

CHAPTER 44B**MANUAL OF STANDARDS FOR COMMUNITY CARE RESIDENCES****Authority**

N.J.S.A. 30:11B-1 et seq., specifically 30:11B-4.

Source and Effective Date

R.2006 d.171, effective April 13, 2006.
See: 37 N.J.R. 4849(a), 38 N.J.R. 2158(a).

Chapter Expiration Date

Chapter 44B, Manual of Standards for Community Care Residences, expires on April 13, 2011.

Chapter Historical Note

Chapter 44B, Manual of Standards for the Licensing and Regulation of Adult Foster Homes, Skill Development Homes and Supervised Apartments for the Developmentally Disabled, was adopted as R.1980 d.157, effective April 17, 1980. See: 11 N.J.R. 505(c), 12 N.J.R. 278(e).

Chapter 44B, Manual of Standards for the Licensing and Regulation of Adult Foster Homes, Skill Development Homes and Supervised Apartments for the Developmentally Disabled, was repealed, and Chapter 44B, Manual of Standards for Skill Development Homes, Family Care Homes and Family-Based Respite Care Homes, was adopted as new rules by R.1985 d.181, effective April 15, 1985. See: 17 N.J.R. 359(b), 17 N.J.R. 958(a).

Pursuant to Executive Order No. 66(1978), Chapter 44B, Manual of Standards for Skill Development Homes, Family Care Homes and Family-Based Respite Care Homes, expired on April 15, 1990.

Chapter 44B, Manual of Standards for Community Care Residences, was adopted as new rules by R.1990 d.359, effective July 16, 1990. See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Pursuant to Executive Order No. 66(1978), Chapter 44B, Manual of Standards for Community Care Residences, expired on July 16, 1995.

Chapter 44B, Manual of Standards for Community Care Residences, was adopted as new rules by R.1995, d.530, effective October 2, 1995. See: 27 N.J.R. 2365(a), 27 N.J.R. 3793(a).

Pursuant to Executive Order No. 66(1978), Chapter 44B, Manual of Standards for Community Care Residences, expired on October 2, 2000.

Chapter 44B, Manual of Standards for Community Care Residences, was adopted as new rules by R.2001 d.50, effective February 5, 2001. See: 32 N.J.R. 3529(a), 33 N.J.R. 554(c).

Chapter 44B, Manual of Standards for Community Care Residences, was readopted as R.2006 d.171, effective April 13, 2006. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**10:44B-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 care residences for the developmentally disabled. 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.

New Rule, R.1990 d.359, effective July 16, 1990.
See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

10:44B-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.

New Rule, R.1990 d.359, effective July 16, 1990.
See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

10:44B-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 of an act that willfully deprives a resident 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 are acts that cause pain, cuts, bruises, temporary loss of a body function, temporary or permanent disfigurement, 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 resident; withholding food; forcing an individual with developmental disabilities to eat obnoxious substances; or use of verbal or other communication to curse, vilify, degrade an individual or threaten an individual with physical injury. This list is by no means exhaustive.

“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.

“Autism” means a behaviorally-defined syndrome affecting both children and adults. The essential features are typically manifested prior to five years of age and include: disturbances of developmental rates and sequences; disturbances of responses to sensory stimuli; disturbances of speech, language-cognition, and non-verbal communication; and disturbances of the capacity to relate appropriately to people, events and objects.

“Boarder” means any person residing in the home who is not a member of the family, who is not developmentally disabled and who receives room, board and personal guidance.

“Capacity” means the maximum number of individuals, including boarders, who may be accommodated in the home, other than family members, at any time under the terms of the home’s license.

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

“Cerebral Palsy” means a persisting qualitative motor disturbance appearing before the age of three, due to non-progressive damage of the brain.

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

“Community care residence” means a private home or apartment in which an adult person or family contracts to

provide developmentally disabled persons with care and/or training.

“Community residence for the developmentally disabled” means any community residential facility housing up to 16 developmentally disabled persons which also provides food, shelter, personal guidance and/or training for developmentally disabled persons who require assistance, temporarily or permanently, in order to live independently in the community. Such residences shall not be considered health care facilities within the meaning of the “Health Care Facilities Planning Act,” P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements, hostels, and community care residences (formerly skill development homes, family care homes, and respite homes).

“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.

“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.

“Epilepsy” means a chronic disease of the central nervous system characterized by convulsions and often unconsciousness.

“Exploitation” means any unjust or improper use of another person for one’s profit or advantage.

“Family care program” means a private home or apartment in which the community care licensee contracts to provide developmentally disabled persons with room, board, and personal guidance.

“Immediate family” means the licensee’s spouse, parents, step-parents, children, step-children, grandchildren, and grandparents.

“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 or the Department.

“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.

“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.

“License” means the authorization issued by the Department of Human Services for a period of up to one year to operate a community residence providing services to developmentally disabled persons. A license can be denied, revoked, suspended, or can be placed on provisional status by the Department of Human Services for violations of minimum standards promulgated herein.

“Licensee” means one or more adults, otherwise known as providers, responsible for the overall operation of the home, and who are named on the license.

“Licensing agency” means Developmental Disabilities Licensing, within the Office of Licensing, Department of Human Services.

“Natural person” means an individual human being, as opposed to a corporation (an “artificial” or “legal” person).

“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.

“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 this chapter.

“Provisional license” means that authorization to operate issued to new homes or used to prompt corrective actions in existing homes. A provisional license shall be for less than 12 months.

“Respite care program” means the provision of room, board and personal guidance services, on a temporary basis not to exceed 30 days, in a licensed community care residence.

“Skill development program” means care and training conducted in accordance with an Individual Habilitation Plan and overseen by the case manager, provided in a private home or apartment to developmentally disabled persons by an adult person or family under contract with the Department.

“Substantial non-compliance” exists when not meeting licensing requirements directly endangers the health, safety, or well-being of an individual(s) when the unmet requirements exist in significant number; when the degree of the condition(s) is severe; when one or more requirements have been left unmet with great frequency; and/or when the terms of the license have been violated.

“Variance” means recognition that the licensee has complied with the intent of a standard in a Department-approved alternative manner.

“Waiver” shall mean the temporary suspension of a standard, which is granted in writing by the licensing agency.

“Willful non-compliance” exists when the applicant or licensee has knowledge of conditions which are in violation 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.

Amended by R.1990 d.359, effective July 16, 1990.
See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).
Recodified from N.J.A.C. 10:44B-1.1.

Revised and added definitions throughout section.
Amended by R.2004 d.404, effective November 1, 2004.
See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In "Individual", added "or the Department" at the end; rewrote "Licensing agency"; in "Variance" substituted "Department-approved" for "Division-approved".

Case Notes

Revocation of respondent's license to operate a Community Care Residence on grounds of respondent's abuse of resident was warranted where respondent was not acting in self-defense and the respondent's back-handed face-slap was an inappropriate response to the resident's action of pushing. Div. of Developmental Disabilities v. Minnix, OAL Dkt. No. HDD 10343-04, 2007 N.J. AGEN LEXIS 925, Final Decision (January 8, 2008).

In addition to the misuse of extension cords, Community Care Residence licensee's failure to notify the Division of Developmental Disabilities that she was caring for persons in her home other than DDD clients further put the DDD clients at risk; the licensee attempted to additionally run a day care center in the home, adding further people to her charge, when her DDD license only provided for 3 DDD clients in the home, and the licensee failed to advise the DDD inspector in March 2004 or earlier that she had registered with the Division of Youth and Family Services as a family day care provider. Div. of Developmental Disabilities v. Cruz, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524, Final Decision (June 22, 2007).

Initial Decision (2006 N.J. AGEN LEXIS 345) adopted, which concluded that revocation of Community Care Residence license was proper where credible evidence showed that the licensee had taped shut the mouth of a resident, a developmentally disabled man who was hydrocephalic and had an enlarged head; given that the resident had a cold, the tape could have impaired his ability to breathe, and removing the tape could have caused damage to his lips or the skin around his mouth. Div. of Developmental Disabilities v. Howell, OAL Dkt. No. HDD 4074-05, 2006 N.J. AGEN LEXIS 390, Final Decision (June 7, 2006).

10:44B-1.4 Application for community care licensure

(a) All initial inquiries for a license to operate a community care residence shall be made to the appropriate Regional Office of the Division of Developmental Disabilities.

Regional Office:	Counties of Jurisdiction:
Northern Regional Office	Sussex, Morris, Warren, Passaic, Bergen, Hudson
Upper Central Regional Office	Essex, Somerset, Union
Lower Central Regional Office	Middlesex, Monmouth, Mercer, Ocean, Hunterdon
Southern Regional Office	Camden, Atlantic, Gloucester, Cumberland, Salem, Cape May, Burlington

(b) All applicants shall complete an Initial Application and submit three personal/professional references and one medical reference.

(c) An initial interview and review of the applicant's home ("Home Study") shall be conducted.

(d) Applicants shall attend and successfully complete a training and orientation program conducted or otherwise approved by the Division of Developmental Disabilities.

Amended by R.1990 d.359, effective July 16, 1990.
See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Recodified from N.J.A.C. 10:44B-1.2.

Revised designations for "Metropolitan Regional" and "Central Regional" offices to "Upper Central Regional" and "Lower Central Regional" offices.

10:44B-1.5 Licenses and inspection

(a) Upon receipt of the Initial Provider Application, personal and medical references, Home Study Report, and training evaluation, a licensure inspection shall be arranged by:

Office of Licensing
Developmental Disabilities Licensing
Department of Human Services
PO Box 726
Trenton, New Jersey 08625-0726

(b) A license shall be issued if the inspection provides reasonable assurance that the home will be operated in the manner required by the standards.

(c) The initial license shall permit a licensee to operate a maximum six month period in which to demonstrate their ability to comply with minimum standards.

(d) The license shall be issued by the Department of Human Services only to natural persons and is not transferable to any other person or address. All licenses remain the property of the Department of Human Services and shall be returned upon termination.

(e) The license shall specify the maximum bed capacity of the home, including boards and individuals with developmental disabilities. Although individuals receiving services of another agency may reside in the home, there shall be written agreement signed by the Regional Administrator of Community Services and the director of the placing agency serving the boarder.

(f) The community care residence shall be the licensee's primary address.

(g) No licensee shall operate more than one community care residence.

(h) The residence shall be subject to inspection by the licensing agency at least annually, and as deemed necessary, without limitation or notice, to allow for inquiry into the facilities, records, equipment, sanitary conditions, accommodations, and management of the individuals.

(i) The license shall be kept on the premises at all times and be available upon request.

(j) The Department of Human Services may revoke the license whenever the licensee shall be found to be violating any State or Federal law pertaining to community residences for the developmentally disabled, or whenever such residence shall fail to comply with the minimum standards established by the Department of Human Services.