

CHAPTER 190
LICENSURE STANDARDS FOR MENTAL
HEALTH PROGRAMS

Authority

N.J.S.A. 30:1-12, 30:9A-10 and 30:9A-21.

Source and Effective Date

R.2007 d.37, effective December 27, 2006.
 See: 38 N.J.R. 2566(a), 39 N.J.R. 450(b).

Chapter Expiration Date

Chapter 190, Licensure Standards for Mental Health Programs, expires on December 27, 2011.

Chapter Historical Note

Chapter 190, Licensure Standards for Mental Health Programs, Subchapter 1, Licensure of Mental Health Programs, was recodified from Chapter 37, Community Mental Health Services Act, Subchapter 10, Licensure of Mental Health Programs by R.2007 d.37, effective February 5, 2007. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. LICENSURE OF MENTAL HEALTH PROGRAMS

10:190-1.1 Scope and purpose

(a) The purpose of this subchapter is to establish licensure and fee requirements applicable to certain providers of community mental health services.

(b) No mental health program shall operate unless it is licensed by the Commissioner of the Department of Human Services as a mental health program and has a purchase of service contract or an affiliation agreement with the Division of Mental Health Services, or is licensed by the Commissioner of the Department of Health and Senior Services as a health care facility.

1. A mental health program licensed by the Department shall be subject to the provisions of this chapter, including regulatory standards compliance inspections by the Department.

2. Mental health program means a program of mental health services not licensed by DHSS as a health care facility and which is subject to rules adopted by the Department and is provided by either:

- i. An agency which has a purchase of service contract or affiliation agreement with the Division;
- ii. A mental health clinic as defined by the Division of Medical Assistance and Health Services (DMAHS) at N.J.A.C. 10:66-1 and 2.5; or
- iii. An entity which provides outpatient, ambulatory, or other nonresidential, non-inpatient mental health service(s).

3. Mental health program(s) may be public or private, incorporated or unincorporated, and for profit or not for profit.

4. Provisions of this chapter shall not apply to:

- i. Licensure provisions regarding community residences for mentally ill adults and psychiatric community residences for youth which can be found at N.J.A.C. 10:37A and 10:37B, respectively;
- ii. Licensed, independent practitioner(s), including group practices;
- iii. Screening and screening outreach programs designated pursuant to N.J.S.A. 30:4-27.4 and N.J.A.C. 10:31;
- iv. Programs providing specialized services some of which may be similar in nature to those that are the subject of this chapter but which are designed to primarily address problems of alcoholism or substance abuse disorders; organic brain syndromes; developmental disabilities; medical; or victim related conditions, such as domestic violence or rape;

v. Counseling services provided by clergy of any faith based denomination of an established and legally cognizable church denomination or sect within the scope of the person's ministerial duties; and

vi. A mental health program licensed by the DHSS as a health care facility, provided that each site of such program holds a separate DHSS license or is specified on the main facility's DHSS license.

(c) The primary purposes of licensure by the Department are to assure that programs for mental health services:

- 1. Meet the standards set by the Department;

2. Are safe for participants;
3. Protect consumers' rights; and
4. Have staff who meet minimum educational and experience qualifications.

(d) A license specific to each separate site shall be issued for every mental health program and shall be conspicuously posted at that site, so as to identify the mental health program and its address.

Amended by R.2004 d.91, effective March 1, 2004.

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

Added a new (a); recodified existing (a) to (c) as (b) to (d).
Recodified from N.J.A.C. 10:37-10.1 by R.2007 d.37, effective February 5, 2007.

See: 38 N.J.R. 2566(a), 39 N.J.R. 450(b).

10:190-1.2 Definitions

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

“Affiliation agreement” means a signed agreement between the mental health program and the Division wherein the program agrees to comply with applicable licensing regulations and applicable program standards.

“Commissioner” means the Commissioner of the Department of Human Services.

“Conditional license” means a license to operate a mental health program under certain conditions for a specified limited time period of less than three years.

“Deemed status” means that status granted to a mental health program which has received accreditation by an accrediting body recognized by the Department. In effect, the Department, through the granting of deemed status, substitutes the standards of the accrediting body for certain selected Department program standards.

“Department” means the Department of Human Services.

“Director” means the Director of the Office of Licensing within the Department of Human Services.

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

“DMAHS” means the Division of Medical Assistance and Health Services within the Department of Human Services.

“Full license” means a license to operate a mental health program at a specific location for three years.

“Level I standards” means those standards with which mental health programs must be in full compliance in order to be granted or to continue to receive a Department license. Level I standards are those standards which relate most directly to client rights, safety, and staffing. The list of Level

I standards for mental health programs may be found at N.J.A.C. 10:190-1.3.

“Level II standards” means all licensing standards not designated as Level I.

“License” means a Department document, which provides the mental health program with the authority to operate.

“Licensure standards” means those rules promulgated by the Department with which mental health programs shall comply in order to be granted a license.

“Provisional license” means a license to operate a mental health program at a specific location for a specified period of time until a full licensing site review occurs.

“Purchase of service contract” means a contract between the Division and a provider agency through which the Division pays for mental health services on behalf of eligible consumers.

“Recognized accrediting bodies” means those organizations that accredit mental health programs that are recognized by the Department for deemed status purposes. These organizations are the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the Council on Accreditation of Family Services Agencies (COA), the Council on Accreditation of Rehabilitation Facilities (CARF) and the National Commission on Quality Assurance (NCQA).

Amended by R.2004 d.388, effective October 18, 2004.

See: 36 N.J.R. 1903(a), 36 N.J.R. 4824(a).

Deleted “Certified program” and “Medicaid approved program”; amended “Deemed status”, “Director”, “Licensure standards”, and “Recognized accrediting bodies”.

Recodified from N.J.A.C. 10:37-10.2 and amended by R.2007 d.37, effective February 5, 2007.

See: 38 N.J.R. 2566(a), 39 N.J.R. 450(b).

In the introductory paragraph, substituted, “chapter” for “subchapter”; in the definition “Level I standards”, substituted “mental health programs” for “promulgated rules as of July 2, 2001” and “at N.J.A.C. 10:190-1.3” for “in the chapter Appendix B, incorporated herein by reference”, and deleted the last sentence.

10:190-1.3 Level I standards

(a) The following rules shall be Level I standards for mental health programs:

1. Consumer rights at N.J.A.C. 10:37-4.5(b), (c), (f), and (h);
2. Consumer complaint/agency ombuds procedure at N.J.A.C. 10:37-4.6(b);
3. Medication education and counseling at N.J.A.C. 10:37-6.53(a), (b), (c) and (e);
4. Environment at N.J.A.C. 10:37D-2.5(a);
5. Qualification of clinical staff at N.J.A.C. 10:37D-2.13(a);