

**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.

**Source and Effective Date**

R.2001 d.317, effective September 17, 2001.  
See: 32 N.J.R. 3759(a), 33 N.J.R. 3317(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 47, Standards for Private Licensed Facilities for Persons with Developmental Disabilities, expires on March 16, 2007. See: 38 N.J.R. 4352(a).

**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Chapter 47, Manual of Standards for Private Licensed Institutions for the Mentally Retarded, was repealed and a new Chapter 47, Manual of Standards for Private Licensed Facilities for the Mentally Retarded, was adopted as R.1985 d.540, effective November 4, 1985.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Subchapter 2, Licensure Procedure, was repealed and a new Subchapter 2, Licensure, was adopted as R.1990 d.593, effective December 3, 1990.

Chapter 47, Manual of Standards for Private Licensed Facilities for the Mentally Retarded, was repealed and a new Chapter 47, Standards for Private Licensed Facilities for the Developmentally Disabled, was adopted as R.1995 d.545, effective October 16, 1995.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;

3. Is likely to continue indefinitely;

4. Results in substantial functional limitations before the age of 22 in three or more of the following areas of major life activity, that is, self-care, receptive and 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 lifelong or extended duration and are individually planned and coordinated.

“Developmental disability” includes, but is not limited to, severe disabilities attributable to mental retardation, autism, cerebral palsy, epilepsy, spina bifida and other neurological impairments where the above criteria are met.

“Director” means the Director of the Division of Developmental Disabilities.

“Division” means the Division of Developmental Disabilities.

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

“Goal” means a long range outcome. Goals are generally expected to be achieved by an individual within one to five years; they are stated in measurable terms so that their attainment can be determined. Goals must be individually centered and written to reflect the intent and direction of the Individual Habilitation Plan. Goals are broad in nature, realistic, based upon assessed needs and capabilities and attained through the use of behavioral and/or service objectives.

“Habilitation” means the process of providing those comprehensive services that are deemed necessary to meet the needs of persons who are developmentally disabled in programs designed to achieve objectives of health, welfare and the realization of an individual’s maximum physical, social, psychological and vocational potential for useful and productive activities. Habilitation services may include, but are not limited to, the following:

1. Developing socially appropriate behaviors including sexual behaviors and interpersonal skills, and eliminating maladaptive behaviors;
2. Developing cognitive skills including, but not limited to, recognizing personal danger, telling time, managing money, making change, recognizing street and other signs, solving problems, etc.;
3. Developing recreation and leisure time skills;
4. Orienting to the community and training for mobility and travel;
5. Developing or remediating communication skills;

6. Developing appropriate activities of daily living such as grooming, dressing and self-care habits, such as toileting, eating and shaving; and

7. Training in assertiveness, and advocacy in dealing with citizenship, legal, family and/or social needs.

“Human Rights Committee” means a group comprised of professionals, individuals served, advocates and/or interested persons from the community at large who function as an advisory body to the CEO on issues directly or indirectly affecting the rights of individuals served.

“Individual Habilitation Plan (IHP)” means a written plan of intervention and action that is developed by the interdisciplinary team. It specifies both the prioritized goals and objectives being pursued by each individual and the steps being taken to achieve them. It may identify a continuum of skill development that outlines progressive steps and the anticipated outcomes of services. The IHP is a single plan that encompasses all relevant components, such as an education plan, a behavior modification plan, a program plan, a rehabilitation plan, a treatment plan and a health care plan. The complexity of the IHP will vary according to the needs, capabilities and desires of the person. In most instances, the IHP shall address all major needs identified. The major needs shall be prioritized. For an individual who makes only specific service requests, the IHP shall be a service plan which addresses only those specific requests.

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

“Individual with developmental disabilities” (individual, person served) means that person with developmental disabilities residing in a licensed private facility for the developmentally disabled.

“Informed consent” means a formal expression, oral or written, of agreement with a proposed course of action by an individual who has the capacity, the information and the ability to render voluntary agreement on his or her own behalf or on behalf of another.

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

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

“Investigation” means the systematic inquiry into the factors which have contributed to an incident, allegation or complaint. An investigation may range from a brief examination of records and statements to a comprehensive collection and analysis of all pertinent evidence.

“Least restrictive” means a principle whereby the interventions in the lives of persons with developmental disabilities are carried out with a minimum of limitation, intrusion, disruption, or departure from commonly accepted patterns of living.

“License” means the authorization issued by the New Jersey Department of Health and Senior Services, pursuant to N.J.S.A. 26:2H-1 et seq. and N.J.A.C. 8:39-2.9, for a period of one year, to the legally responsible person or entity in the facility providing residential services to persons with developmental disabilities.

“Measurable” means there are established criteria which are observable and can be quantified via a data collection system.

“Neglect” means the failure of the facility staff 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 supervision.

“Normalization” means a principle of making available to the persons receiving services the commonly accepted patterns and conditions of everyday life.

“Physical restraint” means physical contact with an individual, initiated by one or more staff members, which restricts freedom of movement either partially or totally. Physical restraint as herein defined may be implemented as:

1. A procedure intended to protect an individual from inflicting injury upon himself or herself, staff or other individuals; or
2. As a behavior reduction procedure intended to reduce the frequency of a maladaptive behavior including, but not limited to, self injurious or otherwise aggressive behavior.

“Pica” means the maladaptive behavior of ingesting inedible substances or objects, including, but not limited to, soil, toys, or paint chips.

“Psychoactive medication” means those chemical substances which exert a direct effect upon the central nervous system and which are utilized as part of a treatment plan to address psychiatric disorders, symptoms of psychiatric disorders or to influence and modify behavior. Specifically, the generic classes of psychoactive medication include, but are not limited to:

1. Neuroleptics, such as chlorpromazine;
2. Anti-depressants, such as imipramine;
3. Agents for control of mania and depression, such as lithium;

4. Sedatives, hypnotics to promote sleep, such as flurazepam hydrochloride;

5. Psychomotor stimulants, such as methylphenidate hydrochloride; and

6. Anti-convulsants, such as Carbamazepine.

“Regulated medical waste” means any solid waste generated in the diagnosis, treatment, immunization of human beings or animals, research pertaining thereto, or in the production or testing of biologicals listed in the following: cultures or stocks; pathological wastes; human blood and blood products; sharps; animal waste; isolation wastes; and unused sharps, in accordance with N.J.A.C. 7:26-3A.

“Service objective” means a significant desired outcome that cannot be achieved as a result of learning or training. It includes quantifiable but non-behavioral outcomes such as seizure reduction or maintenance of blood pressure within a stated range, and quality of life outcomes such as developing and maintaining social networks. It also includes outcomes dependent on the behavior of staff, such as provision of adaptive or mobility equipment, obtaining specialized assessments, or referral for alternative placement.

“Severe medical problem” means any acute or long term condition which warrants frequent nursing care or monitoring, including, but not limited to, nasogastric tube feedings, gastrostomy, colostomy, tracheostomy, intravenous therapy, decubitus ulcer, quadriplegia and poorly controlled diabetes.

“Unusual incident” means an event involving an individual served by the Department or employee involving indications or allegations of criminal actions, injury, negligence, exploitation, abuse, clinical mismanagement or medical malpractice, a major unforeseen event, for example, serious fire, explosion, power failure that presents a significant danger to the safety or well being of individuals served and/or employees; or a newsworthy incident.

“Volunteer” means an unpaid person who supports and supplements daily programs and services. A person may volunteer individually, or as a member of an organized group.

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

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

Rewrote “Inspecting agency”; in “Unusual incident”, substituted “Department” for “Division” following “an individual served by the”.

## SUBCHAPTER 2. LICENSURE

### 10:47-2.1 Admissions to private facilities

No private facility for persons with developmental disabilities shall accept individuals until the facility has obtained a license issued by the Licensing, Certification and Standards office of the Department of Health and Senior Services. The facility shall not exceed its licensed capacity.

**10:47-2.2 Surveys of facilities**

Survey visits may be made to a facility at any time by authorized staff of the Department of Health and Senior Services or the Department of Human Services. Such visits may include, but not be limited to, the review of all facility documents, individuals' records and conferences with individuals and staff.

**10:47-2.3 License**

(a) A temporary license may be issued to a facility for a period of six months and may be renewed as determined by the Department of Health and Senior Services, based upon the achievement of a substantial degree of compliance with this chapter.

(b) A full license may be issued by the Department of Health and Senior Services, based upon compliance with this chapter.

(c) Any license shall be conspicuously posted in the facility.

**SUBCHAPTER 3. ADMINISTRATION****10:47-3.1 Management and organizational standards**

The facility shall have available a copy of this chapter (N.J.A.C. 10:47) and other State and Federal regulations relevant to the function of the facility. This includes copies of all regulations cited within this chapter.

**10:47-3.2 Inspection**

(a) The facility shall allow the licensing agency or its representatives to inspect all aspects of a program's operations and to interview any staff member of, or any individual in the care of, the facility.

1. A facility shall make all information related to assessment of compliance with these requirements available to the licensing agency or its representative.

**10:47-3.3 Waivers**

(a) The facility shall be in compliance with all applicable provisions of Federal, State and local or municipal laws, regulations and codes unless a waiver for specific requirement(s) has been granted through a prior written agreement with the licensing agency. This agreement shall specify the particular requirement(s) to be waived, the duration of the waiver, and the terms under which the waiver is granted.

1. Waiver of requirements may be granted providing that such a waiver would present no danger to the health, safety, welfare, or rights of the individual and when strict enforcement of a requirement would place an undue burden upon the facility.

**10:47-3.4 Mission statement**

(a) The facility shall have a written mission statement specifying its philosophy, purposes, and program orientation, and describing both short and long-term goals. The statement should identify the types of services provided and the characteristics of the population to be served by the facility.

1. The statement of philosophy and goals shall be reevaluated at least annually.

**10:47-3.5 Conflict of interest; provision of goods and services**

The facility shall not permit public funds to be paid or committed to be paid to any corporation, firm, association, partnership, or business in which any of the members of the governing body of the facility, or the members of the immediate families of members of the governing body or executive personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the facility.

**10:47-3.6 Governing body; non-proprietary facilities**

(a) In a non-proprietary facility, there shall be a board of directors, board of trustees, or other similar governing body responsible for the facility's management, control, and operation, the welfare of the individuals served and the formulation of administrative policy.

1. A non-proprietary facility shall have a governing body which includes representatives of the community in which the facility is located, representatives of the parents, and providers of services.

- i. The names and addresses of all board members shall be supplied to the licensing and inspecting agencies.

- ii. The professional background of each member shall be provided.

- iii. Changes in membership shall be reported to the licensing and inspecting agencies annually.

2. The governing body shall elect any of the following to its membership: president or chairperson, vice president or co-chairperson, secretary, treasurer, or other members, based upon the governing needs of the facility. It shall have the power to appoint such officers and committees as it may require to assist in carrying out its functions.

- i. The governing body shall conduct regular meetings and such special meetings as required.

- ii. Minutes shall be recorded and readily available to representatives of the licensing and inspecting agencies.

3. The governing body of a facility shall designate a person to act as chief executive officer of the facility and shall delegate sufficient authority to such person necessary to manage the affairs of the facility effectively.

i. The chief executive officer, in conjunction with the governing body, shall be responsible for the general direction and establishment of policies concerning the operation of the facility and welfare of the individuals served.

4. The governing body of a facility shall ensure that the facility:

i. Is in continual compliance and conformity with all relevant laws and/or regulations, whether Federal, State, local or municipal, affecting the operation of the facility;

ii. Is in continual compliance and conformity with the terms of all leases, contracts, or other legal agreements to which the facility is a party;

iii. Is maintained, staffed, and equipped in such a manner as to effectively implement the programs of the facility;

iv. Is adequately funded and fiscally sound. To this end, the governing body shall be responsible for:

(1) The review and approval of the facility's annual budget; and

(2) The review of an annual report completed by an independent auditor. The audit shall be made available upon request to any public agency which provides funds to the facility and the licensing agency; and

v. Consults with the licensing and inspecting agencies prior to making any substantial alteration in the program provided by the facility or the physical plant.

#### 10:47-3.7 Governing body; proprietary facilities

(a) A proprietary facility operated by any owner, partnership, or corporation shall certify to the Department the names, addresses, occupations or professions of all the owners and the extent of financial interest of each.

(b) A proprietary facility shall have documents which fully identify its ownership. A corporation, partnership, or association shall identify its officers and shall have, where applicable, the charter; partnership agreement; constitution, articles of association; and/or bylaws of the corporation, partnership, or association.

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), substituted "Department" for "Division of Developmental Disabilities" following "or corporation shall certify to the".

#### 10:47-3.8 Administrative procedures manual

(a) The facility shall assemble and maintain an administrative procedures manual which incorporates all of the written policies and procedures designed to implement the facility's objectives, and key procedures which address the implementation of applicable law and rules.

1. The administrative procedures manual shall describe the policies and procedures of the major operating units, and shall be available to all interested persons. Each procedure shall be designed in accordance with the principles of normalization, age appropriateness, least restriction and shall be consistent with the organizational structure and management philosophy of the facility.

2. The procedures shall be reviewed and updated as necessary but at least every five years.

3. All procedures shall identify the dates of issuance and review or revision.

4. Each policy and/or procedure shall provide:

i. A descriptive title which is unique as to permit easy reference and retrieval of each document;

ii. An explanation regarding the purpose of the document;

iii. A description of sequential steps required to successfully complete a task or action;

iv. Assignment of staff responsibilities at each step in the implementation; and

v. Reporting and recording requirements for each person involved.

5. A table of organization shall be incorporated in the administrative procedures manual to clearly identify lines of authority, responsibility and communication.

6. All staff shall be able to describe procedures that they routinely implement.

7. Policies and procedures shall be readily available and accessible for staff use.

(b) A written procedure shall be available that specifies one individual responsible for the overall operation of the facility at any specific time. The procedure shall provide a schedule for continuous administrative coverage, and responsibilities shall be clearly defined.

(c) A written procedure shall be available detailing requirements for appointment of a guardian in accordance with N.J.A.C. 10:43.

(d) A written procedure detailing round-the-clock accountability of individuals shall be implemented.

(e) A written procedure shall be available to delineate action to be taken in cases where an individual is discovered missing.

(f) A written policy shall be available that defines the use of mechanical restraints in accordance with N.J.A.C. 10:42. Such policies shall be reviewed by the Director for compliance with N.J.A.C. 10:42 prior to implementation.

(g) The facility shall have a Human Rights Committee, in accordance with N.J.A.C. 10:41-4.

(h) A written procedure shall be available which specifies the maintenance of an unusual incidents log and staff responsibilities regarding unusual incidents.

(i) There shall be a written procedure to ensure the investigation of each alleged mistreatment of an individual or an unusual incident or accident.

(j) Any unusual incident or accident (categories are found in the subchapter Appendix, incorporated herein by reference) shall be reported to the New Jersey Department of Health and Senior Services, Bureau of Licensing, and the appropriate Regional Office in the Division of Developmental Disabilities based upon the following time frames:

1. A+ incidents shall be reported immediately;
2. A incidents shall be reported the same working day during normal working hours. If the incident occurs after regular working hours, the incident shall be reported the next working day; and
3. All other reportable incidents shall be reported the next working day.

(k) A copy of the written investigative report, unless otherwise indicated, shall be forwarded to the Department within 10 working days. The report shall contain, but not be limited to, the following information:

1. The name of the alleged victim(s), date, and time of the incident;
2. Name(s) of the person(s) involved, including participants and witnesses;
3. A description of the incident, including any medical treatment administered;
4. Sanctions that were invoked when the allegation was substantiated; and
5. Any corrective actions taken to prevent a recurrence or to provide additional protection.

Amended by R.2004 d.404, effective November 1, 2004.  
See: 36 N.J.R. 2589(a), 36 N.J.R. 4961(a).

In (k), substituted "Department" for "Division of Developmental Disabilities" following "shall be forwarded to the" in the introductory paragraph.

#### 10:47-3.9 Abuse of minors

In the case of persons under the age of 18, allegations of abuse or neglect shall also be reported immediately to the local district office of the New Jersey Division of Youth and Family Services (see N.J.S.A. 9:6-8.10).

#### 10:47-3.10 Abuse of dependent adults

In the case of individuals 60 years of age and over, allegations of abuse or neglect shall also be reported to the New Jersey Office of the Ombudsman (see N.J.S.A. 52:27q-7.1).

#### 10:47-3.11 Quality assurance system

(a) A facility shall develop, and implement on a continuing basis, and internal administrative quality assurance system which shall ensure:

1. Compliance with pertinent Federal, State and local laws and regulations;
2. Effective implementation of the facility's internal policies and procedures; and
3. An annual summary encompassing the results of the requirements in (a)1 and 2 above including a corrective action plan.

#### 10:47-3.12 Behavior management

(a) The facility shall establish rules of conduct which promote individual growth by incorporating procedures for reinforcement of positive behaviors and consequences for negative behaviors.

1. No medication shall be used for the convenience of staff, as a substitute for programs, as punishment, or in quantities that interfere with an Individual's Habilitation Plan (IHP).
2. Corporal punishment, physical and verbal abuse, neglect and exploitation shall be prohibited.
3. Seclusion and isolation (that is, the placement of an individual alone in a locked room) shall be prohibited.

#### 10:47-3.13 Transportation

(a) The facility shall ensure that each individual is provided with transportation:

1. In order to implement the individual's IHP; and
2. For use in cases of emergency.

#### 10:47-3.14 Admission policies

(a) The facility shall have written admission policies and criteria for admission which shall include:

1. Chronological age;
2. The level of developmental programming;
3. Other services offered;
4. A physical description of the facility; and
5. Fees for care.

(b) The written description of admission policies, criteria and fees shall be provided to all placement agencies and

shall be available to the parent(s) or guardian of any individual referred for placement.

(c) An individual shall not be admitted unless his or her needs can be met by the facility's established programs.

(d) The facility shall establish and make available written procedures concerning admission, readmission, and discharge of an individual with developmental disabilities.

(e) The number of individuals admitted to a facility shall not exceed its licensed capacity nor its provision for adequate programming.

(f) The facility shall maintain a record of all admissions and discharges, including names and dates, for the previous 10 years.

(g) The following written reports shall be available upon admission:

1. Complete psychological examination conducted not more than three years prior to the admission of an individual;
2. Complete medical examination conducted within 48 hours before admission; and
3. Determination of an initial living unit and program assignment(s).

#### 10:47-3.15 Pre-admission

(a) Individual records shall include the following data:

1. The full name and sex of the individual;
2. A copy of the individual's birth certificate or a written statement of the individual's birth date and birth place, including a copy of any guardianship determination made in accordance with N.J.S.A. 30:4-165.5;
3. Documentation of the current custody and legal guardianship; which shall include the name, address, telephone number of the parent(s) or guardian;
4. Consent forms signed by the parent(s) of a minor or court appointed guardian allowing the facility to authorize all necessary medical care, routine tests, immunization, and emergency medical or surgical treatment;
5. Documentation of the existence of a developmental disability prior to the age of 22 (for example, medical diagnosis, psychological evaluation, social history);
6. A social and developmental history;
7. A previous placement history;
8. Behavioral information, including, if applicable, the most recent psychological evaluation, current behavior plan and history of previous attempts to modify the behavior;
9. A psychiatric evaluation, if applicable;

10. A medication history and immunization history;
11. Documentation for known allergies;
12. Seizure records and/or neurological examination;
13. A history of serious illness, serious injury, or major surgery and all hospitalizations;
14. A certificate which certifies that the person is free from contagious disease within 48 hours prior to admission;
15. A summary of the latest physical examination, including Mantoux testing, Hepatitis B status and lead levels;
16. A current audiological evaluation, if available;
17. Vision testing, if available;
18. Dental information, if available;
19. An IHP from the sending agency indicating the individual's programmatic and service needs and corresponding recommendations; and
20. Education records and reports as required.

#### 10:47-3.16 Individual records

(a) Individual records shall include the following data:

1. The date of admission;
2. The individual's social history and Medicaid numbers;
3. The individual's religious preference;
4. The name, address and telephone number of all personal physicians and dentists;
5. A physical examination by the physician within one week of admission which includes:
  - i. An examination for physical injury and disease;
  - ii. An assessment of the individual's general health; and
  - iii. Referrals to an appropriate medical specialist for further assessment and/or treatment;
6. Dental information, vision testing, and audiological evaluation, if not present in pre-admission data;
7. A prescribed medical program if required;
8. Physician's orders prescribing medication treatment and/or therapy;
9. Reports of clinical laboratory, X-ray, operation, and other diagnostic services;
10. Height and weight records;
11. A medically-prescribed diet, if required;

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 re-

ceiving 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.

**APPENDIX  
DDD CLASSIFICATION OF INCIDENT CATEGORIES**

TYPE	A+	A	B
ABUSE		<p>Alleged physical: major injury, person served</p> <p>Alleged sexual: to person served</p> <p>Serious abuse of a person served</p> <p>Substantiated</p>	<p>Alleged physical—any other</p> <p>Alleged verbal—to person served, including remarks intended to induce fear or to provoke a person served to maladaptive behaviors</p>
ADMINISTRATIVE	<p>Unexpected staff shortage: appearance of organized job action or causing threat to life and safety</p> <p>Mass disturbances of persons served, causing threat to life and safety</p> <p>Highly unusual incidents posing an immediate threat to life and safety, such as hostage-taking, bomb threats, catastrophe, etc.</p>	<p>Alleged criminal activity by employee/person served/provider, if it causes harm</p> <p>Any considered newsworthy</p> <p>Any incident reported to DOH, DEP, County Prosecutor, police or fire department or to DCA should they choose to conduct an investigation</p> <p>Any incident/operational breakdown that causes a threat to life and safety, such as an electrical blackout, telephone outage, natural disaster</p>	<p>Alleged criminal activity by employee/person served/provider, resulting in police involvement, and having the potential to cause harm</p> <p>Mass disturbances of persons served, other</p> <p>Spills, illegal dumping, etc.</p>
ASSAULT		<p>Major injury—employee, person served, any other</p> <p>Alleged sexual—employee, person served, any other</p>	<p>Moderate injury—employee, person served, any other</p> <p>Alleged sexual contact—nonconsensual— person served to person served</p> <p>Domestic violence</p>
CONTRABAND		<p>Drugs, organized distribution</p> <p>Weapons</p>	<p>Drugs, use or possession</p> <p>Alcohol for minors, persons served with a potential for pharmacological reaction</p> <p>Legally recognized items, e.g., fireworks, etc., which pose a threat to life, safety, or operations</p>
DEATH	<p>Sudden and unusual deaths, including suicides and homicides</p>		<p>Natural or expected deaths</p>
DISEASE/ILLNESS		<p>Serious outbreak, clustered illness</p> <p>Single incident of disease reportable to DOH</p>	

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 or 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	Minor, requiring outside assistance to extinguish or contain
FIRE	Major—resulting in injuries; of suspicious nature; OR, causing property damage rendering facility or part thereof unusable		
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 cars 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;

2. Precludes any commingling of individual's funds with facility funds or that of any other person; and

3. Assures that the individual's financial records are available on request to the individual, parents and/or legal guardian.

(b) The facility shall develop a policy that permits and encourages the possession and use of money by individuals who are determined capable by the interdisciplinary team.

1. The facility shall provide training in the use of money to individuals in accordance with their needs and abilities, and establish the amount of money an individual may possess in accordance with their needs and abilities which then shall be recorded in the Individual Habilitation Plan.

#### 10:47-5.3 Clothing and personal possessions

(a) Each individual shall have the opportunity to select and purchase clothing according to individual taste and preference.

(b) The facility shall provide assistance to individuals who require assistance in order to maintain their own clothing.

(c) The facility shall maintain an annual inventory of each person's clothing.

(d) The facility shall ensure that individuals have the right to retain and use personal possessions.

1. The facility shall ensure that individuals have access to their personal possessions.

(e) Provisions shall be made for the protection of the individual's personal possessions.

1. The facility shall maintain an annual inventory of each person's personal possessions.

(f) The facility shall provide storage space to include drawers and closets for personal possessions and in-season clothing in each individual's room.

#### 10:47-5.4 Privacy

(a) The facility shall provide each individual with the opportunity for personal privacy, to include, but not limited to:

1. The free use of all common living areas within the home without infringing on the privacy of others;

2. The opportunity to communicate, associate and meet privately with individuals of their choice; and

3. The opportunity for privacy during treatment and care of personal needs.

(b) The facility shall provide for individual privacy in living areas including toilets, baths or showers.

#### 10:47-5.5 Personal hygiene

(a) The facility shall provide for the basic hygienic needs of the individuals served. Individuals shall be helped to attain maximum independence in caring for their needs. The following shall be assured:

1. Baths or showers shall be provided daily;

2. Individuals who soil shall bathe and change immediately;

3. Individuals shall brush their teeth at least twice a day and provisions shall be made for the cleaning of dentures;

4. Individuals shall shampoo their hair at least twice a week, or more frequently if necessary;

5. Toe nails and finger nails shall be cut as needed;

6. Men shall have the opportunity to shave as needed;

7. Individual toilet articles such as hairbrush, comb, toothbrush, toothpaste, razor, soap, shampoo, washcloth and towel, shall be supplied to each individual and kept in a separate receptacle;

8. Feminine hygiene protection shall be provided as needed; and

9. Every person who does not eliminate appropriately and independently shall be engaged in a toilet training program, unless medically contraindicated.

## SUBCHAPTER 6. HEALTH SERVICES

### 10:47-6.1 General medical and health care

(a) At least one physician, licensed to practice in New Jersey, shall assume overall responsibility for the direction and provision of medical and health care.

(b) Arrangements shall be made with a community hospital for the acceptance of any person requiring inpatient or outpatient hospital services. Services shall include emergency, diagnostic, and/or treatment services.

1. Written approval for treatment in emergency situations shall be obtained from the legal guardian or competent adult at the time of admission.

2. Written approval for routine hospital treatment shall be obtained from the legal guardian, or from the competent adult individual before treatment is rendered to that individual.

(c) Primary immunizations shall be given, as required, upon admission and reimmunizations as recommended on a regular basis for diphtheria, tetanus, pertussis, polio, measles, and other diseases as identified consonant with acceptable medical practices and New Jersey Department of

Health and Senior Services regulations in accordance with N.J.A.C. 8:57.

(d) Provision shall be made for the isolation of persons with a communicable disease and the prevention of its spread in accordance with N.J.A.C. 8:57.

1. Communicable disease shall be reported to State and local health authorities and the inspecting agency in accordance with N.J.A.C. 8:57.

2. Private accommodations shall be provided for observation and/or for temporary isolation until transfer is made.

3. The Mantoux Skin Test for tuberculosis shall be given every three years. If the individual has had a previous positive Mantoux tuberculin skin test, or the result of the Mantoux tuberculin skin test is significant (10 or more mm of induration), the licensee shall require:

i. That the individual obtain a written statement from a physician or advance practice nurse certifying that he or she poses no threat of tuberculosis contagion; or

ii. A protocol to follow, recommended by the physician or advance practice nurse, before allowing the individual to come into contact with other individuals being served and staff.

(e) Written procedures shall be prominently posted for staff members to follow in the event of a medical emergency.

(f) Health services staff shall be trained in the facility's procedures for medical emergencies.

(g) First aid supplies shall be available and accessible to all staff.

(h) Other than first aid, no medication or treatment shall be administered by employees of the facility except on written order of a licensed physician.

#### 10:47-6.2 Physician services

(a) A physician licensed in the State of New Jersey shall perform examinations and administer and/or prescribe treatment as needed for preventive, routine and emergency medical care.

(b) An annual complete physical examination with findings noted shall be performed for each individual. The physical examination shall require:

1. Vision and hearing shall be grossly evaluated. For persons with observed problems, visual acuity and audiology studies shall be performed as clinically indicated.

2. The stool shall be tested for occult blood annually after age 50 for persons of average risk for colon-rectal cancer; and

3. An annual breast examination shall be recorded for all adult women. Mammography and cervical cytology shall be performed in accordance with standards recommended by the American Cancer Society, unless the physician documents that the tests are medically contraindicated. (American Cancer Society, 1599 Clifton Road NE, Atlanta, Georgia 30329)

(c) The physician or advance practice nurse shall follow-up on each individual's medical needs on an ongoing basis and record necessary information in the individual's record.

1. Physician's or advance practice nurse's orders for medical treatment shall be updated as necessary.

2. Medication orders shall be reviewed and revised as necessary but at least annually.

(d) Specialists' services in all pertinent fields of medicine shall be provided.

(e) When referring an individual to a specialist or hospital for services, the physician or designee shall ensure that copies of all necessary medical records are forwarded to the specialist.

#### 10:47-6.3 Nursing services

(a) Nursing services shall be provided in accordance with N.J.A.C. 13:37.

(b) A licensed professional nurse shall assess each individual's health status and record their findings in the individual's record as needed but at least annually.

#### 10:47-6.4 Dental services

(a) A licensed dentist shall provide:

1. Routine and preventive dental care at least annually.

2. A record documenting the results of the dental examination, signed and dated by the dentist, shall be maintained in the individual's record.

#### 10:47-6.5 Pharmaceutical services

(a) The facility shall provide pharmaceutical services under the direction of a New Jersey licensed pharmacist, in accordance with N.J.A.C. 13:39.

(b) The facility shall provide pharmaceutical services, both dispensing and consultant, either directly or through written contractual agreements.

(c) The facility shall have written policies and procedures, describing the methods for obtaining, dispensing, storing, administering, and usage of medications. The policies and procedures shall be reviewed and updated annually.

(d) The facility shall have a policy and a procedure for the use of "as needed" (PRN) orders.

i. A 20 BC rating in kitchen areas where a domestic range is used;

ii. A hood and duct suppression (extinguishing) system, with both automatic and manual actuation, in kitchen areas where a commercial range is used. There should be an automatic fuel shut off; and

iii. A 4A:BC fire extinguisher with a 40 BC rating in the basement area.

(s) All personnel and individuals shall be trained in: fire prevention; the use of fire protection equipment and devices; and procedures to be followed in the event of an emergency. The training shall be given to all employees prior to their duty assignment and should be reviewed at 12 month intervals.

(t) Every facility shall have a written plan for the evacuation of the individuals to safe areas away from the building, in the event of fire or any other type of disaster, as follows:

1. All employees shall be instructed in their duties under this plan;

2. A diagram of each floor indicating location of fire extinguishers and the means of egress for each individual shall be prominently posted on each floor; and

3. The facility shall provide an emergency lighting system.

(u) Fire alarm systems shall be checked monthly by an employee designated by the licensee. A record shall be maintained showing the date checked, the name of the person checking the system, and any findings.

(v) The facility shall conduct a fire drill at least once a month in every building in which individuals are housed or services provided.

1. The drills shall be unannounced and held at various hours of the day and night.

2. A record shall be maintained of the date of the drill, time required for evacuation, the number of staff and individuals participating in the drill, a brief synopsis of what occurred during the drill and the signature and title of the staff person completing the report.

3. Arrangements shall be made to have a fire drill supervised by the local fire department at least annually.

(w) Kitchen exhaust fans, filters, and metal ducts shall be kept free of grease and dirt at all times, and metal ducts from such fans shall extend at least two feet beyond the building.

1. Areas around kitchen ranges shall be kept free of grease at all times.

2. Kitchens containing commercial cooking appliances, deep fryers, grills, etc. shall have approved kitchen exhaust system (rangehood) complete with an automatic

fire suppression system in accordance with B.O.C.A. National Building Code, Article 17, Section 1702.20 and B.O.C.A. Basic National Mechanical Code.

#### 10:47-10.2 Sanitation

(a) All buildings and facilities shall meet all State and local health requirements.

(b) There shall be a sufficient supply of hot and cold water at all times, which shall be provided in accordance with N.J.A.C. 8:43-15.6 and N.J.A.C. 8:24.

(c) The facility shall provide for the collection, storage and disposal of solid, recyclable, and regulated medical, as well as toxic and hazardous waste materials, in accordance with N.J.A.C. 7:26.

1. A sufficient number of containers to hold all garbage and rubbish containing food waste shall be provided.

2. All waste water shall be discharged into a municipal or public sanitary sewage system, when such system is available.

i. If a private sewage system is necessary, the type, size, location, construction, and major repairs or alterations shall be approved by the State or local health jurisdiction.

3. Regulated medical waste must be transported and disposed of in accordance with N.J.A.C. 7:26-3A.

(d) The facility shall provide convenient toilet and hand washing facilities for employees.

(e) The facility shall ensure that the grounds and buildings are kept free from all vermin.

1. All windows and doors, except fire exit doors, shall be provided with screens or insect repelling devices.

2. Safety precautions shall be observed in all rodent and insect control programs.

i. Any application of pesticides shall be in accordance with N.J.A.C. 7:30.

#### 10:47-10.3 Transportation

(a) Any vehicle used in transporting individuals shall be properly registered, inspected, and insured in accordance with New Jersey State Motor Vehicles laws and rules.

(b) Any person acting on behalf of the facility shall be properly licensed to operate the class of vehicle used in transporting individuals, and such license status should be routinely updated.

(c) The number of persons in any vehicle shall not exceed the certified capacity.

(d) The facility shall provide supervision in any vehicle used by the facility to transport individuals.

(e) Vehicles used to transport individuals with physical disabilities shall be adapted to their needs.

(f) An adequately stocked first aid kit (with a list of contents), a fire extinguisher and reflectors shall be kept in each vehicle, and shall include:

1. Antiseptic;
2. Sterile rolled gauze bandage;
3. Sterile gauze or Telfa pads;
4. Adhesive or surgical tape;
5. Scissors; and

6. Adhesive bandages (band-aids) or ribbon tape.

(g) The following additional transportation arrangements shall be required for facilities serving non-ambulatory individuals:

1. A hydraulic lift which also provides for manual usage should be provided in all vehicles, except automobiles, used to transport non-ambulatory individuals.
2. In all vehicles, wheelchairs shall be securely fastened to the floor.
3. The arrangement of the wheelchairs shall provide aisle space and shall not impede access to the exit doors of the vehicle.