

**CHAPTER 37B**  
**PSYCHIATRIC COMMUNITY RESIDENCES**  
**FOR YOUTH**

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

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Chapter 37B, Psychiatric Community Residences for Youth, expires on April 22, 2004.

**Chapter Historical Note**  
Chapter 37B, Psychiatric Community Residences for Youth, was adopted as R.1994 d.227, effective May 2, 1994. See: 25 N.J.R. 2197(a), 26 N.J.R. 1828(c).

Pursuant to Executive Order No. 66(1978), Chapter 37B, Psychiatric Community Residences for Youth, was readopted as R.1999 d.158, effective April 22, 1999. See: Source and Effective Date.

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**SUBCHAPTER 1. GENERAL PROVISIONS**

**10:37B-1.1 Scope and purpose**

(a) The rules in this chapter apply to all licensed psychiatric community residences for youth funded by or under contract with the Division.

(b) The purpose of the rules in this chapter is to:

1. Enable licensure and regulation of specialized residences for mentally ill youth;
2. Promote the goal of the residences to provide appropriate mental health services to youth at risk of hospitalization or recently discharged from inpatient care but not ready to return home or reside in a less intensive facility; and
3. Promote high quality and effective delivery of funded residential services for youth.

**10:37B-1.2 Definitions**

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

“Behavior management practice” means the use of a time out quiet room, therapeutic holding technique or point system as part of a comprehensive treatment plan to help the youth develop self-control, to reduce maladaptive behavior or to protect the youth and others from harm.

“Behavior management quiet room” means a room used exclusively for the purpose of keeping the youth apart from all social interaction in order to protect the youth or other persons from the youth’s assaultive or destructive behavior.

“CCIS” means the regional Children’s Crisis Intervention Service unit established to serve, for a period not exceeding 28 days, youth from the ages of five through 17 who have:

1. Received an initial screening by a designated mental health emergency screening service;
2. A primary psychiatric diagnosis; and
3. An impaired level of personal and social functioning to the extent that inpatient psychiatric crisis intervention and treatment services are necessary.

“Comprehensive treatment plan” means the formulation of goals, objectives and interventions for services based on an assessment which includes treatment, recommendations, and which may include: psychological, medical, developmental, family, educational, social, cultural, environmental, recreational and vocational components.

“Consent” means that a parent having legal responsibility for educational decision making or the adult pupil (that is, a person age 18 through 21 who is not under legal guardianship) has been fully informed of all information relevant to the activity for which the consent is sought, in his or her native language or other mode of communication, understands and agrees in writing to the implementation of this activity, and understands that granting of consent is voluntary and may be revoked at any time.

“Counseling for families” means the use of therapeutic methodologies which enable families to resolve problems or temporary stress of situations which they have encountered.

“Daily living skills” means the activities which enable a youth to perform functions for everyday living, such as basic housekeeping, grooming, dressing, maintaining schedules, social and recreational activities.

“Department” means the New Jersey Department of Human Services.

“Division” means Division of Mental Health and Hospitals within the New Jersey Department of Human Services.

“DYFS” means Division of Youth and Family Services within the New Jersey Department of Human Services.

“Educationally handicapped pupil” means a pupil who has been determined to be eligible for special education and or related services according to N.J.A.C. 6:28-3.5. Classification categories for educationally handicapped pupils include: auditorily handicapped, autistic, chronically ill, communication handicapped, emotionally disturbed, mentally retarded, multiple handicapped, neurologically impaired, perceptually impaired, preschool handicapped, orthopedically handicapped, socially maladjusted, and visually handicapped.

“Group counseling” means the use of group processes and supports to develop in individuals the capacity to overcome specific personal problems or problem conditions.

“Individualized education program” means a written plan developed at a meeting according to N.J.A.C. 6:28-3.6 which sets forth goals and objectives and describes an integrated sequential program of individually designed educational activities and related services necessary to achieve the stated goals and objectives.

“Parent” means a birth or adoptive parent, legal guardian, or any other person having responsibility for, or custody of, a youth.

“Provider agency” (PA) means a public or private organization which has a mental health contract with the Division and has been licensed by the Division to provide residential services.

“Psychiatric community residence for youth” (residence) means a community residential facility, licensed by the Division in accordance with this chapter, which provides food, shelter, and personal guidance on a 24-hour basis under such supervision as required to not more than 15 mentally ill youth who require assistance. These residences are funded by or contracted with the Division for youth who have received or may be at risk of inpatient care in an inpatient facility and who may benefit from psychiatric treatment within a community residence setting so as to avert more intensive treatment or to facilitate their return home or placement in a longer term residential facility. Residences do not admit any person residing in the State psychiatric hospital for adolescents or the State correctional facilities who has been found not guilty of a crime by reason of insanity or unfit to be tried on a criminal charge. Residences are not considered a health care facility, 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 include, but are not limited to, group homes, supervised apartment living arrangements, family care homes and hostels.

“Referral” means, for educational purposes, making a written request that a child study team meet to determine the need for evaluation according to N.J.A.C. 6:28-3.3.

“School-age pupil” means a person age three through 21 who is or was enrolled in a public school.



“Seriously emotionally disturbed youth”, 18 years of age or younger, exhibiting one of the following characteristics:

1. Behavioral, emotional, or social impairment that disrupts the child’s or adolescent’s academic and developmental progress and may also impact upon family and interpersonal relationships and has impaired functioning that has continued for at least one year, or
2. Has an impairment of short duration and high severity.

“State facility education program” means a program contracted with the Department and funded by the Department’s Office of Education for the provision of education services.

“Therapeutic holding technique” means holding a youth so that he or she cannot move all or part of his or her body. This technique does not involve the use of any mechanical devices, such as hand or foot cuffs to restrict the movement of the youth.

“Time out” means removing a youth to an area or room in the residence where there is limited stimulation. This removal should be a therapeutic intervention and a time for the youth to reflect on his or her behavior in order to gain control so he or she can return to the other youth.

“Youth” means a person who is 18 years of age and under.

**SUBCHAPTER 2. LICENSING**

**10:37B-2.1 Initial licensing process**

(a) All inquiries related to licensure of psychiatric community residences for youth shall be made to:

New Jersey Division of Mental Health and Hospitals  
CN 727  
Trenton, NJ 08625-0727

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

1. Demonstrate intent and capability to operate a community residence within the provisions of this chapter; and
2. Be a mental health services provider with a service contract with, or funding from, the Division. Such a service contract shall include provisions for the operation of community residences.

(c) The PA shall comply with this chapter.

(d) The PA shall apply for licensure to the Division. Applications shall indicate the type or types of community residences intended, the specific geographical location in which residences would be located, and the number of residents to be served. Such application shall be made to the Division at the address in (a) above. There shall be no fee charged to the PA regarding licensing or application for licensing.

**10:37B-2.2 Licensing of psychiatric community residences for youth programs**

(a) The Division shall inspect any proposed psychiatric community residence for youth site, utilizing the physical and fire safety standards pursuant to N.J.A.C. 10:128-4.1 and 10:128-4.4 through 4.6, and shall review all program operations or descriptions for compliance with the provisions of this chapter.

(b) The Division shall notify the PA in writing of any violations.

(c) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability.

(d) A license shall be issued once intent to comply with all program requirements is demonstrated, inspections are satisfactory, and there is reasonable assurance that the residence shall be operated in the manner required by this subchapter.

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

(f) The license shall be limited to a specifically identified facility, issued for a period of one year and shall indicate the maximum number of persons to be served within that facility.

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

**10:37B-2.3 Provisional license**

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

(b) The Division shall review the application of the prospective PA, assess the fiscal, programmatic, and administrative capabilities of the PA and determine whether a provi-

sional license shall be issued. There shall be no fee charged for the issuance of a provisional license.

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

(d) A provisional license shall authorize a PA to provide services to residents.

(e) The provisional license shall be issued for a time period not to exceed six months and may be renewed in six months intervals by the Division if, in its judgment, the PA consistently made good faith efforts to establish the proposed residence(s).

(f) A PA which has been issued a provisional license shall immediately make application for an annual renewable license in accordance with N.J.A.C. 10:39-2.1 when the residence has been secured and services to residents are ready to be initiated.

#### 10:37B-2.4 Applicability of standards

(a) All PAs which are funded by, or have contracts with, the Division prior to May 2, 1994 and all community residences in operation prior to May 2, 1994 shall be considered approved for licensing and shall not be subject to the initial or provisional licensing process. From May 2, 1994 on, licensure shall be based on the Division's annual inspection.

(b) Those PAs which are not funded by or do not have contracts with the Division on or before May 2, 1994 and those residences established subsequent to May 2, 1994 shall follow the initial licensing process, as required by this chapter, and shall be subject to annual inspections.

#### 10:37B-2.5 Waiver of standards

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

(b) Waivers of specific standards shall be considered at the discretion of the Division, provided that one or more of the following conditions have been met:

1. Strict enforcement of the standard would result in unreasonable hardship on the clients;
2. The waiver is in accordance with the particular need of a client(s) but does not adversely affect the health, safety, welfare, or rights of the client; or
3. There is a clear clinical or programmatic justification for such a waiver that will enhance a PA's effectiveness or efficiency without an adverse effect on any client's health, safety, welfare or rights.

#### 10:37B-2.6 License renewal

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

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

(c) The Director of the Division (or designee) shall make the determination of renewal.

(d) In the event that a license expires prior to the determination of renewal, the license shall remain in effect until such a determination is made.

(e) There shall be no fee charged to the PA for license renewal.

#### 10:37B-2.7 Monitoring compliance

(a) The PA shall ensure, through its quality assurance program, that residences meet the program and facilities requirements for licensure set forth in this chapter. Quality assurance visits to ensure health, safety, and welfare standards shall be conducted by the PA quarterly, at a minimum. The Division will audit the process annually.

(b) All PAs and residences shall be evaluated on site for program requirements annually by the Bureau of Licensing and Inspections, and, at the discretion of the Division, as needed.

(c) A formal report of program and facility evaluations, including all deficiencies and violations, shall be provided to the PA by the division.

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

(e) For any violations cited by the Division as life-threatening, meaning presenting an imminent threat to the health and safety of residents, the PA shall correct them and remove the threat created by such deficiencies immediately and shall provide written notice, within 48 hours, to the Bureau of Licensing and Inspections that such action has been taken.

(f) If the Division report identifies violations which are not life-threatening, representatives from the Division, as part of their ongoing monitoring responsibilities, shall visit the specified residence or program and provide a report to the Division on progress toward remediation of deficiencies every 60 days until compliance is achieved.

(g) When the PA is cited for a physical violation and the maintenance is the responsibility of another party, there must be documented evidence that the PA has informed the building owner, and his or her agent, of the need to correct any deficiencies. If such deficiencies are not corrected, the PA shall take further action as appropriate.

**10:37B-2.8 Appeal of the Division's findings**

(a) The PA may appeal findings of the Division, with the exception of life-threatening violations.

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

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

**10:37B-2.9 Administrative sanction**

(a) In the event that the PA does not submit the written notice specified in N.J.A.C. 10:39-3.1(c) by the required date, or if violations have not been abated within time frames specified in the report, the Division shall have the option of suspension of payments to which the PA may be entitled under any agreements with the Division, imposition of a moratorium on admissions to the facility, revocation of the current license to operate the facility, non-renewal of the license to operate the facility, or imposition of other administrative sanction(s) appropriate to the violations cited.

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

(c) When an order to vacate the premises and the revocation of a license has been issued by the Division, the Department shall work with the PA to ensure proper placement of residents.

**10:37B-2.10 Review of administrative sanctions**

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

**10:37B-2.11 Administrative hearing of appeal**

If the PA chooses to appeal a decision made pursuant to the provisions of N.J.A.C. 10:37B-2.10, the PA may request an administrative hearing, which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

**10:37B-2.12 Emergency situation**

The Division, when it determines that the health, safety or welfare of the residents warrant it, may immediately suspend a PA license, and take the necessary action to ensure the well-being of residents. Any hearing provided in such cases shall be on an expedited basis.

**SUBCHAPTER 3. ADMINISTRATION****10:37B-3.1 Statement of purpose**

(a) The residences shall maintain on file a written statement of purpose that shall identify the following:

1. The residence's philosophy, goals and objectives;
2. Characteristics of the youth to be served;
3. Types of treatment services provided to the youth, including those provided directly by the residence and those provided in cooperation with community agencies or outside individuals;
4. Procedures for implementing those services; and
5. Criteria for successful completion of the program.

(b) The residence shall give this statement of purpose to the parents of the youth applying for services, to all staff members and to all persons who request this information.

(c) The residence shall secure and shall maintain on file a record of a parent or legal guardian and staff members' signatures attesting to their receipt of the statement of purpose.

**10:37B-3.2 Management**

The residences shall comply with all applicable management standards as promulgated by the Division, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the rules regarding agency rulemaking, N.J.A.C. 1:30.

**10:37B-3.3 Rights of youth**

(a) The residence shall prepare a list of youth's rights and shall post it in a prominent location in each residence or give it to the youth and document such in each youth's record. In either case these rights shall be explained to the youth to the extent the youth is capable of understanding them, including by appropriate means to youth whose primary language is not English or who have a communication handicap. At a minimum, the list shall specify the youth's right to:

1. Receive prompt medical treatment;
2. Have access to an appropriate education;
3. Live in a safe, clean and healthy environment;
4. Be free of physical or sexual harassment or abuse or corporal punishment;
5. Attend religious services of their choice;

6. Have unimpeded communication to DYFS in order to report allegations of physical abuse, physical neglect, or sexual abuse; and

7. In the case of youth placed into these residences pursuant to the authority of DYFS, the provisions of N.J.S.A. 9:6B-1 et seq. shall also apply.

(b) The residence shall give this list of youth's rights to a parent or legal guardian of the youth applying for admission, all staff members, and all persons who request this information.

(c) The residence shall secure and maintain on file a record of a parent or legal guardian and staff members' signatures attesting to their receipt of the list of youth's rights.

(d) The residence shall prepare, post, or give to all staff members and youth a written grievance procedure governing how the youth may raise questions about or voice disagreements with and concerns about procedures, care, and specific incidents. The residence shall not take, or threaten to take, retaliatory or disciplinary action of any kind against a youth who uses the grievance procedure or files a grievance. The residence shall provide a procedure to explain the above to youth in a manner in which they can understand their rights.

#### **10:37B-3.4 Information to be provided to parent, legal guardians and staff members**

(a) The residence shall provide and explain to every parent, within five working days of his or her youth's placement, and to every person upon becoming a staff member, including the provision, by appropriate means, to individuals whose primary language is not English or who have a communication handicap, a written document indicating that the residence is required to:

1. Comply with all applicable provisions of this chapter;
2. Retain a current copy of this chapter and make it available for review by parents or legal guardians of resident youth;
3. Make available for review any Department reports reviewing program compliance with this chapter;
4. Indicate how parents or legal guardians may secure a copy of this chapter by contacting the Office of Children's Services, Division of Mental Health and Hospitals, CN 727, Trenton, New Jersey 08625-0727;
5. Afford parents or legal guardians the opportunity and time to review and discuss with the residence director any questions or concerns about policies, requirements, provisions, or alleged violations of this chapter;

6. Advise parents or the legal guardian that if they believe or suspect that the residence is in violation of any provision of this chapter, they may report such alleged violations to the Division;

7. Make available, upon request, for parents' or legal guardian's review, any Inspection Violation and Complaint Reports on the residence, as well as any letters of enforcement or other actions taken against the residence during the previous two-year period;

8. Inform parents or legal guardians that they may request a copy of the residence's or agency's behavior management policy, including policies for searches, as specified in this chapter.

9. Inform parents or legal guardian that the residence or agency is required to provide the youth's parent or legal guardian with copies of the residence's or agency's visitation and communication policies, a copy of the procedure for expressing concern or registering complaints regarding their youth's placement, and a description of its religious policies, including a statement that the youth has a right to practice his or her religion;

10. Indicate through this document that any person who has reasonable cause to believe that a youth residing in the residence has been or is being subjected to any form of hitting, corporal punishment, abusive language, ridicule, or harsh, humiliating, or frightening treatment, or any other kind of youth abuse, neglect or exploitation by any person, whether working at the residence or not, is required by State law to report such allegations to the DYFS Institutional Abuse Investigation Unit, TOLL FREE at 1-800-215-6853, Monday through Friday between 9:00 A.M. and 5:00 P.M. or, at other times, any local DYFS District Office immediately, and indicate that such reports may be made anonymously;

11. Indicate through this document how parents or legal guardians and staff members may secure information about the prevention and reporting of child abuse and neglect by contacting the DYFS District Office;

12. Inform parents or legal guardians that the residence or agency must secure written consent from the youth's parents or guardians before the residence or agency may involve the youth in fund raising, publicity, or audiovisual activities related to the residence or agency; and

13. Inform parents or legal guardian that the residence will develop a visitation schedule for parents or legal guardians and youth, as specified in this chapter.

(b) The residence or agency shall comply with the requirements specified in (a) above by:

1. Securing the parent's or guardian's and staff member's signature on a record attesting to receipt of the document, and maintaining the record on file; or