

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

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 44B, Manual of Standards for Community Care Residences, expires on October 10, 2013. See: 43 N.J.R. 1203(a).

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of Adult Foster Homes, Skill Development Homes and Supervised Apartments for the Developmentally Disabled, was repealed, and Chapter 44B, Manual of Standards for Skill Development Homes, Family Care Homes and Family-Based Respite Care Homes, was adopted as new rules by R.1985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.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 44B, Manual of Standards for Community Care Residences, was scheduled to expire on October 10, 2011. See: 43 N.J.R. 950(a).

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

- 10:44B-1.1 Purpose and scope
- 10:44B-1.2 Severability
- 10:44B-1.3 Definitions
- 10:44B-1.4 Application for community care licensure
- 10:44B-1.5 Licenses and inspection
- 10:44B-1.6 Options on non-compliance with standard

SUBCHAPTER 2. ADMINISTRATIVE POLICIES AND PRACTICES

- 10:44B-2.1 Licensee requirements
- 10:44B-2.2 Placements and departures
- 10:44B-2.3 Records

SUBCHAPTER 3. CARE OF THE INDIVIDUAL

- 10:44B-3.1 Individual rights and responsibilities
- 10:44B-3.2 Personal health, hygiene, and grooming
- 10:44B-3.3 Food
- 10:44B-3.4 Clothing

SUBCHAPTER 4. HABILITATION

- 10:44B-4.1 Individualized Habilitation Plan
- 10:44B-4.2 Day programs

SUBCHAPTER 5. HEALTH SERVICES

- 10:44B-5.1 General medical and health care
- 10:44B-5.2 Medication and drugs

SUBCHAPTER 6. PHYSICAL PLANT AND SAFETY

- 10:44B-6.1 General home requirements
- 10:44B-6.2 Fire safety
- 10:44B-6.3 Individual rooms

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).

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 386) adopted, which found that, although licensed adult care provider was not directly responsible for burns suffered by a resident under her care, the provider had ample reason to be alerted to possible injury, but did not see fit to examine the resident, resulting in a failure to timely treat the burns; the provider's conduct was such that she failed to provide and maintain proper and sufficient health care, and/or adult supervision for her residents and her license to operate a Community Care Residence was properly revoked. *Dep't of Human Services v. White-Bryant*, OAL Dkt. No. HSL 04241-07, 2008 N.J. AGEN LEXIS 1242, Final Decision (July 15, 2008).

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 devel-

opmentally 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

Initial Decision (2008 N.J. AGEN LEXIS 386) adopted, which found that, although licensed adult care provider was not directly responsible for burns suffered by a resident under her care, the provider had ample reason to be alerted to possible injury, but did not see fit to examine the resident, resulting in a failure to timely treat the burns; the provider’s conduct was such that she failed to provide and maintain proper and sufficient health care, and/or adult supervision for her residents and her license to operate a Community Care Residence was properly revoked. Dep’t of Human Services v. White-Bryant, OAL Dkt. No. HSL 04241-07, 2008 N.J. AGEN LEXIS 1242, Final Decision (July 15, 2008).

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.

(k) A licensee shall not deny access to a community residence to any individual or group with proper identification and statutory authority to protect the rights of, and advocate on behalf of, the individuals placed in the residence. Such persons may include, but not be limited to, the case manager, guardian, or guardianship worker, and licensing personnel.

(l) Failure of an applicant or licensee to provide necessary information in connection with an inspection or investigation by representatives of the Department shall be considered grounds for denial, suspension, revocation, or refusal to renew a license.

(m) Waivers or variances of specific standards may be granted at the discretion of the Department, provided that:

1. Strict enforcement of the rule would result in unreasonable hardship on the residence;
2. The waiver or variance is not simply for the convenience of the licensee or other occupants of the home;
3. The waiver or variance is in accordance with the particular needs of an individual(s).
 - i. The waiver or variance does not adversely affect the health, safety, welfare, or rights of any individual.
 - ii. Verification that the waiver or variance is in accordance with individual needs may be requested from the case manager by the licensing agency; and
4. The waiver is requested in writing by the licensee complete with substantial detail justifying the request.

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-1.3.

Stylistic changes throughout.

In (c): added "maximum" to six-month period.

In (f): deleted language setting license fee.

Amended by R.2004 d.404, effective November 1, 2004.

See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In (a), amended the address; in (l) and (m), substituted "Department" for "Division of Developmental Disabilities".

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 34) accepted, which concluded that revocation of license to operate a Community Care Residence (CCR) on grounds of failure to allow access to the residence was warranted where substantial evidence showed that the licensee exhibited a pattern of failing to cooperate with the Division of Developmental Disabilities staff as concerned the required CCR monthly home visits. In 2002 only five monthly home visits were conducted and in 2003 only four visits were conducted despite the DDD staff's attempts every month to arrange for the visits, and the licensee did not return telephone calls, cancelled appointments, or was not home for scheduled appointments. *Thomas v. Div. of Developmental Disabilities*, OAL Dkt. No. HDD 4537-04 and HDD 8641-04 (Consolidated), 2007 N.J. AGEN LEXIS 105, Final Decision (February 28, 2007).

Revocation of Community Care Residence (CCR) license was proper as licensee's deprivation of access to the refrigerator by his developmentally disabled residents, ostensibly in an effort to modify one resident's weight problem and his behavior of raiding the refrigerator, was a deprivation of their rights as well as abuse, notwithstanding that there was no rule specifically prohibiting a lock on a refrigerator; the residents were entitled to broadly exercise their individual rights, which

were not to be curtailed based on their diagnoses, nor without due process, and no house rule could infringe on those rights since the residents were specifically entitled to free access to all living areas of the home, including the kitchen and the shared refrigerator. *Solomon v. Div. of Developmental Disabilities*, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950, Final Decision (September 13, 2006).

10:44B-1.6 Options on non-compliance with standard

(a) After each inspection, the licensee shall be provided with a copy of the inspection report. At the discretion of the licensing agency, it shall be the obligation of the provider to provide a plan of correction within 30 days of the issuance of the report. Unless a plan for earlier correction is required, all deficiencies shall be corrected by the time of the next inspection. Failure to make such corrections shall be considered grounds for action against the licensee.

(b) If the inspection report indicates substantial non-compliance and/or willful non-compliance with the regulations contained in this manual, or if any of the regulations not met represent a threat to the health, safety, or rights of the individuals or boarders, licensure may be denied or revoked, following 30 day notice to the provider of such intent. Any subsequent application may be denied.

(c) In cases of non-compliance where licensure denial or revocation may be deemed by the Department to be too harsh an action, intermediate sanctions may be invoked following 30 day notice to the licensee of such intent. These include removal of individuals from the residence, imposition of a moratorium or suspension of admissions into the home, reduction of capacity or licensure term of the residence.

(d) Licensees whose license has been suspended, revoked, or not renewed, or who have had intermediate sanctions invoked against them have the right to appeal the licensing agency's decision in accordance with N.J.A.C. 10:48.

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-1.4.

Stylistic changes.

Amended by R.2004 d.404, effective November 1, 2004.

See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In (c), substituted "Department" for "Division of Developmental Disabilities".

SUBCHAPTER 2. ADMINISTRATIVE POLICIES AND PRACTICES

10:44B-2.1 Licensee requirements

(a) The licensee shall have overall responsibility for the individuals with developmental disabilities and boarders in the residence.

1. Except as otherwise provided in the Rehabilitated Offenders Act, no license will be issued to any person who, at any time, has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal

conspiracy to defraud, crimes against the person or other like offense(s). Additionally, no license shall be issued for a residence in which any occupant has been adjudged civilly or criminally liable for abuse of another person.

2. The licensee shall read, write, and understand English or otherwise demonstrate that he or she can sufficiently comply with the licensing requirements.

3. The licensee and members of the licensee's family participating in individual care shall be of sound physical and emotional health.

i. Every two years, the licensee shall provide a statement from his or her physician to the effect that he or she is physically capable of performing his or her duties.

(b) Falsification of any information contained in the application or provided during any inspection shall be sufficient grounds for licensure denial, suspension, revocation, or non-renewal.

(c) Any applicant who receives or applies, subsequent to licensure, for public assistance shall document in writing to the licensing agency that he or she has notified the welfare agency or board of social services of his or her intention to seek licensure as a community residence for the developmentally disabled, as well as information on the allowable rates for reimbursement in the program.

(d) In instances where the licensee must be absent, a person 18 years of age or older shall be identified to assume the licensee's responsibility.

1. An alternate shall be available in case of emergency.

2. The use of an alternate for more than six hours daily is prohibited unless the following conditions are met:

i. The alternate shall complete an approved training and orientation program as designated by the placing and/or licensing agency;

ii. The alternate shall meet the requirements of (a)3i above;

iii. The alternate shall be a family member that resides at the residence; and

iv. The alternate shall only be used during an individual's normal bedtime hours.

3. The alternate must be familiar with the individuals, the licensee's residence, and all emergency procedures.

4. The alternate shall meet the requirements of (a) above with the exception of (a)3i above.

5. The licensee shall provide the name, address, and telephone number of the alternate to representatives of both the placing agency and licensing agency.

i. Whenever the licensee changes the alternate, the placing and licensing agencies shall be notified in writing.

(e) An individual(s) may be permitted to be left unsupervised for specific amounts of time with documented approval of the Interdisciplinary Team. Additionally, approval must be documented in the IHP.

(f) Physical and verbal abuse, corporal punishment, physical discipline, the use of unapproved aversive stimuli, neglect, and exploitation shall be prohibited.

1. Substantiation of such mistreatment of any individual by the licensee shall be sufficient cause for immediate licensure revocation.

2. Individuals shall not be directed or allowed to discipline other individuals in the residence.

3. All alleged and suspected mistreatment of individuals shall be reported immediately to the responsible placing agency representatives.

i. After normal working hours, the Regional Office of the Division of Developmental Disabilities can be reached at the appropriate hotline number.

ii. In the case of minors, allegations of abuse or neglect shall be reported to the local district office of the Division of Youth and Family Services or the Office of Child Abuse Control (800-792-8610) as well as the Division of Developmental Disabilities.

iii. Suspected abuse or neglect of a person 60 years of age or older who resides in living arrangements other than their own home shall be reported to the New Jersey Office of the Ombudsman.

(g) The licensee shall immediately notify the responsible placing agency representative in the case of:

1. Death of an individual or a boarder;

2. Admission of the individual or boarder to a hospital or treatment in an emergency room;

3. Emergency removal of an individual or a boarder;

4. An individual or boarder missing for more than two hours, or an individual's returning from a home or other visit two hours or more past scheduled time;

5. Injuries to an individual or boarder involving sutures, fractures, lost teeth, etc.;

6. Any fire requiring the services of a fire department; or

7. The disruption of any vital utility, for example, heat, water, electricity, telephone, etc.

(h) The licensee shall notify the placing agency within five days of:

1. Any disruption of day program;
 2. The grossly negative impact of any individuals' visits to or with family or friends;
 3. An increase in the number of family members in the residence; or
 4. Any change of the licensee's telephone number.
- (i) The use of unapproved mechanical restraints or isolation shall be prohibited.
- (j) There shall be no charge for any services to the individual beyond those contracted and actually provided.
- (k) No licensee or his or her relative shall be the legal guardian, representative payee or beneficiary of an insurance policy for any individual residing in the licensee's residence.
- (l) The licensee shall be required to complete all courses of instruction that are required or deemed necessary by the placing agency and/or licensing agency.

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

Added (d)2i-iv and (e); recodified (e)-(k) as (f)-(l), added (f)3iii and (h)4; and in (i), inserted "unapproved" to describe mechanical restraints or isolation.

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).

Revocation of license to operate a Community Care Residence on grounds of the licensee's creation of a hazardous condition in violation of N.J.A.C. 10:44B-6.1 by the overuse of extension cords which resulted in one client's death in an ensuing fire, was warranted since the licensee had an obligation to maintain her home free from hazards to the health, safety, and welfare of the individuals placed in her care, which included the responsibility to ensure that extension cords were not being used improperly in the house in accordance with N.J.A.C. 10:44B-6.3(g)(1); the licensee's improper use of an extension cord at the fire location, which was consistent with the gross misuse of extension cords throughout the house, created an unsafe living environment amounting to "neglect." Div. of Developmental Disabilities v. Cruz, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524, Final Decision (June 22, 2007).

Developmental Disabilities Licensing failed to carry its burden of persuasion of proof by a preponderance of the competent and credible evidence regarding the allegation that a Community Care Residence licensee had abused a resident where the evidence showed that the resident suffered an injury to his ear sometime after he left an adult activity center and prior to his return there the next morning, during which time the resident rode the bus to the licensee's home, remained there overnight, walked to the bus stop, and rode the bus back to the center, and the licensee adamantly denied that she injured the resident. Div. of Developmental Disabilities v. Hagans, OAL Dkt. No. HDD 2675-05, 2007 N.J. AGEN LEXIS 184, Initial Decision (April 10, 2007).

Revocation of Community Care Residence license was proper as licensee's deprivation of access to the refrigerator by his developmentally disabled residents, ostensibly in an effort to modify one resident's weight problem and his behavior of raiding the refrigerator,

was a deprivation of their rights as well as abuse, notwithstanding that there was no rule specifically prohibiting a lock on a refrigerator; the residents were entitled to broadly exercise their individual rights, which were not to be curtailed based on their diagnoses, nor without due process, and no house rule could infringe on those rights since the residents were specifically entitled to free access to all living areas of the home, including the kitchen and the shared refrigerator. Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950, Final Decision (September 13, 2006).

Adopting Initial Decision's conclusion that revocation of Community Care Residence license for leaving residents unsupervised by licensed personnel was proper where evidence was uncontroverted that the licensee did not notify the Division of Development Disabilities of his need to attend a funeral in Baltimore and instead of calling in his designated alternate, he simply utilized his unlicensed father for several days (adopting in part, and rejecting in part 2006 N.J. AGEN LEXIS 179). Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950, Final Decision (September 13, 2006).

Suspension of mother and daughter's Community Care Residence license was proper after an agency investigation substantiated that three Division of Developmental Disabilities clients were neglected since (1) the licensee used an unapproved alternate—the daughter's boyfriend—to supervise the clients while the daughter left the residence and the mother went to visit some real estate she owned and (2) two of the clients who were to be provided with no unsupervised time were left without supervision when they were allowed to walk unescorted to the bus taking them to a day care center program. Shanks v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 06588-04, 2006 N.J. AGEN LEXIS 333, Initial Decision (April 20, 2006).

Handicapped individual was unable to satisfy licensing requirements to operate community care residence. Doerr v. Department of Human Services, 96 N.J.A.R.2d (DDD) 17.

10:44B-2.2 Placements and departures

(a) There shall be no more than five persons in the residence requiring care and assistance, including, but not limited to, family members, children (natural, adopted, or foster), individuals, and boarders.

1. No more than four individuals receiving services from the Division of Developmental Disabilities shall be placed in any one residence.

(b) The Department shall set the total bed capacity of the home, excluding family members.

(c) The licensee shall at no time exceed the licensed bed capacity of the residence. Individuals shall only occupy bedrooms that have been inspected and/or approved by the licensing agency.

(d) Third floor occupancy by individuals shall be prohibited.

(e) Non-ambulatory individuals shall not have bedrooms above or below the first floor of any residence, unless a specific waiver is granted by the licensing agency.

(f) The licensee shall accept only individuals for whom he or she can provide adequate care.

1. If an individual, because of a changed physical or mental condition, is no longer suitable for the living ar-

rangement, he or she shall not be maintained in the residence after consultation between the licensee and the placing agency representative.

2. Individuals requiring skilled nursing care shall not be maintained in the residence unless the following requirements are met:

- i. The licensee shall have a valid LPN or RN license; and
- ii. The alternate shall have a valid LPN or RN license.

(g) The licensee shall notify the Regional Office 60 days in advance of any intention to voluntarily cease to operate a community residence.

(h) The licensee shall notify the Regional Office in writing, 30 days prior, of any intention to have an individual discharged from the home.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Added text to (c) regarding bedrooms.

Revised subsection (e), and added (f)2i.-ii.

Added new subsection (h).

Amended by R.2004 d.404, effective November 1, 2004.

See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In (b), substituted "Department" for "Division of Developmental Disabilities" following "The"; in (c) and (e), substituted "licensing agency" for "Office of Licensing and Inspections" at the end.

10:44B-2.3 Records

(a) All records shall be maintained in the licensee's residence. Maintenance of records in any other place, either permanently or temporarily, is prohibited.

(b) Individual records shall be considered the property of the agency providing case management services, and shall be relinquished to that agency's representative if the individual is discharged or transferred from the licensee's residence or if otherwise necessary to safeguard the records.

(c) Records shall be stored in such a manner as to properly provide access only to the individual, the licensee, alternate, involved agency, or other persons authorized by law or a court of competent jurisdiction.

(d) The licensee and alternate shall protect and maintain the confidentiality of all records.

1. The licensee shall not make copies or allow copies to be made of individual records without explicit written permission of the involved agency representative.

(e) A separate folder shall be maintained for each individual and be appropriately marked with his or her name.

(f) Each individual's record shall include:

1. The full name of the individual;
2. The individual's date of birth;

3. The date of placement into the residence;
4. The names and addresses of all persons or agencies responsible for placement;
5. The name and address of all personal physicians and dentists;
6. The name, address and telephone numbers of the individual's legal guardian (or guardianship worker), next of kin, and other interested person(s);
7. A contract for each person placed or boarder, which shall note at least the following:
 - i. The responsibilities of all parties;
 - ii. The rate of payment to the licensee;
 - iii. The effective dates of the contract;
 - iv. The amount of the individual's spending money/personal needs allowance; and
 - v. The signatures of all parties;
8. Background information to include:
 - i. Individual abilities;
 - ii. Religious preference;
 - iii. Social Security number;
 - iv. Special dietary needs;
 - v. Behavioral characteristics;
 - vi. Additional handicaps or disabilities;
 - vii. Interests, hobbies; and
 - viii. Medical history to include:
 - (1) Allergies;
 - (2) Seizure history;
 - (3) Present medication;
 - (4) Special medical problems; and
 - (5) For children, an immunization record;
9. Monthly reports of individual's social and behavioral progress or regression (Does not apply to Respite Care Program);
 - i. Monthly reports of individuals receiving skill development training shall include, but not be limited to, the individual's progress on Individual Habilitation Plan goals.
 - ii. If the individual is subject to seizures, the provider shall indicate all seizure activity in the monthly report (including date, time, duration, surrounding circumstances, and treatment given);
10. A copy of the current Individual Habilitation Plan;

11. Annual physical examination and the results of the Mantoux Test for tuberculosis completed within the last three years;

12. A medication record, if the individual receives any medication prescribed or ordered by a physician;

13. Authorization for emergency medical treatment (for individuals requiring a guardian);

14. Medical insurance information regarding payment for emergency services; and

15. Licensees providing Respite Care services are required to maintain all records of individuals receiving services, to include (f)1-14 above, with the exception of (f)10i above.

(g) If the individual is not capable of managing his or her own funds, the licensee shall maintain a record of all expenditures of the individual's personal funds. The record shall include:

1. The date the individual's funds were received and disbursed;
2. The amount received and disbursed;
3. The purpose of each disbursement or expenditure; and
4. All receipts related to disbursements or expenditures over \$10.00, which shall be saved by the licensee until the case manager signs off on the financial record.

(h) The licensee shall keep on file, at the residence, the following administrative records:

1. A placement agreement with all social service agencies from which the licensee will accept individuals;
2. A record of all admissions and departures, including names and dates, for the previous 12-month period;
3. A current copy of this Manual of Standards;
4. A record of monthly fire evacuation drills, as specified in N.J.A.C. 10:44B-6.2(g)1; and
5. A copy of his or her current license.

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

Stylistic revisions throughout.

Revised (f)9i. regarding monthly reports.

In (f)11: Added language regarding Mantoux Test.

Added (f)15 on Respite Care.

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 34) accepted, which concluded that revocation of license to operate a Community Care Residence on grounds of failure to properly account for client funds and maintain financial records, resulting in more than \$5,000 of three clients' personal funds being unaccounted for, was warranted; substantial evidence showed that the licensee did not keep accurate records of purchases made with client funds, did not itemize expenses, and permitted substantial gaps in the documentation relative to receipts for alleged

client expenditures, and that the licensee essentially exploited three clients by using their funds to her own advantage and profited by improperly charging those clients for supposed "household gifts" for the licensee and her family, or for items for which the licensee had already been compensated by the Division of Developmental Disabilities. *Thomas v. Div. of Developmental Disabilities*, OAL Dkt. No. HDD 4537-04 and HDD 8641-04 (Consolidated), 2007 N.J. AGEN LEXIS 105, Final Decision (February 28, 2007).

SUBCHAPTER 3. CARE OF THE INDIVIDUAL

10:44B-3.1 Individual rights and responsibilities

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

1. The exercise of individuals' rights shall not be prohibited or be used as a cause for retribution against the individual.

(b) The licensee may establish reasonable house rules which shall not infringe on the rights of the individuals.

1. These rules shall include provisions to ensure that individuals exercise their rights in such a way as not to infringe upon the rights of or endanger others.

2. The licensee shall make certain that the private life of the individual is respected at all times.

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

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

iii. Complete privacy shall be afforded during visits.

3. Visiting is to be permitted during reasonable hours.

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

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

1. Licensees shall not impose their religious beliefs on individuals under their care.

2. Licensees shall provide each individual with adequate substitutes for foods which the individual's religious beliefs forbid him or her to eat.

(e) Individuals shall have an opportunity to register and vote.

(f) Individuals shall have free use of all living areas within the residence without infringing on the privacy of others.

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

(h) Individuals shall have access to a telephone for unmonitored incoming and outgoing calls.

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

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

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

(l) Individuals shall be allowed to handle their own money consistent with their ability as determined by the case manager, licensee, and guardian (guardianship worker).

(m) Individuals shall be permitted to exercise all those rights outlined in the pamphlet "Your Rights as a Developmentally Disabled Person," distributed 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).

In (b): added phrase regarding infringement of rights. Stylistic changes throughout.

Case Notes

Developmental Disabilities Licensing failed to carry its burden of persuasion of proof by a preponderance of the competent and credible evidence regarding the allegation that a Community Care Residence licensee violated a resident's individual rights where the evidence showed that the resident had a habit of collecting and hoarding large amounts of paper, the resident would not voluntarily discard any of the paper, his collection created storage problems, and the licensee required the resident to empty the papers from the pillowcase where he stored them, then tear up and discard the older collection in order to retain papers he had more recently accumulated; punishment of the licensee was inappropriate merely because she sought to prevent her home from taking on the appearance of a trash recycling station. Div. of Developmental Disabilities v. Hagens, OAL Dkt. No. HDD 2675-05, 2007 N.J. AGEN LEXIS 184, Initial Decision (April 10, 2007).

Revocation of Community Care Residence (CCR) license was proper as licensee's deprivation of access to the refrigerator by his developmentally disabled residents, ostensibly in an effort to modify one resident's weight problem and his behavior of raiding the refrigerator, was a deprivation of their rights as well as abuse, notwithstanding that there was no rule specifically prohibiting a lock on a refrigerator; the residents were entitled to broadly exercise their individual rights, which were not to be curtailed based on their diagnoses, nor without due process, and no house rule could infringe on those rights since the residents were specifically entitled to free access to all living areas of the home, including the kitchen and the shared refrigerator. Solomon v. Div. of Developmental Disabilities, OAL Dkt. No. HDD 2676-05, 2006 N.J. AGEN LEXIS 950, Final Decision (September 13, 2006).

10:44B-3.2 Personal health, hygiene, and grooming

(a) Individuals shall be encouraged to exercise maximum independence in health, hygiene, and grooming practices.

(b) Within the home, each individual shall have the opportunity for personal care, with assistance if necessary, to include:

1. A daily bath or shower;
2. Oral hygiene twice daily;

3. Opportunity to shave;

4. Care of fingernails and toenails; and

5. Grooming of hair.

(c) Individual toilet articles—soap, washcloths, towels and toilet tissue—shall be available without additional expense to individuals.

(d) Individual toothbrushes, hair brushes, combs and razors shall be available for each individual at their own expense.

(e) Female individuals shall be assisted as necessary to attain maximum independence in caring for menstrual needs.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Stylistic revision.

10:44B-3.3 Food

(a) The licensee shall ensure that an individual receiving services is provided with three meals daily, either in the residence itself or in the community.

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

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

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

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

(e) Food shall be wholesome, stored in a manner to keep it clean and safe for human consumption, prepared in the form that meets the medical and dietary needs of the individual.

(f) Individual(s) shall dine with the licensee's family on a regular basis.

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

(h) Licensees shall make a reasonable attempt to comply with food preferences requested by the individual(s) residing in the home.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Stylistic revisions throughout.

Revised subsection (f) regarding family dining.

Added new subsection (h).

10:44B-3.4 Clothing

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

1. Each individual shall have adequate, clean, well-fitting and attractive clothing appropriate to age, gender, individual needs, community standards, and season.

2. The licensee shall assist the individual in maintaining a good appearance, and using their personal money properly to make reasonable clothing purchases.

(b) The licensee shall provide laundry services without additional charge to the individuals.

(c) Individuals' undergarments shall be changed daily and outerwear changed at least three times a week.

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

SUBCHAPTER 4. HABILITATION

10:44B-4.1 Individualized Habilitation Plan

(a) An Individual Habilitation Plan shall be developed for each individual in accordance with N.J.S.A. 30:6D-10, 11, and 12 and shall be kept on file in the home. A copy of the Individual Education Plan for school age individuals shall also be kept on file in the home. (These requirements do not apply to Respite Care Programs).

(b) Each plan shall be developed by an interdisciplinary team consisting of those persons providing service to the individual. Documentation of who participated in the plan shall be provided on the sign-in sheet page of the IHP.

(c) Training received by an individual in the home shall be consistent with the Individual Habilitation Plan.

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

(e) If an individual is to be transferred or discharged, the Individual Habilitation Plan shall specify the plan to be followed upon his/her transfer or discharge. Except in an emergency, the Individual Habilitation Plan shall be prepared at least 30 days prior to the time the actual discharge or transfer takes place.

Amended by R.1990 d.359, effective July 16, 1990.
See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).
Revised (a) and (b) to specify details of habilitation plan.
Added new (d) and relettered old (d) as subsection (e).

10:44B-4.2 Day programs

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

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

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

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

(b) The individual shall be paid for productive work, except for assisting with normal chores within the home.

Amended by R.1990 d.359, effective July 16, 1990.
See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).
Revised (a) and added (a)3 regarding individuals over age 55.

SUBCHAPTER 5. HEALTH SERVICES

10:44B-5.1 General medical and health care

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

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

1. No licensee shall accept into his or her residence any individual being placed directly from an institution who has not been certified by a physician to be contagion-free within 24 hours prior to placement, and who has not had a complete physical examination within 30 days prior to placement.

2. A copy of the annual examination, signed and dated by the physician, shall be kept on file at the residence.

(c) A Mantoux Skin Test shall be administered to every individual every three years.

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

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

3. A copy of the complete examination signed and dated by the physician, shall be kept on file at the residence.

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

1. Documentation from the dentist of this examination, signed and dated by the dentist, shall be kept on file at the residence.

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

(f) The licensee shall make arrangements for medical care to be available for emergencies.

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

1. Antiseptic;
2. Sterile rolled gauze bandage (kerlix);
3. Sterile gauze pads or telfa pads;
4. Adhesive tape or surgical tape;
5. Scissors;
6. Adhesive bandage, (for example, band aids) or ribbon tape; and
7. A thermometer (standard or digital).

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Added (c)1-3 and relettered old (c)-(f) as (d)-(g), with stylistic revisions.

Added "sterile" to describe first aid supplies and added (g)7.

10:44B-5.2 Medication and drugs

(a) Individuals receiving medication shall be evaluated for their ability to take their own medication. (Does not apply to Respite Care Program).

1. Individuals receiving medication shall be trained to take their own medication to the extent that it is possible, as assessed and determined by the Interdisciplinary Team and documented in the IHP.

i. Upon written certification that an individual is capable of taking medication without assistance, no daily medication record is required; however, the licensee must record in the individual's file the date the medication was prescribed, name of medication, dosage, frequency, and where the medication is stored.

(b) If an individual is found capable of learning to take his or her own medication, training shall be provided.

1. Life-sustaining drugs, such as injectable insulin, may be self-administered if the individual has documented training from licensed medical personnel.

i. If the individual is unable to learn to self-administer the injectable medication, a licensee who has documented training from licensed medical personnel

and is approved by the licensing agency may administer the medication.

(c) If the individual is not responsible or capable enough to take his or her own medication, the licensee or his or her alternate shall give it to him or her to take exactly as prescribed, and assure that the medication is taken.

1. The licensee shall maintain a record of all medication taken where assistance is required. The medication record shall include:

- i. The signature of any persons administering medication followed by his or her initials;
- ii. The type of medication;
- iii. The dosage;
- iv. The date and time of administration; and
- v. A record of each dosage administered identified by the initials of the person administering the medication.

(d) Medications shall only be used by the person for whom they are prescribed.

(e) The licensee shall ensure that an adequate supply of medication is maintained at all times.

(f) The licensee shall supervise the storage and accessibility of all medication.

1. Prescribed medication shall be kept separate from other household items.

i. No disinfectants, insecticides, bleaches, rubbing alcohol, or household poisons shall be stored with medications, food supplies, or utensils.

2. All medications shall be kept in their original containers and shall be properly identified.

(g) Medication errors and drug reactions shall be reported, at the time of the occurrence, to the individual's physician and case manager.

(h) The licensee shall not change or discontinue any individual's prescription without documented approval of the physician.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Revised (a)1 regarding self-administering medication, and made stylistic changes throughout.

SUBCHAPTER 6. PHYSICAL PLANT AND SAFETY

10:44B-6.1 General home requirements

(a) The licensee shall take such measures as may be reasonably necessary to protect the occupants from hazards to

health and safety arising from the location or environment of the residence.

(b) Any one or two family dwelling shall be subject to the requirements of the New Jersey Uniform Construction Code (Use Group Category R-3).

(c) In single family homes which have been subdivided into more than two apartments, the following shall apply:

1. If the licensee is renting, he or she shall obtain a copy of the Certificate of Occupancy.

2. If the licensee is the owner, the building shall comply with the Uniform Construction Code Use Group Category R-2 (Multi-family dwelling).

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

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

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

(f) The licensee shall have an operable telephone.

1. The telephone number of the Division of Developmental Disabilities hotline, as well as the nearest hospital, fire department, ambulance service, and police department shall be readily accessible by the primary telephone.

(g) All stair treads and landings shall be equipped with non-slip surfaces.

(h) Stair treads shall be at least nine inches deep and have risers no more than 8-1/4 inches high.

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

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

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

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

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

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

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

1. Every toilet, lavatory, bathtub, or shower shall be accessible without passing through any other sleeping unit and shall be available within one floor above or below the individual's room, unless it is a "master bedroom" type suite for the sole use of that bedroom's occupants.

2. Toilet paper shall be available at each toilet.

3. Non-slip surfaces shall be available in each shower or bath.

(p) The accumulation of garbage or waste shall be prohibited. Garbage containers shall be non-corrosive and non-combustible, leak-proof, and provided with tight fitting covers. Any garbage container 13 gallons or less used inside the residence will not require a lid.

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

(r) The interior and exterior of the residence shall be maintained free of hazards to the health, safety, and welfare of the individuals.

(s) Swimming pools shall meet the requirements of all local ordinances and the State Uniform Construction Code.

(t) Outside walkways shall be kept clean of ice, snow, leaves, and other hazards.

(u) Exterminator services shall be arranged and documentation retained, by the licensee when there is evidence of infestation.

(v) If the residence is to house individuals using wheelchairs, it shall incorporate barrier-free design appropriate to the individual, for example, ramps; handrails in bathroom areas; and corridors, doorways, and rooms of adequate size to accommodate wheelchairs.

1. Design of the residence shall be approved by the licensing agency prior to placement of such individuals.

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

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

(x) Kitchen facilities requirements are as follows:

1. Storage space shall be clean and well ventilated.

- i. Containers of food shall be covered and appropriately stored above the floor on shelves or other clean surfaces.
2. Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit (7 degrees C). Freezer compartments shall operate at no more than 32 degrees Fahrenheit (0 degrees C).
3. All food and drink shall be safe for human consumption, clean, wholesome, and free of spoilage.
4. All food and drink shall be prepared and served in a sanitary manner.
5. All equipment and utensils used for eating, drinking, preparation and serving of food shall be kept clean and in good condition.
 - i. All equipment and utensils used for eating, drinking, preparation and serving of food shall be thoroughly washed after each use.
6. Floors, walls, and work surfaces of food preparation and food serving areas shall be kept clean and in good condition at all times.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Revised subsection (d) by adding "plumbing" and clarifying heating temperature requirements.

Added text to subsection (p). Added new (s), and relettered (s)-(w) as (t)-(x).

Case Notes

Revocation of license to operate a Community Care Residence on grounds of the licensee's creation of a hazardous condition in violation of N.J.A.C. 10:44B-6.1 by the overuse of extension cords which resulted in one client's death in an ensuing fire, was warranted since the licensee had an obligation to maintain her home free from hazards to the health, safety, and welfare of the individuals placed in her care, which included the responsibility to ensure that extension cords were not being used improperly in the house in accordance with N.J.A.C. 10:44B-6.3(g)(1); the licensee's improper use of an extension cord at the fire location, which was consistent with the gross misuse of extension cords throughout the house, created an unsafe living environment amounting to "neglect." *Div. of Developmental Disabilities v. Cruz*, OAL Dkt. No. HDD 777-2005S, 2007 N.J. AGEN LEXIS 524, Final Decision (June 22, 2007).

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).

10:44B-6.2 Fire safety

(a) Independent battery or electric powered smoke detectors shall be securely mounted on the ceiling, at least four inches from the wall or according to manufacturers' in-

structions. Detectors shall be installed on each floor, including the basement, and located in the following areas:

1. One unit on the hallway ceiling of any floor with sleeping areas;
 2. One unit in the general living area of the residence; and
 3. Additional units may be required in areas designated as high hazard or without adequate coverage.
- (b) Smoke detectors shall be properly maintained and be in good operating condition.
- (c) The licensee shall test all the smoke detectors monthly.
- (d) One 1A:10B:C rated fire extinguisher shall be maintained in the kitchen, stored in clear view, and readily accessible.
- (e) The licensee shall demonstrate a knowledge of the use of the fire extinguisher.
- (f) The licensee shall develop and have available for review a written diagram for fire evacuation that indicates exits and evacuation routes.
- (g) Fire drills shall be conducted once a month. Drills should be held at varying times of the day and night.
1. Records of these drills shall be maintained and shall include the date and time of the drill, time required for evacuation, and names of persons involved.
 2. Evacuation time shall be 2 ½ minutes or less.
 3. A fire drill shall be conducted within 24 hours of any admission.
 4. Locations of the hypothetical fire shall vary.
 5. If there is any reason to believe that an evacuation problem exists, a representative of the Division of Developmental Disabilities and/or the Department shall observe a fire drill conducted in the residence.
- (h) Combustible materials shall not be stored within three feet of the furnace or hot water heater.
- (i) Portable area or space heater shall be prohibited.
- (j) The licensee shall establish smoking rules on the basis of fire safety, and provide ash trays in all areas where smoking is permitted.
- (k) Woodburning stoves shall be permitted only if proof of inspection by the local building official is provided.
1. An A-rated fire extinguisher shall be available in the same room as the woodburning stove.
 2. Protective screening shall be provided as necessary.
- (l) Combustive materials shall be stored in non-combustible containers.

(m) The accumulation of combustible materials in attics, basements or other parts of the residence is prohibited.

(n) There shall be two ground level doors for egress.

(o) The licensee's bedroom shall be located within one floor of an individual(s) bedroom.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Revised subsection (a) and added new (b), relettering (b)-(m) as (c)-(n) and adding new subsection (o).

In (f): Added text regarding exits and evacuation routes.

In (g)3: changed "48" to "24" hours.

Deleted (a)3i on respite care.

Amended by R.2004 d.404, effective November 1, 2004.

See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In (g), inserted "and/or the Department" following "Division of Developmental Disabilities" in 5.

10:44B-6.3 Individual rooms

(a) Every individual bedroom shall be provided with at least one operable window opening directly outdoors.

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

2. Plastic covering on an individual's bedroom window shall be prohibited.

(b) Individuals' bedrooms shall not be a means of access to any other room. The primary access to an individual's bedroom shall not be accessible through a bathroom or other bedroom.

(c) Individual occupancy shall be limited to floors on or above grade level. However, under certain conditions, basement occupancy may be permitted.

1. Such occupancy shall be allowed if:

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

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

iii. There are no other conditions which hinder the health, safety, or welfare of the individual.

(d) There shall be a limit of three individuals to a bedroom.

(e) Bedrooms used by individuals shall contain the following minimum areas per person:

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

(f) At least one half of the floor area of every individual's room shall have a ceiling height of 7½ feet. The floor area of

that part of any room where the ceiling is less than five feet shall not be considered in determining allowable floor space.

(g) Every individual room shall be provided with sufficient electrical outlets and lamps or light fixtures.

1. No temporary wiring shall be used except U.L.-listed extension cords, which do not run under rugs, through walls, or through doorways.

(h) Each individual shall be provided:

1. A separate bed of proper size and height for his or her convenience. High hospital beds shall not be used except for physically handicapped persons requiring them.

i. The bed may not be of the fold-up or convertible type. Roll-aways, cots, hide-a-beds, trundle beds, double deck beds, and day beds shall be prohibited;

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

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

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

5. Drawers and an enclosed closet for the storage of personal possessions, and in-season clothing. Out-of-season clothing may be stored in a place other than the individual's bedroom;

6. Sufficient light for reading or hobbies;

7. Adequate sheets and blankets;

i. Bed linen shall be changed a minimum of once a week; and

8. One mirror of sufficient size.

Amended by R.1990 d.359, effective July 16, 1990.

See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).

Added new (a)1-2.

Revised text in (b) regarding primary access to bedrooms.

In (h)3, added platform bed text.

In (h)5, added text specifying storage of clothing.

Moved (h)8(i) to (h)7(i) regarding bed linen.

Case Notes

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