

CHAPTER 47

**STANDARDS FOR PRIVATE LICENSED FACILITIES
FOR PERSONS WITH DEVELOPMENTAL
DISABILITIES**

Authority

N.J.S.A. 30:1-12, 30:1-15, 30:1-15.1 and 30:6D-1 et seq.

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Chapter Expiration Date

Chapter 47, Standards for Private Licensed Facilities for Persons with Developmental Disabilities, expires on September 17, 2006.

Chapter Historical Note

Chapter 47, Manual of Standards for Private Licensed Institutions for the Mentally Retarded, was adopted as R.1975 d.203, effective August 1, 1975. See: 7 N.J.R. 265(b), 7 N.J.R. 364(a).

Chapter 47, Manual of Standards for Private Licensed Institutions for the Mentally Retarded, was repealed and a new Chapter 47, Manual of Standards for Private Licensed Facilities for the Mentally Retarded, was adopted as R.1985 d.540, effective November 4, 1985. See: 16 N.J.R. 2902(a), 17 N.J.R. 2648(b).

Pursuant to Executive Order No. 66(1978), Chapter 47, Manual of Standards for Private Licensed Facilities for the Mentally Retarded, was readopted by R.1990 d.593, effective November 2, 1990. See: 22 N.J.R. 2915(a), 22 N.J.R. 3620(b).

Subchapter 2, Licensure Procedure, was repealed and a new Subchapter 2, Licensure, was adopted as R.1990 d.593, effective December 3, 1990.

Chapter 47, Manual of Standards for Private Licensed Facilities for the Mentally Retarded, was repealed and a new Chapter 47, Standards for Private Licensed Facilities for the Developmentally Disabled, was adopted as R.1995 d.545, effective October 16, 1995. See: 27 N.J.R. 2831(a), 27 N.J.R. 3938(a). Pursuant to Executive Order No. 66(1978), Chapter 47, Standards for Private Licensed Facilities for the Developmentally Disabled, expired on October 16, 2000.

Chapter 47, Standards for Private Licensed Facilities for Persons with Developmental Disabilities, was adopted as new rules by R.2001 d.317, effective September 17, 2001. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:47-1.1 Purpose and scope

(a) 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 in the quality of life for individuals residing in private residential facilities for the developmentally disabled in New Jersey. The Health Care Facilities Planning Act, N.J.S.A. 26:2H-1 et seq., vests the responsibilities for licensing and regulation of health care facilities with the State Department of Health and Senior Services.

(b) N.J.S.A. 30:1-15, however, vests the New Jersey Department of Human Services with the responsibility for inspection of private residential facilities for persons with developmental disabilities as necessary, but at least once a year. These statutes also authorize the Commissioner of the Department of Human Services to set appropriate operating standards for these facilities. The standards set forth in this chapter are minimum operating standards for private facilities serving persons with developmental disabilities in the State of New Jersey.

10:47-1.2 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 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 communication to curse, vilify, degrade an individual or threaten with physical injury. Planned use of behavioral intervention techniques which are part of an approved behavior modification plan or Individual Habilitation Plan shall not be considered to be abuse or neglect.

“Advance practice nurse,” also known as a nurse practitioner (see N.J.S.A. 45:11-46c), is defined in N.J.S.A. 45:11-23, and may, in addition to those tasks lawfully performed by a registered professional nurse, manage specific common deviations from wellness and stabilized long term care illnesses by initiating laboratory and other diagnostic tests and prescribing certain medications and devices. (See N.J.S.A. 45:11-49.)

“Age appropriate” 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, use of language, choice of leisure and recreation activities, personal possessions and self-perception.

“Assessment” means the process of identifying a person's developmental strengths and needs, and the conditions that impede and promote development. There are two levels of assessment: screening and evaluation.

“Aversive technique” means the presentation of stimuli or conditions to decrease the frequency, intensity or duration of maladaptive behavior by inducing distress, discomfort or pain, which may place the individual at some degree of risk of physical and/or psychological injury.

“Behavior disorder” means an abnormal action which may interfere with the individual's activities of daily living.

“Behavior Management Committee” means a representative body of individuals who have clinical expertise and individuals who have administrative authority within the Division component or provider agency who review behavior plans and who make a judgment as to whether or not the plans are clinically/technically appropriate. Other behavior management issues may be referred to this committee. The committee acts as an advisory body to the Chief Executive Officer.

“Behavior objective” means one of a series of short range steps which are developmentally sequenced and directed toward the achievement of an established goal. Each behavioral objective specifies a single, learned response to be exhibited by the individual and the criterion against which progress is measured. The objective is developed and based upon knowledge of assessed developmental strengths and needs.

“Chief executive officer” means the person having administrative authority over, and responsibility for, a private residential facility licensed under this chapter.

“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;

12. A medication administration record, including name and strength of drug, date and time of administration, dosage administered, route of administration and signature of the person administering the drug. (Initials may be used after the individual's full name, signature appears at least once on each page of the document);

13. Physician's periodic progress notes as required on the physical, emotional and behavioral status of the individual and course and results of treatment;

14. Progress notes of ancillary services including podiatry, physical therapy, optometry, speech and hearing, etc.;

15. The current Individual Habilitation Plan;

16. Previous reports of individual's social and behavioral progress to correspond to the current Individual Habilitation Plan; and

17. A record of the individual's personal property and funds.

10:47-3.17 Discharge record

(a) Individual records shall include the following discharge data:

1. The date of discharge, reason for discharge, and the name, telephone number, and address of the person or agency to whom the individual was discharged; and

2. A written discharge summary describing the individual's medical, behavioral and program needs, current programming goals and developmental progress, and recommendations for future programming to ensure an orderly transition to the new environment.

(b) The facility shall have a written policy concerning emergency discharge of an individual. For individuals receiv-

ing services from the Division of Developmental Disabilities, the policy on emergency discharge shall comply with the requirements of N.J.S.A. 30:4-107.1.

(c) The facility shall ensure that the individual's clothing accompanies him or her at the time of discharge.

10:47-3.18 Maintenance of records

(a) The facility shall maintain a central record for each individual, which shall include social information, health care, programming, and educational data from the time of admission until the time the individual leaves the facility.

1. Records shall be retained for a minimum of 10 years after the death or most recent discharge of the person. In the case of a discharged minor, such records shall be kept for 10 years following the last date of discharge or until the minor reaches the age of 23 years, whichever is the longer period of time. In the case of a deceased minor, the record shall be kept for 10 years following the date of death.

2. All active records shall be maintained on the premises and shall be complete, current and readily available for review by authorized persons.

3. Individual records shall be conspicuously and appropriately identified and maintained in a central records file.

4. All entries in the record shall be current, legible, dated, and authenticated by the signature and title of the person making the entry.

5. The facility shall provide a legend to explain any symbol or abbreviation used in an individual's record.

(b) The facility shall protect and maintain the confidentiality of all records in accordance with N.J.A.C. 10:41-2.

TYPE	A+	A	B
ELOPEMENT	Person served potentially dangerous, high profile; or notorious; defined as being known to be predisposed to violent or dangerous behavior	Person served at serious risk due to disability or dangerous to themselves, discovered missing, not located after reasonable search	Person served observed leaving program or does not return as scheduled, not located after reasonable search
EXPLOITATION			Any unjust, improper, or potentially criminal use of a person served or his/her resources for one's profit, advantage, or gratification
FIRE	Major—resulting in injuries; of suspicious nature; OR, causing property damage rendering facility or part thereof unusable		Minor, requiring outside assistance to extinguish or contain
INJURY		Major—accidental, self-injurious, or of unknown origin	Moderate—accidental, self-injurious, or of unknown origin
LOSS		Major property loss, theft, or damage, which renders a facility, vehicle or equipment valued at more than \$5000 unusable or interferes with care of persons served or facility operations	Loss, theft or damage resulting in potential or actual threat to health, safety, or agency operations Loss to person served, value >\$100
MEDICATIONS		Those with serious effects requiring medical intervention	Those with potentially serious consequences
NEGLECT		Alleged, major injury	Alleged, no major injury Inadequate supervision
RESTRAINT USE		Major injury resulting from, or happening while in, physical restraints	Moderate injury resulting from, or happening while in, physical restraints
SUICIDE ATTEMPT		Resulting in major injury	Excluding verbal threats or gestures, all others

SUBCHAPTER 4. PERSONNEL AND STAFF TRAINING

10:47-4.1 Policies

(a) Personnel practices shall comply with all applicable Federal, State, and local laws, ordinances, rules and regulations pertaining to employment, including civil rights, retirement plans or social security, minimum wages, hours and workmen's compensation.

1. The facility shall assure that all staff undergo a criminal background check as required by N.J.S.A. 30:6D-63 et seq.

(b) Upon employment, all staff shall submit a written statement from a licensed physician or advance practice nurse indicating that he or she is in good health and medically determined to be free of communicable and infectious diseases.

(c) The facility shall be responsible to obtain professional services required for the implementation of the Individual Habilitation Plan, when these services are not provided by employees of the facility.

(d) The facility shall have written evidence that all professionals providing services to the facility, by direct employment or on a fee for service basis, whether working directly with the individuals being served or providing consultation to employees of the facility, are appropriately qualified, certified, and/or licensed to provide the service(s) rendered.

(e) The facility shall have written personnel policies and procedures that shall be provided to all staff members and available to all persons seeking employment.

(f) The facility shall have complete written job descriptions for each job title within the facility. Documentation that each employee has been given a copy of his or her job description shall be maintained.

(g) The facility shall have a written policy for the supervision and evaluation of all employees.

(h) Staff shall have the ability to communicate with the individuals for whom they are responsible.

10:47-4.2 Personnel records

(a) The facility shall have a personnel file for each employee containing:

1. The application for employment and/or resume;
2. Reference letters from former employer(s) and personal references or notation of telephone contacts with such references;
3. Medical examinations;

4. Documentation that upon employment the employee received a two-step Mantoux tuberculin skin test with five tuberculin units of purified protein derivative. The only exceptions shall be employees with documented negative two-step Mantoux skin test results (zero to nine millimeters of induration) within the last year, employees with a documented Mantoux skin test result (10 or more millimeters of induration), employees who have received appropriate medical treatment for tuberculosis, or when medically contraindicated. Results of the Mantoux tuberculin skin tests administered to new employees shall be acted upon as follows:

i. If the first step of the Mantoux tuberculin skin test result is less than 10 millimeters of induration, the second step of the two-step Mantoux test shall be administered one to three weeks later.

ii. If the Mantoux test is significant (10 millimeters or more of induration), a chest x-ray shall be performed and, if necessary, followed by chemoprophylaxis or therapy.

5. A copy of any professional credentials/certifications;

6. A copy of the employee's written job description;

7. Annual performance evaluations and/or personnel actions or other appropriate materials, reports, and notes relating to employment with the facility;

8. The employee's hiring and termination dates; and

9. The results of the employee's criminal background check.

(b) The facility shall maintain the personnel file of an employee during their tenure and for a period of five years after termination.

10:47-4.3 Staff training

(a) The facility shall provide each employee with initial and continuing training that enables the employee to perform his or her duties effectively, efficiently, and competently.

(b) Before assuming their normal duties, new employees shall receive an orientation to acquaint them with:

1. The organization's philosophy, goals, programs, and practices;

2. An overview of developmental disabilities and any special needs of the individuals being served, for example, medical or behavioral problems requiring specific, tailored training;

3. The appropriate job description and the personnel policies of the organization;

4. The prevention of abuse, neglect and exploitation;