

CHAPTER 37A

**COMMUNITY RESIDENCES FOR
MENTALLY ILL ADULTS**

Authority

N.J.S.A. 30:11B-1 et seq., specifically 30:11B-4.

Source and Effective Date

R.2005 d.1, effective November 29, 2004.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1d, the expiration date of Chapter 37A, Community Residences for Mentally Ill Adults, was extended by gubernatorial directive from May 28, 2010 to July 27, 2010. See: 42 N.J.R. 1053(a).

Chapter Historical Note

Chapter 37A, Community Residences for Mentally Ill Adults, was adopted as R.1994 d.292, effective June 6, 1994. See: 25 N.J.R. 2672(a), 26 N.J.R. 2271(b).

Pursuant to Executive Order No. 66(1978), Chapter 37A, Community Residences for Mentally Ill Adults, was readopted as R.1999 d.203, effective June 4, 1999. See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).

Chapter 37A, Community Residences for Mentally Ill Adults, was readopted as R.2005 d.1, effective November 29, 2004. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 37A, Community Residences for Mentally Ill Adults, was scheduled to expire on May 28, 2010. See: 41 N.J.R. 4394(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 10:37A-1.1 Scope and purpose
- 10:37A-1.2 Definitions

**SUBCHAPTER 2. LICENSING, SITE REVIEW AND
WAIVERS**

- 10:37A-2.1 Initial licensing process
- 10:37A-2.2 Licensure fees
- 10:37A-2.3 Conditional licensure
- 10:37A-2.4 Licensing of group homes
- 10:37A-2.5 Licensing PA apartments
- 10:37A-2.6 Licensing family care homes
- 10:37A-2.7 Licensing supportive housing residences
- 10:37A-2.8 Licensing supportive housing programs
- 10:37A-2.9 Waiver of standards
- 10:37A-2.10 License renewal
- 10:37A-2.11 Inspection and monitoring of residences
- 10:37A-2.12 Appeal of the Department's findings
- 10:37A-2.13 Administrative sanction for PA's failure to adequately address violations
- 10:37A-2.14 Review of administrative sanctions
- 10:37A-2.15 Emergency situation

**SUBCHAPTER 3. POLICIES AND PROCEDURES;
CONFIDENTIALITY**

- 10:37A-3.1 Written policies and procedures
- 10:37A-3.2 Confidentiality

SUBCHAPTER 4. CONSUMER RESIDENT SERVICES

- 10:37A-4.1 Population/admission priorities
- 10:37A-4.2 Services to be provided by the Level A+, A, B, C and D Residential Program
- 10:37A-4.3 Services to be provided by the supportive housing program
- 10:37A-4.4 Consumer resident service agreements
- 10:37A-4.5 Recordkeeping

SUBCHAPTER 5. STAFF

- 10:37A-5.1 Staffing requirements
- 10:37A-5.2 Registered nurse requirements, qualifications, and duties
- 10:37A-5.3 Residential counselor requirements, qualifications and duties
- 10:37A-5.4 Senior residential counselor requirements, qualifications and duties
- 10:37A-5.5 Residential program coordinator requirements, qualifications and duties
- 10:37A-5.6 Supportive housing program coordinator
- 10:37A-5.7 Staff training

SUBCHAPTER 6. FACILITY

- 10:37A-6.1 Physical plant requirements
- 10:37A-6.2 Water supply
- 10:37A-6.3 Residences
- 10:37A-6.4 Garbage and rubbish disposal
- 10:37A-6.5 Electrical system
- 10:37A-6.6 Lighting
- 10:37A-6.7 Ventilation
- 10:37A-6.8 Heating
- 10:37A-6.9 Structural safety and maintenance
- 10:37A-6.10 Kitchen facilities
- 10:37A-6.11 Occupancy and use of space
- 10:37A-6.12 Uniform Fire Code
- 10:37A-6.13 Group homes with five or less residents not in multiple unit dwellings
- 10:37A-6.14 Group homes with six to 15 residents not in multiple unit dwellings
- 10:37A-6.15 Group homes in structures with multiple dwelling units
- 10:37A-6.16 Family care homes
- 10:37A-6.17 PA apartments
- 10:37A-6.18 Smoke and carbon monoxide detectors
- 10:37A-6.19 Fire drills
- 10:37A-6.20 Kerosene heaters
- 10:37A-6.21 Fireplaces
- 10:37A-6.22 Variances

SUBCHAPTER 7. HEARINGS, APPEALS, COMPLAINTS

- 10:37A-7.1 Administrative hearings
- 10:37A-7.2 Development of residential complaint procedures
- 10:37A-7.3 PA ombudsman
- 10:37A-7.4 Consumer resident protection

SUBCHAPTER 8. QUALITY ASSURANCE

- 10:37A-8.1 Quality assurance

SUBCHAPTER 9. DISCHARGE

- 10:37A-9.1 General rule regarding the discharge of consumer residents from group homes, supervised apartments, and family care homes
- 10:37A-9.2 Conditions permitting discharge from group homes, supervised apartments and family care homes
- 10:37A-9.3 Discharge procedures from group homes, supervised apartments and family care homes

- 10:37A-9.4 Miscellaneous provisions regarding the discharge of consumer residents from group homes, supervised apartments, and family care homes
- 10:37A-9.5 Conditions for termination of supportive housing services

APPENDIX A. STATEMENT OF CONSUMER RESIDENT RIGHTS REGARDING DISCHARGE AND EXCLUSION FROM APA OWNED, LEASED OR CONTRACTED RESIDENCE

SUBCHAPTER 1. GENERAL PROVISIONS

10:37A-1.1 Scope and purpose

(a) Provider agencies (PA) operating community residences for adults with mental illness shall comply with the physical and program standards contained within this chapter. These residences include group homes serving a maximum of 15 persons, PA supportive housing residences with a purchase of service contract with the Division or supportive housing residences formally owned or leased by an organized entity with an affiliation agreement with a PA, PA apartments, and family care homes with a services agreement with the PA. These residences shall be approved for a purchase of service contract pursuant to this chapter and Department contract rules, including N.J.A.C. 10:4, and shall not be considered health care facilities within the meaning of N.J.S.A. 26:2H-1 et seq.

(b) The PAs shall provide a residential care program to all enrolled consumer residents. Such a program shall consist of the services described in this chapter and shall be provided in facilities owned or leased by the PA or in a supportive housing residence, or through services agreements with private operators.

(c) The major goal of the community residence program for mentally ill adults shall be to support and encourage the development of life skills required to sustain successful living within the community. Residential housing and services shall be organized around the principle of consumer resident responsibility and participation. An integral component of the community residence program is the assistance of consumer residents in gaining the life skills necessary to move to a less restrictive environment, unless otherwise restricted by specific contract provision.

(d) The residential care program shall have a rehabilitation focus designed to develop and improve skills necessary for successful community integration. Programming shall focus on empowering the consumer resident's use of generic community supports, where available, to meet physical, psychological and social needs as a means to promote an improved quality of life and emotional well-being. Consumer residents shall live in the most normalized, least restrictive environment possible to promote individual growth and safety.

(e) Services provided to residents shall include those designed to accommodate ongoing, non-acute health care

maintenance. Clients shall be considered medically cleared if they do not have an acute medical condition requiring inpatient hospitalization, do not need nursing home level of care (that is, 2.5 hours of nursing care per day), are able to evacuate the residence within three minutes, and are capable of self-managing incontinence or other medical care needs. Aspects of a patient's medical condition which can be accommodated by staff training and support or which can be self-managed should not automatically serve as a bar to admission.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote (a); in (b), inserted "or in a supportive housing residence" preceding "or through services"; substituted references to consumer residents for references to clients throughout.

Amended by R.2005 d.1, effective January 3, 2005.

See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

In (c), added the third sentence; added (e).

Case Notes

Although the Court understood Plaintiff's claim that New Jersey law did not require community residences to provide for the safety of the surrounding community, standards of care for mentally ill residents must be understood, by extension, to provide some degree of community safety by offering at least a basic level of care focused on successful community integration. *Township of West Orange v. Whitman*, 8 F.Supp.2d 408 (D.N.J. 1998).

10:37A-1.2 Definitions

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

"Assessment and evaluation" means activities that will analyze an individual consumer resident's desires, functioning, strengths, needs and environment to determine appropriate interventions. An opportunity will be given for the consumer resident to provide a self-assessment and for any family member or significant other of the consumer resident's choice to provide an assessment of the consumer resident as well.

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

"Community residence for the mentally ill" (residence) means any community residential facility approved by the Department which provides food, shelter, and personal guidance under such level of care as required, to not more than 15 mentally ill persons who require assistance, temporarily or permanently, in order to live independently in the community. Agencies operating community residences for the mentally ill must have an approved purchase of service contract pursuant to the Department's contract rules and this chapter. These residences are not considered health care facilities, within the meaning of the "Home Care Facilities Planning Act," P.L. 1971, c.136 (N.J.S.A. 26:2H-1 et seq.) and are limited to, group homes, supervised apartments, family care homes and supportive housing residences as defined in this chapter.