

In (c): added "maximum" to six-month period.
 In (f): deleted language setting license fee.

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

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

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

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

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

Amended by R.1990 d.359, effective July 16, 1990.
 See: 22 N.J.R. 756(a), 22 N.J.R. 2164(b).
 Recodified from N.J.A.C. 10:44B-1.4.
 Stylistic changes.

SUBCHAPTER 2. ADMINISTRATIVE POLICIES AND PRACTICES

10:44B-2.1 Licensee requirements

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

1. Except as otherwise provided in the Rehabilitated Offenders Act, no license will be issued to any person who, at any time, has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offense(s). Additionally, no license shall be issued for a residence in which any occupant has been adjudged civilly or criminally liable for abuse of another person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Death of an individual or a boarder;
2. Admission of the individual or boarder to a hospital or treatment in an emergency room;
3. Emergency removal of an individual or a boarder;
4. An individual or boarder missing for more than two hours, or an individual's returning from a home or other visit two hours or more past scheduled time;
5. Injuries to an individual or boarder involving sutures, fractures, lost teeth, etc.;
6. Any fire requiring the services of a fire department; or
7. The disruption of any vital utility, for example, heat, water, electricity, telephone, etc.

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

1. Any disruption of day program;
2. The grossly negative impact of any individuals' visits to or with family or friends;
3. An increase in the number of family members in the residence; or

4. Any change of the licensee's telephone number.

(i) The use of unapproved mechanical restraints or isolation shall be prohibited.

(j) There shall be no charge for any services to the individual beyond those contracted and actually provided.

(k) No licensee or his or her relative shall be the legal guardian, representative payee or beneficiary of an insurance policy for any individual residing in the licensee's residence.

(l) The licensee shall be required to complete all courses of instruction that are required or deemed necessary by the placing agency and/or licensing agency.

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

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

Added (d)2i.-iv. setting forth responsibilities of alternate.

Added (e) and recodified (e)-(k) as (f)-(l).

Added (f)3iii. regarding elder abuse and added (h)4.

In (i): added "unapproved" to describe mechanical restraints or isolation.

10:44B-2.2 Placements and departures

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

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

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

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

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

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

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

1. If an individual, because of a changed physical or mental condition, is no longer suitable for the living arrangement, he or she shall not be maintained in the residence after consultation between the licensee and the placing agency representative.