requirements, qualifications and duties

(a) Residential counselors shall have one of the following:

1. A baccalaureate degree from an accredited college or university with a major in a mental health, health or other appropriate human services related discipline;
2. A license as a registered nurse;

3. A combination of one or more years of college, plus related work or life experience together equaling four years. The individual is required to have at least one year of related work or life experience if the four-year college education does not meet the requirements of (a)1 above;

4. A license as a practical nurse plus two years of related work or life experience; or

5. A high school diploma or the equivalent, plus four years of related work or life experience.

(b) A residential counselor shall also have a valid driver's license, if driving a vehicle is necessary to provide services.

(c) When "related work or life experience" is relied upon to meet staff qualifications, the personnel file shall clearly document the "related work or life experience" and how it relates to the job duties and responsibilities for the position in which the individual is being hired.

(d) The duties of the residential counselor shall, at a minimum, include the following:

1. On-site services and support;
2. Communicating observations and information about the consumer resident to the program coordinator, RN and treatment team;
3. Supervising, organizing and supporting recreational and/or socialization activities;
4. Transportation;
5. Residential counseling;
6. Crisis intervention services (but not including crisis intervention counseling);
7. Participation in the development of the comprehensive service plan;
8. Participation in individual service coordination activities as defined in N.J.A.C. 10:37A-1.2; and
9. Documenting observations, information and services provided to the consumer resident in progress notes.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote (a)3; inserted new (b) and (c); recodified and rewrote existing (b) as (d).

Recodified from N.J.A.C. 10:37A-5.2 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-5.3, Senior residential counselor requirements, qualifications and duties, recodified to N.J.A.C. 10:37A-5.4.

10:37A-5.4 Senior residential counselor requirements, qualifications and duties

(a) A senior residential counselor shall have the qualifications as cited in N.J.A.C. 10:37A-5.2(a) plus one year of experience in a residential mental health setting.

(b) The duties of the senior residential counselor shall, at a minimum, include the following:

1. Any duty listed in N.J.A.C. 10:37A-5.3(d);
2. Documentation of non-clinical and non-medical portions of the comprehensive assessment;
3. Documentation of comprehensive service plans;
4. Taking the lead in individual service coordination activities as defined in N.J.A.C. 10:37A-1.2;
5. Participation in staff scheduling;
6. Participation in providing staff training and orientation; and
7. Assistance with facility management.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (b), substituted "Participation in the development" for "Development" in 2, substituted "Participation in individual" for "Individual" in 3, and added 4 through 6.

Recodified from N.J.A.C. 10:37A-5.3 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-5.4, Residential program coordinator requirements, qualifications and duties, recodified to N.J.A.C. 10:37A-5.5.

10:37A-5.5 Residential program coordinator requirements, qualifications and duties

(a) A residential program coordinator shall have the following:

1. A master's degree from an accredited college or university in a mental health related discipline; or
2. A bachelor's degree in a mental health related discipline plus two years of experience in a mental health setting, provided that the individual was hired prior to the adoption of these regulations.

(b) Previous supervisory and residential experience is desirable but not required.

(c) The duties of the residential program coordinator shall minimally include:

1. Program administration, staff supervision and direction;
2. Inter-agency coordination;
3. Program development and implementation;
4. Staff development and/or training and clinical supervision;
5. Facility management;
6. Quality assurance;
7. Ensure completion of the comprehensive intake assessment and ongoing nursing assessments by appropriately licensed and credentialed staff;

8. Individual, group and family counseling;

9. Crisis intervention counseling;

10. Explanation to consumer resident of their rights and procedures in the event they are removed or discharged from the residence; and

11. Clinical support for staff 24 hours a day.

Recodified from N.J.A.C. 10:37A-5.4 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

10:37A-5.6 Supportive housing program coordinator

(a) The supportive housing program coordinator shall minimally have:

1. A bachelor's degree in a mental health related discipline plus two years of experience in a mental health setting; or

2. A license as a registered nurse, plus three years of supervised, mental health experience subsequent to receipt of degree or nursing license.

(b) Previous supervisory and residential experience is desirable but not required.

(c) The duties of the supportive housing program coordinator shall minimally include:

1. Program administration, supervision and direction;
2. Inter-agency coordination;
3. Program development and implementation;
4. Staff development and/or training and supervision;
5. Facility management;
6. Quality assurance;
7. Ensure completion of the comprehensive intake assessment and ongoing assessments;
8. Individual, group and family support;
9. Crisis intervention services; and
10. Support for staff 24 hours a day.

New Rule, R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

10:37A-5.7 Staff training

(a) The agency shall develop, update and administer a comprehensive, competency based training program for individuals providing adult mental health residential services. Competency based training programs involve measurable skill development and demonstrated, documented evidence of employee skill attainment.

(b) The agency shall have a written curriculum which includes the qualifications of individuals who will train the

staff. The following topics must minimally be included in the training curriculum:

1. Overview of adult mental health rehabilitation services including, but not limited to:
 - i. Psychiatric rehabilitation;
 - ii. Resident populations;
 - iii. Working with persons with mental illness;
 - iv. Continuum of care and discharge orientation;
 - v. Professional ethics and boundaries; and
 - vi. Confidentiality;
2. Emergency preparedness including, but not limited to:
 - i. CPR training/First Aid;
 - ii. The Heimlich maneuver;
 - iii. Crisis prevention and management; and
 - iv. Infection control;
3. Medication/clinical issues, including:
 - i. Policies and procedures for distribution and facilitation of the administration of prescription and non-prescription medication;
 - ii. Classes of medication, therapeutic objectives, side effects, interactions; including documentation and reporting of side effects to appropriate medical professional;
 - iii. Facilitation of proper administration techniques, including dispensing and observation; and
 - iv. Clinical communication (including how to report symptoms when encountering problematic medical/clinical situations and pertinent information to share with medical providers during emergencies);
4. Substance abuse issues in conjunction with mental illness;
5. Suicide prevention, including, but not limited to risk factors and warning signs;
6. Activities of Daily Living and Personal Care Management, including, but not limited to:
 - i. Personal hygiene;
 - ii. Food preparation and nutrition;
 - iii. Household maintenance, laundry, budgeting; and
 - iv. Monitoring of prescribed individual eating modifications; and
7. Documentation, including but not limited to:
 - i. Daily attendance logs where applicable;

- ii. Daily recording of nature of services rendered, including total number of units of service provided;
- iii. Progress notes; and
- iv. Objective vs. subjective recording of information.

New Rule, R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

SUBCHAPTER 6. FACILITY

10:37A-6.1 Physical plant requirements

All licensed community residences for mentally ill adults shall comply with all applicable provisions of the New Jersey Uniform Construction Code as specified in N.J.A.C. 5:23, or all applicable provisions of the New Jersey Uniform Fire Code, as specified in N.J.A.C. 5:70, 5:71 and 5:72, and evidenced by a valid Certificate of Occupancy under the Construction Code or Certificate of Inspection under the Fire Code, as appropriate.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).

Changed N.J.A.C. references.
Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
Rewrote the section.

10:37A-6.2 Water supply

(a) Every residence shall be provided with a safe supply of potable water meeting the standards as set forth in the Safe Drinking Water Act rules at N.J.A.C. 7:10. In accordance with the Private Well Testing Act, P.L. 2001, c.40, N.J.S.A. 58:12A-26 et seq. and the rules promulgated pursuant thereto, N.J.A.C. 7:9E, PAs leasing residences to consumer residents shall arrange for testing of potable water supply from a private well at least once every five years, and, within 30 days after receipt of the test results, shall provide a written copy of the test results to each rental unit and each new tenant.

(b) The source of such water supply shall be approved by the New Jersey Department of Environmental Protection or the local health agency.

Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
Rewrote (a).

10:37A-6.3 Residences

(a) Every residence shall contain a kitchen sink of non-absorbent impervious material.

(b) Every residence shall be provided with a minimum of one toilet, bathroom sink and a bathtub or shower.

(c) There shall be at least one toilet, sink and one bath or shower for each eight residents.

(d) The bathroom sink shall be located in or adjoining the toilet area.

(e) Every toilet, bathroom sink and bathtub or shower shall be:

1. Accessible from within the building without passing through any part of any other rooming unit; and
2. Contained in a room or rooms which are separated from all other rooms by walls, doors or partitions that afford privacy.

(f) No consumer resident shall be required to go farther than one floor above or below his or her rooming unit to the toilet room.

(g) No consumer resident shall be without ready access to a bathroom, bathtub or shower by reason of physical disability.

(h) Every plumbing fixture shall be connected to water and sewer/septic systems approved by the New Jersey Department of Environmental Protection and/or the local health agency, and shall be maintained in good working condition. Plumbing systems shall be well maintained.

(i) Every kitchen sink, bathroom sink and bathtub or shower required by this section shall be connected to both hot and cold water lines.

(j) Every residence shall have water heating facilities which are installed and connected with the hot water lines.

(k) The water heating system must be capable of delivering water at a minimum temperature of not less than 115 degrees Fahrenheit and at a maximum temperature of not more than 135 degrees Fahrenheit at all times in accordance with anticipated needs.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (b) and (c), substituted references to toilets for references to water closets; in (f), substituted "toilet room" for "bathroom"; in (f) and (g), substituted "consumer resident" for "client"; in (k), substituted "115" for "120" and "135" for "140".

10:37A-6.4 Garbage and rubbish disposal

Outdoor garbage, rubbish or other organic waste shall be stored in covered, watertight receptacles. A sufficient number of garbage or rubbish receptacles shall be available, and shall conform to all applicable State regulations and local ordinances.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Added last sentence.

Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

10:37A-6.5 Electrical system

(a) Every residence shall be provided with electrical service, which shall be adequately maintained and conform to all relevant local and State electrical codes. The electrical system shall be in working order and size sufficient for the appliances and equipment used. Every outlet and lamp shall be maintained in a good and safe condition and shall be connected to the source of electric power.

(b) Extension cords and flexible cords shall not be used as a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, floors, under drapes or floor coverings, nor be subject to environmental damage or physical impact. If used, extension cords shall be in good working order and size sufficient for the appliances and equipment used.

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

In (a), inserted "and conform to all local and State electrical codes" at the end of the first sentence; in (b), added the third sentence.

10:37A-6.6 Lighting

(a) Every bedroom shall have at least one window or skylight facing directly to the outdoors.

(b) The minimum glazed area of the total windows or skylights shall be eight percent of the floor area of each room.

(c) Every habitable room shall contain sufficient wall-type electric outlets and lamps or light fixtures to enable consumer residents to use the room for its intended function. Lighting in habitable rooms must be sufficient to read by. Open or unshielded halogen lamp stands shall be prohibited.

(d) Every portion of each staircase, hall, cellar, basement, landing, furnace room, utility room and all similar nonhabitable space shall have light available at all times.

(e) Every portion of any interior or exterior passageway or staircase shall have light available at all times.

(f) Every bathroom and toilet room shall have light available at all times. Artificial lighting shall be controlled by a wall switch so located as to avoid danger of electrical hazard. There must be sufficient light to use the room and/or area for its intended purpose.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote (c) through (f).

10:37A-6.7 Ventilation

(a) A means of ventilation shall be provided for every habitable room.

(b) Means of ventilation shall be provided for every bathroom or water closet compartment.

(c) Ventilation shall be sufficient to remove odors.

10:37A-6.8 Heating

(a) Every residence shall have heating facilities which are:

1. Properly installed;
2. Maintained in good and safe working condition; and
3. Capable of safely and adequately heating all habitable rooms and bathrooms located therein to a temperature of at least 70 degrees Fahrenheit when the outside temperature is 14 degrees Fahrenheit.

(b) The temperature shall be read at a height of three feet above floor level at the center of the room.

(c) There shall be heat adequate to maintain a minimum inside temperature of 68 degrees Fahrenheit in all habitable rooms and bathrooms from October 1 of each year to the next May 1, and when the outside temperature is 57 degrees or less.

(d) Every space heater, except electrical, shall be properly vented to a chimney or duct leading to outdoors.

(e) Unvented portable space heaters, burning solid, liquid, or gaseous fuels, shall be prohibited.

10:37A-6.9 Structural safety and maintenance

(a) Every foundation, floor, floor covering, wall, ceiling, door, window, roof, or other part of a residence shall be kept clean, in good repair and capable of the use intended by its design, and any exterior part or parts thereof subject to corrosion or deterioration shall be kept well painted.

(b) Every inside and outside stairway, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in sound condition and good repair.

(c) Every stairway having three or more steps shall be properly banistered and safely balustraded.

(d) Every porch, balcony, roof, and similar place higher than 30 inches above the ground, used for egress or for use by consumer residents, shall be provided with adequate railings or parapets which are properly balustraded and be not less than three feet in height.

(e) Every roof, wall, window, exterior door and hatchway shall be free from holes or leaks that would permit entrance of water within or be a cause of dampness.

(f) Every foundation, floor and wall of each residence shall be free from chronic dampness that is malodorous in the living environment.

(g) Every residence shall be free from rodents, vermin and insects. A PA of a residence located in an area found by the Department to be infested by rats, insects or other vermin shall carry out such rodent and insect control or other means of preventing infestations of said dwellings as may be required by the Department.

(h) Every openable window, exterior door, skylight, and other opening to the outdoors shall be supplied with properly fitting screens in good repair from May 1st until October 1st of each year. Screens shall have a mesh of not less than No. 16.

(i) Every residence, including all exterior areas of the premises, shall be clean and free from garbage or rubbish and hazards to safety.

(j) Lawns, hedges and bushes shall be kept trimmed and shall not be permitted to become overgrown and unsightly.

(k) Fences shall be kept in good repair.

(l) The ground maintenance shall be consistent with that of the neighborhood, unless the condition of the neighborhood does not generally meet the minimum standards for maintenance set forth at (j) above.

(m) The Department may require that the PA clean, repair, paint, whitewash or paper such walls or ceiling, when a wall or ceiling within a dwelling has deteriorated so as to provide a harborage for rodents or vermin, or when such a wall or ceiling has become stained or soiled, or the plaster, wallboard, or other covering has become loose or badly cracked or missing.

(n) Every water closet compartment floor and bathroom floor shall be so constructed and maintained as to be reasonably impervious to water and shall be kept in a clean condition.

(o) No PA shall cause or permit any services facilities, equipment, or utilities which are required under this chapter to be removed from, shut off, or discontinued, in any PA owned, leased or contracted residence or part thereof, except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies, when discontinuance of service is authorized by the Division.

(p) In the event that any service or utility is discontinued in a PA owned, leased or contracted residence, the PA shall take immediate steps to cause the restoration of such service or utility.

(q) All residences must be clean and sanitary prior to occupation by any resident, and shall be maintained in a clean and sanitary condition.

(r) The PA shall maintain the PA owned, leased or contracted premises to ensure compliance with all applicable laws and regulations. The storage of objects or materials shall be done in a manner to avoid imminent health, safety or fire hazards.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote (a), (d), (f), (o), (p) and (r).

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Substituted "Department" for "Division" in (g) and (m).

10:37A-6.10 Kitchen facilities

(a) Major appliances shall minimally include a refrigerator, freezer (or refrigerator with freezer compartment), an oven and a cooktop.

(b) Food products shall be thawed, stored, processed and prepared in a safe manner in all group homes, PA apartments and family care homes.

(c) Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit. Freezer compartments shall operate at no more than zero degrees Fahrenheit and must be maintained in good condition and without excessive ice build-up.

(d) All food and drink shall be safe for human consumption, clean, wholesome, free of spoilage and prepared and served in a sanitary manner. There shall be at least a two-day supply of food and drink in the group home, supervised apartment and family care residence at all times.

(e) All equipment, surfaces and utensils used in PA group homes, supervised apartments and family care homes for eating, drinking, preparation and storage shall be:

1. Kept clean and in good condition;
2. Thoroughly washed after each use; and
3. In sufficient quantity for the number of occupants.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote (b), (c), (e) and (f).

Amended by R.2005 d.1, effective January 3, 2004.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

10:37A-6.11 Occupancy and use of space

(a) Every rooming unit occupied for sleeping purposes by one consumer resident shall contain at least 80 square feet of floor space. Every room occupied for sleeping purposes by more than one consumer resident shall contain at least 60 square feet of floor space for each consumer resident. Doors for privacy shall be provided and maintained. Means of

egress to the rest of the home shall be direct and not through any other bedroom.

(b) At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet. The floor area of that part of any room where the ceiling is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(c) Sufficient closet space for storage shall be provided. The storage space shall be uncluttered and sufficient for clothing and supplies.

(d) Rooms shall be of adequate size for the number of people, types of activities and storage.

(e) A room located in whole or in part below the level of the ground may be used for sleeping, provided that the following requirements are met:

1. The walls and floor which are in contact with the earth shall be dampproofed; and

2. All requirements of this section and N.J.A.C. 10:37A-6.12 through 6.22 applicable to habitable rooms shall be satisfied.

(f) In family care homes, consumer residents shall be allowed to share sleeping rooms/accommodations only with other consumer residents.

(g) In group homes, bedrooms above the second floor shall have access to a second means of egress. If the second means of egress is a window, the window shall open onto a fire escape permanently attached to the building.

(h) Basements may be used for storage, heating and water supply equipment, other utilities such as washers and dryers, and as activity rooms. A second means of egress is not required.

(i) The PA shall maintain all residences which it owns, leases or contracts in a manner that ensures the health, safety and welfare of residents.

(j) Each residence shall be sufficiently furnished to allow for all consumer residents to comfortably eat, sleep, relax and to store their clothing. All indoor as well as outdoor furniture shall be safe and in good repair.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Substituted references to consumer resident for references to client throughout; added (h) through (j).

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

10:37A-6.12 Uniform Fire Code

The provisions of N.J.A.C. 5:70, the Uniform Fire Code, are incorporated herein by reference.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
Substituted "5:70" for "5:18".

10:37A-6.13 Group homes with five or less residents not in multiple unit dwellings

Group homes with five or less residents not in multiple unit dwellings are subject to the provisions of N.J.A.C. 5:70. Typically, the Department of Community Affairs has determined that these homes are an R-3 use.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.

10:37A-6.14 Group homes with six to 15 residents not in multiple unit dwellings

Group homes with six to 15 residents not in multiple unit dwellings are subject to the provisions of N.J.A.C. 5:70. Typically, the Department of Community Affairs has determined that these homes are an R-2 use.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.

10:37A-6.15 Group homes in structures with multiple dwelling units

Group homes in structures with multiple dwelling units are subject to the provisions of N.J.A.C. 5:70. While some may be classified as group R-3 and R-4, typically, the Department of Community Affairs has determined that these homes are an R-2 use.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.
Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
Rewrote the section.

10:37A-6.16 Family care homes

Family care homes are subject to the provisions of N.J.A.C. 5:70. Typically, the Department of Community Affairs has determined that these homes are an R-3 use.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.

10:37A-6.17 PA apartments

The provisions of N.J.A.C. 5:70 which apply to apartments shall apply to PA apartments.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.

10:37A-6.18 Smoke and carbon monoxide detectors

(a) Smoke detectors shall be installed at locations as follows:

1. At least one on every level of the dwelling;
2. In stairwells; and
3. In each bedroom.

(b) Smoke detectors shall be tested quarterly. The tests shall be documented.

(c) All licensed residences housing deaf or hearing impaired residents shall be equipped with flashing and bed-vibrating fire alarms and carbon monoxide detectors.

(d) One carbon monoxide detector is required in each dwelling unit outside the sleeping areas.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (b), substituted "quarterly" for "monthly"; added (c).
Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
Rewrote the section.

10:37A-6.19 Fire drills

(a) Fire drills shall be conducted in all group homes.

1. Fire drills shall be conducted monthly with at least one drill being conducted on each staff covered shift each quarter.

2. Evacuation should be completed in less than three minutes.

3. For each fire drill, the time, date, participants, problem areas, resolution of problems and timeliness of egress shall be documented by agency staff or an assigned consumer resident.

(b) The Department shall review agency compliance with this procedure every two years during the onsite inspection.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (a), substituted "at least every other month" for "per month"; in (b), defined evening hours as "between 5:00 P.M. and 6:00 A.M."; in (d), added "by agency staff or an assigned consumer resident".
Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
Rewrote the section.

Amended by R.2009 d.374, effective December 21, 2009.
See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).
In (b), substituted "every two years" for "annually".

10:37A-6.20 Kerosene heaters

The use of kerosene heaters is prohibited.

10:37A-6.21 Fireplaces

All fireplaces, if operable and utilized, shall be cleaned and have a documented inspection every two years. If an unused fireplace is to become operable, it shall be cleaned and have a documented inspection prior to use.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
Rewrote the section.

10:37A-6.22 Variances

The PA shall provide the Department with a copy of all applications for variances from the codes cited in N.J.A.C. 10:37A-6.1 and the action taken on them.

Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

**SUBCHAPTER 7. HEARINGS, APPEALS,
COMPLAINTS**
10:37A-7.1 Administrative hearings

Administrative hearings regarding final Department actions will be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Inserted "regarding final Department actions" following "Administrative hearings".

10:37A-7.2 Development of residential complaint procedures

All PAs shall establish internal complaint procedures, which will be subject to the Department's review and approval at the time of the initial licensing and licensing renewal. Complaint procedures shall allow for a consumer resident of the PA or his or her designee to make known a grievance regarding services provided or which failed to be provided; to seek appropriate redress related thereto; and to have corrective action taken as might be warranted. The policy and procedure for consumer resident complaints shall be posted in a public place at the PA office site and a copy given to each consumer resident upon beginning the program. Any implementation of the complaint procedure shall be documented in the consumer resident's clinical record.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Substituted references to consumer resident for references to client throughout

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Amended by R.2009 d.374, effective December 21, 2009.

See: 41 N.J.R. 2072(a), 41 N.J.R. 4790(a).

Inserted a comma following the first occurrence of "procedures" and deleted "annual" preceding the second occurrence of "licensing".

10:37A-7.3 PA ombudsman

The PA's internal complaint procedures shall be consistent with the provisions of N.J.A.C. 10:37-4.6 regarding consumer resident complaint agency ombuds and review procedures, which are incorporated by reference.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Substituted "consumer resident" for "client".

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

10:37A-7.4 Consumer resident protection

No consumer resident shall be subject to retaliation of any form by the PA because of the filing of any complaint.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Substituted "consumer resident" for "client".

SUBCHAPTER 8. QUALITY ASSURANCE
10:37A-8.1 Quality assurance

(a) The PA shall develop and implement policies and procedures for an ongoing quality assurance (QA) program that meet the QA requirements for community agencies as articulated in N.J.A.C. 10:37-9. In addition, the PA shall ensure, through its quality assurance program, that group homes, PA apartments, family care homes and supportive housing residences meet the program and facility requirements for licensure as specified in this chapter.

(b) Areas to be monitored and evaluated include the following:

1. Therapeutic environment and life safety monitoring shall include at least quarterly documentation of safety inspections (including testing of smoke detectors) to assure the health, safety, and welfare of consumer residents in group homes, apartments and family care homes and annual documentation of these inspections in supportive housing residences;

2. Adequacy of planning for more independent living and reduction of service intensity;

i. Barriers to discharge/transfer to a less restrictive living environment shall be reviewed annually for all consumer residents living in group homes and supervised apartments.

ii. These review findings shall be forwarded to the agency quality assurance oversight (or utilization review) committee for review and follow-up and should be available at the time of a licensing review; and

3. Adequacy of intake and admission review process to ensure vacancies are filled expeditiously. Vacancy rates and the reasons for those vacancy rates shall also be monitored.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote (b); deleted (c).

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

SUBCHAPTER 9. DISCHARGE

10:37A-9.1 General rule regarding the discharge of consumer residents from group homes, supervised apartments, and family care homes

(a) No consumer resident of a licensed group home, supervised apartment, or family care homes shall be prohibited from utilizing or residing in a residence unless:

1. Such action is justified by one of the conditions specified in N.J.A.C. 10:37A-9.2; and

2. The PA follows all of the procedures set forth in N.J.A.C. 10:37A-9.3. A consumer resident may be discharged voluntarily if the PA has complied with the procedures set forth at N.J.A.C. 10:37A-9.3(b).

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Substituted "consumer resident" for "client" throughout.

Recodified from N.J.A.C. 10:37A-9.4 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-9.1, Criteria for admission, repealed.

10:37A-9.2 Conditions permitting discharge from group homes, supervised apartments and family care homes

(a) A consumer resident of the PA may be discharged from a group home, a supervised apartment or a family care home pursuant to written PA policies which may include only the following conditions for discharge:

1. The PA reasonably concludes that the consumer resident clearly violates the rules set forth in the consumer residential service agreement (N.J.A.C. 10:37A-4.4(a)), which creates a substantial, continuing and immediate threat to the physical safety of other persons, or to the emotional or psychological health of other consumer residents of the residence; provided, however, that the PA shall not discharge such consumer resident on this basis if the consumer resident has been civilly committed.

2. The PA reasonably concludes that the consumer resident's clearly inappropriate behavior renders the residence or the PA out of compliance with any agreements to which the PA is signatory as a lessee or with any applicable law or regulation.

3. The consumer resident repeatedly violates a rule governing consumer resident conduct, which is reasonable both in itself and its application, after the PA delivers to him or her a written notice to cease violating such rule. No such rule shall be the basis for discharging a consumer resident unless it is reflected in a consumer resident services agreement and/or other documents in compliance with these rules.

4. The consumer resident has received the maximum clinical benefit of the services offered by the residence, an

appropriate alternative living arrangement (where the consumer resident has sufficient financial resources), other than a shelter, motel or hospital, is available to him or her prior to discharge, and the PA reasonably determines that discharge would be in the consumer resident's best clinical interests.

5. The consumer resident absents himself or herself from the residence for a continuous period of 30 days without providing the PA with notice of intent that he or she will return after the expiration of such 30-day period; provided, however, that continued absence beyond 30 days shall be a condition for discharge if such absence is not in the consumer resident's clinical best interest.

6. The consumer resident has refused necessary and appropriate services offered by the PA pursuant to a properly developed treatment plan; the refusal is contrary to his or her clinical interest; the consumer resident has failed to offer any alternate plan which would be consistent with his or her clinical interest; and an alternative living arrangement other than a hospital is available.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (a), inserted "from a group home, a supervised apartment or a family care home" following "discharged" in the introductory paragraph, and rewrote 1; substituted references to consumer resident for references to client throughout.

Recodified from N.J.A.C. 10:37A-9.5 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-9.2, Additional criteria for admissions, repealed.

10:37A-9.3 Discharge procedures from group homes, supervised apartments and family care homes

(a) The PA may discharge and remove a consumer resident from a group home, supervised apartment, or a family care home only after complying with all of the procedures set forth in this chapter.

(b) The PA shall comply with the following procedures in all cases prior to discharge, except when the consumer resident cannot be located, or, despite the PA's effort to comply, the consumer resident is unwilling to participate:

1. The PA's assigned clinical staff shall fully inform the consumer resident of and discuss with the consumer resident the factual and clinical basis for discharge, and, if the consumer resident does not agree, approve the discharge;

2. The PA shall offer to utilize the consumer resident Complaint/Agency Ombuds Procedure, N.J.A.C. 10:37-4, to attempt to resolve any problems; and

3. The PA's assigned clinical staff shall formulate a written discharge plan and document all efforts to obtain appropriate alternate living arrangements and appropriate alternate treatment modalities.

(c) If, after the procedures set forth in (b)1 through 3 above are completed, the consumer resident disagrees with the PA decision to discharge, the PA may discharge and remove the consumer resident from the residence only after complying with the following procedures and obtaining the approval of the Division's review officer as set forth below:

1. If the consumer resident has declined to utilize the consumer resident Complaint/Agency Ombuds Procedure, the PA shall submit its decision for review by the chief executive officer of the PA;
2. If the chief executive officer upholds the basis for the discharge and the consumer resident disagrees, the PA shall deliver to the consumer resident a written notice of intent to discharge the consumer resident from the residence, and read and explain such notice to the consumer resident in the same language utilized on admission to explain documents as set forth at N.J.A.C. 10:37A-4.1(a)3; and
3. The PA shall then schedule a meeting for administrative review by the Division as set forth at (d) below on a date at least 10 days after the date upon which it delivered, read and explained the notice referred to in (c)2 above, if an alternate residence is available. If an alternate residence is not available, the meeting shall be scheduled at least 20 days thereafter.

(d) The administrative review referred to in (c)3 above shall be conducted by the designee of the Director of the Division, and such designee shall be an employee of the Division. The reviewing officer shall schedule at least one meeting between the PA representatives, the consumer resident and the reviewing officer, at which meeting or meetings the reviewing officer shall insure the following:

1. That the PA has engaged in all of the procedural steps required by this chapter, prior to the meeting date;
2. That the consumer resident has had fair notice of the factual and clinical basis for the PA's decision to discharge;
3. That the consumer resident is given a reasonable time within which to obtain the services of an advocate or attorney, if the consumer resident so desires;
4. That the consumer resident is present during all meetings conducted by the reviewing officer, unless the consumer resident waives his or her right to be present;
5. That the consumer resident is assisted and/or represented by any available individual of his or her choice during the meeting, if the consumer resident so desires;
6. That the consumer resident has a full opportunity to respond to everything stated during the meeting; and
7. That the consumer resident has a full opportunity to present any relevant documents, objects or statements of third persons. The officer must permit such persons to make such statements in person during the meeting, and

may accept such statements in writing. The officer may base his or her decision in part upon written statements, if at least one person attends the meeting who has personal knowledge of the relevant facts.

(e) During or after the meeting or meetings described in (d) above, the reviewing officer shall make the following findings:

1. That the consumer resident has or has not been accorded the safeguards listed in (d) above;
2. That the factual basis for the PA's decision to discharge is or is not true, based upon a preponderance of the credible evidence; and
3. That one or more of the conditions justifying discharge, as specified in N.J.A.C. 10:37A-9.2, does or does not in fact exist at the time of the final review meeting, or that it is reasonable to believe that, if such condition does not exist at the time of the final review meeting, the condition will recur immediately upon disapproval of discharge.

(f) If the reviewing officer makes all of the findings set forth at (e) above in the affirmative, such officer may, in his or her discretion, approve the discharge and removal of the consumer resident from the residence in question, and set a reasonable date and reasonable conditions, if any, for discharge. If the reviewing officer does not approve such discharge, he or she shall make such recommendation as he or she may consider fair and appropriate.

(g) By letter, the reviewing officer shall notify the PA, the consumer resident and the consumer resident's representative, if any, of the officer's findings and decision. The PA staff shall read and explain such letter to the consumer resident in the same language utilized at admission to explain documents as set forth above at N.J.A.C. 10:37A-4.1(a)3.

(h) The decision of the reviewing officer shall be the final decision of the Department; the PA's noncompliance with such decision shall be grounds for revocation of licensure or other administrative sanction.

(i) If the reviewing officer approves the discharge, the PA may discharge and peaceably remove the consumer resident from the residence as directed by the reviewing officer, and in any event no sooner than seven days after the consumer resident receives the reviewing officer's written decision. Any such discharge must be to an appropriate form of living arrangement.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (a), substituted "a group home, supervised apartment, or a family care home" for "the residence" preceding "only after"; substituted references to consumer resident for references to client throughout. Recodified from N.J.A.C. 10:37A-9.6 and amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-9.3, Procedures for admission, repealed.

10:37A-9.4 Miscellaneous provisions regarding the discharge of consumer residents from group homes, supervised apartments, and family care homes

(a) A PA shall not discharge a consumer resident from a group home, supervised apartment, or a family care home as a retaliation or reprisal for such consumer resident's attempt to assert his or her rights, desires or needs.

(b) Whenever a consumer resident's behavior presents a substantial, immediate and emergent threat to the physical safety of others, or to the emotional or psychological health of other consumer residents, the PA may remove the consumer resident immediately and temporarily, if necessary, and may prevent the consumer resident from returning until the immediate threat has been obviated. The PA may not discharge such consumer resident, however, unless a condition for discharge listed above at N.J.A.C. 10:37A-9.2 exists, and unless the PA follows all procedures for discharge set forth in this chapter. If the PA prevents the consumer resident's return for more than 24 hours, it must comply with the following procedures:

1. The proposed decision shall be submitted to the chief executive officer of the PA for his or her approval;

2. If the chief executive officer approves, the PA shall schedule an administrative review of such exclusion within the next 48 hours, before a reviewing officer appointed as set forth in N.J.A.C. 10:37A-9.3(d), and such review shall determine the propriety of the continuation of such exclusion. Such review shall be conducted pursuant to the procedures set forth at N.J.A.C. 10:37A-9.3(d), to the extent that such procedures are feasible and applicable. The reviewing officer shall make such order as he or she shall consider fair and appropriate.

(c) The PA shall maintain the consumer resident's residential placement during brief hospitalizations and temporary absences for at least 30 days from the date of such consumer resident's admission to a hospital, or from the date of such consumer resident's leaving the residence.

(d) The PA must exercise reasonable care to safeguard the consumer resident's property for a reasonable period of time after the consumer resident is discharged, and in any event for at least 30 days.

(e) A shelter for the homeless shall not be considered an appropriate alternative residence as required pursuant to this subchapter.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (a), inserted "from a group home, supervised apartment, or a family care home" preceding "as a retaliation"; substituted references to consumer resident for references to client throughout.
Recodified from N.J.A.C. 10:37A-9.7 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-9.4, General rule regarding the discharge of consumer residents, recodified to N.J.A.C. 10:37A-9.1.

Case Notes

Mental health patients, who were involuntary rehospitalized following alleged violation of condition of their release, were improperly placed on Conditional Extension Pending Placement (CEPP) status, which continued their involuntary hospitalization, as patients each had appropriate placements. In re Commitment of B.L., 346 A.2d 285.

10:37A-9.5 Conditions for termination of supportive housing services

(a) The supportive housing services used by a consumer resident may be terminated only if a consumer resident:

1. Has achieved the service plan goals and needs no further treatment;

2. Is out of contact with the supportive housing service provider for a continuous period of 90 days, and the provider has attempted to engage the consumer resident through repeated telephone calls, correspondence and home visits which shall be documented in the clinical record;

3. Is refusing services;

4. Moves into another residential program;

5. Leaves the geographic area served by the PA and services are no longer accessible. If the consumer resident moves to another location with a supportive housing program, the PA shall provide that program's name and telephone number; or

6. Repeatedly violates a written rule governing consumer resident conduct, which is reasonable both in itself and its application, after the PA delivers to him or her a written notice to cease violating such rule. No such rule shall be the basis for terminating supportive housing services unless it is reflected in a consumer resident service agreement.

(b) Termination of supportive housing services shall not directly affect the consumer resident's rights to enjoy the owned or leased premises as contained in real estate/lease agreements. Continued occupancy, and eviction proceedings if appropriate, shall be in conformance with New Jersey landlord-tenant law.

New Rule, R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Recodified from N.J.A.C. 10:37A-9.8 and amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Former N.J.A.C. 10:37A-9.5, Conditions permitting discharge from group homes, supervised apartments and family care homes, recodified to N.J.A.C. 10:37A-9.2.

APPENDIX A

Each consumer resident in a licensed group home, supervised apartment and family care home is to be provided with a copy of the following consumer rights regarding discharge and exclusion from the facility (with the appropriate names, addresses and phone numbers of the individuals listed on page two of this appendix):

STATEMENT OF CONSUMER RESIDENT RIGHTS REGARDING DISCHARGE AND EXCLUSION FROM APA OWNED, LEASED OR CONTRACTED RESIDENCE

As a consumer resident in a Community Residence licensed by the New Jersey Department of Human Services, you are protected from being discharged or excluded from the PA-owned, leased or contracted residence against your will and without sufficient cause as outlined in the service agreement and/or lease. Also, specific procedures must be followed by the Agency before any discharge or exclusion can occur.

The reasons for discharge or exclusion and the procedures to be followed are as follows:

REASONS FOR DISCHARGE:

To be discharged or excluded from the group home, PA apartment or family care residence, one of the following conditions must occur:

1. You have received the maximum clinical benefit offered by the program and another place (not a hospital or shelter) is available for you to live in, and discharge would be in your clinical best interests.
2. You behave in a manner which substantially threatens the physical safety or emotional or psychological health of others.
3. You repeatedly break a written rule of the residence after being given a written warning to stop.
4. You behave in a manner which breaks the law or causes the residence to violate its lease or other agreements.
5. You leave the residence for 30 days without informing staff that you will return soon.
6. You refuse to participate in many of the services listed in your previously agreed upon treatment plan, have not offered a reasonable alternative plan of daily activities, and there is another place available for you to live, other than a hospital.

PROCEDURES FOR DISCHARGE OR EXCLUSION:

- A. The following procedures must be followed in the case of all discharges or exclusions from a Community Residence:
 1. Your assigned clinical staff must fully explain the reasons.
 2. If you wish, you must be offered the opportunity to speak with the Agency Ombudsperson and to follow the consumer resident Complaint Procedure. If you wish more information about this procedure, the Agency which operates this Community Residence will give you the full details in writing.
 3. In the case of discharge, clinical staff must make a discharge plan for you and attempt to locate another place for you to live and other appropriate treatment services.

B. If you disagree with the decision to discharge or exclude you, the following procedures must be followed:

1. The Agency's Chief Executive Officer must review the decision and approve it.
2. A representative of the Division of Mental Health Services must review the decision and you must be given the opportunity to meet with that representative.
 - You will receive at least ten (10) days notice before a meeting is scheduled.
 - You must be given the opportunity to bring a lawyer or another person to the meeting if you desire and to have other persons present to tell what they know.
 - You must be given the opportunity to say or show anything that helps the Division representative understand why you disagree with the plan to discharge or exclude you. You must also be read any letters or written statements made by others and be allowed to respond to them.
3. The Division's representative may make any decision he or she reasonably considers to be fair and send the decision to you in writing. If the decision is made to approve the discharge or exclusion, you must be given at least seven (7) days from the date you receive the letter to move out of the residence. If the decision does not approve the discharge or exclusion, the Agency which operates this Community Residence will comply with the terms of the decision or otherwise be subject to administrative sanction.

OTHER PROCEDURES:

1. In the event you are hospitalized or leave the residence temporarily, your place in the residence must be held for you for thirty (30) days.
2. In the event you are discharged or excluded and you have not taken all of your personal property with you, the Agency must safeguard that property for a reasonable period of time, at least thirty (30) days.
3. In the event of an emergency where your behavior endangers others and there is no other effective way of dealing with the situation, you may be removed from the residence temporarily without prior review by the Division. If that occurs, you must be given the opportunity to meet within three (3) days with a representative of the Division of Mental Health Services. The procedures set forth in N.J.A.C. 10:37A-9.4(b)2 and N.J.A.C. 10:37A-9.3(d) will be followed.
4. You may not be discharged or excluded from a community residence as a retaliation or reprisal for trying to state or obtain your rights or anything you may want or need.

WHERE TO CALL FOR HELP:

If you need assistance regarding your rights in a licensed Community Residence, you may call any of the following:

Agency Ombudsperson
(Name, Address and Phone Number)
County Mental Health Administrator
(Name, Address and Phone Number)
Department of Human Services, Office of
Licensing, Mental Health Services

Division of Mental Health Services
50 East State Street
PO Box 727
Trenton, New Jersey 08625-0727
(609) 341-333007

Community Health Law Project
185 Valley Street
South Orange, New Jersey 07079
(973) 275-117507

Legal Aid Society of Morris County
(where appropriate)
30 Schuyler Place, 2nd Floor
PO Box 900
Morristown, New Jersey 07963-0900
(973) 285-691107

Central Jersey Legal Services, Inc.
(where appropriate)
78 New Street, 3rd Floor
New Brunswick, New Jersey 08901-2564
(732) 249-7600 or 324-161307

New Jersey Protection & Advocacy, Inc.
210 South Broad Street (Third Floor)
Trenton, New Jersey 08608
1-800-922-7233

This statement is a summary of your full discharge rights, which appear at N.J.A.C. 10:37A-9.1 et seq., and which shall be available at your request at the Agency. Nothing in this statement is intended to alter or interpret the provisions of N.J.A.C. 10:37A-9.1 et seq.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
Rewrote section.
Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).