

**CHAPTER 44A****STANDARDS FOR COMMUNITY RESIDENCES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES****Authority**

N.J.S.A. 30:1-12 and 30:11B-1 et seq.

**Source and Effective Date**

R.2000 d.15, effective February 7, 2000.  
See: 31 N.J.R. 597(a), 32 N.J.R. 454(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 44A, Standards for Community Residences for Individuals with Developmental Disabilities, expires on February 7, 2005.

**Chapter Historical Note**

Chapter 44A, Manual of Standards for Licensed Community Residences for Developmentally Disabled, was adopted as R.1978 d.330, effective September 18, 1978. See: 10 N.J.R. 283(a), 10 N.J.R. 444(b).

Chapter 44A, Manual of Standards for Licensed Community Residences for the Developmentally Disabled, was repealed and Chapter 44A was adopted as new rules by R.1983 d.23, effective February 7, 1983. See: 14 N.J.R. 531(a), 15 N.J.R. 149(b). Pursuant to Executive Order No. 66(1978), Chapter 44A expired on February 7, 1988.

Chapter 44A, Standards for Licensed Community Residences for the Developmentally Disabled, was adopted as R.1988 d.546, effective November 21, 1988. 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, Standards for Licensed Community Residences for the Developmentally Disabled, was readopted as R.1993 d.633, effective November 8, 1993. See: 25 N.J.R. 4378(a), 25 N.J.R. 5528(a). Public Notice: Annual certification of facility standards pursuant to the Keys Amendment to the Social Security Act. See: 26 N.J.R. 3757(a). Pursuant to Executive Order No. 66(1978), Chapter 44A expired on November 8, 1998.

Chapter 44A, Standards for Community Residences for Individuals with Developmental Disabilities, was adopted as new rules by R.2000 d.15, effective February 7, 2000. See: Source and Effective Date.

**CHAPTER TABLE OF CONTENTS****SUBCHAPTER 1. GENERAL PROVISIONS**

- 10:44A-1.1 Purpose and scope
- 10:44A-1.2 Severability
- 10:44A-1.3 Definitions
- 10:44A-1.4 Application for licensure
- 10:44A-1.5 Procedure manual
- 10:44A-1.6 Issuance of an initial license
- 10:44A-1.7 Renewal of a license
- 10:44A-1.8 Denial, revocation, non-renewal or suspension of a license
- 10:44A-1.9 Administrative hearings
- 10:44A-1.10 Waiver or variance
- 10:44A-1.11 Complaints
- 10:44A-1.12 Voluntary closure

**SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION**

- 10:44A-2.1 General requirements
- 10:44A-2.2 Development and maintenance of procedure manual
- 10:44A-2.3 Implementation of procedure manual
- 10:44A-2.4 Personnel
- 10:44A-2.5 Minimum staff qualifications
- 10:44A-2.6 Orientation
- 10:44A-2.7 Staff training
- 10:44A-2.8 Staff coverage
- 10:44A-2.9 Records; individuals receiving services
- 10:44A-2.10 Individual financial records: individual funds

**SUBCHAPTER 3. ADVOCACY AND RIGHTS**

- 10:44A-3.1 General requirements
- 10:44A-3.2 Rules governing a residence
- 10:44A-3.3 Self-advocacy

**SUBCHAPTER 4. SERVICE DELIVERY/HABILITATION**

- 10:44A-4.1 Pre-admission and admission
- 10:44A-4.2 Changes in supports/services
- 10:44A-4.3 Individual Habilitation Plan (IHP)

**SUBCHAPTER 5. HEALTH AND SAFETY**

- 10:44A-5.1 General health care
- 10:44A-5.2 Prescription medication
- 10:44A-5.3 Over-the-counter medications
- 10:44A-5.4 Emergency telephone numbers
- 10:44A-5.5 Food
- 10:44A-5.6 Clothing
- 10:44A-5.7 Vehicle safety
- 10:44A-5.8 Workplace safety

**SUBCHAPTER 6. FIRE SAFETY AND PHYSICAL ENVIRONMENT**

- 10:44A-6.1 Fire safety
- 10:44A-6.2 Fire evacuation plans
- 10:44A-6.3 Egress protocols
- 10:44A-6.4 Use group classification requirements
- 10:44A-6.5 Fire extinguishers
- 10:44A-6.6 General home requirements
- 10:44A-6.7 Certificate of Occupancy
- 10:44A-6.8 Exits
- 10:44-6.9 Heat sources
- 10:44A-6.10 Water
- 10:44A-6.11 Railings, stairs and hallways
- 10:44A-6.12 Windows
- 10:44A-6.13 Bedrooms
- 10:44A-6.14 Bathrooms
- 10:44A-6.15 Kitchens
- 10:44A-6.16 Basement use
- 10:44A-6.17 Maintenance requirements

**APPENDIX. TABLE OF COMMUNICABLE DISEASES****SUBCHAPTER 1. GENERAL PROVISIONS****10:44A-1.1 Purpose and scope**

(a) The purpose of this chapter is to establish minimum requirements for the provision of residential services to people with developmental disabilities.

(b) This chapter shall apply to a variety of program models, to include group homes, supervised apartments, and supported living, as specified in the licensee's program description and, as applicable, in DDD contractual agreements.

(c) Community care residences, living arrangements in which a Family Care or Skill Development program is provided in a private home or apartment, are licensed under N.J.A.C. 10:44B.

(d) If none of the individuals with developmental disabilities at a particular place of residence require personal guidance, as determined by the interdisciplinary team, licensing shall be available on a strictly voluntary basis, in recognition of an individual's right to choose independent living.

### 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 deprives an individual of his or her rights or which has the potential to cause or causes actual physical injury or emotional harm or distress. 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, death; striking with a closed or open hand; pushing to the ground or shoving aggressively; twisting a limb; pulling hair; withholding food; forcing an individual to eat obnoxious substances; use of verbal or other communications to curse, vilify, degrade an individual or threaten an individual with physical injury. Planned use of behavioral intervention techniques which are part of an approved behavior modification plan or Individual Habilitation Plan are not abuse or neglect.

"Advocate" means a public or private officer, agency, or organization designated by State legislation, State plan, or the Governor to represent the interest of persons with developmental disabilities and speak on behalf of such individuals.

"Age appropriateness" means that aspect of normalization that reinforces recognition of an individual as a person of a certain chronological age. This includes, but is not limited to, an individual's dress, behavior, and use of language, choice of leisure and recreation activities, personal possessions and self-perception.

"Annex A" means a detailed program narrative, which includes a description of services and the staff coverage to be provided for individuals living in community based settings. The Annex A is reviewed as part of the licensing inspection process and the contract renewal process.

"Application for licensure" means a document supplied by the appropriate Division Regional Office that, when properly completed, begins the licensing process.

"Capacity" means the maximum number of individuals with developmental disabilities 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 individuals with developmental disabilities.

"Community residence for the developmentally disabled" means any community residential facility housing up to 16 individuals with developmental disabilities 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 (N.J.S.A. 26:2GH-1 et seq.), and shall include, but not be limited to, group homes, halfway houses, supervised apartments, supported living arrangements, and hostels. Skill development homes and family care homes are also community residences for individuals with developmental disabilities; 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 housing and supportive services to aid persons with developmental disabilities in establishing themselves in the community. Geographic regions and locations of offices are as follows:

1. Northern Regional Office, serving Sussex, Warren, Morris, Bergen, Passaic, and Hudson Counties, at the Greenbrook Regional Center, 275 Greenbrook Road, Green Brook, N.J. 08872;
2. Upper Central Regional Office, serving Essex, Somerset, and Union Counties, at the Greenbrook Regional Center, 275 Greenbrook Road, Greenbrook, N.J. 08872;
3. Lower Central Regional Office, serving Mercer, Middlesex, Ocean, Hunterdon, and Monmouth Counties, Capital Center, 50 East State St., PO Box 726, Tinton, N.J. 08625-0726; and
4. Southern Regional Office, serving Camden, Atlantic, Salem, Gloucester, Cumberland, Cape May, and Burlington Counties, 101 Haddon Avenue, Suite 17, Camden, N.J. 08103-1485.

"Deficiency" means that an applicant or licensee has not complied with a rule contained in this chapter.

“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 or coordinated.

“Division” means the Division of Developmental Disabilities.

“Executive director” means the person to whom the licensee may delegate administrative authority over the licensee’s community based programs regulated by, or under contract with, the Division.

“Exploitation” means any unjust or improper use of an individual or his or her resources for one’s profit, advantage or gratification.

“Falsification” means intentionally making a record or a document false, giving a false appearance to a record or a document, tampering with a record or a document.

“Fiduciary capacity” means that the licensee acts with a high degree of good faith when handling money entrusted to the licensee by individuals receiving services.

“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 by the appointing authority of a local enforcing agency and also means any certified fire inspector working under the direction of the fire official.

“Full license” means the authorization to operate based upon substantial compliance with this chapter. A full license shall be effective for up to two years.

“Group homes” means living arrangements operated in residences leased or owned by the licensee, which provide the opportunity for individuals with developmental disabilities to live together in a home, sharing in chores and the overall management of the residence. Staff in a group home provide supervision, training, and/or assistance in a variety of forms and intensity as required to assist the individuals as they move toward independence.

“Guardian” means an individual or agency appointed by a court of competent jurisdiction who is otherwise legally authorized and responsible to act on behalf of a minor or incompetent adult to assure provision for the health, safety, and welfare of the individual and to protect his or her rights.

“Imminent danger” means a situation that could reasonably be expected to cause a serious risk to the health, safety or welfare of an individual.

“Individual” means a person with developmental disabilities residing in a licensed community residence for individuals with developmental disabilities. “Individual with developmental disabilities” will be used in this chapter 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 written plan of intervention and action that is developed by the interdisciplinary team in accordance with N.J.S.A. 30:6D-10 through 12, and N.J.A.C. 10:44A-4.3. The IHP specifies both the prioritized goals and objectives being pursued by each individual and the steps being taken to achieve them, and may identify a continuum of skill development that outlines progressive steps and the anticipated outcomes of services. The IHP is a single plan that encompasses all relevant components, such as an education plan, a behavior modification plan, a program plan, a rehabilitation plan, a treatment plan and a health care plan. The complexity of the IHP will vary according to the needs, capabilities and desires of the person. In most instances, the IHP will address all of the major needs which have been identified. The major needs are prioritized. For an individual who makes only specific services requests, the IHP is a service plan that addresses only those specific requests.

“Interdisciplinary Team” (IDT) means an individually-constituted group responsible for the development of a single, integrated IHP. The team consists of the person receiving services, the legal guardian, the parents or family member (if the adult desires that the parent or family member be present), those persons who work most directly with the individual served, and professionals and representatives of service areas who are relevant to the identification of the individual’s needs and the design and evaluation of programs to meet them.

“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 individuals with developmental disabilities.

“Licensee” means the individual, partnership, or corporation responsible for providing services associated with the operation of a community residence(s).

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

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

“Negative licensing action” means an action 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 denial of the license, a non-renewal of the license, a suspension of the license, or a revocation of the license.

“Neglect” means the failure of a paid or unpaid caregiver to provide for the care and safety of individuals under his or her supervision, or failure to provide and maintain proper and sufficient food, clothing, health care, shelter, and/or 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.

“Person-centered planning” means a process of helping persons, in accordance with their needs and preferences, to achieve a lifestyle that is consistent with the norms and patterns of general society and in ways which incorporate the principles of age appropriateness and least restrictive interventions.

“Personal advocate” means a person selected by an individual with developmental disabilities to provide assistance or act on his/her behalf in non-legal matters.

“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 such 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 interdisciplinary team determines the need for personal guidance for each individual, in accordance with N.J.A.C. 10:44A-4.3(c).

“Plan of correction” means a written response outlining actions taken or to be taken to address deficiencies cited in a licensing inspection report.

“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.

“Program description” means a document submitted to obtain a license and/or funding from the Division. A program description includes a detailed description of services provided to individuals and staff coverage, and is reviewed as part of the licensing inspection process. The program description is also included in Annex A of the contract and is amended annually as necessary.

“Provisional license” is a negative licensing action issued to prompt corrective actions in existing community residences. A provisional license is effective for less than one year.

“Relocate” means providing an individual with accommodations when the individual cannot evacuate a residence within three minutes, which arrangement meets the individual’s needs and enables the individual to evacuate the residence within three minutes.

“Respite placement” means a service in which a licensee provides short term supports for an individual with developmental disabilities.

“Self-advocacy group” means a group of people with developmental disabilities who meet on a regular basis to discuss common goals, issues, needs and wishes. With the assistance of a facilitator, if needed, a self-advocacy group can serve as a united voice for people with disabilities.

“Special Response Unit” (SRU) means that component of the Division responsible to investigate serious unusual incidents in community programs licensed, contracted or regulated by the Division.

“Substantial non-compliance” means

1. The violation by an applicant, licensee or executive director of the laws of the State of New Jersey pertaining to or governing community residences for the developmentally disabled;
2. One or more licensing requirements have been left unmet and the unmet licensing requirements directly endanger the health, safety, or well-being of an individual;
3. The applicant, licensee or executive director refuses to cooperate with Division personnel in gaining admission to a residence or in conducting an investigation or inspection;
4. The applicant, licensee or executive director has failed to adhere to the approved Program description;
5. The applicant, licensee or executive director has falsified any information in order to obtain a license; or

6. The applicant, licensee or executive director has refused to furnish the Division with files, reports, or records as required by N.J.A.C. 10:44A.

“Supervised apartments” means apartments that are occupied by individuals with developmental disabilities and leased or owned 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, in accordance with the requirements of this chapter.

“Supported living” means a living arrangement in which a highly flexible array of services and supports are provided in a variety of settings.

“Variance” means written recognition by the Division that the licensee has complied with the intent of a standard in a Division-approved alternative manner, in accordance with N.J.A.C. 10:44A-1.10.

“Waiver” means the temporary suspension of a standard that is granted in writing by the licensing agency.

“Willful non-compliance” means that action or non-action of an applicant or licensee who 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.

#### 10:44A-1.4 Application for licensure

(a) An application for licensure may be obtained by contacting the appropriate Regional Assistant Director’s Office (see the definition of “Community Services” at N.J.A.C. 10:44A-1.3):

1. Northern Region and Upper Central Region  
c/o Greenbrook Regional Center  
275 Greenbrook Road  
Green Brook, NJ 08812
2. Lower Central Region  
Capital Center  
50 East State Street  
PO Box 726  
Trenton, NJ 08625-0726
3. Southern Region  
101 Haddon Avenue, Suite 17  
Camden, NJ 08103-1485

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

(c) An application for licensure as an operator of a group home, supervised apartment, or supported living arrangement shall be submitted to the appropriate Regional Assistant Director’s Office of Community Services.

1. The application shall be composed of the following:

- i. A table of organization;
- ii. Curriculum vitae for the applicant and executive director;
- iii. Documentation that the applicant is not disqualified from licensure, as provided in (b) above;
- iv. A description of the applicant’s experience in providing services to developmentally disabled persons;
- v. Documentation that the business is incorporated or otherwise authorized to do business in the State of New Jersey;
- vi. A list of the governing body (for example, board of directors/ trustees) and their occupations;
- vii. References; and
- viii. The program description.

2. Licensees operating community residences in New Jersey on or before February 7, 2000 shall be required only to provide any changes in (c)1 above as part of the application process.

3. Applicants shall document on the application whether they will accept Division placements and/or seek Division funding.

(d) The program description shall be reviewed for completeness by staff of the Regional Office, the licensing agency and other Division staff deemed appropriate.

1. The program description shall be available for review by developmentally disabled persons, their guardians and their advocates, in accordance with N.J.A.C. 10:41-2.8(a).

(e) The applicant, the licensing agency and the Division Administrative Practice Officer shall be informed in writing of the approval or non-approval of the application, within 20 working days of such approval or non-approval.

#### 10:44A-1.5 Procedure manual

(a) Prior to opening a residence, an applicant shall submit a procedure manual which meets the requirements of N.J.A.C. 10:44A-2.2 to the licensing agency for approval.

1. This requirement shall not extend to licensees operating community residences for the developmentally disabled in New Jersey whose procedure manuals have been approved on or before February 7, 2000.

#### 10:44A-1.6 Issuance of an initial license

(a) Upon receipt of an approved program description, and upon approval of the licensee’s policy and procedure manual, the licensing agency shall conduct an on-site initial inspection of the residence.

(b) Prior to the issuance of an initial license, the following, at a minimum, shall be available:

1. Documentation which demonstrates compliance with all certificate of occupancy (CO) requirements, including any required inspection by the Fire Official and registration with the Department of Community Affairs.
2. A fire evacuation plan;
3. A first aid kit that meets the requirements of N.J.A.C. 10:44A-5.1(g);
4. Functioning utilities, including an operable telephone;
5. If the building is not serviced by a public water supply, written approval from the local health department that the water supply is safe for human consumption;
6. Furniture and food for each individual served;
7. A staff schedule which conforms to the program description approved by the Division in accordance with N.J.A.C. 10:44A-1.4;
8. A copy of the deed or lease; and
9. Documentation that all necessary residential and vehicle insurance is in force.

(c) The Department shall issue a non-transferable full license, effective from the date of the on-site inspection, upon compliance with (a) and (b) above.

(d) If licensure is not approved, an applicant or licensee shall submit a plan of correction regarding all deficiencies within 30 days after notification to the licensee.

1. Following receipt of the plan of correction, the licensing agency shall conduct an on-site review to verify the corrective action taken.

(e) The license shall document the location of each residence and shall specify the maximum number of individuals with developmental disabilities that may occupy the home or apartment, excluding licensee's staff.

#### 10:44A-1.7 Renewal of a license

(a) Full licenses shall be effective for two years from the expiration date of the preceding license, unless otherwise specified by the Division by the issuance of a provisional license, a non-renewal of license, suspension of license or revocation of license.

(b) Upon imposition of a provisional license or a non-renewal of license a licensee shall submit a plan of correction regarding all deficiencies within 30 days or in accordance with a shorter time frame as established by the licensing agency.

1. A shorter time frame shall be established by the Division in those instances where prompt remediation of a deficiency is required in order to protect the health, safety, welfare and rights of individuals receiving services.

(c) Following receipt of the plan of correction, the licensing agency may conduct an on-site review to verify the corrective action taken.

1. Following an on-site review, the findings of the licensing agency regarding the licensee's plan of correction shall be provided to the licensee. These findings shall indicate that each deficiency is corrected, partially corrected, not corrected, or that further review is required by the licensing agency.

- i. Should there be continuing deficiencies, or if new deficiencies are noted which document substantial or willful noncompliance, the findings shall indicate that a second plan of correction is required or that the licensing agency may impose a negative licensing action.

(d) If a second plan of correction is required by the licensing agency, the licensee shall submit the plan of correction within the time frame specified by the licensing agency.

(e) Following receipt of the second plan of correction, the licensing agency may conduct an on-site review to verify the corrective action taken.

1. Subsequent to an on-site review, the findings of the licensing agency regarding the licensee's second plan of correction shall be provided to the licensee. These findings shall indicate whether or not each deficiency is corrected.

- i. Should there be continuing deficiencies which the licensee has stated in the plan of correction have been corrected, or if other deficiencies are noted which jeopardize the health, safety, welfare and rights of the individuals, or which document substantial or willful noncompliance, the licensing agency shall impose a negative licensing action.

#### 10:44A-1.8 Denial, revocation, non-renewal or suspension of a license

(a) The licensing agency may deny, suspend, revoke, or refuse to renew a license for substantial non-compliance, or for willful non-compliance.

(b) If the licensing agency denies, revokes or refuses to renew a license, the licensee shall be prohibited from re-applying for a license for one year from the date of license revocation or non-renewal. After the one year period has elapsed, the licensee may submit to the licensing agency a new application for a license.