

CHAPTER 37

COMMUNITY MENTAL HEALTH SERVICES ACT

Authority

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

Source and Effective Date

R.2001 d.212, effective July 2, 2001.
See: 32 N.J.R. 2013(a), 33 N.J.R. 2310(a).

Chapter Expiration Date

Chapter 37, Community Mental Health Services Act, expires on July 2, 2006.

Chapter Historical Note

Chapter 37, Community Mental Health Services Act, was adopted and became effective prior to September 30, 1969.

Subchapter 12, Conditions Governing State Grants for Construction Assistance for Community Mental Health Facilities, was adopted as new rules by R.1977 d.482, effective December 23, 1977. See: 9 N.J.R. 531(a), 10 N.J.R. 63(d).

Chapter 37, Community Mental Health Services Act, was repealed and Chapter 37, Community Mental Health Services Act, was adopted as new rules by R.1980 d.479, effective November 3, 1980. See: 12 N.J.R. 580(a), 12 N.J.R. 704(g).

Pursuant to Executive Order No. 66(1978), Chapter 37, Community Mental Health Services Act, was readopted as R.1985 d.605, effective November 4, 1985. See: 17 N.J.R. 2222(a), 17 N.J.R. 2894(a).

Pursuant to Executive Order No. 66(1978), Chapter 37, Community Mental Health Services Act, was readopted as R.1990 d.591, effective November 2, 1990. See: 22 N.J.R. 2915(a), 22 N.J.R. 3620(a).

Subchapter 12, Children's Partial Care Programs, was adopted as new rules by R.1993 d.355, effective July 19, 1993. See: 25 N.J.R. 669(a), 25 N.J.R. 3209(a).

Subchapter 9, Quality Assurance, and Subchapter 10, Site Review and Certification, were adopted as new rules by R.1993 d.412, effective August 16, 1993. See: 25 N.J.R. 2193(a), 25 N.J.R. 3782(a).

Pursuant to Executive Order No. 66(1978), Chapter 37, Community Mental Health Services Act, was readopted as R.1995 d.596, effective October 26, 1995. See: 27 N.J.R. 2666(a), 27 N.J.R. 4715(a). Pursuant to Executive Order No. 66(1978), Chapter 37, Community Mental Health Services Act, expired on October 26, 2000.

Chapter 37, Community Mental Health Services Act, was adopted as new rules by R.2001 d.212, effective July 2, 2001, with Subchapter 10, Licensure of Mental Health Programs, replacing expired Subchapter 10, Site Review and Certification. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. INTRODUCTION AND PURPOSE

- 10:37-1.1 Introduction and purpose
- 10:37-1.2 Scope

SUBCHAPTER 2. STATE COMMUNITY MENTAL HEALTH CITIZENS ADVISORY BOARD

- 10:37-2.1 Membership
- 10:37-2.2 Functions
- 10:37-2.3 Power to establish committees

- 10:37-2.4 Scope of authority

SUBCHAPTER 3. COUNTY MENTAL HEALTH BOARDS

- 10:37-3.1 Establishment and composition
- 10:37-3.2 Membership
- 10:37-3.3 Attendance
- 10:37-3.4 Conflicts of interest
- 10:37-3.5 Roles, functions, and responsibilities
- 10:37-3.6 Professional Advisory Committee (PAC)
- 10:37-3.7 County Mental Health Administrators
- 10:37-3.8 Reimbursement
- 10:37-3.9 County administration of services

SUBCHAPTER 4. CONSUMER REQUIREMENTS FOR ALL COMMUNITY MENTAL HEALTH PROGRAM ELEMENTS

- 10:37-4.1 Direct involvement
- 10:37-4.2 Designated responsibility of agencies
- 10:37-4.3 Designated responsibilities of County Mental Health Boards
- 10:37-4.4 Designated responsibilities of State Community Mental Health Citizens' Advisory Board
- 10:37-4.5 Client rights
- 10:37-4.6 Client complaint/agency ombuds procedure

SUBCHAPTER 5. PROGRAM ELEMENT REQUIREMENTS

- 10:37-5.1 Funding priorities
- 10:37-5.2 Target populations
- 10:37-5.3 through 10:37-5.53 (Reserved)
- 10:37-5.54 Scope and purpose
- 10:37-5.55 Designation of responsibility
- 10:37-5.56 Funding requirements
- 10:37-5.57 Population priorities
- 10:37-5.58 Services to be provided
- 10:37-5.59 Service approaches
- 10:37-5.60 Staff
- 10:37-5.61 Setting
- 10:37-5.62 Length of stay
- 10:37-5.63 through 10:37-5.64 (Reserved)
- 10:37-5.65 Scope and purpose
- 10:37-5.66 Designation of responsibility
- 10:37-5.67 Funding requirements
- 10:37-5.68 Target agencies and populations
- 10:37-5.69 Services
- 10:37-5.70 Staff
- 10:37-5.71 Setting
- 10:37-5.72 through 10:37-5.73 (Reserved)
- 10:37-5.74 Scope and purpose
- 10:37-5.75 Designation of responsibility
- 10:37-5.76 Funding requirements
- 10:37-5.77 Population priorities
- 10:37-5.78 Services
- 10:37-5.79 Staff
- 10:37-5.80 Setting

SUBCHAPTER 6. GENERAL ADMINISTRATIVE REQUIREMENTS FOR ALL STATE-FUNDED COMMUNITY MENTAL HEALTH PROGRAM ELEMENTS

- 10:37-6.1 through 10:37-6.12 (Reserved)
- 10:37-6.13 Compliance requirements
- 10:37-6.14 Waiver
- 10:37-6.15 Appeals
- 10:37-6.16 through 10:37-6.18 (Reserved)
- 10:37-6.19 Scope and purpose
- 10:37-6.20 Specific requirements

- 10:37-6.21 Necessary community involvement
- 10:37-6.22 through 10:37-6.41 (Reserved)
- 10:37-6.42 Scope and purpose
- 10:37-6.43 Designation of responsibility
- 10:37-6.44 Required content
- 10:37-6.45 Required review and modification
- 10:37-6.46 through 10:37-6.48 (Reserved)
- 10:37-6.49 Least restrictive setting
- 10:37-6.50 through 10:37-6.52 (Reserved)
- 10:37-6.53 Medication education and counseling
- 10:37-6.54 Psychotropic medication
- 10:37-6.55 through 10:37-6.72 (Reserved)
- 10:37-6.73 Scope and purpose
- 10:37-6.74 Required contents for all records
- 10:37-6.75 Inpatients records: supplementary content requirements
- 10:37-6.76 Policies and procedures regarding recordkeeping
- 10:37-6.77 Retention of records
- 10:37-6.78 Record departments
- 10:37-6.79 Confidentiality of records
- 10:37-6.80 through 10:37-6.82 (Reserved)
- 10:37-6.83 Scope and purpose
- 10:37-6.84 Designation of responsibility
- 10:37-6.85 through 10:37-6.87 (Reserved)
- 10:37-6.88 Services requiring prior approval
- 10:37-6.89 through 10:37-6.98 (Reserved)
- 10:37-6.99 Training and staff development
- 10:37-6.100 through 10:37-6.102 (Reserved)
- 10:37-6.103 Scope and purpose
- 10:37-6.104 Designation of responsibility
- 10:37-6.105 through 10:37-6.107 (Reserved)
- 10:37-6.108 Unusual incident reporting system

SUBCHAPTER 7. (RESERVED)

SUBCHAPTER 8. CONDITIONS GOVERNING STATE GRANTS FOR CONSTRUCTION ASSISTANCE FOR COMMUNITY MENTAL HEALTH FACILITIES

- 10:37-8.1 Scope and purpose
- 10:37-8.2 Definitions
- 10:37-8.3 Program priorities
- 10:37-8.4 Capital construction priorities and local matching requirements
- 10:37-8.5 Eligible agencies
- 10:37-8.6 Allowable costs
- 10:37-8.7 Applicable procedure
- 10:37-8.8 Condition
- 10:37-8.9 State approval
- 10:37-8.10 Interim inspections
- 10:37-8.11 Payment schedules
- 10:37-8.12 Records and reports
- 10:37-8.13 Contract property

SUBCHAPTER 9. QUALITY ASSURANCE

- 10:37-9.1 Introduction
- 10:37-9.2 Scope and purpose
- 10:37-9.3 Definitions
- 10:37-9.4 Quality assurance (QA) plan
- 10:37-9.5 Quality assurance (QA) implementation
- 10:37-9.6 Administrative support
- 10:37-9.7 Quality assurance (QA) oversight
- 10:37-9.8 Utilization review (UR)
- 10:37-9.9 Risk management (RM)
- 10:37-9.10 Annual appraisal

SUBCHAPTER 10. LICENSURE OF MENTAL HEALTH PROGRAMS

- 10:37-10.1 Scope and purpose
- 10:37-10.2 Definitions
- 10:37-10.3 Initial licensure for pre-existing mental health programs
- 10:37-10.4 Licensure process
- 10:37-10.5 Applicable standards
- 10:37-10.6 Site reviews
- 10:37-10.7 Types of licensure
- 10:37-10.8 Waiver
- 10:37-10.9 License renewal or revocation
- 10:37-10.10 Review of administrative determinations
- 10:37-10.11 Administrative hearing of appeal

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. CHILDREN'S PARTIAL CARE PROGRAMS

- 10:37-12.1 Purpose, scope and goals
- 10:37-12.2 Definitions
- 10:37-12.3 Population to be served
- 10:37-12.4 Program services
- 10:37-12.5 Age appropriate services
- 10:37-12.6 Admission
- 10:37-12.7 Intake
- 10:37-12.8 Service plan
- 10:37-12.9 Progress notes
- 10:37-12.10 Termination, discharge, and referral
- 10:37-12.11 Staffing requirements
- 10:37-12.12 Staffing responsibilities

APPENDIX A. CONTINUUM OF MENTAL HEALTH SETTINGS

APPENDIX B. LEVEL I STANDARDS

SUBCHAPTER 1. INTRODUCTION AND PURPOSE

10:37-1.1 Introduction and purpose

(a) Since the enactment of the Community Mental Health Services Act in 1957, there has been a broad expansion of public funding sources administered by the State and utilized to support community mental health services. In addition to grant-in-aid, there are funds from Title XX of the Federal Social Security Act, State Community Care and Screening purchase of service contracts, the State Capital Improvement Program and two State-funded demonstration community mental health centers. This amended chapter represents an integration of these multiple funding sources and the minimal requirements that are applicable to all of them. These requirements are conceptually based upon the Division's four operating principles: Normalization, Level of Functioning, Advocacy and Unified Services, which are described in a companion document titled "Principal Statement." Within the context of these principles, however, the Division encourages innovative implementation and a variety of comprehensive service models, developed in response to local needs and talents.

4. Documentation and implementation of a RM plan that fully describes the scope of the RM program and its integration with other QA activities.

10:37-9.10 Annual appraisal

(a) An annual appraisal of the QA program shall be conducted by the PA and documented.

(b) The annual appraisal shall include review of adequacy of monitoring, evaluation and reporting mechanisms, and evidence of solutions to identified problems.

(c) When the PA has developed the QA program, evidence of positive impact on client care and client input should also be included in the appraisal process.

SUBCHAPTER 10. LICENSURE OF MENTAL HEALTH PROGRAMS

10:37-10.1 Scope and purpose

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

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

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

i. An agency which has a purchase of service contract or affiliation agreement with the Division;

ii. A mental health clinic as defined by the Division of Medical Assistance and Health Services (DMAHS) at N.J.A.C. 10:66-1 and 2.5; or

iii. An entity which provides outpatient, ambulatory, or other nonresidential, non-inpatient mental health service(s).

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

4. Provisions of this chapter shall not apply to:

i. Licensure provisions regarding community residences for mentally ill adults and psychiatric community

residences for youth which can be found at N.J.A.C. 10:37A and 10:37B, respectively;

ii. Licensed, independent practitioner(s), including group practices;

iii. Screening and screening outreach programs designated pursuant to N.J.S.A. 30:4-27.4 and N.J.A.C. 10:31;

iv. Programs providing specialized services some of which may be similar in nature to those that are the subject of this chapter but which are designed to primarily address problems of alcoholism or substance abuse disorders; organic brain syndromes; developmental disabilities; medical; or victim related conditions, such as domestic violence or rape;

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

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

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

1. Meet the standards set by the Department;

2. Are safe for participants;

3. Protect consumers' rights; and

4. Have staff who meet minimum educational and experience qualifications.

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

10:37-10.2 Definitions

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

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

"Certified program" means a program funded by the Division which is in good standing as of July 2, 2001 and which has no major contract or program standard deficiencies.

"Commissioner" means the Commissioner of the Department of Human Services.

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

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

“Department” means the Department of Human Services.

“Director” means the Director of the Division of Mental Health Services.

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

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

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

“Level I standards” means those standards with which mental health programs must be in full compliance in order to be granted or to continue to receive a Department license. Level I standards are those standards which relate most directly to client rights, safety, and staffing. The list of Level I standards for promulgated rules as of July 2, 2001 may be found in the chapter Appendix B, incorporated herein by reference. Any rules promulgated after July 2, 2001 will identify Level I standards.

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

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

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

“Medicaid approved program” means a mental health program inspected by the Division and approved to provide Medicaid reimbursable mental health services reimbursable by the Division of Medical Assistance and Health Services.

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

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

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

10:37-10.3 Initial licensure for pre-existing mental health programs

(a) This section sets forth the licensing requirements for mental health programs existing prior to July 2, 2001.

(b) All mental health programs which contract with, or are funded by, the Division and certified on July 2, 2001, shall be issued a license once the Department determines that there are no major outstanding contract or program deficiencies. The license so provided shall be for a period up to three years or until the next Division site review, whichever occurs first.

(c) A mental health program which, on July 2, 2001, is not certified by the Division but is accredited at the time of application by a recognized accrediting body, may apply for licensure and, upon the Division’s review and approval of the application for licensure and the accreditation report, may be given deemed status and a provisional license may be issued, which shall be effective until completion of a Division site review indicating compliance with all applicable standards and issuance of a full license.

(d) A mental health program which is approved by DMAHS as a provider of mental health services, has been inspected by the Division since 1998, and has no outstanding major program deficiencies, may apply for licensure and may receive a provisional license until completion of a Division site review indicating compliance with all applicable standards and issuance of a full license.

(e) All operating mental health programs not identified in (a), (b), (c) and (d) above, shall apply for licensure by September 30, 2001. A mental health program which completes such application shall be subject to a preliminary site inspection to ensure compliance with all Level I standards. A provisional license shall be issued pending completion of a full licensing site review indicating compliance with all applicable standards.

10:37-10.4 Licensure process

(a) All inquiries related to licensure of mental health programs shall be made to:

New Jersey Division of Mental Health Services
Bureau of Licensing and Inspections
Capital Center, PO Box 727
Trenton, New Jersey 08625-0727

(b) Mental health programs which intend to become licensed shall complete an application for licensure indicating the type(s) of mental health program(s) provided, and the specific location and addresses where the mental health program(s) is or will be provided.

1. The mental health program shall complete all information and provide documentation requested on the license application.
2. The mental health program requesting licensure shall demonstrate the capacity to operate the mental health program in accordance with Division rules.

(c) Deemed status may be considered as part of the Division licensing process for community mental health programs in those cases where:

1. A mental health program is accredited at the time of application within the past three years by an accrediting body recognized by the Division; and
2. The program submits the accrediting body report with the license application indicating that the program(s) for which they seek deemed status are accredited. As applicable, any remediation plan required by the accrediting body shall also be submitted.

10:37-10.5 Applicable standards

(a) For the purpose of the licensure standards contained in this chapter or other chapters incorporated by reference, whenever the phrase "State funded" programs is encountered, it shall no longer be understood to apply only to State funded entities. Instead, the applicable standards shall also apply to non-State funded mental health programs which provide the services indicated in (b), (c) and (e) below.

(b) Mental health programs shall comply with the applicable standards for the following mental health services which they provide:

1. Youth partial care services (YPC) at N.J.A.C. 10:37-12;
2. Outpatient services (OP) at N.J.A.C. 10:37E;
3. Partial care services (PC) at N.J.A.C. 10:37F;
4. Youth case management (YCM) at N.J.A.C. 10:37H; and
5. Intensive family support services (IFSS) at N.J.A.C. 10:37I.

(c) In addition, mental health programs shall also comply with general standards, as outlined in (d) and (e) below, depending on whether they have a contract or affiliation agreement with the Division.

(d) Mental health programs under contract with the Division shall comply with all of the following standards:

1. Community Mental Health Services Act rules, in this chapter; and
2. Management and Governing Body rules at N.J.A.C. 10:37D.

(e) Mental health programs with an affiliation agreement with, but not under contract with, the Division shall comply with the following standards:

1. Client rights at N.J.A.C. 10:37-4.5(b) through (h)6;
2. Client complaint/agency ombud procedures at:
 - i. N.J.A.C. 10:37-4.6(b) through (d);
 - ii. N.J.A.C. 10:37-4.6(f); and
 - iii. N.J.A.C. 10:37-4.6(h)1;
3. Medication education rules at N.J.A.C. 10:37-6.53 and 6.54;
4. Client record rules at:
 - i. N.J.A.C. 10:37-6.73;
 - ii. N.J.A.C. 10:37-6.74(a)2 through 6;
 - iii. N.J.A.C. 10:37-6.74(a)8 through 12;
 - iv. N.J.A.C. 10:37-6.74(a)14;
 - v. N.J.A.C. 10:37-6.76 and 6.77; and
 - vi. N.J.A.C. 10:37-6.79;
5. Unusual incident reporting rule at N.J.A.C. 10:37-6.108;
6. Quality Assurance rules at:
 - i. N.J.A.C. 10:37-9.1 through 9.4(d);
 - ii. N.J.A.C. 10:37-9.5;
 - iii. N.J.A.C. 10:37-9.9 and 9.10;
7. Management rules at:
 - i. N.J.A.C. 10:37D-2.1 and 2.2;
 - ii. N.J.A.C. 10:37D-2.3(a)2 and 3;
 - iii. N.J.A.C. 10:37D-2.4 through 2.7(a)2;
 - iv. N.J.A.C. 10:37D-2.7(a)4;
 - v. N.J.A.C. 10:37D-2.8;
 - vi. N.J.A.C. 10:37D-2.11 through 2.14;
 - vii. N.J.A.C. 10:37D-2.15(a)1; and
 - viii. N.J.A.C. 10:37D-2.18(a), but not 1 through 4.

10:37-10.6 Site reviews

(a) Site reviews shall be conducted for each separate site location of every mental health program.

1. Licensing reviews shall minimally occur every three years.

2. Except as provided in N.J.A.C. 10:37-10.3, following (the effective date of these rules), site reviews shall occur prior to licensing any new mental health program and/or site.

3. Site reviews may occur on an announced or unannounced basis at any time. The purpose of the site review may include, but not be limited to, investigation of a complaint or incident, assessment of the facility or facility improvement, or review of policies, procedures and/or clinical records.

(b) The site review is designed to determine that the mental health program(s) and program location(s) meet all relevant standards.

(c) The site review is designed as a collaborative process to promote learning, program improvement, high quality services, protection of consumer's rights, and ensure compliance with standards.

(d) Site reviews shall be conducted by individual staff of the Division or by a team coordinated and led by staff of the Division.

1. Teams may include: mental health consumers and family members, staff from similar mental health programs (peers), and county mental health administrators.

2. Teams may include representatives from divisions and/or departments other than Mental Health Services and Human Services.

(e) Team composition, the amount of time scheduled for each site review and the level of intensity of each site review may vary to reflect the characteristics of the mental health program and the populations served.

(f) Site reviews may include, but not be limited to, consumer, family/guardian, direct care and administrative staff interviews; record reviews; reviews of policies and procedures; program observations; onsite inspection of the physical plant; review of internal documents, including financial records; and review of the quality assurance program. The review of each of these items shall be based on applicable State rules.

(g) Site review of programs granted deemed status shall primarily focus on, but may not be limited to, staffing and clinical records, and any Level 1 standard not otherwise addressed by the recognized accrediting body.

(h) Following the site review, an official report of findings shall be issued by the Division within 60 to 90 days.

(i) Within 40 calendar days of receipt of the official report, the mental health program shall send a written response to the official report, including a time framed plan for improvement. This response shall be attached to the report and together shall constitute a public document.

(j) The mental health program shall be notified in writing whether the improvement plan, or portions thereof, are approved for implementation and whether there are any areas that need to be addressed further.

(k) The mental health program shall, upon request, make available for review a copy of the report and response.

10:37-10.7 Types of licensure

(a) Mental health programs will receive a full license if they meet requirements in N.J.A.C. 10:37-10.3(a) or after a Division site review determines the program complies with all Level I and the majority of Level II standards.

(b) A provisional license may be issued whenever:

1. A program meets the terms specified in N.J.A.C. 10:37-10.3(c);

2. A program meets the terms specified in N.J.A.C. 10:37-10.3(d);

3. A program meets the terms specified in N.J.A.C. 10:37-10.3(e);

4. A program which plans to change its location or add an additional location has submitted a complete licensure application and a program site tour has been conducted; or

5. A new program that has submitted a complete licensure application, its policies and procedures have been reviewed; and a program site tour has been conducted.

(c) Except as provided in N.J.A.C. 10:37-10.3(b), (c) and (d), a provisional license may be issued to a specific facility address for a period of six months, or until completion of a full site review by the Division. A provisional license may be renewed if needed by the Division.

(d) A conditional license may be issued whenever:

1. Compliance with any Level I standard is lacking during a licensing site review;

2. Non-compliant Level II standards identified in the previous licensing review are not remediated by the following triennial review;

3. A remediation plan is not submitted to the Division at the designated time, or if it is determined by the Division to be inadequate; or

4. An investigation of a complaint or serious incident identifies deficiencies that warrant conditional status.

(e) A conditional license shall be upgraded to a full license when a follow-up review determines that all relevant licensing requirements are met.

10:37-10.8 Waiver

(a) Waivers of specific rules shall be considered, provided that, in the opinion of the Director or designee, such waiver is justified as outlined below and would not endanger or adversely affect the life, safety or welfare of clients.

(b) Requests for waiver shall be made to the Division, in writing to the address as listed in N.J.A.C. 10:37-10.4(a). The written request for waiver shall include the following:

1. The specific rule(s) or part(s) of the rule(s) for which the waiver is requested;
2. Reasons for requesting a waiver, including a statement of the type or degree of hardship that would result to the program if a waiver were not granted;
3. Clear clinical or programmatic justification for such a waiver; and
4. Documentation to support the request of waiver.

(c) The Division reserves the right to request additional information before processing a request for waiver.

10:37-10.9 License renewal or revocation

(a) License renewal for a mental health program shall be based on a Division licensing site review every three years to determine that the program continues to meet Division standards.

(b) The Director or designee shall make the determination of renewal based on results of the licensing site review.

(c) In the event that a license expires prior to the triennial licensing review, the license shall remain in effect until the licensing site review is completed.

(d) The Division may revoke the license, or deny renewal of the license, if the mental health program is not in compliance with licensing rules; or if continued operation of the mental health program presents an imminent danger to the health, safety or welfare of any client; or for failure to submit the specified written response to a site review report by the required date; or for failure to correct any identified area of non-compliance within the time frame approved by the Division in the notice of non-compliance.

(e) The Division may, in lieu of revocation or denial of renewal of a license, issue a conditional license and/or elect other administrative sanctions to include, but not be limited to, prohibiting the mental health program from continuing to admit clients, or to require the removal/relocation/referral of clients to other licensed provider(s).

(f) In the event that the Division revokes or does not renew the license, the Director shall send written notice to the mental health program's chief executive officer or designee and to the mental health program's board of directors or owners indicating the basis for the revocation or non-

renewal and the rights to a review as provided at N.J.A.C. 10:37-10.10 and an administrative hearing as provided at N.J.A.C. 10:37-10.11.

10:37-10.10 Review of administrative determinations

Whenever licensure is denied, revoked or not renewed and the mental health program disputes the basis of the action, the mental health program may apply to the Director for a review and a final agency decision shall be rendered within 30 days of the receipt of the written request for a review.

10:37-10.11 Administrative hearing of appeal

If the mental health program chooses to appeal a final agency decision made pursuant to these rules, the mental health program 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 et seq., and the Uniform Administrative Procedure Rules at N.J.A.C. 1:1.

SUBCHAPTER 11. (RESERVED)

SUBCHAPTER 12. CHILDREN'S PARTIAL CARE PROGRAMS
10:37-12.1 Purpose, scope and goals

(a) Children's partial care programs provide seriously emotionally disturbed youth with a highly structured intensive day treatment program. Such programs are typically located in, but need not necessarily be limited to, a community-based mental health setting or hospital-based setting.

(b) Program goals include:

1. Prevention of psychiatric hospitalization of youth at risk of psychiatric hospitalization;
2. Prevention of re-hospitalization of youth who have been psychiatrically hospitalized; and
3. Provision of a transition for psychiatrically hospitalized youth from the hospital back into the community.

(c) Agencies operating children's partial care programs shall strive to maximize each youth's potential for learning, growth, and emotional stability within the family or natural support system. Agencies operating children's partial care programs shall respect the rights and dignity of all youth. Partial care programs shall:

1. Respect the rights and dignity of youth and family members and when appropriate preserve the family unit;

2. Foster community living by teaching skills and improving functioning;
3. Help each youth to realize their own potential for learning;
4. Foster healthy interdependence;
5. Help clients develop and use social support systems;
6. Help clients and their family members or legal guardians learn to manage the client's illness in order to prevent relapse, re-hospitalization, or placement in a restrictive environment;
7. Empower clients and families to actively participate in treatment and programming and to determine personal and program goals;
8. Affirm clients' strengths and abilities; and
9. Encourage and support clients' and families' efforts to help each other.

10:37-12.2 Definitions

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

"Children's crisis intervention services" or "CCIS" means an acute care inpatient unit located in a hospital or free-standing facility established to serve children and adolescents from the ages of five through 17 who have:

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

"Children's partial care program" means a day treatment program offering structured activities including activities for daily living, recreation, and socialization activities and other mental health services based upon the needs of the youth.

"Comprehensive treatment plan" means the formulation of service and treatment goals, objectives and interventions based on an assessment which shall include psychological, medical, developmental, recreational and vocational components.

"Counseling" 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 every day 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.

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

"Seriously emotionally disturbed" means a child or adolescent exhibiting one or more of the following characteristics: behavioral, emotional, or social impairment that disrupts the child's or adolescent's academic or developmental progress and may also impact upon family or interpersonal relationship. This disturbance shall have also impaired functioning for at least one year or the youth has an impairment of short duration and high severity and is under 18 years of age.

"Youth" means children under 18 years of age.

10:37-12.3 Population to be served

(a) Agencies operating children's partial care programs shall serve youth with serious emotional disturbances. First priority for admission shall be youth who are diagnosed as seriously emotionally disturbed and meet one or both of the following criteria:

1. Currently residing in or having previously resided in Arthur Brisbane Child Treatment Center, a Children's Crisis Intervention Services (CCIS) unit, a psychiatric community residence for children program, a private hospital, or other out-of-home placement; and/or
2. By reason of serious emotional disturbances, presently at risk of extended out-of-home placement.

(b) Youth diagnosed as seriously emotionally disturbed who do not meet the criteria in (a)1 or 2 above may be admitted provided that all youth referred who meet the criteria are given first priority for admission. However, the agency must have written procedures which prioritize admission to those youth who meet the criteria in (a)1 or 2 above.

10:37-12.4 Program services

(a) Agencies operating children's partial care programs shall provide a comprehensive range of services to address the individual needs of the youth. These programs shall be available daily five days per week, with additional planned activities during evenings or weekend hours or both, as needed.