

“Termination” means the discontinuation of supportive housing services.

“Training in daily living skills” means activities designed to develop and maintain the knowledge, behaviors, skills and attitudes needed to improve or maintain quality of life, for example, budget management and housekeeping skills training.

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

Rewrote the section.

Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

Case Notes

Staffing at group home for mentally ill adults, which staffing provided for on-site staffing a minimum of one hour per week but contemplated that staff typically would be on-site providing services three to four hours per week, met requirements of rule requiring that group home for mentally ill adults have staff that reside or are stationed either on-site or in immediate close proximity, where home contained persons who required no more than four hours of supervision weekly. *Borough of Merchantville v. State Department of Human Resources, Division of Mental Health Services, 325 N.J.Super. 258, 738 A.2d 981 (N.J.Super.A.D. 1999).*

SUBCHAPTER 2. LICENSING, SITE REVIEW AND WAIVERS

10:37A-2.1 Initial licensing process

(a) All inquiries related to licensure of community residences shall be made to:

New Jersey Department of Human Services
Office of Licensing, Mental Health Services
PO Box 727
Trenton, NJ 08625-0727

(b) To become a licensed PA, an agency shall:

1. Demonstrate the intent and ability to operate a residence in accordance with this chapter;
2. Be a mental health services provider with a service contract with the Division. Such a service contract shall include provisions for the operation of community residences; and
3. Pay the fee(s) required by N.J.A.C. 10:37A-2.2.

(c) The PA shall be in compliance with this chapter as well as N.J.A.C. 10:37 and 10:37D.

(d) The PA shall apply for licensure to the Department. Applications shall indicate the type or types of community residences intended, the specific geographical location in which residences would be located, and the number of residents to be served. Such application shall be made to the Department at the address in (a) above.

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

Amended by R.2004 d.91, effective March 1, 2004.
See: 35 N.J.R. 4200(b), 36 N.J.R. 1203(a).

In (b), added 3; in (d), deleted the last sentence.
Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

In (a), updated the address; in (c), added N.J.A.C references.

10:37A-2.2 Licensure fees

(a) Group homes, apartments, and family care providers applying for a new license shall pay an initial application fee of \$575.00. Supportive housing residence providers shall pay an initial application fee of \$100.00. PAs are not required to pay a separate initial application fee for programs for which they are licensed under N.J.A.C. 10:190 as of July 1, 2003.

(b) On an annual basis, the PA shall submit with its application for renewed licensure the fee(s) listed at (c) below, to the Division at the address listed at N.J.A.C. 10:37A-2.1(a). Checks shall be made payable to the “State of New Jersey.” No license shall be issued where payment of this fee has not been received in full by the Division. Failure to pay the fees applicable to an existing license shall result in revocation of that license.

(c) PAs applying for renewed licensure shall pay the following annual licensure renewal fees:

1. For group homes (GH):
 - i. For the first GH license\$575.00
 - ii. For each additional GH license.....\$287.50
2. For apartment (APT) or family care (FC) license:
 - i. For the first APT or FC license.....\$575.00
 - ii. For each additional APT or FC license.....\$287.50
3. For each supportive housing residence (SHR)\$100.00

(d) If the Fiscal Year 2004 anniversary of the expiration date of a license falls before, on, or within 30 days after March 1, 2004 and the fee is not waived pursuant to N.J.A.C. 10:190-1.4(e), any initial fee and the Fiscal Year 2004 renewal fee shall be paid by March 31, 2004. Any other initial application fee, waiver request, or renewal fee shall be paid 30 days before the anniversary date for the remainder of FY 2004 and in each successive year.

New Rule, R.2004 d.91, effective March 1, 2004.
See: 35 N.J.R. 4200(b), 36 N.J.R. 1203(a).

Former N.J.A.C. 10:37A-2.2, Licensing of group homes, recodified to N.J.A.C. 10:37A-2.3.
Administrative change.
See: 39 N.J.R. 455(a).

10:37A-2.3 Conditional licensure

(a) A conditional license may be issued whenever:

1. Compliance with a standard pertaining to the consumer resident’s safety or rights, or staffing is lacking during an annual housing inspection or triennial program review;

2. A corrective action plan required by these rules at N.J.A.C. 10:37A-2.11, is not submitted to the Department by the PA at the designated time, or it is determined by the Department to be inadequate; or

3. An investigation of a complaint or serious incident identifies deficiencies that warrant conditional status.

(b) A conditional license shall be upgraded to a full license when a determination is made, on the basis of a follow-up review or a review of documents submitted by the PA, that all relevant licensing requirements are met.

New Rule, R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.3, Licensing of group homes, recodified to N.J.A.C. 10:37A-2.4.

10:37A-2.4 Licensing of group homes

(a) The Department shall inspect any proposed group home site, and shall review all program operations or descriptions for compliance with the provisions of this chapter.

(b) The Department shall notify the PA in writing of any violations.

(c) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability.

(d) A license shall be issued once intent and capability to comply with all program requirements is demonstrated, inspections are satisfactory (including satisfactory inspection by the fire official with jurisdiction), life hazard use registration (pursuant to Department of Community Affairs rules at N.J.A.C. 5:70-2.4(c)) is initiated and there is reasonable assurance that the residence shall be operated in a manner required by this chapter. For new construction, a certificate of occupancy issued under the Uniform Construction Code shall be accepted in lieu of inspection by the Fire Official. Group homes shall not be occupied until licensed.

(e) The license shall be issued by the Department.

(f) The license shall be limited to a specifically identified facility, issued for a period of one year, and shall indicate the maximum number of persons to be served within that facility.

(g) The original license (not a copy) shall be available on the agency's premises for review by the Division, or any interested members of the public, during normal business hours.

Recodified from N.J.A.C. 10:37A-2.3 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.4, Licensing PA apartments, recodified to N.J.A.C. 10:37A-2.5.

10:37A-2.5 Licensing PA apartments

(a) The Department may inspect any proposed PA apartment site(s), and review all program operations or

descriptions for compliance with the provisions of this subchapter.

(b) The Department shall notify the PA in writing of any and all violations.

(c) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability if requested by the Department.

(d) A license shall be issued once intent and capability to comply with all program requirements is demonstrated, inspections, if any, are satisfactory and there is reasonable assurance that the PA apartment(s) shall be operated in a manner required by this chapter.

(e) The license shall be issued by the Department.

(f) The license shall be issued to the PA for a specific number of PA apartments and total capacity for consumer residents within a county for a period of one year. The PA shall notify the Office of Licensing, Mental Health Services of any new apartment (before it is occupied) if occupying the apartment will exceed the licensed capacity for apartments operated by the PA in the county. The PA shall not allow the consumer resident(s) to occupy the new apartment(s) until the licensed capacity is increased. The PA shall not occupy a new apartment in a county in which it is not licensed to operate apartments until such a license is issued. The PA shall have the right to relocate PA apartments within the county, as needed, without notifying the Office of Licensing, Mental Health Services, as long as the total licensed capacity for apartments and consumer residents in the county is not exceeded. The new facilities shall comply with all requirements of this chapter. The PA shall notify the Office of Licensing, Mental Health Services of all PA apartments at the time of the annual housing inspection.

(g) The license shall be available on the agency's premises for review by the Division and/or Department, and any members of the public, during normal business hours.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (f), added last sentence beginning with "The PA shall notify".

Recodified from N.J.A.C. 10:37A-2.4 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.5, Licensing family care homes, recodified to N.J.A.C. 10:37A-2.6.

10:37A-2.6 Licensing family care homes

(a) The PA shall develop a written services agreement with the individual who operates the family care home.

(b) The content of the services agreement between the PA and the individual who operates the family care home shall have been approved by the Division in accordance with N.J.A.C. 10:37A-4.4.

(c) The Department may inspect any proposed family care home and review all program operations for compliance with the provisions of this chapter. The PA shall notify the Office of Licensing, Mental Health Services, at the address noted in N.J.A.C. 10:37A-2.1(a), of any proposed family care home (before placing a consumer resident in it) if the PA is not licensed to provide family care homes in the county and/or if placing the consumer resident in the family care home will exceed the capacity specified on the license. The PA shall not place a consumer resident in the new family care home until the licensed capacity is increased. The PA shall not place a consumer resident in a new family care home in a county in which it is not licensed to operate family care homes until such a license is issued. The PA shall have the right to relocate family care homes within the county, as needed, without notifying the Office of Licensing, Mental Health Services, as long as the total licensed capacity for family care homes and consumer residents in the county is not exceeded. The PA shall notify the Office of Licensing, Mental Health Services, of all family care homes at the time of the annual housing inspection.

(d) The Department shall notify the PA in writing of any violations.

(e) Once the PA has corrected all violations, the PA shall request a final site inspection and shall submit documents indicating habitability if requested by the Department.

(f) A license shall be issued once intent to comply with all program requirements is demonstrated, inspections, if any, are satisfactory and there is reasonable assurance that the family care home(s) shall be operated in a manner required by this chapter.

(g) The license shall be issued by the Department.

(h) The license shall be issued to the PA for a period of one year and shall be limited to a defined number of family care homes within a county and shall indicate the maximum number of consumer residents to be served. No family care home shall serve more than three consumer residents at any one time (unless up to four consumer residents were being served prior to January 3, 2005). The PA shall not exceed the capacity specified on the license.

(i) The license shall be available on the PA's premises for review by the Division and/or Department, and any members of the public, during normal business hours.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (b) and (h), substituted references to consumer residents for references to clients; in (c), added last sentence beginning with "The PA shall notify".

Recodified from N.J.A.C. 10:37A-2.5 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.6, Licensing supportive housing residences, recodified to N.J.A.C. 10:37A-2.7.

10:37A-2.7 Licensing supportive housing residences

(a) The Department may inspect any proposed supportive housing residence and review all program operations for compliance with the provisions of this chapter.

(b) The Department shall notify the PA in writing of any violations.

(c) Inspections of supportive housing residences to be licensed will be in accordance with provisions contained in N.J.A.C. 10:37A-6.1 through 6.12 unless specifically excluded.

(d) Licenses shall be issued once intent and capability to comply with all program requirements is demonstrated, inspections, if any, are satisfactory and there is reasonable assurance that the supportive housing residence shall be operated in a manner required by this chapter.

(e) All licensed supportive housing residences shall be evaluated on site annually by the Office of Licensing, Mental Health Services, and at the discretion of the Division, as needed.

(f) The license shall be issued by the Department to the PA for one year.

(g) The license shall be available on the PA's premises for review during normally scheduled business hours.

(h) Should all occupants of the supportive housing residence refuse or not receive services for a period of 90 days, the PA shall notify the Department's Office of Licensing, Mental Health Services at which time the license will be terminated.

Recodified from N.J.A.C. 10:37A-2.6 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.7, Provisional license, repealed.

10:37A-2.8 Licensing supportive housing programs

(a) A license shall be issued once intent and capability to comply with all program requirements is demonstrated, policies and procedures are satisfactory and there is reasonable assurance that the supportive housing program shall be operated in a manner required by this chapter.

(b) The license shall be issued by the Department.

(c) The license shall be available on the PA's premises for review during normally scheduled business hours.

(d) A review to assess the PA's compliance with the programmatic requirements contained in this chapter shall be conducted by the Department once the program is established, every three years thereafter and at the discretion of the Department. The requirements in N.J.A.C. 10:37A-2.11(k) and (l) shall be met for these reviews. The Department may also randomly inspect residences of supportive housing con-

sumers as long as the residence is purchased with capital funding from the Division of Mental Health Services.

(e) The Department shall notify the PA in writing of any violations.

(f) The requirements in N.J.A.C. 10:37A-6, Facility, and the requirements in N.J.A.C. 10:37A-8.1(b)1 shall not apply to supportive housing programs, with the exception of those residences licensed as supportive housing residences and residences purchased with Division capital funds.

(g) The recordkeeping requirements at N.J.A.C. 10:37A-4.5(d) shall apply to supportive housing programs.

New Rule, R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.8, Waiver of standards, recodified to N.J.A.C. 10:37A-2.9.

10:37A-2.9 Waiver of standards

(a) Requests for waivers shall be made to the Department, in writing, at the address identified at N.J.A.C. 10:37A-2.1(a), with supporting information justifying the request.

(b) Waivers of specific program rules shall be considered, at the discretion of the Department in consultation with the Director, or designee, of the Division, provided that one or more of the following conditions have been met:

1. Where strict enforcement of the rule would result in unreasonable hardship on the consumer resident;
2. The waiver addresses a particular need of a consumer resident(s) but does not adversely affect the health, safety, welfare, or rights of the consumer resident; or
3. There is a clear clinical or programmatic justification for such a waiver that will enhance a PA's effectiveness or efficiency without an adverse effect on any consumer resident's health, safety, welfare or rights.

Recodified from N.J.A.C. 10:37A-2.8 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.9, License renewal, recodified to N.J.A.C. 10:37A-2.10.

10:37A-2.10 License renewal

(a) All licenses shall be subject to an annual renewal except for the supportive housing program license. The supportive housing program license shall be renewed at the time of the triennial program review.

(b) Determination of license renewal shall be based on the annual housing inspection and triennial program review conducted by the Department's Office of Licensing, Mental Health Services.

(c) The Department shall make the determination of renewal.

(d) In the event that a license expires prior to the determination of renewal, the license shall remain in effect until such a determination is made.

(e) Unless the licensure renewal fee has been waived pursuant to N.J.A.C. 10:37A-2.9, the PA shall submit a licensure renewal fee in accordance with the schedule delineated at N.J.A.C. 10:37A-2.2(c). Failure to pay any portion of a required fee shall result in denial of the application for renewal.

Recodified from N.J.A.C. 10:37A-2.9 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.10, Evaluation and monitoring, recodified to N.J.A.C. 10:37A-2.11.

10:37A-2.11 Inspection and monitoring of residences

(a) All PAs and residences shall be subject to site reviews in accordance with N.J.A.C 10:190.

(b) All group homes shall be inspected on site annually by the Department, and at the discretion of the Department or Division, as needed.

(c) All PA apartments shall be inspected on site annually by the Department, and at the discretion of the Department or Division, as needed.

(d) All PA family care homes shall be inspected annually by the Department, and at the discretion of the Department or Division, as needed.

(e) All licensed supportive housing residences shall be evaluated on site annually by the Department, and at the discretion the Department or Division, as needed, unless the consumer residents refuse the Office of Licensing, Mental Health Services access to a particular SHR. If access is denied, the PA shall submit documentation of an annual inspection conducted by the PA, required by N.J.A.C. 10:37A-8.1(b)1.

(f) A written report of, residence inspections including all deficiencies and violations, shall be provided to the PA by the Department within 60 days from the date of the site review.

(g) A review shall be conducted by the Department at least every three years to assess the PA's compliance with the programmatic requirements contained in this chapter. A written report shall be provided to the PA within 90 days of the review.

(h) No later than 40 days after receipt of an inspection or review report, the PA shall provide a corrective action plan to the Department. The corrective action plan shall document which specific violations have been corrected and the actions taken or planned, as well as the anticipated date of full correction, for each specific outstanding violation.

(i) The PA shall be notified in writing within 30 days whether the corrective action plan, or portions thereof, are

approved for implementation and whether there are any areas that need to be addressed further.

(j) For any violations cited by the Department as presenting an imminent threat to the health or safety of a consumer resident, the PA shall correct them or remove the threat created by such violations immediately and shall provide written notice, within 48 hours, to the Department that such action has been taken.

(k) If the Department report identifies violations other than those presenting an imminent threat to the health and/or safety of a consumer resident, representatives from the Division, as part of their ongoing monitoring responsibilities, shall visit the specified facility or program and provide a report to the Division on progress toward remediation of deficiencies every 60 days until compliance is achieved.

(l) When the PA is cited for a physical violation and the maintenance is the responsibility of another party, there must be documented evidence that the PA has informed the building owner and his or her agent of the need to correct any violations. If such violations are not corrected, the PA shall take further action as appropriate.

Recodified from N.J.A.C. 10:37A-2.10 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.11, Appeal of the Division's findings, recodified to N.J.A.C. 10:37A-2.12.

Administrative change.

See: 39 N.J.R. 455(a).

10:37A-2.12 Appeal of the Department's findings

(a) The PA may appeal findings of the Department's Office of Licensing, Mental Health Services pursuant to N.J.A.C. 10:37A-2.14, (Review of Administrative Sanction). In the case of life-threatening violations, such appeal shall be conducted pursuant to N.J.A.C. 10:37A-2.15, Emergency situation.

(b) The appeal of findings shall be directed to the Commissioner or designee, with a copy sent to the Division, within 20 days of receipt of the written report of findings. Such appeals shall be submitted to the Department of Human Services, Office of Licensing, Mental Health Services, PO Box 727, Trenton, New Jersey 08625. Copies of these appeals shall be sent to Director's Office, Division of Mental Health Services, PO Box 727, Trenton, New Jersey, 08625-0727.

(c) A decision on the merits of the appeal shall be provided within 20 days of its receipt. This decision shall be made by the Department, in consultation with the Division.

Recodified from N.J.A.C. 10:37A-2.11 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.12, Administrative sanction, recodified to N.J.A.C. 10:37A-2.13.

10:37A-2.13 Administrative sanction for PA's failure to adequately address violations

(a) In the event that the PA does not submit the corrective action plan specified in N.J.A.C. 10:37A-2.11(g), (h) and (k) by the required date, or if violations have not been abated within time frames specified in the report or other Department correspondence, the Department shall have the option of directing the Division to suspend payments to which the PA may be entitled under any agreements with the Division, and the Department shall have the option of imposition of a moratorium on admissions to the residence, revocation of the current license to operate the residence, non-renewal of the license to operate the residence or imposition of other administrative sanctions.

(b) In the event that the Department requires the revocation or non-renewal of the license and the relocation of the consumer residents, a written order shall be directed to the PA's executive director and to the President of the Board of Directors of the PA.

(c) Under the supervision of the Division, the PA shall be responsible for placement of consumer residents when an order to vacate the premises and the revocation of a license has been issued by the Department.

Recodified from N.J.A.C. 10:37A-2.12 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.13, Review of administrative sanctions, recodified to N.J.A.C. 10:37A-2.14.

10:37A-2.14 Review of administrative sanctions

(a) Where an administrative sanction exists or a negative licensing action has been taken pursuant to N.J.A.C. 10:37A-2.13 and the PA denies the basis of the sanction or licensing action, the PA may submit a written request for a review of the action to the Department within 20 days of receipt of the sanction or licensing action at the address indicated in N.J.A.C. 10:37A-2.12(b). A decision shall be rendered by the Department within five working days of the receipt of the written request for a review.

(b) If the PA chooses to appeal a final decision made by the Department regarding an administrative sanction or licensing action pursuant to the provisions of (a) above, the PA may request an administrative hearing, which shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Recodified from N.J.A.C. 10:37A-2.13 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-2.14, Administrative hearing of appeal, repealed.

10:37A-2.15 Emergency situation

The Department, when it determines that the health, safety or welfare of the consumer residents warrant it, may immediately suspend the license of a PA, and take the necessary action to ensure the well-being of consumer residents. The PA shall have the right to make a written request to the DHS Commissioner for a review of an emergency license suspension. The Commissioner, or designee, shall review this request on an expedited basis. The PA shall have the right to appeal the Commissioner's decision by requesting an administrative hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Recodified from N.J.A.C. 10:37A-2.13 and amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Substituted "consumer residents" for "clients" throughout.

Recodified from N.J.A.C. 10:37-2.14 by R.2004 d.91, effective March 1, 2004.

See: 35 N.J.R. 4200(b), 36 N.J.R. 1203(a).

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

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

Rewrote the section.

SUBCHAPTER 3. POLICIES AND PROCEDURES;
CONFIDENTIALITY

10:37A-3.1 Written policies and procedures

(a) The PA shall develop and implement written policies and procedures to ensure that the service delivery system complies with applicable statutory and regulatory provisions governing community residences for the mentally ill.

1. The PA shall develop, maintain and revise, as is necessary, a program-oriented policy and procedures manual. Said manual shall be reviewed annually, as evidenced by dated signatures of the reviewer(s).

2. Policies and procedures shall promote the principles of normalization, age-appropriateness, consumer resident empowerment and least restriction, and shall be consistent with the PA's organizational structure and management philosophy.

3. The PA shall document that consumers and their families are consulted in the development and review of policies and procedures. Such documentation shall reflect that any suggestions so generated shall be seriously considered.

4. PAs shall document that all staff providing services to consumer residents receive training prescribed by the New Jersey Division of Medical Assistance and Health Services in N.J.A.C. 10:77A. Documentation shall include

the date(s) training was provided, the topic covered, the instructor's name and credentials, the amount of time spent on each topic and the training location. This training shall be documented in each staff member's personnel file.

5. An up-to-date policy and procedure manual (including staff training requirements) shall be located in a manner readily available to direct care staff at all times.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (a), substituted "consumer resident" for "client" in 2 and added 4.

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

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

In (a), added 4, recodified existing 4 as 5.

10:37A-3.2 Confidentiality

(a) All certificates, applications, records, and reports made pursuant to the provisions of Title 30 of the New Jersey Statutes and directly or indirectly identifying any individual presently or formerly receiving mental health services from a provider agency, or for whom such services shall be sought shall be kept confidential and shall not be disclosed by any person, except insofar as:

1. The individual identified or his or her legal guardian, attorney, personal representative, if any, or, if the consumer is a minor, his or her parent, shall authorize the disclosure; or

2. Disclosure may be necessary to carry out any of the provisions of Title 30 or of article 9 of chapter 82 of Title 2A of the New Jersey Statutes (N.J.S.A. 2A:82-41); or as required by other Federal or State law; or

3. A court may direct, upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest.

(b) Nothing in this section shall preclude disclosure, upon proper inquiry and after the consumer has had the opportunity to object and does not express an objection, of information as to a patient's current medical condition to any relative or friend. Information may be disclosed to the patient's personal physician if it appears that the information is to be used for the treatment of the patient.

(c) Nothing in this section shall preclude the professional staff of a community agency under contract with the Division of Mental Health Services in the Department of Human Services, or of a screening service, short-term care or psychiatric facility as those facilities are defined in section 2 of P.L. 1987, c.116 (N.J.S.A. 30:4-27.2) from disclosing information that is relevant to a patient's current treatment to the staff of another such agency, so long as such disclosure is in compliance with 45 C.F.R. Parts 160 and 164 (HIPAA).

(q) All residences must be clean and sanitary prior to occupation by any resident, and shall be maintained in a clean and sanitary condition.

(r) The PA shall maintain the PA owned, leased or contracted premises to ensure compliance with all applicable laws and regulations. The storage of objects or materials shall be done in a manner to avoid imminent health, safety or fire hazards.

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), (d), (f), (o), (p) and (r).

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

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

Substituted "Department" for "Division" in (g) and (m).

10:37A-6.10 Kitchen facilities

(a) Major appliances shall minimally include a refrigerator, freezer (or refrigerator with freezer compartment), an oven and a cooktop.

(b) Food products shall be thawed, stored, processed and prepared in a safe manner in all group homes, PA apartments and family care homes.

(c) Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit. Freezer compartments shall operate at no more than zero degrees Fahrenheit and must be maintained in good condition and without excessive ice build-up.

(d) All food and drink shall be safe for human consumption, clean, wholesome, free of spoilage and prepared and served in a sanitary manner. There shall be at least a two-day supply of food and drink in the group home, supervised apartment and family care residence at all times.

(e) All equipment, surfaces and utensils used in PA group homes, supervised apartments and family care homes for eating, drinking, preparation and storage shall be:

1. Kept clean and in good condition;
2. Thoroughly washed after each use; and
3. In sufficient quantity for the number of occupants.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Rewrote (b), (c), (e) and (f).

Amended by R.2005 d.1, effective January 3, 2004.

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

Rewrote the section.

10:37A-6.11 Occupancy and use of space

(a) Every rooming unit occupied for sleeping purposes by one consumer resident shall contain at least 80 square feet of floor space. Every room occupied for sleeping purposes by more than one consumer resident shall contain at least 60 square feet of floor space for each consumer resident. Doors for privacy shall be provided and maintained. Means

of egress to the rest of the home shall be direct and not through any other bedroom.

(b) At least one-half of the floor area of every habitable room shall have a ceiling height of at least seven feet. The floor area of that part of any room where the ceiling is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(c) Sufficient closet space for storage shall be provided. The storage space shall be uncluttered and sufficient for clothing and supplies.

(d) Rooms shall be of adequate size for the number of people, types of activities and storage.

(e) A room located in whole or in part below the level of the ground may be used for sleeping, provided that the following requirements are met:

1. The walls and floor which are in contact with the earth shall be dampproofed; and
2. All requirements of this section and N.J.A.C. 10:37A-6.12 through 6.22 applicable to habitable rooms shall be satisfied.

(f) In family care homes, consumer residents shall be allowed to share sleeping rooms/accommodations only with other consumer residents.

(g) In group homes, bedrooms above the second floor shall have access to a second means of egress. If the second means of egress is a window, the window shall open onto a fire escape permanently attached to the building.

(h) Basements may be used for storage, heating and water supply equipment, other utilities such as washers and dryers, and as activity rooms. A second means of egress is not required.

(i) The PA shall maintain all residences which it owns, leases or contracts in a manner that ensures the health, safety and welfare of residents.

(j) Each residence shall be sufficiently furnished to allow for all consumer residents to comfortably eat, sleep, relax and to store their clothing. All indoor as well as outdoor furniture shall be safe and in good repair.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Substituted references to consumer resident for references to client throughout; added (h) through (j).

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

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

Rewrote the section.

10:37A-6.12 Uniform Fire Code

The provisions of N.J.A.C. 5:70, the Uniform Fire Code, are incorporated herein by reference.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
Substituted "5:70" for "5:18".

10:37A-6.13 Group homes with five or less residents not in multiple unit dwellings

Group homes with five or less residents not in multiple unit dwellings are subject to the provisions of N.J.A.C. 5:70. Typically, the Department of Community Affairs has determined that these homes are an R-3 use.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.

10:37A-6.14 Group homes with six to 15 residents not in multiple unit dwellings

Group homes with six to 15 residents not in multiple unit dwellings are subject to the provisions of N.J.A.C. 5:70. Typically, the Department of Community Affairs has determined that these homes are an R-2 use.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.

10:37A-6.15 Group homes in structures with multiple dwelling units

Group homes in structures with multiple dwelling units are subject to the provisions of N.J.A.C. 5:70. While some may be classified as group R-3 and R-4, typically, the Department of Community Affairs has determined that these homes are an R-2 use.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.
Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
Rewrote the section.

10:37A-6.16 Family care homes

Family care homes are subject to the provisions of N.J.A.C. 5:70. Typically, the Department of Community Affairs has determined that these homes are an R-3 use.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.

10:37A-6.17 PA apartments

The provisions of N.J.A.C. 5:70 which apply to apartments shall apply to PA apartments.

Amended by R.1999 d.203, effective July 6, 1999.
See: 31 N.J.R. 1179(a), 31 N.J.R. 1805(a).
Changed N.J.A.C. reference.

10:37A-6.18 Smoke and carbon monoxide detectors

(a) Smoke detectors shall be installed at locations as follows:

1. At least one on every level of the dwelling;
2. In stairwells; and
3. In each bedroom.

(b) Smoke detectors shall be tested quarterly. The tests shall be documented.

(c) All licensed residences housing deaf or hearing impaired residents shall be equipped with flashing and bed-vibrating fire alarms and carbon monoxide detectors.

(d) One carbon monoxide detector is required in each dwelling unit outside the sleeping areas.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
In (b), substituted "quarterly" for "monthly"; added (c).
Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
Rewrote the section.

10:37A-6.19 Fire drills

(a) Fire drills shall be conducted in all group homes.

1. Fire drills shall be conducted monthly with at least one drill being conducted on each staff covered shift each quarter.
2. Evacuation should be completed in less than three minutes.
3. For each fire drill, the time, date, participants, problem areas, resolution of problems and timeliness of egress shall be documented by agency staff or an assigned consumer resident.

(b) The Department shall review agency compliance with this procedure annually during the onsite inspection.

Amended by R.2002 d.57, effective March 4, 2002.
See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
In (a), substituted "at least every other month" for "per month"; in (b), defined evening hours as "between 5:00 P.M. and 6:00 A.M."; in (d), added "by agency staff or an assigned consumer resident".
Amended by R.2005 d.1, effective January 3, 2005.
See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).
Rewrote the section.

10:37A-6.20 Kerosene heaters

The use of kerosene heaters is prohibited.

10:37A-6.21 Fireplaces

All fireplaces, if operable and utilized, shall be cleaned and have a documented inspection every two years. If an unused fireplace is to become operable, it shall be cleaned and have a documented inspection prior to use.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
 Rewrote the section.

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

10:37A-6.22 Variances

The PA shall provide the Department with a copy of all applications for variances from the codes cited in N.J.A.C. 10:37A-6.1 and the action taken on them.

Amended by R.2005 d.1, effective January 3, 2005.
 See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

10:37A-7.4 Consumer resident protection

No consumer resident shall be subject to retaliation of any form by the PA because of the filing of any complaint.

Amended by R.2002 d.57, effective March 4, 2002.
 See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).
 Substituted "consumer resident" for "client".

**SUBCHAPTER 7. HEARINGS, APPEALS,
 COMPLAINTS**

10:37A-7.1 Administrative hearings

Administrative hearings regarding final Department actions will be conducted in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

Amended by R.2005 d.1, effective January 3, 2005.
 See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Inserted "regarding final Department actions" following "Administrative hearings".

SUBCHAPTER 8. QUALITY ASSURANCE

10:37A-8.1 Quality assurance

(a) The PA shall develop and implement policies and procedures for an ongoing quality assurance (QA) program that meet the QA requirements for community agencies as articulated in N.J.A.C. 10:37-9. In addition, the PA shall ensure, through its quality assurance program, that group homes, PA apartments, family care homes and supportive housing residences meet the program and facility requirements for licensure as specified in this chapter.

(b) Areas to be monitored and evaluated include the following:

10:37A-7.2 Development of residential complaint procedures

All PAs shall establish internal complaint procedures which will be subject to the Department's review and approval at the time of the initial licensing and annual licensing renewal. Complaint procedures shall allow for a consumer resident of the PA or his or her designee to make known a grievance regarding services provided or which failed to be provided; to seek appropriate redress related thereto; and to have corrective action taken as might be warranted. The policy and procedure for consumer resident complaints shall be posted in a public place at the PA office site and a copy given to each consumer resident upon beginning the program. Any implementation of the complaint procedure shall be documented in the consumer resident's clinical record.

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

Substituted references to consumer resident for references to client throughout

Amended by R.2005 d.1, effective January 3, 2005.
 See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

1. Therapeutic environment and life safety monitoring shall include at least quarterly documentation of safety inspections (including testing of smoke detectors) to assure the health, safety, and welfare of consumer residents in group homes, apartments and family care homes and annual documentation of these inspections in supportive housing residences;

2. Adequacy of planning for more independent living and reduction of service intensity;

i. Barriers to discharge/transfer to a less restrictive living environment shall be reviewed annually for all consumer residents living in group homes and supervised apartments.

ii. These review findings shall be forwarded to the agency quality assurance oversight (or utilization review) committee for review and follow-up and should be available at the time of a licensing review; and

3. Adequacy of intake and admission review process to ensure vacancies are filled expeditiously. Vacancy rates and the reasons for those vacancy rates shall also be monitored.

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

Rewrote (b); deleted (c).

Amended by R.2005 d.1, effective January 3, 2005.
 See: 36 N.J.R. 3248(a), 37 N.J.R. 65(a).

Rewrote the section.

10:37A-7.3 PA ombudsman

The PA's internal complaint procedures shall be consistent with the provisions of N.J.A.C. 10:37-4.6 regarding consumer resident complaint agency ombuds and review procedures, which are incorporated by reference.

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

Substituted "consumer resident" for "client".
 Amended by R.2005 d.1, effective January 3, 2005.

SUBCHAPTER 9. DISCHARGE

10:37A-9.1 General rule regarding the discharge of consumer residents from group homes, supervised apartments, and family care homes

(a) No consumer resident of a licensed group home, supervised apartment, or family care homes shall be prohibited from utilizing or residing in a residence unless:

1. Such action is justified by one of the conditions specified in N.J.A.C. 10:37A-9.2; and

2. The PA follows all of the procedures set forth in N.J.A.C. 10:37A-9.3. A consumer resident may be discharged voluntarily if the PA has complied with the procedures set forth at N.J.A.C. 10:37A-9.3(b).

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

Substituted "consumer resident" for "client" throughout.

Recodified from N.J.A.C. 10:37A-9.4 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-9.1, Criteria for admission, repealed.

10:37A-9.2 Conditions permitting discharge from group homes, supervised apartments and family care homes

(a) A consumer resident of the PA may be discharged from a group home, a supervised apartment or a family care home pursuant to written PA policies which may include only the following conditions for discharge:

1. The PA reasonably concludes that the consumer resident clearly violates the rules set forth in the consumer residential service agreement (N.J.A.C. 10:37A-4.4(a)), which creates a substantial, continuing and immediate threat to the physical safety of other persons, or to the emotional or psychological health of other consumer residents of the residence; provided, however, that the PA shall not discharge such consumer resident on this basis if the consumer resident has been civilly committed.

2. The PA reasonably concludes that the consumer resident's clearly inappropriate behavior renders the residence or the PA out of compliance with any agreements to which the PA is signatory as a lessee or with any applicable law or regulation.

3. The consumer resident repeatedly violates a rule governing consumer resident conduct, which is reasonable both in itself and its application, after the PA delivers to him or her a written notice to cease violating such rule. No such rule shall be the basis for discharging a consumer resident unless it is reflected in a consumer resident services agreement and/or other documents in compliance with these rules.

4. The consumer resident has received the maximum clinical benefit of the services offered by the residence, an appropriate alternative living arrangement (where the consumer resident has sufficient financial resources), other than a shelter, motel or hospital, is available to him or her prior to discharge, and the PA reasonably determines that discharge would be in the consumer resident's best clinical interests.

5. The consumer resident absents himself or herself from the residence for a continuous period of 30 days without providing the PA with notice of intent that he or she will return after the expiration of such 30-day period; provided, however, that continued absence beyond 30 days shall be a condition for discharge if such absence is not in the consumer resident's clinical best interest.

6. The consumer resident has refused necessary and appropriate services offered by the PA pursuant to a properly developed treatment plan; the refusal is contrary to his or her clinical interest; the consumer resident has failed to offer any alternate plan which would be consistent with his or her clinical interest; and an alternative living arrangement other than a hospital is available.

Amended by R.2002 d.57, effective March 4, 2002.

See: 33 N.J.R. 960(a), 34 N.J.R. 1003(a).

In (a), inserted "from a group home, a supervised apartment or a family care home" following "discharged" in the introductory paragraph, and rewrote 1; substituted references to consumer resident for references to client throughout.

Recodified from N.J.A.C. 10:37A-9.5 and amended by R.2005 d.1, effective January 3, 2005.

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

Former N.J.A.C. 10:37A-9.2, Additional criteria for admissions, repealed.

10:37A-9.3 Discharge procedures from group homes, supervised apartments and family care homes

(a) The PA may discharge and remove a consumer resident from a group home, supervised apartment, or a family care home only after complying with all of the procedures set forth in this chapter.

(b) The PA shall comply with the following procedures in all cases prior to discharge, except when the consumer resident cannot be located, or, despite the PA's effort to comply, the consumer resident is unwilling to participate:

1. The PA's assigned clinical staff shall fully inform the consumer resident of and discuss with the consumer resident the factual and clinical basis for discharge, and, if the consumer resident does not agree, approve the discharge;

2. The PA shall offer to utilize the consumer resident Complaint/Agency Ombuds Procedure, N.J.A.C. 10:37-4, to attempt to resolve any problems; and

3. The PA's assigned clinical staff shall formulate a written discharge plan and document all efforts to obtain appropriate alternate living arrangements and appropriate alternate treatment modalities.