

3. The owner, applicant, licensee or executive leadership refuses to cooperate with Department personnel in gaining admission to a residence or in conducting an investigation or inspection;

4. The owner, applicant, licensee or executive leadership has failed to adhere to the approved program description;

5. The owner, applicant, licensee or executive leadership has falsified any information in order to obtain a license;

6. The owner, applicant, licensee or executive leadership has refused to furnish the Department with files, reports, or records as required by this chapter; or

7. The owner, applicant, licensee or executive leadership has failed to act in a fiduciary capacity in order to protect the funds of persons served.

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

“Support” means activities, materials, equipment or other services designed and implemented to assist the person served. Examples include, but are not limited to, instruction, training, assistive technology, and/or removal of architectural barriers. Support also includes positive interactions between the person served and person(s) significant to the person served.

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

“Transdisciplinary Team” (TDT) means a group that shall be comprised of the person served and all personnel directly involved in the process of defining the person’s capabilities and needs, in refining and meeting all of the person’s goals and objectives and in the provision of care or supervision. The team shall also include, as needed, other significant persons such as employers and those disciplines and persons involved in the provision of care or supervision. Team membership shall represent a variety of disciplines, to the extent possible. The team members shall share their knowledge and expertise in order to facilitate the assessment, planning and implementation of the person’s program. There shall be interaction and integration among the team members to ensure that the achievement of the individual’s goals is facilitated. Family members, peers and advocates shall participate at the discretion of the person served or his or her legal guardian.

“Traumatic brain injury” means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma,

but may include brain injuries caused by anoxia due to trauma.

“Uniform Construction Code” means N.J.S.A. 52:27D-119 et seq. and N.J.A.C. 5:23.

“Uniform Fire Safety Act” means N.J.S.A. 52:27D-192 et seq., and the related codes adopted pursuant thereto.

“Unusual incident” means an event involving a person served or employee involving indications or allegations of criminal actions, injury, negligence, exploitation, abuse, clinical mismanagement or medical malpractice, a major unforeseen event, for example, serious fire, explosion, power failure that presents a significant danger to the safety or well being of persons served, and/or employees; or a newsworthy incident.

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

“Volunteer” means an unpaid person who supports and supplements programs and services. A volunteer may be an individual, or a member of an organized group.

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

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

Administrative correction.
See: 36 N.J.R. 1206(a).

10:44C-1.4 Application for a license

(a) An application for a license may be obtained from:

Department of Human Services
Developmental Disabilities Licensing
50 East State Street
PO Box 726
Trenton, NJ 08625-0726

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

1. No license shall be issued to any applicant or licensee who has been convicted of a crime of moral turpitude.

2. No license shall be issued to any applicant or licensee who has been adjudged civilly or criminally liable for abuse of a person served by the Department or placed in a community residence regulated by this chapter.

(c) An application for licensure as an operator of a community residence for persons with head injury shall be submitted to the licensing agency.

1. The application shall be composed of the following:

- i. Identification of all owners;
- ii. A table of organization;
- iii. A curriculum vitae for the applicant and executive leadership;
- iv. Documentation that the applicant meets the requirements of (b) below;
- v. A description of the applicant's experience in providing services to persons with head injury;
- vi. Documentation that the business is incorporated or otherwise authorized to do business in the State of New Jersey;
- vii. A list of the members of the governing body (for example, board of directors/trustees), their occupations, addresses and telephone numbers;
- viii. At least three references; and
- ix. The program description.

2. Licensees currently operating community residences for persons with head injuries in New Jersey shall be required only to provide any changes in (c)1 above, as part of the application process.

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

(d) The licensing agency shall initially review the materials to determine:

1. Whether all required elements have been submitted;
2. The applicant's qualifications;
3. The applicant's apparent ability to comply with this chapter;
4. The applicant's apparent ability to deliver services in accordance with its stated goals and purposes; and
5. Potential barriers to licensing.

(e) The licensing agency may employ the services of any qualified professional, as necessary, in the review process in order to conduct a thorough and valid review of the program, supports and services to be rendered.

(f) Within 60 calendar days of the receipt of the completed application, the applicant shall be advised in writing of its approval or non-approval.

(g) Upon a determination that an application is denied, the licensing agency shall notify the applicant in writing of the reason through certified mail, return receipt requested.

1. The applicant may submit a new application after six months.

(h) The approved program description shall be available for review, as appropriate, by persons with head injury, their guardians, their families and their advocates.

(i) The licensee shall be responsible for the overall operation of each community residence for persons with head injuries, including the arrangement whereby executive leadership is delegated to a person who is employed to oversee the day-to-day operation.

(j) No license shall be issued to any person who has previously been denied a license by any State agency due to substantial noncompliance or due to violation of any State or Federal law pertaining to the operation of a community residential facility.

(k) No license shall be issued to, or held by any person who, in a final determination by a court of record or by the Division on Civil Rights, has been found to discriminate against any person on the basis of race, color, creed, gender, national origin, ancestry or disability.

(l) No person shall own or operate a community residence for persons with head injuries without authorization from the licensing agency.

(m) Each community residence for persons with head injuries shall be subject to inspection or investigation by the Department as deemed necessary without limitation or notice to allow for an inquiry into the facility's records, equipment, sanitary conditions, accommodations and management of the persons served.

10:44C-1.5 Procedure manual

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

10:44C-1.6 Issuance of an initial license

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

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