

CHAPTER 37A

**COMMUNITY RESIDENCES FOR
MENTALLY ILL ADULTS**

Authority

N.J.S.A. 30:11B-4.

Source and Effective Date

R.1999 d.203, effective June 4, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).

Executive Order No. 66(1978) Expiration Date

Chapter 37A, Community Residences for Mentally Ill Adults, expires on June 4, 2004.

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: Source and Effective Date. See, also, section annotations.

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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 subchapter. 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 serving five or fewer persons 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.

(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 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.

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.

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.

"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 outlines the provision of mental health services to the residents as well as who will maintain the license of the residence.

"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.

"Community residence for the mentally ill" (residence) means any community residential facility approved by the Division which provides food, shelter, and personal guidance under such supervision as required, to not more than 15 mentally ill persons who require assistance, temporarily or permanently, in order to live independently in the community. Community residences for the mentally ill 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 include, but are not limited to, group homes, supervised apartment living arrangements, family care homes and hostels.

"Comprehensive service plan" (CSP) means the periodic formulation of goals, objectives, and interventions for residential services based on a functional assessment which shall include treatment recommendations and may include: psychological, medical, developmental, family, educational, social, cultural, environmental, recreational and vocational components.

"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 residential counseling, behavior management techniques, and request for outside assistance. Behavioral management techniques exclude physical and chemical restraint, aversive conditioning and punishment. Crisis intervention services can be documented via crisis reports, for example, and can be supported by such policies which reflect adequate responses to emergent situations.

“Department” means the Department of Human Services.

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

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

“Family care home” means a private home or apartment in which an individual resides and provides services to as many as five consumer residents who also reside in the home. 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 apartment facilities where individuals may receive regular or periodic staff supervision and/or visits, except where such apartment facilities include those contained in a structure of three or more 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.

“Initial service plan” means the initial formulation of goal(s) and interventions, based on initial assessments, which serve as a focus for staff and consumer resident activities.

“Life experience” means functioning in non-employment roles, such as a homemaker, whose requirements are comparable to those of a residential counselor.

“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 contract with the Division and has been licensed to provide residential services to individuals 18 years of age and older.

“PA apartment” means an apartment owned or leased by the PA in which clients reside and receive the services described in this subchapter.

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

“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 residence” means any unit of dwelling space owned or leased by a PA (or organized entity with an 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 the consumer resident signs a lease and receives mental health supportive services from the PA. As opposed to the PA, the consumer resident is responsible for mortgage/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 shall contain the provision of mandatory mental health program participation as a requirement for the consumer resident.

“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 pro-

viding direct assistance in securing household furnishings, utilities and other needed building 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.

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 Division of Mental Health Services
Bureau of Licensing and Inspections
PO Box 727
Trenton, NJ 08625-0727

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

1. Demonstrate intent and capability to operate a community residence in accordance with this chapter; and
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.

(c) The PA shall be in compliance with this chapter.

(d) The PA shall apply for licensure to the Division. 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 Division at the address in (a) above. There shall be no fee charged to the PA regarding licensing or application for licensing.

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

10:37A-2.2 Licensing of group homes

(a) The Division 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 Division 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, life hazard registration is initiated and there is reasonable assurance that the residence shall be operated in a manner required by this chapter.

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

(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 license shall be available on the agency's premises, for review by the Division, or any interested members of the public, during normal business hours.

10:37A-2.3 Licensing PA apartments

(a) The Division may inspect any proposed apartment site(s), and review all program operations or descriptions for compliance with the provisions of this subchapter.

(b) The Division 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.

(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 apartment(s) shall be operated in a manner required by this chapter.

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

(f) The license shall be issued to the PA for a specific number of apartment spaces within a defined geographic area for a period of one year. The PA shall have the right to relocate apartment spaces within the defined geographic area, as needed. The new facilities shall comply with all requirements of this chapter. The PA shall notify the Bureau of Licensing and Inspections, at the address noted in N.J.A.C. 10:37-2.1(a) of any new/relocated apartments.

(g) The license shall be available on the agency's premises for review by the Division, 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".

10:37A-2.4 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, based upon individual consumer resident needs and this chapter.

(c) The Division 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 Bureau of Licensing and Inspections, at the address noted in N.J.A.C. 10:37-2.1(a), of any proposed family care home.

(d) The Division 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.

(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 through the Division.

(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 defined geographic area and shall indicate the maximum number of persons to be served. No family care home shall serve more than five consumer residents at any one time.

(i) The license shall be available on the PA's premises for review by the Division, 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".

10:37A-2.5 Licensing supportive housing residences

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

(b) The Division 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 Bureau of Licensing and Inspections (BLI), and at the discretion of the Division, as needed.

(f) The license shall be issued by the Department through the Division 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 Division's Bureau of Licensing and Inspections at which time the license will be terminated.

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

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

Former N.J.A.C. 10:37A-2.5, Provisional license, recodified to N.J.A.C. 10:37A-2.6.

10:37A-2.6 Provisional license

(a) A provisional license may be issued by the Department to a prospective PA which expresses interest in operating a residence, indicates in writing an intent to comply with the guidelines contained in this chapter, and who applies to the Division for such provisional licensing. The application shall indicate the type or types of residences desired, the specific geographical areas in which residences would be located, and the number of residents to be served.

(b) The Division shall review the application of the prospective PA, assess the fiscal, programmatic, and administrative capabilities of the PA, and determine whether a provisional license shall be issued. There shall be no fee charged for the issuance of a provisional license.

(c) The provisional license shall authorize a PA to secure a facility or facilities in which to provide services.

(d) A provisional license shall not authorize a PA to provide services to consumer residents.

(e) The provisional license shall be issued for a time period not to exceed six months, and may be renewed in six month intervals by the Division if, in its judgment, the PA

consistently made good faith efforts to establish the proposed residence(s).

(f) A PA issued a provisional license shall immediately make application for an annual renewable license under provisions specified in N.J.A.C. 10:37A-2.1 when facility(s) have been secured and services to residents are ready to be initiated.

Recodified from N.J.A.C. 10:37A-2.5 and amended by R.2002 d.57, effective March 4, 2002.

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

In (d), substituted "consumer residents" for "clients". Former N.J.A.C. 10:37A-2.6, Waiver of standards, recodified to N.J.A.C. 10:37A-2.7.

10:37A-2.7 Waiver of standards

(a) Requests for program waivers shall be made to the Division, in writing, with supporting information justifying the request.

(b) Waivers of specific program rules shall be considered, at the discretion 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-2.6 and 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 references to consumer residents for references to clients throughout. Former N.J.A.C. 10:37A-2.7, License renewal, recodified to N.J.A.C. 10:37A-2.8.

10:37A-2.8 License renewal

(a) The license shall be subject to an annual renewal.

(b) Determination of license renewal shall be based on the annual evaluation conducted by the Division's Bureau of Licensing and Inspections (BLI).

(c) The Division Director (or designee) 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) There shall be no fee charged to the PA for license renewal.

Recodified from N.J.A.C. 10:37A-2.7 by R.2002 d.57, effective March 4, 2002.

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

Former N.J.A.C. 10:37A-2.8, Evaluation and monitoring, recodified to N.J.A.C. 10:37A-2.9.

10:37A-2.9 Evaluation and monitoring

(a) 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's requirements for licensure under N.J.S.A. 30:11B-4. Quality assurance visits to ensure health and/or safety, and welfare standards shall be conducted quarterly, at a minimum. The Division will audit the process annually.

(b) All PA and residences shall be subject to site reviews in accordance with N.J.A.C. 10:37-10.

(c) All group homes shall be evaluated on site annually by the BLI, and at the discretion of the Division, as needed.

(d) All PA apartments shall be evaluated on site annually by the BLI, and at the discretion of the Division, as needed.

(e) All PA family care homes shall be evaluated annually by the BLI, and at the discretion of the Division, as needed.

(f) All licensed supportive housing residences shall be evaluated on-site annually by BLI, and at the discretion of the Division, as needed.

(g) A written report of program and facility evaluations, including all deficiencies and violations, shall be provided to the PA by the Division within 60 days from the date of the site review.

(h) No later than 40 days after receipt of the report, the PA shall provide written notice to the Division that specific violations have been corrected, or that actions have been taken to abate specific violations noted and that full correction is anticipated within the time frames noted in the report.

(i) For any violations cited by the Division 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 deficiencies immediately and shall provide written notice, within 48 hours, to the BLI that such action has been taken.

(j) If the Division 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.

(k) 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 deficiencies. If such deficiencies are not corrected, the PA shall take further action as appropriate.

Recodified from N.J.A.C. 10:37A-2.8 and 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 "and supportive housing residences" preceding "meet the program"; inserted new (f) and recodified existing (f) through (j) as (g) through (k); in (g), substituted "60" for "90"; in (i) and (j), substituted "a consumer resident" for "clients" throughout. Former N.J.A.C. 10:37A-2.9, Appeal of the Division's findings, recodified to N.J.A.C. 10:37A-2.10.

10:37A-2.10 Appeal of the Division's findings

(a) The PA may appeal findings of the Division, pursuant to N.J.A.C. 10:37A-2.13. In the case of life-threatening violations, such appeal shall be conducted pursuant to N.J.A.C. 10:37A-2.14.

(b) The appeal of findings shall be directed to the Division Director or designee within 20 days of receipt of the written report of findings.

(c) A response to the appeal shall be provided within 20 days of its receipt.

Recodified from N.J.A.C. 10:37A-2.9 and 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), updated N.J.A.C. references. Former N.J.A.C. 10:37A-2.10, Administrative sanction, recodified to N.J.A.C. 10:37A-2.11.

10:37A-2.11 Administrative sanction

(a) In the event that the PA does not submit the written notice specified in N.J.A.C. 10:37A-2.9(g) by the required date, or if violations have not been abated within time frames specified in the report, the Division shall have the option of suspension of payments to which the PA may be entitled under any agreements with the Division, imposition of a moratorium on admissions to the facility, revocation of the current license to operate the facility, or non-renewal of the license to operate the facility.

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

Recodified from N.J.A.C. 10:37A-2.10 and 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), updated N.J.A.C. reference; in (b) and (c), substituted "consumer residents" for "clients" throughout. Former N.J.A.C. 10:37A-2.11, Review of administrative sanctions, recodified to N.J.A.C. 10:37A-2.12.

10:37A-2.12 Review of administrative sanctions

Where an administrative sanction exists and the PA denies the basis of the sanction, the PA may apply to the Division Director or designee for a review, which shall be afforded and a decision rendered by the Division Director or designee within five working days of the receipt of the written request for a review.

Recodified from N.J.A.C. 10:37A-2.11 by R.2002 d.57, effective March 4, 2002.

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

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

10:37A-2.13 Administrative hearing of appeal

If the PA chooses to appeal a decision made pursuant to the provisions of N.J.A.C. 10:37A-2.10, 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-2.12 and amended by R.2002 d.57, effective March 4, 2002.

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

Updated N.J.A.C. reference. Former N.J.A.C. 10:37A-2.13, Emergency situation, recodified to N.J.A.C. 10:37A-2.14.

10:37A-2.14 Emergency situation

The Division, 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. Any hearing provided in such cases shall be on an expedited basis.

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.

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. An up-to-date policy and procedure manual 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.

10:37A-3.2 Confidentiality

(a) N.J.S.A. 30:4-24.3 states:

"All certificates, applications, records, and reports made pursuant to the provisions of this Title and directly or indirectly identifying any individual presently or formerly receiving services in a noncorrectional institution under this Title, or for whom services in a noncorrectional institution shall be sought under this act shall be kept confidential and shall not be disclosed by any person, except insofar as:

(1) the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, shall consent; or

(2) disclosure may be necessary to carry out any of the provisions of this act or of article 9 of chapter 82 of Title 2A of the New Jersey Statutes (Section 2A:82-41); 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.

Nothing in this section shall preclude disclosure, upon proper inquiry, of information as to a patient's current medical condition to any relative or friend or to the patient's personal physician or attorney if it appears that the information is to be used directly or indirectly for the benefit of the patient.

Nothing in this section shall preclude the professional staff of a community agency under contract with the Division of Mental Health and Hospitals 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 (C.30:4-27.2) from disclosing information that is relevant to a patient's current treatment to the staff of another such agency."

(b) 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.

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. 10:37-5.2.

1. The PA shall have a clear written description of each level of service intensity provided, written inclusionary and exclusionary criteria for acceptance of consumer residents into the residential program, and written criteria specifying consumer resident characteristics for determining the level of service to be provided to individual consumer residents.

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. 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.

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.

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).

10:37A-4.2 Services to be provided

(a) Based upon the needs of the consumer residents served, a range of services shall be offered, 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.