

“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. 10:37-10 as of July 1, 2003.

(b) On an annual basis, the PA shall submit with its application for renewed licensure the fee(s) listed at (c) below, to the Division at the address listed at N.J.A.C. 10:37A-2.1(a). 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) If the Fiscal Year 2004 anniversary of the expiration date of a license falls before, on, or within 30 days after March 1, 2004 and the fee is not waived pursuant to N.J.A.C. 10:37-10.4(e), any initial fee and the Fiscal Year 2004 renewal fee shall be paid by March 31, 2004. Any other initial application fee, waiver request, or renewal fee shall be paid 30 days before the anniversary date for the remainder of FY 2004 and in each successive year.

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.

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 an annual 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.

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 one year, 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.

10:37A-2.5 Licensing PA apartments

(a) The Department may inspect any proposed PA apartment site(s), and review all program operations or descriptions 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 one year. 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 annual 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.

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 annual 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 one year 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.

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 annually 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 one year.

(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.

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 an annual renewal 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 annual housing inspection and triennial program review conducted by the Department's Office of Licensing, Mental Health Services.

(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.

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. 10:37-10.

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

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

(d) All PA family care homes shall be inspected annually 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 annually 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.

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).