

CHAPTER 44A

STANDARDS FOR LICENSED COMMUNITY RESIDENCES FOR THE DEVELOPMENTALLY DISABLED

Authority

N.J.S.A. 30:11B-1 et seq.

Source and Effective Date

R.1993 d.633, effective November 8, 1993.
See: 25 N.J.R. 4378(a), 25 N.J.R. 5528(a).

Executive Order No. 66(1978) Expiration Date

Chapter 44A, Standards for Licensed Community Residences for the Developmentally Disabled, expires on November 8, 1998.

Chapter Historical Note

All provisions of this chapter "Manual of Standards for Licensed Community Residences for Developmentally Disabled" became effective pursuant to N.J.S.A. 30:11B-1, Chapter 448, Laws of 1977 and became effective September 18, 1978 as R. 1978 d.330. See: 10 N.J.R. 283(a), 10 N.J.R. 444(b).

1983 Revisions: The full text was deleted and replaced with new effective February 7, 1983 as R.1983 d.23. See: 14 N.J.R. 531(a), 15 N.J.R. 149(b).

1985 Revisions: Amendments became effective May 20, 1985 as R.1985 d.258. See: 16 N.J.R. 1438(a), 17 N.J.R. 1304(a).

1988 Revisions: This chapter expired pursuant to Executive Order 66(1978) effective February 7, 1988 and a new chapter was adopted effective November 21, 1988 as R.1988 d.546. See: 20 N.J.R. 149(b), 20 N.J.R. 2898(b).

Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See: 24 N.J.R. 656(a).

Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See 25 N.J.R. 603(a).

Pursuant to Executive Order No. 66(1978), Chapter 44A was re-adopted as R.1993 d.633. See: Source and Effective Date.

Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See: 26 N.J.R. 3757(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

10:44A-1.1 Purpose and scope

The purpose of this chapter is to provide for the protection of persons with developmental disabilities who require such supervision, and to provide for overall improvement of the quality of life for individuals residing in Community Residences for the Developmentally Disabled such as group homes and supervised apartments. If all persons living in a particular place of residence are developmentally disabled, and where all such individuals do not require personal guidance, as determined by the interdisciplinary teams, licensure is available on a voluntary basis, in accordance with the expressed preferences of the developmentally disabled individuals.

10:44A-1.2 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect and to this end the provisions of this chapter are severable.

10:44A-1.3 Definitions

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

“Abuse” means any act or omission that willfully deprives a client of his or her rights or which may cause or causes actual physical injury or emotional harm, and is not limited to physical injury. Examples of abuse include, but are not limited to: acts that cause pain, cuts, bruises, loss of a body function, sexual abuse, temporary or permanent disfigurement or death; striking with a closed or open hand; pushing to the ground or shoving aggressively, twisting a limb, pulling hair; dousing with water; intentionally ignoring a client; withholding food; forcing a client to eat obnoxious substances; use of verbal or other communications to curse, vilify, degrade or threaten a client with physical injury.

“Advocate” means a public or private officer, agency, or organization designated by state legislation, state plan, or the governor to represent the interests of persons with developmental disabilities and speak on behalf of such individuals.

“Age Appropriateness” means that aspect of normalization which reinforces recognition of an individual as a person of a certain chronological age.

“Capacity” means the maximum number of developmentally disabled individuals who may reside in the licensed residence.

“Case manager” means the authorized representative of any agency who coordinates the provision of social services and/or habilitation services to developmentally disabled individuals.

“Chores” means those duties which are normally performed by members of a household as a matter of routine.

“Community residence for the developmentally disabled” means any community residential facility housing up to 16 developmentally disabled persons which provides food, shelter, personal guidance, and/or training. Such residences shall not be considered health care facilities within the meaning of the “Health Care Facilities Planning Act,” P.L.1971 c. 136 (C.26:2H-1 et seq.), and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements, and hostels. Skill development homes and family care homes are also community residences for the developmentally disabled; however, these owner-occupied living arrangements are governed by N.J.A.C. 10:44B.

“Community Services” means a component of the Division of Developmental Disabilities which provides work and training programs, housing and supportive services to aid persons with developmental disabilities in establishing themselves in the community. Geographic regions and counties served are as follows:

Northern Regional Office, serving Sussex, Warren, Morris, Bergen, Passaic, and Hudson Counties;

Upper Central Regional Office, serving Essex, Somerset, and Union Counties;

Lower Central Regional Office, serving Mercer, Middlesex, Ocean, Hunterdon, and Monmouth Counties; and

Southern Regional Office, serving Camden, Atlantic, Salem, Gloucester, Cumberland, Cape May, and Burlington Counties.

“Department” means the Department of Human Services.

“Developmental disability” means a severe, chronic disability of a person which:

1. Is attributable to a mental or physical impairment or combination of mental or physical impairments;
2. Is manifest before age 22;
3. Is likely to continue indefinitely;

4. Results in substantial functional limitations in three or more of the following areas of major activity: self care, receptive and/or expressive language, learning, mobility, self-direction, and capacity for independent living or economic self-sufficiency; and

5. Reflects the need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of life-long or extended duration and are individually planned and coordinated.

"Division" means the Division of Developmental Disabilities.

"Exploitation" means any unjust or improper use of another person for one's profit or advantage.

"Fire official" means a person certified by the Commissioner of the Department of Community Affairs, and appointed or designated to direct the enforcement of the Uniform Fire Safety Code (N.J.A.C. 5:23) by the appointing authority of a local enforcing agency and also means any certified fire inspector working under the direction of the fire official.

"Group Homes" are community residences which provide the opportunity for developmentally disabled individuals to achieve optimal independence. Staff in the Group Home provide supervision, training, and/or assistance as needed in personal care tasks and activities of daily living.

"Human Rights Committee" means a group comprised of professionals, developmentally disabled persons, advocates, and interested individuals from the community at large who function as an advisory body to the Chief Executive Officer (Licensee) or Regional Administrator on issues directly or indirectly affecting the rights of individuals with developmental disabilities.

"Imminent danger" means the existence of a hazard which could reasonably be expected to cause death or serious physical harm to persons in the residence.

"Individual" means a person with developmental disabilities residing in a licensed community residence for the developmentally disabled. "Individual with developmental disabilities" will be used as necessary to distinguish between such persons and others, such as staff of the agency or staff of the Division of Developmental Disabilities.

"Individual Habilitation Plan" (IHP) means a document that provides an evaluation of the individual's capabilities and needs and sets forth clearly defined goals and measurable, behaviorally stated objectives describing an individualized program of care, training, treatment, and therapies designed to attain and/or maintain the physical, social, emotional, educational and vocational functioning of which the individual is presently or potentially capable.

"Interdisciplinary Team" (IDT) means a group of persons with a variety of skills and services knowledge who assist in the development of a habilitation plan appropriate to a specific individual who is being served.

"Least Restriction" means that interventions in the lives of individuals with developmental disabilities are carried out with a minimum of limitation, intrusion, disruption, or departure from commonly accepted patterns of living.

"License" means the authorization issued by the Department of Human Services to operate a community residence providing services to developmentally disabled persons.

"Licensee" means the individual, partnership, or corporation responsible for the overall operation of the home, and who is named on the license.

"Licensing agency" means the Office of Licensing and Inspections, within the Department of Human Services, Division of Developmental Disabilities.

"Mobile non-ambulatory" means an individual capable of independent bed to wheelchair transfer and capable of following procedures for evacuation from the facility.

"Negative licensing sanction" means an action taken which imposes a restriction on a licensee and may include suspension of admissions, issuance of a Provisional License, a reduction in the licensed capacity, a non-renewal of license, a suspension of the license, or a revocation of the license.

"Neglect" means the failure of an individual to provide for or maintain the care and safety of individuals under his or her supervision, including, but not limited to, failure to provide and maintain proper and sufficient food, clothing, health care, shelter and/or adult supervision.

"Normalization" means making commonly accepted patterns and conditions of everyday life available to people with developmental disabilities. Age-appropriateness and least restriction are two key aspects of normalization. Age-appropriateness refers to that aspect of normalization which reinforces recognition of an individual as a person of a certain chronological age.

"Pattern of non-compliance" means the recurrence of licensing violations over time.

"Personal guidance" means the assistance provided to an individual with developmental disabilities in activities of daily living because he or she routinely requires help completing activities of daily living and/or cannot direct someone to complete such activities when physical handicaps prevent self-completion; or there is a documented health or mental health problem requiring supervision of the person for the protection of the individual or others. In the absence of a court determination, the IDT shall determine the need for personal guidance for each individual.

"Private placement" means the status of an individual who does not receive services from the Division of Developmental Disabilities at the time of his or her admission to a community residence governed by these regulations.

"Provisional license" is a negative licensing sanction used to prompt corrective actions in existing residences. A provisional license shall be for less than 12 months.

"Respite care" means a temporary placement intended to not exceed 30 days.

"Supervised Apartments" means apartments which are variants of the Group Home model. These apartments are occupied by developmentally disabled individuals and leased by the licensee. Staff provide supervision, guidance, and training as needed in activities of daily living as defined by the individual's needs and targeted future goals.

"Variance" means recognition that the licensee has complied with the intent of a standard in a Division-approved alternative manner.

"Waiver" means the temporary suspension of a standard, which is granted in writing by the licensing agency.

Case Notes

State failed to offer mentally retarded adult appropriate functional or alternative services. *Rosen by Rosen v. New Jersey Div. of Developmental Disabilities*, 256 N.J.Super. 629, 607 A.2d 1030 (A.D.1992), certification denied 133 N.J. 440, 627 A.2d 1145.

10:44A-1.4 Application for license

(a) All inquiries related to applications for group homes and supervised apartments should be made to:

Program Development Unit
N.J. Division of Developmental Disabilities
Capital Place One
222 South Warren Street—CN 700
Trenton, New Jersey 08625

(b) All applicants must submit an application (Letter of Intent), to the Program Development Unit on the forms provided upon application.

(c) Falsification of any information required on the application shall be a basis for the denial of the application or revocation of a license.

(d) Conviction of a crime by an applicant may be sufficient cause to deny an application for license (see N.J.A.C. 10:44A-2.4(a)).

(e) In collaboration with representatives of the Department of Human Services, the Program Development Unit shall ensure compliance with geographic and population saturation limits, as identified in N.J.S.A. 40:55D-66.1 et seq.

(f) The Program Development Unit shall inform an applicant, in writing, of the decision regarding a Letter of Intent. The Program Development Unit shall send copies of applicable Division Circulars to approved applicants.

10:44A-1.5 Initial inspection

(a) An initial inspection of the proposed residence shall be conducted by a representative of the Office of Licensing and Inspections prior to the opening of any Community Residence for the Developmentally Disabled.

(b) The following documents, which must be legible, shall be supplied by the applicant to the Office of Licensing and Inspections before an initial inspection will be conducted:

1. Proof of residential and vehicle insurance;

2. A Certificate of Use and Occupancy, if required by the municipality, in accordance with the Uniform Construction Code (N.J.A.C. 5:23). This provision is not applicable to supervised apartments;

3. If the building is not serviced by a public water supply, the applicant shall request that the local health department inspect these services and submit a written statement of approval which shall be filed with the Office of Licensing and Inspections. This provision is not applicable to supervised apartments:

i. Upon approval by the appropriate enforcing agency, that is, the New Jersey Department of Health or local health department, an inspection by a licensed home inspection service shall be acceptable;

4. Staff schedule, identifying the 24 hour coverage to be provided;

5. Copy of the licensee's approved Policy and Procedures Manual which meets the content requirements as provided in N.J.A.C. 10:44A-2.7.

10:44A-1.6 Issuance of license

(a) The Department shall issue a non-transferable license, effective for one year from the date of the on-site inspection.

(b) The license shall specify the maximum number of developmentally disabled persons to be placed in the home.

(c) The license shall be available on the premises and the licensee shall submit a copy of the license to the local construction official.

(d) The group home or supervised apartment shall be subject to inspection by the Division of Developmental Disabilities, without limitation or prior notice.

10:44A-1.7 Renewal of license

(a) Subsequent licenses will be issued effective for one year from the expiration date of the preceding license with the following exceptions:

1. Upon determination that a negative sanction in the form of a provisional license, reduction in licensed capacity, suspension of license, failure to renew a license, or a revocation is appropriate.

2. Upon receipt of full accreditation by an Accreditation Body deemed acceptable by the Director, Division of Developmental Disabilities, a license effective for a two year period will be issued.

i. An organization granted full accreditation shall be responsible for conducting a complete self-survey utilizing the rules in this chapter.

ii. The Office of Licensing and Inspections shall review the self-survey and conduct an abbreviated inspection using the self-survey document during the year when an accreditation survey is not conducted.

10:44A-1.8 Voluntary closure

The licensee shall give at least 90 days notice to the appropriate Regional Office of Community Services, Division of Developmental Disabilities of any intention to close.

10:44A-1.9 Non-compliance and negative sanctions

(a) The Department of Human Services may revoke, suspend, or reduce the license whenever the licensee or designated administrator is found to be violating the laws of the State of New Jersey or when residences fall below the standards established by the Division of Developmental Disabilities.

1. Substantial violation of any subchapter, that is, Administrative Policies and Practices, Advocacy and Rights, Habilitation and Health Services, Physical and Social Environment shall be reason for revocation or reduction in the status of the license.

2. Substantial non-compliance exists when:

i. The unmet licensing requirements directly endanger the health, safety, or well-being of an individual;

ii. When the unmet requirements exist in significant number;

iii. When the degree of the condition(s) is severe;

iv. When one or more requirements have been left unmet with great frequency; and/or

v. When the terms of the license have been violated;

3. Willful non-compliance exists when the applicant or licensee 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.

(b) The licensee shall be given 30 days notice by the Division of Developmental Disabilities of intentions to revoke, reduce, or suspend a license, unless the Division determines that the individuals in residence may be in danger of abuse, neglect, or other life-threatening conditions.

(c) If minor renovations or programmatic changes are required to correct violations, a plan of correction shall be submitted to the Program Development Unit within 30 days after notification to the agency. For each deficiency noted in the licensing report, the plan of correction shall provide:

1. Target dates for compliance;

2. Details of plans to correct violations.

(d) Major violations shall be corrected within the time frame established by the Division of Developmental Disabilities. If deficient conditions are not corrected within the time period designated by the Division of Developmental Disabilities, the residence may have its license reduced, revoked, or suspended under appropriate regulations in accordance with N.J.S.A. 30:11B-1 et seq. The licensee shall be informed of the specific action.

(e) Admissions may be suspended by the Division until the deficient conditions are corrected.

(f) The standards found in this chapter shall apply to supervised apartments as well as group homes, unless otherwise noted in the standard. N.J.A.C. 10:44A-8 provides specific standards for the staffing and physical plant requirements in supervised apartments.

Case Notes

License for community residence for the developmentally disabled revoked after physical abuse of client. *Coleman v. Department of Human Services*, 94 N.J.A.R.2d (DDD) 33.

10:44A-1.10 Appeal process

(a) A licensee aggrieved by a ruling, action, order, or notice of the licensing agency which results in a negative sanction, as defined in these rules shall be entitled to an administrative hearing. The application for the hearing shall be filed with the Director, Division of Developmental Disabilities, by the fifteenth day after receipt by the licensee of notice of the ruling, action, order, or notice.

1. All hearings shall be conducted pursuant to N.J.A.C. 10:48. The final decision shall be issued by the Director of the Division of Developmental Disabilities.

(b) An informal conference shall be granted regarding those matters involving the licensee and the licensing agency which do not constitute negative sanctions against the licensee.

(c) Upon receipt of notice from a licensee of a grievance, the licensing agency shall forward a copy of the Division's appeal procedure (Division Circular # 37) for the licensee's reference.

10:44A-1.11 Waiver or variance

(a) A waiver or variance may 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. The waiver must be requested by the licensee with substantial detail justifying the request. Issuance of a waiver or variance will be limited to the following circumstances:

1. Where strict enforcement of the standard would result in unreasonable hardship on the residence; or
2. Where a waiver or variance is in accordance with the particular needs of the developmentally disabled individuals.

SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

10:44A-2.1 General requirements

(a) The licensee shall monitor the efficiency and effectiveness of its organization by:

1. Adhering to specifications of its governing documents such as the Letter of Intent, charter, bylaws, etc., and reviewing and amending such documents annually or as necessary.
2. The licensee shall conduct a systematic assessment of its effectiveness on an annual basis.

(b) The purposes of the organization, a description of the program and services which it provides shall be made available to individuals with developmental disabilities, parents, guardians, advocates, and the general public.

1. This document shall describe, in general terms, who is served, the services provided, and the goals of the organization.
2. Although common language rather than legalistic or professional terminology shall be used, the information shall not be inconsistent with the organization's legal documents, for example, its character or statement of incorporation.

(c) The licensee may choose to employ an administrator to manage the community residence(s).

1. The relationship between the licensee, Board of Directors/Trustees (if any), and the administrator shall be documented and available for review by authorized officials of the Division.

2. The administrator's duties shall be defined in writing.

3. The administrator shall be delegated the authority and responsibility necessary to direct the organization in accordance with its policies/procedures.

(d) A licensee having non-profit status 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.
3. Meetings shall be held with a frequency sufficient to discharge their responsibilities effectively; in no event should the full governing body meet less than three times per year.

Case Notes

State court exercised jurisdiction over union representation election despite arguable National Labor Relations Board jurisdiction. Communications Workers of America, AFL-CIO v. Atlantic County Ass'n for Retarded Citizens, 250 N.J.Super. 403, 594 A.2d 1348 (Ch.1991).

10:44A-2.2 Staff coverage

(a) The staff schedule shall be initially approved as part of the Letter of Intent process and reviewed at each inspection.

1. Reduction of staff coverage shall be justified in writing and sent to the Office of Licensing and Inspections and the Program Development Unit for Division approval.
2. Reduction of staff coverage shall not be implemented until approval is granted by the Office of Licensing and Inspections.

(b) Staff are not required to be on-site when all individuals are in a weekday program, but trained paid agency staff, familiar with the program, shall be available for emergencies.

(c) Staff coverage may be adjusted in accordance with documented approval(s) by the Interdisciplinary Team that an individual or individuals can be left alone for specific amounts of time.

(d) A written staff schedule for at least a two week period shall be available at each group home or at the supervisor's office for supervised apartments. The employee in-charge shall be designated on the schedule for each shift.

(e) If there is documentation that an individual has health or behavioral problems which present a danger to self or others, awake overnight coverage may be required.

(f) Volunteers shall have planned duties and be supervised at all times by paid staff.

(g) Residences utilizing students for field placements/internships shall have a written plan for using their services.

Case Notes

Standards for classification of children as trainable and subtrainable under former staffing ratio regulation. *Levine v. New Jersey Dept. of Institutions and Agencies*, 84 N.J. 234, 418 A.2d 229 (1980) and dissenting opinion.

10:44A-2.3 Personnel and staff development

(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, workmen's compensation.

(b) Prior to employment, all direct care staff shall have a physical examination and a Mantoux Skin Test for tuberculosis administered within three years.

1. A Mantoux Skin Test is required every three years for the duration of employment.

10:44A-2.4 Staff qualifications

(a) Except as otherwise provided in the Rehabilitated Offenders Act (N.J.S.A. 2A:168A-1 et seq.), no license will be issued to any applicant who, at any time, has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offense(s).

(b) Except as otherwise provided in the Rehabilitated Offenders Act (N.J.S.A. 2A:168A-1 et seq.), no licensee shall employ any person who has been convicted of any of the offenses listed in (a) above.

(c) The licensee or the administrator shall have a Bachelor's Degree or a high school education and two years of experience working with the developmentally disabled population.

(d) The House Manager, that is, the on-site supervisor responsible for the operation of the community residence, shall have a high school education and one year of experience working with the developmentally disabled population.

(e) Direct care staff shall be high school graduates and shall be at least 18 years of age.

(f) Direct care staff shall have the ability to communicate with the individuals for whom they are responsible.

(g) Direct care staff shall be capable of providing any direct assistance required by individuals for whom they are responsible.

(h) Falsification of information submitted to the Division of Developmental Disabilities, Department of Human Ser-

vices, shall constitute justifiable grounds for immediate termination of the license or the licensure process.

(i) The licensee shall verify that all persons providing a professional service, either through direct employment or contract, possess credentials required by federal or state law.

10:44A-2.5 Orientation

(a) Immediately upon employment, all staff shall receive an orientation to acquaint them with:

1. The organization's philosophy, goals, programs, and practices;
2. Abuse, neglect, and unusual incident reporting and investigating procedures;
3. Emergency procedures as identified in the policy and procedures manual, for example, the fire evacuation plan, emergency medical treatment, etc. (Also see Emergency Policy and Procedure, N.J.A.C. 10:44A-2.7(b)3i);
4. An overview of developmental disabilities and the special needs of the individuals being served, for example, medical or behavioral problems requiring specific, tailored attention;
5. The appropriate job description and the personnel policies of the organization.

(b) Records of the orientation provided shall include a dated, signed acknowledgement by the employees receiving and providing the orientation.

10:44A-2.6 Staff training

(a) Basic staff training programs shall either be offered by the Division of Developmental Disabilities, or provided by the licensee after obtaining approval from the Division, to ensure staff competency, personal growth, and development. Within 120 days of employment, each employee shall receive in-service training which shall address, at a minimum:

1. Training in the principles of normalization;
2. Review of all policies and procedures not covered during orientation which are relevant to the employee's job;
3. First aid procedures;
4. Multimedia First Aid Training offered by the American Red Cross and have a certificate on file at the residence; and
5. Cardio-Pulmonary Resuscitation and have a valid certificate on file.

(b) The licensee may conduct, at its own discretion, and without specific prior approval from the Division, training programs in addition to training required by this chapter.

(c) Specialized training programs, identified as necessary during the application process or, subsequently, by the IDT, shall be provided as follows:

1. Persons who work with individuals who require specialized feeding techniques shall receive training in the use of those techniques.
2. Persons who work with individuals who use mobility devices shall receive training in mobility procedures and the safe use of mobility devices.
3. Persons who work with individuals with seizure disorders or physical disabilities shall receive training in the provision of training, assistance, and care to those individuals.
4. Persons who work with individuals with visual impairments or blindness shall receive training in orientation and mobility.
5. Persons who work with individuals who use alternative means of communication shall receive training in the means of communication used by the individual.
6. Persons who work with individuals with other special needs shall receive training which specifically addresses the special needs.

(d) Training records shall be maintained in the administrative offices and shall contain the following:

1. The curriculum and training plan;
2. Documentation of attendance through a report which includes the dated signatures of the trainer and the trainee; and
3. Results of those training programs which the Division requires.

10:44A-2.7 Policy and procedure manuals

(a) The licensee shall develop and implement written policies and procedures to ensure that the service delivery system complies with State law and rules governing community residences for the developmentally disabled as follows:

1. The policy and procedure manual shall be reviewed annually and revised as necessary.
2. Each policy and/or procedure shall be designed in accordance with the principles of normalization, age-appropriateness, and least restriction and shall be consistent with the licensee's organizational structure and management philosophy.
3. While specific content for inclusion in a policy or procedure shall be identified on an as-needed basis in these rules, to ensure consistency, each policy and/or procedure shall provide:
 - i. A descriptive title;
 - ii. A title of purpose;

- iii. Standards of expected performance;
- iv. A description of sequential steps required;
- v. Assignment of staff responsibilities at each level of the operation;
- vi. Reporting and recording requirements.

4. Group Home/Supervised Apartment Managers shall carry out administrative responsibilities in keeping with policies established by the governing body and by the Chief Executive.

5. All staff shall be able to describe the key elements of each policy and procedure for which they are responsible.

6. Policies and procedures which, by their nature, do not deal with the daily routine or do not place clients in imminent danger must only be readily accessible for staff's reference and use in complying with procedure.

(b) The licensee shall issue a policy and procedure manual to supply the following documents and procedures to all staff:

1. A statement of philosophy, values, and goals so as to govern the organization's direction and character;
2. A table of organization illustrating 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. The procedure shall address, at a minimum:
 - i. Evacuation drills of all persons to safe areas outside the building, except in inclement weather when the drills shall follow procedure only to the point where the participants would normally leave the building.
 - ii. Fire drills shall be conducted once a month. Drills should be held at varying times of the day and night and the location of the imaginary fire should also be changed periodically. Evacuation time shall be two and one-half minutes or less.
 - iii. Records of these drills shall be maintained and shall include the date and time of drill, time required for evacuation, and names of persons involved.
 - iv. A fire drill shall be conducted for each individual within 48 hours of admission.

4. The process for the reporting and investigation of suspected abuse, neglect, or exploitation of the individuals receiving services, as required at N.J.A.C. 10:44A-2.8. The following information shall be included:

- i. A statement expressly prohibiting abuse, neglect, or exploitation.

ii. A statement regarding the obligation to report, each allegation involving an adult to Community Services' emergency telephone answering service immediately and provide to the extent possible the information required in 10:44A-2.8(a).

5. A written statement of policies and procedures which protect the financial interests of the developmentally disabled persons as required in N.J.A.C. 10:44A-2.9.

(c) The policy and procedure manual shall be available at each community residence in a convenient location, accessible for staff use.

10:44A-2.8 Reporting and investigation of suspected abuse, neglect or exploitation of individuals receiving services

(a) Abuse, neglect or exploitation of individuals receiving services shall be prohibited. In the event these occur, staff shall:

1. Report each allegation involving an adult to Community Services emergency telephone answering service and provide, to the extent possible:

- i. The name of the alleged victim(s), date, and time of the incident;
- ii. Names of the persons involved, including participants and witnesses;
- iii. A description of the incident, including any medical treatment administered;
- iv. Appropriate sanctions that were invoked when the allegation was substantiated; and
- v. Any immediate corrective actions taken to prevent a reoccurrence or to provide additional protection;

2. In the case of minors, allegations of abuse shall also be reported immediately to the local district office of the Division of Youth and Family Services or to the Office of Child Abuse Control (see N.J.S.A. 9:6-8.10).

3. In the case of individuals 60 years of age and over, allegations of abuse shall also be reported to the Office of the Ombudsman (see N.J.S.A. 52:27q-7.1).

(b) An internal investigation shall be conducted within 24 hours unless otherwise instructed by a party empowered by statute to investigate.

(c) A preliminary report regarding the internal investigation shall be forwarded to the casemanager or, in the absence of a casemanager, the Office of Licensing and Inspections within 72 hours of the incident.

10:44A-2.9 Client financial records

(a) A system of separate accounting for each individual, or for his or her interest if a common trust or fund is used, shall be maintained.

(b) Account balances and records of transactions shall be provided to the individual or the individual's fiscal representative upon request, but at least annually.

10:44A-2.10 Daily log

(a) The system for internal communication shall include the maintenance of a daily log documenting problems encountered, the action taken, and a summary of activities and events during each shift, signed and dated by the person recording the information.

1. The daily log shall be signed and dated by the person recording the information prior to the end of each shift.

2. The daily log shall be reviewed by the manager of the group home or supervised apartment, and signed and dated every 72 hours or more frequently as needed.

10:44A-2.11 Grievance process/appeal of agency decisions

(a) A statement shall be provided to residents and/or their representatives and included in the policy procedure manual delineating how the licensee shall ensure the rights of the individuals it serves, to include:

1. The development and revision of house rules to include participation by individuals being served to the fullest extent possible;

2. The means to identify individuals who need or want a personal advocate and/or wish to participate in self-advocacy groups;

3. The schedule and process for conducting house meetings, unless the individual's functioning level renders them unable to participate, as confirmed and documented by the Interdisciplinary Team;

4. The written procedures for grievances or appeals, which shall have a minimum of two levels of appeal, the last of which shall involve the administrator or the licensee.

Case Notes

State court exercised jurisdiction over union representation election despite arguable National Labor Relations Board jurisdiction. Communications Workers of America, AFL-CIO v. Atlantic County Ass'n for Retarded Citizens, 250 N.J.Super. 403, 594 A.2d 1348 (Ch.1991).

10:44A-2.12 Interdisciplinary team process

The interdisciplinary team shall function as required in N.J.A.C. 10:44A-4.3.

10:44A-2.13 Medication

(a) A statement shall be included in the policy and procedure manual concerning the administration and storage of medication which includes, at a minimum:

1. Separate requirements for prescription and over-the-counter drugs;

2. Handling emergencies; and
3. The monitoring and recordkeeping systems employed.

10:44A-2.14 (Reserved)**10:44A-2.15 Administrative records**

(a) The licensee shall keep on file the following administrative records:

1. A record of all admissions and discharges, including names and dates, for the previous 12 month period;
2. A current copy of N.J.A.C. 10:44A, Manual of Standards for Licensed Community Residences for the Developmentally Disabled;
3. A record of monthly fire evacuation drills;
4. A copy of his or her current license.

(b) No inspection, investigative report or written complaint, when made accessible to the public, shall disclose the identity of the developmentally disabled person.

(c) Unless otherwise noted in a specific rule, all records shall be maintained in the licensed community residence, group home, or in the office of staff for the supervised apartment. Maintenance of records in any other place, either permanently or temporarily, is prohibited.

(d) The licensee shall protect and maintain the confidentiality of all records in accordance with Division Circular # 46.

1. The licensee shall not distribute copies or allow distribution of any individual's records without explicit written permission of the involved agency representative and the individual or his/her legal guardian or guardianship worker.

2. Persons who will be or who are providing a necessary service to an individual shall be permitted access to information relevant to providing the specified service.

(e) No inspection, investigative report or written complaint, when made accessible to the public, shall disclose the identity of the developmentally disabled person.

(f) During normal business hours, each individual receiving services shall have the right to inspect and copy, or have a copy provided for him or her by the licensee, any or all of the records referred to in this section.

(g) An individual folder shall be maintained for each developmentally disabled person. The folder shall be legibly marked with the person's name.

(h) Individual records shall include:

1. Full name, date of birth, and sex;

2. Social Security and Medicaid numbers;
3. Date(s) of admission and re-admission;
4. Names and addresses of persons or agencies responsible for placement;
5. Names and addresses of all personal physicians and dentists;
6. Name, address, and telephone number of legal guardian (or guardianship worker), next of kin, and other interested person(s), and a copy of the guardianship determination;
7. Religious preference;
8. Pre-admission data including diagnosis, a psychological evaluation, as appropriate and developmental history, including behavioral characteristics;
9. Admission physical examination and the results of the Mantoux Skin Test or Intradermal Test for tuberculosis, completed within the past three years, obtained within 30 days prior to admission;
10. Immunization record, if below the age of 18 years;
11. An annual physical examination and the results of the Mantoux Skin Test or Intradermal Test for tuberculosis, re-administered every three years;
12. Annual reports from the dentist of dental examinations and corrective work done;
13. Reports of accidents, illnesses, and unusual incidents;
14. Seizure records, where indicated;
15. The current Individualized Habilitation Plan;
16. Monthly reports of individuals' social and behavioral progress to correspond to the current Individualized Habilitation Plan;
17. A medically-prescribed diet, if required;
18. Documentation of known allergies;
19. A record of all personal property and funds entrusted to the licensee.

(i) Individual records shall be transferred to the Division when the client leaves the agency service.

10:44A-2.16 Consumer funds

(a) Each developmentally disabled person shall have the right to manage his or her personal funds unless his or her rights are otherwise restricted under State or Federal law.

(b) If the individual is determined by the IDT to be not capable of managing his or her own funds, the licensee shall maintain a record of all expenditures of the individual's personal funds according to the licensee's written policies and procedures.

(c) At the time of admission, each person shall be provided with a written statement:

1. Explaining his or her rights regarding personal funds; and
2. Listing the services regarding the safekeeping and management of funds.

(d) The licensee shall obtain a signed acknowledgement from each person that he or she has received this statement. A copy of this acknowledgement shall be placed in the individual record for each person and forwarded to the Region.

(e) If an individual wishes to entrust funds to the licensee, the licensee shall:

1. Receive written authorization from the individual. The authorization shall be attested to by a witness who has no pecuniary interest in the licensee or its operations, and who is not connected to the licensee in any manner whatsoever;
2. Maintain and allow each individual access to a written record of all financial arrangements and transactions involving his or her funds;
3. Provide each individual with a written itemized statement, at least quarterly, of all financial transactions involving his or her funds;
4. Keep any funds received from an individual for safekeeping in an account separate from all funds of the home;
5. Deposit any funds received from an individual in excess of \$100.00 in an interest-bearing account insured by agencies of, or corporations chartered by, the state or federal government. The account shall be in a form which clearly indicates that the licensee has only a fiduciary interest in the funds and any interest from the account shall accrue to the developmentally disabled person. The licensee may keep up to \$100.00 of an individual's money in a non-interest bearing account or petty cash fund, to be readily available for current expenditures. Upon written request from an individual, the home may increase the amount of that individual's money in a non-interest bearing account or petty cash fund, up to \$200.00;
6. Return to the individual, upon written request, all or any part of the individual's funds given to the licensee for safekeeping, including the interest accrued from deposits;
7. Place any monthly allowance to which an individual is entitled in that individual's personal account, or give it to the individual, unless the licensee has written authorization from the individual to handle it differently;
8. Unless otherwise provided by state law, upon the death of an individual, provide the executor or administrator of the individual's estate with a complete account-

ing of the individual's funds and personal property, including any funds and personal property of the individual being held by the licensee.

(f) The licensee to whom the individual entrusts his or her funds should assure that management of such funds does not jeopardize the individual's entitlements to any appropriate federal or private annuity benefit.

SUBCHAPTER 3. ADVOCACY AND RIGHTS

10:44A-3.1 General requirements

(a) An individual's civil, human, and legal rights shall not be abridged solely on the basis of their diagnosis, nor without due process.

1. An individual's exercise of his or her rights shall not be prohibited or be used as a cause for retribution against him or her.

2. The licensee shall be responsible for utilizing a Human Rights Committee in accordance with Division Circular # 5, "Human Rights Committees".

(b) The licensee shall establish reasonable house rules consistent with the principles identified in this chapter.

(c) An individual or a collective group of individuals receiving services has a right to challenge house rules as to their appropriateness.

(d) The house rules shall include provisions to ensure that individuals exercise their rights in such a way as not to infringe upon the rights of or endanger others.

(e) The licensee shall make certain that the private life of the individual is respected at all times, as follows:

1. The licensee shall avoid any unreasonable schedule concerning the hours at which individuals shall rise or retire.

2. Individuals shall be permitted to rest in their homes for such periods as may be consistent with personal needs.

3. Complete privacy shall be afforded during visits.

(f) Visiting is to be permitted during reasonable hours as identified in the house rules.

(g) Individuals shall have the opportunity to associate with members of the opposite sex.

(h) Individuals shall have the right to participate in social, religious, or community groups of their choice.

1. Licensees and/or staff shall not impose their religious beliefs on individuals under their care.

2. Licensees shall provide each individual with a nutritionally-balanced diet, modified in accordance with an individual's religious practices.

(i) Individuals shall have an opportunity to register and vote, if competent to do so.

(j) Individuals shall have free use of all common living areas within the home without infringing on the privacy of others.

(k) Individuals shall have the right to use the community for recreation, education, shopping, and employment.

(l) Developmentally disabled individuals shall have access to a telephone within the residence for unmonitored incoming and outgoing calls.

1. Pay telephones shall not be employed in a licensed community residence unless such conditions are fully reviewed by the individuals' IDT and a Human Rights Committee.

2. An individual may be charged for toll calls, provided the licensee has informed the individual, in writing and in advance, of the fees to be charged.

(m) Individuals shall have the right to open their own mail and packages without surveillance.

(n) Licensees shall not read the individuals' incoming or outgoing mail unless requested by the individual.

(o) If the individual requests, he or she shall receive assistance in reading and writing letters.

Case Notes

Children at state residential institution for the mentally retarded have a statutory right to treatment, training, habilitation, care, protection and a thorough and efficient education suited to their individual needs and abilities. *New Jersey Assn. for Retarded Citizens, Inc. v. New Jersey Dept. of Human Services*, 89 N.J. 234, 445 A.2d 704 (1982).

Division of Mental Retardation has adopted for children in its residential facilities State Board of Education standards regarding class size and minimum hours of instruction. *New Jersey Assn. for Retarded Citizens, Inc. v. New Jersey Dept. of Human Services*, 89 N.J. 234, 445 A.2d 704 (1982).

10:44A-3.2 Access by advocates and community organizations

(a) Upon the presentation of proper identification and/or signed authorization to a licensee, advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to individuals, shall be granted access to the residence at reasonable times in order to:

1. Visit, talk with, and make personal, social, and legal services available to all individuals;

2. Inform individuals of their rights and entitlements, and their corresponding obligations under state, federal, and local laws by distribution of educational materials and discussion in groups and with individuals;

3. Assist individuals in asserting their legal rights regarding claims for public assistance, medical assistance, and Social Security benefits, as well as in all other matters in which individuals are aggrieved, which may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation; and,

4. Engage in all other methods of assisting, advising, and representing individuals so as to extend to them the full enjoyment of their rights.

10:44A-3.3 Notice of rights

(a) The Division shall give each home licensed under this chapter a copy of the rights document used by the Division and the names, addresses, and telephone numbers of the advocates who are available to assist the individual in understanding and enforcing these rights.

(b) If an individual is unable to read the list of rights, the rights shall be read to the individual in a language the individual understands. The licensee or administrator shall explain to the individual any portions of the rights which the individual does not understand and shall answer any questions the individual may have regarding the rights.

(c) After a copy of the rights has been given or read to the individual, he or she or his or her guardian shall sign and date a written acknowledgement that the individual has read or has been read the rights, that the individual understands the rights, and that any questions which the individual has regarding the rights have been answered by the licensee. A copy of the written acknowledgement signed and dated by the individual shall be placed in the individual's records.

(d) The home shall ensure that the staff is familiar with and observes the rights and responsibilities enumerated in these rules.

(e) Any policy, procedure, or rule of the home which is inconsistent with or contrary to a right enumerated in these rules shall be null and void.

(f) Developmentally disabled individuals shall be given the opportunity to participate in self-advocacy groups.

SUBCHAPTER 4. HABILITATION

10:44A-4.1 Preadmission and admission

(a) A licensee shall not refuse admission to any individual on the grounds of race, religion, or ethnic origin.

(b) A licensee shall have written statements regarding the admission criteria and fee policies for general admission to the program, as well as requirements specific to a particular residence.

(c) Admissions to, discharges from, or transfers between residences operated by the licensee shall be approved in advance by the appropriate Regional Office of the Division.

(d) All admissions or discharges of privately placed individuals must be reported in writing to the Office of Licensing and Inspection within five days.

1. All individuals admitted shall be developmentally disabled prior to his or her admission.

2. Licensees shall not admit individuals who do not comply with their own admission criteria.

3. All individuals and their parents and/or legal guardian shall be afforded the opportunity of making a pre-placement visit to the residence prior to admission.

(e) The number of individuals admitted to a program shall not exceed its licensed capacity.

(f) The following shall be provided for new admissions:

1. A package of information which complies with N.J.A.C. 10:46, addressing eligibility for services, as determined by the appropriate Regional Office of Community Services;

2. A medical examination conducted within 48 hours of admission, determining the individual to be free from contagious disease;

3. A current immunization record and hepatitis-B screening in accordance with Division Circular # 9;

4. A Mantoux Skin Test or Intradermal Test for Tuberculosis, administered less than three years prior to the date of admission;

5. Lead level testing, as required by and in accordance with Division Circular # 49, shall be conducted to ensure that individuals exhibiting pica behavior will not be admitted or transferred to leaded environments.

(g) At the time of admission, each individual shall be provided by the licensee, at no cost to the individual, the following:

1. A copy of the written procedures for safekeeping of valuable personal possessions;

2. A written statement explaining the individual's rights;

3. A copy of the house rules and grievance procedures.

(h) If an individual is unable to read the list of rights, the rights shall be read to the individual in a language the

individual understands. The licensee or administrator shall explain to the individual any portions of the rights which the individual does not understand, and shall answer any questions the individual may have regarding the rights.

1. The individual's guardian/guardianship worker shall be notified, in writing, that the list of rights has been explained to the individual.

2. A copy of the notification sent to the guardian/guardianship worker shall be maintained at the residence.

(i) If it is in the developmentally disabled person's best interest to remain in the Respite Care placement beyond 30 days, the individual shall be treated as a regular admission and all regulations of the appropriate program category, that is, group home or supervised apartment, shall apply. A group home or supervised apartment may be used exclusively for respite care or may choose to reserve a limited number of the total approved beds as identified as the licensed capacity.

10:44A-4.2 Transfer or discharge

(a) Should a licensee/agency determine that an individual is no longer suitable for the residence, the individual shall not be maintained at that residence, provided substantive evidence is given to the placing agency.

1. A review by the Regional Advisory Board of Community Services of the Division may be requested by the licensee or the licensing agency.

2. The licensee or the licensing agency may request a final decision from the Division Director by filing objections or exceptions to the decision by the Regional Advisory Committee.

(b) In the case of a planned release, at least 30 days prior to the anticipated discharge date, a new Individual Habilitation Plan shall be developed or an addendum shall be added to update an existing plan, specifying the plan to be followed upon the transfer or discharge.

1. The licensee shall participate in the development of the plan in consultation with the individual, case manager, parent or legal guardian/guardianship worker.

2. The release plan shall assess the individual's continuing needs and recommend a plan for provision of follow-up services in the individual's new environment.

10:44A-4.3 Individualized Habilitation Plan

(a) An Individualized Habilitation Plan shall be developed for each individual in accordance with N.J.S.A. 30:6D-10, 11 and 12. The rules relating to Individualized Habilitation Plans do not apply to Respite Care.

1. A copy of the Individual Education Plan for school age individuals shall be available. (This does not apply to Respite Care Homes.)

(b) Within 30 days of admitting an individual, the licensee shall develop an Individualized Habilitation Plan (IHP) as required by N.J.S.A. 30:6D-10.

(c) The Individualized Habilitation Plan shall include a written statement setting forth clearly defined and measurable goals and behaviorally stated objectives describing an individualized program of care, training, treatment, education, and therapies designed to attain or maintain the optimal physical, social, educational, and/or vocational functioning of which the individual is presently or potentially capable.

(d) The Individualized Habilitation Plan shall address the individual's development in the following areas, as appropriate:

1. Perceptual skills;
2. Sensorimotor skills;
3. Self-help skills;
4. Communication skills;
5. Social skills;
6. Self-direction;
7. Emotional stability; and,
8. Effective use of time, including leisure time.

(e) The Individualized Habilitation Plan shall include the following elements:

1. Cover page to be provided by, or approved by the Division;
2. Statement of present level of functioning;
3. Identification of individuals' needs;
4. Long-term goals;
5. Short-term goals (obtainable in a year or less);
6. Behaviorally stated objectives;
7. Method of achieving goals;
8. Personnel responsible for providing services described in plan;
9. Specific service with dates of initiation and anticipated duration;
10. Barriers to achieving goals.

(f) The licensee shall be responsible for reviewing and evaluating those Individual Habilitation Plans for which the licensee's staff are responsible for implementing.

1. When the Division is the placing agency, copies of the individual's monthly report of progress or regression shall be sent to the appropriate Regional Office of Community Services.

2. In the case of private placements, the monthly progress reports shall be sent to the Office of Licensing and Inspections.

3. Copies of the monthly progress reports shall be maintained on file at the residence for a period of one year.

(g) Each plan shall be developed by an interdisciplinary team consisting of professional and non-professional staff providing service to the individual. Documentation of who participated in the plan shall be provided on the standard cover page of the IHP.

(h) The individual shall participate in decisions regarding his or her IHP, to the extent that he or she is capable.

1. The individual's parent(s), guardian, and/or guardianship worker shall be offered the opportunity to participate. Attempts to solicit their input should also be documented.

(i) Parents, legal guardian or guardianship worker or another interested party shall be provided a copy of at least the cover page of the Individual Habilitation Plan, as well as the long and short-term goals.

1. Other parts of the Individual Habilitation Plan shall be made available upon request, within the limitations of confidentiality.

(j) The Individualized Habilitation Plan must be reviewed and revised as necessary but no less than annually.

(k) Each individual IHP, including evaluation reports, shall be completely rewritten at least every three years.

1. If the IHP is not completely re-written each year, the annual reviews done in the interim and any modifications made shall be added to the IHP.

(l) The current IHP shall be filed in the central record of the individual.

1. A copy of the current IHP shall be accessible to each staff person working with the individual. This copy should contain progress notes by each discipline providing services to the individual.

(m) Written monthly progress notes must be available at the residence and correspond to the IHP goals and objectives currently being implemented for each individual. The progress notes shall sufficiently describe the individual's progress or regression to give a clear picture of the individual's functioning in the skill area.

1. All IHP goals shall be reported on in the progress notes of the monthly report supplied by the Division.

2. Any discontinuation of goals shall be indicated by the IHP Coordinator in the plan itself.

(n) An active social and recreational program shall be established for the development and training of the individual.

1. There shall be cooperative recreation activities held with other facilities serving developmentally disabled individuals, community programs, and community organizations for all individuals who can benefit from them.

2. Recreational activities shall be provided for each individual consistent with his or her interests, abilities, and capabilities.

(o) The licensee shall conduct a survey of recreational needs and interests every six months, unless otherwise indicated by the individual's abilities to participate.

1. The survey shall include interviews of the individuals in residence.

2. Documentation of the results of the survey shall be kept on file at each residence, to include changes implemented in accordance with the results of the survey.

(p) Religious services and instruction shall be arranged consistent with the individual's interests.

10:44A-4.4 Day programs

(a) Each individual shall be afforded an opportunity to participate in an organized program of habilitation or rehabilitation or employment.

1. Every individual between the ages of 3 and 22 years shall receive an appropriate education in accordance with Federal and State laws.

2. All individuals over 22 years of age shall be provided with a program, unless a physician certifies in writing that such activity is medically inadvisable.

3. If employed, individuals 55 years or older may elect to retire; however, involvement in age-appropriate activities outside the residence shall be encouraged by the licensee.

(b) In the absence of community day programs, an individual may be provided with an individualized program within the residence for a period up to three months, upon the approval of the placing agency and the licensee.

1. Individualized programs must be oriented toward individual adjustment and approved by the individual and the placing agency.

2. An extension may be granted after review and approval by the IDT.

(b) A licensee shall not admit anyone who has not been certified by a physician to be free from contagious disease and has not had a complete physical examination within the previous year.

(c) Each individual shall have an annual medical examination.

1. A copy of the annual examination, signed and dated by the physician, shall be kept in the individual's file at the residence.

(d) Each individual shall have at least an annual dental examination.

1. A copy of the dental examination, signed and dated by the dentist, shall be kept in the individual's file at the residence.

(e) The licensee shall follow-up on all individual health needs including medical treatment, pharmaceutical, dental, or other needed services.

(f) The licensee shall make arrangements with a local rescue squad and an area hospital for emergency medical care.

(g) The licensee shall have a first aid kit to include:

1. Antiseptic;
2. Rolled gauze bandages;
3. Sterile gauze bandages;
4. Adhesive paper or ribbon tape;
5. Scissors;
6. Adhesive bandage (for example, bandaids);
7. Either a standard type or a digital thermometer.

(h) A Mantoux Skin Test for Tuberculosis shall be administered to every individual every three years.

1. If the Mantoux Test for Tuberculosis is negative, the test shall be repeated at three year intervals or upon exposure to a case of tuberculosis.

2. If the Mantoux Test for Tuberculosis is positive, certification by a physician that the individual is contagion-free shall be obtained initially and at three year intervals.

(i) Upon confirmation of any reportable diseases (N.J.A.C. 8:57), the licensee shall ensure such exposed individual is placed under a physician's care. The physician shall determine further medical treatment and precautions to be taken.

SUBCHAPTER 5. HEALTH SERVICES

10:44A-5.1 General health care

(a) A personal, primary physician or medical group shall be provided for each individual.

10:44A-5.2 Prescription medication

(a) Individuals receiving medication shall be trained to take their own medication, to the extent that it is possible, as assessed and determined by the Interdisciplinary Team.

(b) If an individual is not responsible or capable of taking his or her own medication, the licensee or designee shall assist and supervise the administration of the medication exactly as prescribed.

1. A written record shall be maintained of all medication administered by the licensee or the designee. This record must include the individual's name, date, type of medication, dosage frequency, initials and corresponding signatures of staff administering the medication.

2. The reason for PRN medication (to be taken as needed) shall be clearly indicated by the physician on the prescription and reflected on the prescription label.

(c) If an individual is capable of taking medication without assistance, no daily medication record is required. The determination of whether a particular individual is capable of self-administering medication shall be made by the Interdisciplinary Team.

1. When an individual is determined capable of administering his/her own medication, the following must be observed:

i. Staff must record in each individual folder the date of the prescription, the name of the medication, dosage, frequency, and where the medication is stored.

ii. Documentation as specified by the IDT of the individual's ability to self-administer the medication shall be contained in the IHP.

(d) Life-sustaining drugs such as injectable insulin may be self-administered if the individual has had training from licensed medical personnel and documentation of such training is maintained on file at the residence.

(e) If the individual is unable to be trained to self-administer injectable medication, a staff member who has documented medical training, approved by the Office of Licensing and Inspections, may administer the medication. The training program provided shall be approved by a physician associated with the Division of Developmental Disabilities or the Department of Human Services.

(f) All prescribed medication must be re-evaluated by a physician at least annually.

(g) Staff shall have access to a medication reference book, current within three years and written for lay persons, which shall include information on side effects and drug interaction. Suspected side effects shall be noted on the medication record, and reported as soon as possible to the physician who prescribed the medication.

(h) Any change in medication dosage from the physician shall be immediately noted on the current medication record by staff consistent with the licensee's policy. Verbal orders from the physician shall be confirmed in writing. The prescription shall be revised at the earliest opportunity.

(i) A supply of medication, adequate to insure no interruption in the medication schedule, shall be available to individuals at all times.

(j) The licensee, or designee, shall supervise the use and storage of prescription medicines.

1. A storage area of adequate size for prescription medication shall be provided and kept locked.

2. The key to the locked medication area shall be accessible only to those staff designated by the licensee.

3. Each individual's prescribed medication shall be separated within the storage area, that is:

i. Oral medication shall be separated from other medications.

ii. Medications which require refrigeration shall be maintained in a locked box in a refrigerator.

4. All medications shall be kept in their original containers from the pharmacy and shall be properly identified with the pharmacist's label.

5. No stock supply of prescription medicines shall be kept.

6. Medications which are outdated or no longer in use shall be destroyed by the licensee.

7. Non-prescription drugs shall not be stored with prescription drugs and shall be properly safeguarded.

8. When medication is prescribed "as needed" (PRN), the prescription label shall include the following:

i. The individual's name, date, name of medication, dosage, specification of interval between dosages, maximum amount to be given during a 24 hour period, a stop date, and under what conditions the PRN medication shall be administered.

ii. The administration of PRN medication shall be documented on the medication record with the time of administration and will be communicated to the oncoming shift of residential staff.

10:44A-5.3 Over-the-counter drugs

(a) Prior to the administration of over-the-counter drugs, a statement from the individual's physician regarding the usage and contraindications shall be available.

(b) Over-the-counter drugs shall be documented on the individual's medication record when administered.

10:44A-5.4 Discharge

(a) The licensee shall provide the following documentation to the Division upon the individual's discharge:

1. Physical exam;
2. Immunization record;
3. Mantoux Skin Test;
4. Hepatitis B testing;
5. Lead level; and
6. Other pertinent medical records.

SUBCHAPTER 6. PHYSICAL ENVIRONMENT
10:44A-6.1 General home requirements

(a) The exterior of the residence and the surrounding grounds shall be properly maintained and free from any hazard to health or safety.

(b) The interior of the residence shall be properly maintained and free from any hazard to health or safety.

(c) Each community residence shall conform to the requirements contained in the Barrier-Free Subcode, N.J.A.C. 5:23-7.

(d) Group homes housing six to 16 developmentally disabled individuals shall meet the requirements of Use Group R-2 of the Uniform Construction Code (see N.J.A.C. 5:23).

(e) Group homes housing five or fewer individuals shall meet the requirements of Use Group R-3 of the Uniform Construction Code (see N.J.A.C. 5:23).

(f) For residences with physically handicapped individuals, accommodations must be made to ensure the maximum physical accessibility feasible for entrance to, and movement within, the residence based upon individual characteristics.

10:44A-6.2 Special home requirements

(a) Special requirements shall be met by group homes and supervised apartments serving non-ambulatory individuals as determined by and documented in a contract or agreement with the Division.

1. A sufficient number of doors, corridors, ramps, or walkways and landings shall be provided and be wide enough to permit use by individuals' wheelchairs, braces, walkers, or any other prosthetic equipment or devices.

2. Ramps shall have an incline not greater than the equivalent of one foot rise for every 12 feet of length. Handrails shall be provided on both sides of the ramps.

3. Accessible, adequate storage for personal items shall be provided.

10:44A-6.3 Certificate of Occupancy

(a) A Certificate of Occupancy shall be obtained by the licensee from the local construction official when:

1. The group home seeks to change its use group from other than that documented on the original Certificate of Occupancy; or

2. The group home seeks to make a major alteration or renovation as defined by the Uniform Construction Code (see N.J.A.C. 5:23) of the building or premises in which the group home is located; or

3. The group home seeks to increase its floor area or the number of stories to the building or premises in which the group home is located.

10:44A-6.4 Exits

(a) Exit/evacuation areas to be used for mass evacuation during an emergency shall not be permitted through furnace areas, storage areas, or bedrooms.

(b) Exit from a bedroom directly to the outside shall be permissible when the exit is provided as added protection for the individuals residing in the bedroom.

(c) Doors used as the approved means of egress shall be unlocked from the inside of the building at all times.

10:44A-6.5 Fire extinguishers; fire evacuation plans

(a) Fire extinguishers shall be fully-charged at all times, and shall be of a type and number as determined by the Fire Official designated to enforce the Fire Safety Act (N.J.S.A. 52:27-192 et seq.).

(b) A legible fire evacuation plan must be posted on each floor in a prominent location.

(c) The manager in-charge shall insure that each staff person is properly trained in the use and operation of fire extinguishers as of the first day of employment at the residence.

(d) Fire extinguishers shall be checked monthly by staff and documentation shall be available on the fire extinguisher or at the residence as part of the administrative records.

1. Fire extinguishers shall be serviced at least annually by a qualified person or service company.

10:44A-6.6 Occupancy

(a) Non-ambulatory individuals shall not have bedrooms above or below the first floor of any residence, unless a specific variance is granted by the Office of Licensing and Inspections.

(b) Occupancy shall not be permitted for staff or individuals above the second floor in buildings, unless a specific waiver is granted by the Office of Licensing and Inspections.

10:44A-6.7 Heat sources

(a) Space heaters, including but not limited to electrical, kerosene, and quartz heaters, shall be prohibited, unless a waiver is granted by the Office of Licensing and Inspections.

1. Documentation must be obtained from the local enforcing authority for the Fire Safety Code stating such use is locally acceptable.

(b) Every home shall have heating facilities which are properly installed, maintained in good and safe working condition, and capable of maintaining all habitable rooms at a temperature of 65 degrees Fahrenheit (18 C) when the outdoor temperature is 0 degrees Fahrenheit (-18 C).

(c) Heat sources exceeding 110 degrees Fahrenheit (43 C), which are accessible to individuals requiring personal guidance must be equipped with protective guards or insulated to prevent individuals from coming into direct contact with the heat source.

10:44A-6.8 Water

Hot and cold running potable water shall be available in adequate supply at all times.

10:44A-6.9 Telephones

(a) Each group home or apartment shall have at least one telephone for use by the individuals receiving services.

(b) The telephone number of the Division of Developmental Disabilities' hotline, as well as the nearest hospital, fire department, ambulance service, and police department shall be posted by each telephone.

1. If a minor is in residence, the telephone number for the Division of Youth and Family Services' Institutional Abuse Unit and the Office of Child Abuse Control shall also be posted at the telephone.

2. If an individual 60 years of age or older is in residence, the telephone number for the Office of the Ombudsman for the Institutionalized Elderly shall also be posted at the telephone.

10:44A-6.10 Stairs and hallways

(a) Stair treads shall be at least nine inches deep and have risers no more than 8¾ inches high.

(b) All stairways and hallways shall be kept free and clear of obstructions at all times.

(c) Stairways shall be a minimum of two feet eight inches wide from handrail to handrail or wall.

10:44A-6.11 Windows

(a) Every bedroom shall have at least one operable window opening directly to the outside.

(b) First floor windows shall have an operable window space of five square feet. Second floor windows shall have an operable window space of 5.7 square feet.

(c) From May through October, all openable windows and doors used for natural ventilation shall be provided with easily removable insect screening in good condition.

10:44A-6.12 Railings

(a) Every porch, balcony, staircase, or place higher than 30 inches off the ground shall be provided with adequate railings. Such railings shall be no less than 30 inches nor more than 34 inches in height.

(b) All outside stairways consisting of four or more steps shall be provided with a secure handrail.

10:44A-6.13 Furniture; living space

(a) Separate living and dining areas shall be provided which are large enough to provide seating for all occupants of the home at one time.

(b) All furniture must be clean and in good repair.

10:44A-6.14 Decoration

All rooms used by individuals with developmental disabilities shall be suitably decorated in accordance with the individual's wishes and with consideration of the principles of normalization, age-appropriateness, and least restriction.

10:44A-6.15 Non-slip surface requirements

(a) Non-slip surfaces shall be provided as follows:

1. As non-skid backing for scatter or throw rugs;
2. On hard-finished floors;
3. On stairs and landings; and
4. In each shower or bathtub.

10:44A-6.16 Bathrooms

(a) Every residence shall be provided with one flush-type toilet, lavatory, and bathtub or shower for every eight persons living in the home.

(b) Every toilet, lavatory, bathtub, or shower shall be accessible without passing through any other sleeping unit and shall be available within one floor above or below the individual's room, unless it is a master bedroom type suite where the bathroom is used solely by that bedroom's occupants.

(c) Toilet paper shall be available at each toilet.

(d) Bathroom doors shall be equipped with standard hardware which provides a privacy lock and which can be readily opened from the outside in an emergency. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bathroom doors.

10:44A-6.17 Maintenance requirements

(a) The accumulation of garbage or waste shall be prevented. Garbage containers shall be non-corrosive and non-combustible, leak-proof, and provided with tight fitting covers.

(b) Floors, walls, ceilings, and other interior surfaces shall be kept clean and in good repair.

(c) At each residence, doors opening to the outside and outside walkways shall be kept free of ice, snow, leaves, and other hazards.

(d) When there is evidence of infestation, exterminator services shall be arranged and documentation retained by the licensee.

10:44A-6.18 Basement use

(a) Basements may be used for storage, laundry, heating, water supply equipment, and other utilities.

(b) Basements may be used as activity rooms so long as they are dry, warm, and adequately lighted and have two independent means of egress.

10:44A-6.19 Kitchen facilities

(a) Kitchen storage space shall be clean and well ventilated.

1. Containers of food shall be covered and appropriately stored above the floor on shelves or other clean surfaces.

(b) The kitchen shall have sufficient floor space and equipment to meet dietary needs and shall be conveniently located to dining areas.

(c) Disposable dinnerware shall not be used except as accessories to picnics or special occasions.

(d) Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit (7°C). Freezer compartments shall operate at no more than 32 degrees Fahrenheit (0°C).

SUBCHAPTER 7. SOCIAL LIVING ENVIRONMENT

10:44A-7.1 Food

(a) All food and drink shall be prepared and served in a sanitary manner.

1. All food and drink shall be safe for human consumption, clean, wholesome, and free of spoilage.

2. Food returned after the completion of an individual's meal shall be discarded.

(b) All equipment and utensils used for eating, drinking, preparation and serving of food shall be kept clean and in good condition.

1. All equipment and utensils used for eating, drinking, preparation and serving of food shall be thoroughly washed after each use.

(c) The licensee shall ensure that each individual is provided with three meals daily, either in the home itself or in the community.

(d) There shall not be more than a 14 hour span between the evening meal and breakfast.

(e) There shall be reasonable adjustment to the food preferences, habits, customs, and appetites of all individuals.

(f) Individuals shall not routinely eat meals in their bedrooms.

(g) A variety of foods shall be provided.

(h) Food shall meet the medical and dietary needs of the individuals receiving services, and be served in a manner which is culturally normal.

(i) Individuals shall be allowed to eat at their own pace.

(j) Snacks shall be available for individuals who desire them, unless there is a documented medical or programmatic reason not to supply them.

(k) Menus, to include all meals and available snacks shall be dated, prepared at least one week in advance, and retained on file for a period of 30 days.

1. Consistent with their abilities, the individuals receiving services shall be consulted for preferences in determining the weekly menu.

(l) Any substitution of food from the menu must be of equal nutritional value and must be documented on the menu prior to serving the meal.

(m) If a medically prescribed diet is required, the menu planning shall be appropriate to individual needs, and be properly documented.

(n) The daily diet for each individual shall include food from each of the four basic food groups:

1. Milk, cheese, and other dairy products;
2. Vegetables, fruits;
3. Meats, fish, poultry, and eggs;

4. Bread, cereals, and grains.

(o) Food shall be wholesome, stored in a manner to keep it clean and safe for human consumption, prepared in the form that meets the individuals' medical and dietary needs, and served family-style.

10:44A-7.2 Clothing

(a) Each individual shall have the opportunity to select and purchase his or her own clothing as independently as possible.

(b) Individuals' clothing shall be clean and in good repair.

(c) Each individual shall have an adequate supply of properly fitted clothing to allow for laundering. Clothing shall not be shared or taken from a common pool.

(d) Each individual shall have adequate, clean, well-fitting and attractive clothing appropriate to age, gender, individual needs, preferences, and season.

(e) The licensee shall assist the individual in maintaining a good appearance.

(f) The licensee shall provide laundry facilities without additional charge to the individuals.

1. Laundromats may be used for individuals residing in supervised apartments.

2. Unless provided for in a contract, the individuals residing in supervised apartments shall be expected to pay for laundry cared for at the laundromat.

10:44A-7.3 Individual rooms

(a) Occupancy shall be limited to floors on or above grade level. Exceptions may be granted as follows:

1. More than half the height of the room is above grade level;

2. The room is provided with two or more independent means of egress, at least one of which leads directly outside; and,

3. There are no other conditions which might be adverse to health, safety, or welfare of developmentally disabled individuals.

(b) A maximum of three individuals shall share a bedroom.

(c) Bedrooms shall contain the following minimum space per person:

1. 70 square feet for occupancy by one person;
2. 130 square feet for occupancy by two people;
3. 190 square feet for occupancy by three people;

(d) At least one half of the floor area of every individual room shall have a ceiling height of 7½ feet. The floor area of that part of any room where the ceiling is less than five feet shall not be considered allowable floor space.

(e) Each individual shall be provided with a bed light and night stand or a shared area with a desk and sufficient lighting to allow for hobbies.

1. No temporary wiring shall be used except U.L. listed extension cords, rated appropriate to the anticipated load.

2. Extension cords shall not run under rugs, through walls, or through doorways.

(f) Each developmentally disabled individual shall be provided:

1. A standard bed or a platform bed in good repair which is at least 30 inches wide and six inches longer than the individual's height.

i. High hospital beds shall not be used except where documentation is obtained from a physician authorizing their use.

ii. Fold-up convertible type beds, roll-aways, cots, hide-a-beds, trundle beds, double deck beds, and day beds shall be prohibited, unless an emergency situation warrants short-term use.

2. A clean, comfortable mattress of fire resistant material not less than four inches thick.

3. A bed spring in good repair, unless a platform bed is being used.

4. A clean pillow, of non-allergenic material if necessary.

5. Drawers or a closet for the storage of personal possessions and in-season clothing shall be provided in the individual's room.

i. Out-of-season clothing may be stored in a place other than the individual's room.

6. Two sets of bed linens and pillow cases, one mattress cover, one bedspread, and one blanket.

i. Bed linen shall be changed a minimum of once a week, or more frequently as necessary.

7. One mirror of sufficient size, securely fastened to the wall and/or fastened to a dresser at a height appropriate for the use of the persons occupying the room.

10:44A-7.4 Fire safety

(a) Each community residence for the developmentally disabled shall comply with the provisions of N.J.S.A. 52:27D-192 et seq. (Uniform Fire Safety Act).

1. The Division of Developmental Disabilities shall identify, in a contract with the licensee, any additional fire safety precautions required.

(b) Variances from rules shall be requested in accordance with N.J.S.A. 52:27D-200 as follows:

1. Upon the application of the owner of a building, structure, or premises, the enforcing agency may grant variances from the requirements of a rule. No variance shall be granted in a particular case unless the enforcing agency shall find that:

i. Strict compliance with the rule would result in undue hardship to the owner; and,

ii. The variance, if granted, will not unreasonably jeopardize the safety of intended occupants, fire fighters, and the public generally.

2. An application for a variance pursuant to this section shall be filed in writing with the enforcing agency and shall set forth specifically:

i. A statement of the requirements of the rule from which a variance is sought;

ii. A statement of the manner by which strict compliance with the rule would result in undue hardship;

iii. A statement of the nature and extent of the undue hardship; and

iv. A statement of feasible alternatives to the requirements of the rule which would adequately protect the safety of the occupants or intended occupants, fire fighters, and the public generally.

3. Within 30 days of receiving the application for a variance, the enforcing agency shall grant or deny the application in writing, stating the reason for granting or denying the application. If the application is not granted within 30 days, the applicants shall consider it to have been denied and shall have the same appeal rights as in the case of a written denial.

4. The enforcing agency shall maintain records of all applications for variances and the action taken on them, and shall make the records reasonably available for public inspection. An enforcing agency other than the department shall provide copies of the records to the commissioner.

(c) In accordance with N.J.S.A. 52:27D-206, a person shall have the following rights regarding the Fire Safety Act:

1. A person aggrieved by a ruling, action, order, or notice of the commissioner shall be entitled to an administrative hearing. The application for the hearing shall be filed with the commissioner by the fifteenth day after receipt by the person of notice of the ruling, action, order or notice.

2. All hearings shall be conducted by the Office of Administrative Law pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., N.J.S.A. 52:14F-1 et seq. and Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq. The final decision shall be issued by the Commissioner.

(d) A person aggrieved by any ruling, action, order or notice of a local enforcement agency, shall be entitled to an administrative hearing before the construction board of appeals created pursuant to N.J.S.A. 52:27D-127, having jurisdiction in the municipality in which the building, structure, or premises is located. The application for the hearing shall be filed with the construction board of appeals by the 15th day after the receipt by the person of notice of the ruling, action, order or notice complained of.

10:44A-7.5 Transportation

(a) All vehicles used under the auspices of the licensee to transport developmentally disabled individuals shall have the following:

1. Emergency equipment which shall include spare tire, jack, and at least three portable red reflector warning devices;

2. A first aid kit meeting the same requirements as indicated in N.J.A.C. 10:44A-5.1(f);

3. Snow tires, all-weather tires, or chains when weather conditions dictate their use;

4. A 10:BC dry chemical extinguisher;

5. Operable defroster and heater which will maintain an internal vehicle temperature of at least 50 degrees Fahrenheit;

6. Operable windshield wipers and horn;

7. Non-skid material on floor;

8. All seats forward facing;

9. Exhaust pipe not to exit near a window which is openable.

(b) The licensee shall verify that all vehicles used to transport individuals with developmental disabilities comply with all applicable safety and licensing rules established by the New Jersey Division of Motor Vehicles and shall be inspected annually.

(c) The licensee shall maintain valid liability insurance on all vehicles used to transport developmentally disabled individuals.

(d) All drivers shall have a driver's license which is valid in the State of New Jersey.

(e) Young children and developmentally disabled individuals with a documented history of behavior which presents a

danger to themselves or others shall not be left unattended in a vehicle.

(f) The interior of each vehicle shall be maintained in a clean, safe condition, and free of obstacles obstructing clear passage to operable doors.

(g) All vehicles purchased prior to the promulgation of this chapter shall be evaluated on an individual basis by the Office of Licensing and Inspections.

10:44A-7.6 Special requirements for residences serving non-ambulatory individuals

(a) The following shall be provided in residences serving non-ambulatory individuals:

1. A ramp device to permit entry and exit of a client from a vehicle. A hydraulic lift may be utilized provided that a ramp is also available in case of emergency.

2. Wheelchairs shall be securely fastened to the vehicle's floor and face forward. The arrangement of the wheelchairs shall provide adequate aisle space and shall not impede access to the exit door.

SUBCHAPTER 8. SUPERVISED APARTMENTS

10:44A-8.1 Supervision

(a) Staff shall be on the grounds of the apartment complex whenever any individual receiving services is present, unless otherwise stated in the individual's IHP. The individual's ability in this area will be reviewed annually or more frequently if there is a need.

1. Individuals who demonstrate an ability to remain unsupervised over a 24 hour period for a period of three months shall be referred, by the licensee to the IDT for development of a transfer or release plan which promotes a planned movement to a less restrictive living arrangement.

2. Documentation shall be provided in the IHP that approval has been granted to permit the individual to remain unsupervised. This approval shall be reviewed annually or more frequently if there is a need.

(b) At least one staff member must be available on the grounds of the apartment complex during the night for emergencies.

(c) Staff shall visit each apartment during waking hours at least once within every eight hour period, or more frequently as required by the developmentally disabled person's individual needs for more intense supervision.

1. Documentation of staff visits shall be recorded in the daily log, noting any problems encountered or special services rendered.

10:44A-8.2 Physical plant and safety

(a) Supervised apartments shall not be located in the home of the licensee or designee.

(b) Each supervised apartment shall be the home of the individual; therefore, the individuals' right to privacy shall be respected at all times.

(c) Up to four individuals may reside in a single apartment.

(d) No more than two individuals shall reside in a bedroom.

(e) A supervised apartment may reserve a bed or beds for respite use, or use a vacant bed for respite according to circumstances delineated in the annual operating contract.

(f) No more than 16 individuals shall reside in a single complex.

(g) The staff residence/office shall be located within 1,000 feet of the farthest licensed apartment unit and shall contain the necessary sanitary, hygiene, and sleeping accommodations.

(h) In multi-story buildings, the staff shall be located within two floors of the farthest apartment unit.

(i) Non-ambulatory individuals shall not have bedrooms above or below the first floor of any residence, unless a variance is granted by the Office of Licensing and Inspections.

(j) For apartments with physically handicapped individuals, accommodations must be made to ensure the maximum physical accessibility feasible for entrance to, and movement within the apartment, based upon characteristics of the individuals.

(k) All electrical wiring and equipment shall comply with local or municipal requirements.

(l) When maintenance is the responsibility of another party, there must be documented evidence that the licensee has informed the building owner of the need to correct any deficiency.

10:44A-8.3 Physical accommodations

(a) Individual occupancy shall be limited to ground floors and above floors.

(b) There shall be at least one toilet and sink for every four individuals. These facilities shall not be further than one floor from any living area.

1. The sink shall be located in or adjoining the toilet area.

(c) There shall be at least one bathtub or shower for every four individuals.

10:44A-8.4 Maintenance and sanitation

(a) The supervised apartment shall be maintained in a safe and sanitary manner.

(b) Combustible materials shall be stored in non-combustible containers.

(c) Floors, walls, ceilings, and other surfaces shall be kept clean and in good repair.

(d) Chimneys, flues, and vent attachments shall be structurally sound, free from defects, and cleaned and maintained as necessary.

(e) Exterminator services shall be provided immediately when there is evidence of any infestation.

(f) The accumulation of garbage or waste shall be prevented. All waste containers shall be provided with tight fitting covers, sufficient in size and number to contain the accumulated waste.