

Amended by R.2004 d.404, effective November 1, 2004.
See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

10:44A-1.8 Denial, revocation, non-renewal or suspension of a license

(a) The licensing agency may deny, suspend, revoke, or refuse to renew a license for substantial non-compliance, or for willful non-compliance.

(b) If the licensing agency denies, revokes or refuses to renew a license, the licensee shall be prohibited from re-applying for a license for one year from the date of license revocation or non-renewal. After the one year period has elapsed, the licensee may submit to the licensing agency a new application for a license.

1. When a negative licensing action is based upon falsification, willful noncompliance, criminal activity on the part of the applicant, licensee or executive director, or when individuals have suffered physical harm due to the applicant's, licensee's or executive director's actions or failure to act, the Department may refuse to accept any subsequent application.

(c) When a license is suspended, the licensing agency shall reinstate the license when the licensee achieves compliance with the provisions of this chapter. The Department shall not require the licensee to submit a new application for a license unless such application is expressly made a condition of the reinstatement of the license.

(d) Each license issued to a licensee shall remain the property of the Department of Human Services. If the licensing agency suspends or revokes a license, the licensee shall, upon notification, return the license to the licensing agency.

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See: 36 N.J.R. 2989(a), 36 N.J.R. 4961(a).

10:44A-1.9 Administrative hearings

(a) Upon imposition of a negative licensing action, the licensee shall have the opportunity to request an administrative hearing pursuant to N.J.A.C. 10:48-1.

(b) In the event of the imposition of a non-renewal, suspension or revocation, if the Department determines that individuals are not at risk and that no imminent danger(s) exist(s), the Department may permit a residence, operated by a licensee who has requested an administrative hearing as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.

(c) If it is determined that the occupants of a home are at risk, the Department may:

1. Remove the individuals from the residence; or
2. Place staff approved by the Department at the residence to ensure the safety of the individuals.

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10:44A-1.10 Waiver or variance

(a) A waiver or variance shall be granted by the licensing agency, provided that such a waiver or variance would present no danger to the health, safety, welfare or rights of the individuals receiving services.

1. The licensee shall request the waiver with substantial detail justifying the request.

2. Issuance of a waiver or variance shall be limited to the following circumstances:

i. Where enforcement of the standard would result in unreasonable hardship on the residence; or

ii. Where the waiver or variance is in accordance with the particular needs of the individuals with developmental disabilities.

10:44A-1.11 Complaints

(a) The Department shall have the authority to investigate any complaint received regarding a licensee.

1. The licensee shall cooperate with the Department in any investigation.

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10:44A-1.12 Voluntary closure

A licensee shall give at least 60 days notice to the appropriate Regional Office of Community Services, Division of Developmental Disabilities of any planned closure.

SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

10:44A-2.1 General requirements

(a) The purposes of the licensee's organization and a description of the services that it provides shall be made available to individuals with developmental disabilities, parents, guardians, advocates and the general public. This document shall describe, in general terms, who is served, the services provided, and the goals of the licensee's organization.

(b) The licensee shall keep the following on file:

1. A record of all admissions and discharges, including names and dates, for the previous 24 month period;
2. A current copy of this chapter;
3. Copies of all current licenses; and

4. Written descriptions of any religious practices or restrictions that are observed if a licensee has a particular religious orientation, approved as part of the program description, in accordance with this chapter.

(c) A licensee having nonprofit status in accordance with 26 U.S.C. § 501(c)(3) shall have a Board of Trustees which meets the following criteria:

1. A minimum of five persons shall comprise the board;
2. Provisions shall exist for the orientation of new board members; and
3. Meetings shall be held with a frequency sufficient to discharge their responsibilities effectively; in no event shall the full governing body meet less than three times a year.

10:44A-2.2 Development and maintenance of procedure manual

(a) The licensee shall develop and implement a manual of written procedures to ensure that the service delivery system complies with State law and rules governing community residences for individuals with developmental disabilities.

1. The procedures shall be reviewed annually and revised as necessary.
2. Each procedure shall be designed in accordance with the principles of normalization, age appropriateness, least restriction, person centered planning and shall be consistent with the organizational structure and management philosophy of the licensee.
3. While specific content for inclusion in a procedure shall be identified on an as-needed basis in these rules, to ensure consistency, each procedure shall include:
 - i. A descriptive title which is unique so as to permit easy reference and retrieval of each document;
 - ii. An explanation regarding the purpose of the document;
 - iii. A description of sequential steps required to successfully complete a task or action;
 - iv. Assignment of staff responsibilities at each step in the implementation; and
 - v. Reporting and recording requirements for each person involved.

(b) The licensee shall maintain a procedure manual containing the following documents and/or procedures:

1. A statement of philosophy, values and goals so as to govern the organization's direction and character;
2. A table of organization that illustrates lines of authority, responsibility and communication;

3. A procedure for implementing a plan to deal with major emergencies requiring evacuation from the residence, such as a fire or a gas leak;

4. A procedure for handling medical emergencies;
5. A procedure for reporting all unusual incidents;
6. A procedure for the reporting of suspected abuse, neglect or exploitation of the individuals receiving services, including, at a minimum:
 - i. A written statement expressly prohibiting abuse, neglect or exploitation;
 - ii. A written statement regarding the obligation to report each allegation as required by N.J.S.A. 9:6-8.10, N.J.S.A. 52:27G-1 et seq. and Division policy; and
 - iii. A written statement regarding specific agency investigation procedures;

7. A procedure to ensure sound fiscal management of individual's funds;

8. A procedure for resolving complaints and grievances of individuals receiving services;

9. A procedure, separate from individuals' records, for internal communication, to include the use of a log to document critical information and the associated action taken as necessary;

10. A procedure for admissions, including admission criteria, discharges, and changes in supports/services, which comply with the requirements of N.J.A.C. 10:44A-4;

11. A procedure to address the development, implementation, review and evaluation of each individual's habilitation plan as required by N.J.S.A. 30:6D-10 et seq.;

12. A statement regarding maintaining confidentiality of individuals receiving services and records as required by N.J.A.C. 10:41-2;

13. Written procedures for medication administration, including procedures for self-medication; and

14. A continuous quality improvement system to identify opportunities to improve services and/or supports and to resolve identified problems. The system shall include, at a minimum:

- i. A written plan to identify how data is collected, analyzed and utilized to determine patterns which identify process or systemic problems requiring further in-depth review;
- ii. Input from a variety of sources, including persons receiving services, family members and others;
- iii. A written summary of satisfaction surveys;

iv. A written summary of outcomes assessments; and

v. An action plan based upon an analysis of (b)14i through iv above.

10:44A-2.3 Implementation of procedure manual

(a) The procedure manual shall be available and accessible for staff use.

(b) All staff shall be able to describe procedures that they routinely implement.

(c) The procedure manual shall be available for review by authorized representatives of the Department.

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10:44A-2.4 Personnel

(a) Personnel practices shall comply with all applicable Federal, State and local laws, ordinances, rules and regulations pertaining to employment, including civil rights, retirement plans or social security, minimum wages, hours and workers compensation.