

Department Of Human Services Information Bulletin

To: Agency Providers, Distribution
From: Kathy Patrick, Director of the Office of Licensing
Date: 07/31/18
Subject: **Policy and procedures for the Stephen Komninos' Law**

With the implementation of N.J.S.A. 30:6D-9.5 and 9.6, "Stephen Komninos' Law", effective May 1, 2018, provider agencies are required to have related policies and procedures.

Background

The standards for *Community Residences for Individuals with Developmental Disabilities*, **N.J.A.C. 10:44A**, and for *Community Residences for Persons with Head Injuries*, **N.J.A.C. 10:44C**, both require at 2.2(a)3i-v., that each procedure include the elements of a descriptive title, purpose statement, sequential steps, staff responsibilities at each step and reporting and recording requirements.

Guidelines

The Office of Licensing requires that the procedures related to the implementation of the Stephen Komninos' Law include the following elements, at a minimum:

Drug Testing:

1. A person applying for employment as a direct care staff member shall consent to and undergo drug testing for controlled dangerous substances as a condition of employment.
2. If a person applying for employment tests positive for the unlawful use of any controlled dangerous substance, or refuses to submit to drug testing; the person shall be removed from consideration for employment.
3. Direct care staff members employed at a licensed program shall be subject, during the course of employment, to random drug testing for controlled dangerous substances.
4. A direct care staff member shall additionally be required to undergo drug testing for controlled dangerous substances at any time, if the direct care staff member's immediate supervisor has reasonable suspicion to believe that the staff member is illegally using a controlled dangerous substance.
 - a. The supervisor shall articulate these suspicions of the staff member's visible impairment or professional misconduct which relates adversely to patient care or safety to an immediate supervisor in the form of a written request for a random drug test.
 - b. If the immediate supervisor concurs, that supervisor shall notify the person who is responsible for the overall operation of the program, facility, or living arrangement, and request written approval from the overall head of the facility to order the direct care staff member to undergo drug testing.
 - c. Drug testing conducted pursuant to reasonable suspicions shall not be ordered without the written approval of the person who is responsible for the overall operation of the program.
5. If a direct care staff member tests positive for the unlawful use of any controlled dangerous substance, the direct care staff member may be either referred for treatment services or terminated from employment.
6. A direct care staff member who refuses to submit to drug testing shall be terminated from employment.
7. Maintain all documentation related to drug testing of employees.

Exchange of Parent/Guardian Information:

1. Contact information shall be requested from parents and guardians and they shall be advised that, if they agree, the licensee will exchange the information with other parents and guardians of individuals residing in the same residential program, in order to provide an opportunity to share experiences about the individuals.
2. A signed acknowledgement of their agreement shall be obtained.
3. Documentation of the dissemination of the information shall be maintained.
4. When there is movement among the residents in the community residence, applicable contact information shall be updated by the licensee and redistributed.