

[N.J.A.C. 10:44C](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 2, January 16, 2024

NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44C. STANDARDS FOR COMMUNITY RESIDENCES FOR PERSONS WITH HEAD INJURIES

Title 10, Chapter 44C -- Chapter Notes

Statutory Authority

CHAPTER AUTHORITY:

[N.J.S.A. 30:11B-1](#) et seq., specifically 30:11B-4.

History

CHAPTER SOURCE AND EFFECTIVE DATE:

Effective: November 14, 2023.

See: [55 N.J.R. 2551\(a\)](#).

CHAPTER HISTORICAL NOTE:

Chapter 44C, Standards for Community Residences for Persons with Head Injuries, was adopted as R.2004 d.31, effective January 20, 2004. See: [35 N.J.R. 1337\(a\)](#), [36 N.J.R. 533\(a\)](#).

Chapter 44C, Standards for Community Residences for Persons with Head Injuries, was readopted as R.2009 d.257, effective July 17, 2009. See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 44C, Standards for Community Residences for Persons with Head Injuries, was scheduled to expire on July 17, 2016. See: [43 N.J.R. 1203\(a\)](#).

Chapter 44C, Standards for Community Residences for Persons with Head Injuries, was readopted as R.2017 d.023, effective January 10, 2017. See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Chapter 44C, Standards for Community Residences for Persons with Head Injuries, was readopted, effective November 14, 2023. See: Source and Effective Date.

Annotations

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Research References & Practice Aids

CHAPTER EXPIRATION DATE:

Chapter 44C, Standards for Community Residences for Persons with Head Injuries, expires on November 14, 2030.

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[N.J.A.C. 10:44C-1.1](#)

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§ 10:44C-1.1 Purpose and scope

- (a) The purpose of this chapter is to establish specific requirements for the provision of residential services to persons with head injuries who reside in group homes and supervised apartments.
- (b) Group homes and supervised apartments designed specifically to meet the needs of individuals with developmental disabilities are licensed pursuant to [N.J.A.C. 10:44A](#).
- (c) Community care residences and owner-occupied living arrangements that are also community residences for individuals with developmental disabilities, are licensed pursuant to [N.J.A.C. 10:44B](#).
- (d) If none of the persons with head injuries at a particular place of residence requires personal guidance, as determined by the transdisciplinary team, licensing shall be available on a strictly voluntary basis, in recognition of a person's right to choose independent living.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (b), substituted "individuals with developmental disabilities" for "developmentally disabled individuals"; and in (d), substituted "injuries" for "injury".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

Annotations

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§ 10:44C-1.2 Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect and to this end the provisions of this chapter are severable.

Annotations

Notes

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[N.J.A.C. 10:44C-1.3](#)

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§ 10:44C-1.3 Definitions

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

"Abuse" means wrongfully inflicting or allowing to be inflicted, physical abuse, sexual abuse, or verbal or psychological abuse or mistreatment by a caregiver upon a person served.

"Adaptive behavior" means behavior that in a cultural or functional context indicates the ability of a person served to adjust to environmental demands in a fashion that benefits the person served while respecting the rights of those with whom he or she comes in contact.

"Advanced practice nurse," also known as a nurse practitioner (see N.J.S.A. 45:11-46c), is defined at [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 or ordering certain medications, treatments, and devices (see [N.J.S.A. 45:11-49](#)).

"Advocacy" means one or more of the following services:

1. Personal advocacy: one-to-one advocacy to secure the rights of people with head injuries and their families;
2. Systems advocacy: seeking to change a policy or practice that affects people with head injuries;
3. Legislative advocacy as permitted by law: seeking legislative enactments that would enhance the rights and/or opportunities for people with disabilities or persons with head injuries;
4. Legal advocacy: using the judicial and quasi-judicial systems to protect the rights of persons with head injuries;
5. Self-advocacy: advocacy of a person served on his or her own behalf.

"Affiliation" means a relationship, usually signified by a written agreement, between two organizations, under the terms of which one organization agrees to provide specified services and personnel to meet the needs of the other organization, usually on a scheduled basis.

"Agency" means the licensee and his or her staff responsible for the care and safety of the persons served in each community residence for persons with head injuries licensed under this chapter.

"Approved" means approved by the Office of Licensing.

"Assessment" means the process of identifying the strengths and needs of a person served, and the conditions that impede or promote development. There are two levels of assessment: screening and evaluation.

"Assistive device" means any implement or mechanism that enables a person with head injuries to increase, maintain, and/or improve his or her functioning capabilities.

§ 10:44C-1.3 Definitions

"Assistive technology" means the use of commercial or custom-designed devices, modifications, and/or related technical services to increase, maintain, and/or improve the functional capabilities of persons with head injuries who have resulting disabilities.

"Audiology" means services provided by an audiologist who meets applicable legal requirements for the provision of audiology services and who meets the academic and work experience standards established by the American Speech-Language and Hearing Association for the Certificate of Clinical Competence in Audiology.

"Authorization to operate" means official correspondence issued by the Office of Licensing to permit a licensee to operate beyond the license expiration date, because of a delay in completing a licensing inspection.

"Behavior Support Plan" means a written, approved plan that employs techniques to decrease maladaptive behavior and increase adaptive behavior.

"Business manager" means the staff member charged with the responsibility of providing oversight of business practices, including budgets, purchasing, accounting and personnel practices.

"Capacity" means the maximum number of persons with head injuries who may reside in the licensed residence.

"Case manager" means the person responsible for the development, coordination, and overall management of the individual treatment plan for each person served, and who is employed by the licensee. There may also be an external case manager, such as one acting on behalf of an insurance company, managed care organization, or other payor source.

"Commensurate wage" means a wage that is proportionate to the prevailing wage paid to similarly experienced workers in the geographic vicinity of the person's place of employment for essentially the same type of work based on a comparison of the quantity of work produced by the worker with a head injury and a resulting disability with those of work produced by similarly experienced workers. This wage is to be determined by time studies as approved by the New Jersey Department of Labor.

"Community agency" means an agency licensed by the Department to provide services to persons with head injuries.

"Community agency head" means the person responsible for the overall operation of the agency under contract with or licensed by the Department. This may be the licensee, owner, or executive director.

"Community residence for persons with head injuries" means a community residential facility licensed pursuant to [N.J.S.A. 30:11B-1](#) et seq., providing food, shelter, personal guidance, and integration with the community, under such supervision as required, to not more than 15 persons with head injuries, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, halfway houses, supervised apartment living arrangements, and hostels. Such residences shall not be located on the grounds or immediately adjacent to public institutions serving a similar population. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act," P.L. 1971, c. 136 ([N.J.S.A. 26:2H-1](#) et seq.).

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

"Critical information" means information that must be communicated from shift to shift in order to ensure the health, safety, and welfare of the persons served, and includes, but is not limited to: unexpected behavioral outbursts, unexpected or unexplained mood swings on the part of persons served, the administration of PRN medication, problems with transportation, unexpected visits to the doctor or hospital, routine visits to the doctor requiring follow up for a reportable communicable disease, and missed medical appointments.

"Deficiency" means that an applicant or licensee has not complied with a rule contained in this chapter.

"Department" means the Department of Human Services.

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"Dignity of risk" means:

1. Providing a person served with new and untried experiences;
2. Assisting the person served when he/she chooses among possible courses of action in trying new experiences;
3. Assisting the person served in determining the risks and consequences;
4. Assessing the risks and consequences on behalf of the person served;
5. Assuring that the person served and the legal guardian (if any) understand such risks and consequences; and
6. Defining, documenting and providing the means of support necessary to establish the allowable limits of the risk, assuring thereby that the person served is as safe as possible at all times.

"Direct support professional" means any licensee and any full time, part time, temporary employment services, or contract employee at a community residence for persons with head injuries present in the living or program area who work directly with the person served. For the purpose of this definition, this term does not include housekeepers, food service workers, maintenance workers, clerical staff, or volunteers.

"Division" means the Division of Developmental Disabilities.

"Evaluation" means an assessment process performed by qualified professionals according to procedures that incorporate the use, when possible, of standardized tests and measures.

"Eviction" means the legal process of officially removing a tenant from the premises.

"Executive leadership" means the person or persons to whom the licensee may delegate administrative authority over the licensee's community based programs regulated or under contract with the Department. A person who functions as executive leadership may also be referred to as an executive director.

"Exploitation" means the act or process of a caregiver using a person served or his or her resources for another person's profit or advantage. (See [N.J.S.A. 30:6D-73](#) et seq. and [N.J.A.C. 10:44D](#))

"Falsification" means intentionally making a record or a document false, giving a false appearance to a record or a document, tampering with a record or a document.

"Fiduciary capacity" means that the licensee acts with a high degree of good faith when handling money entrusted to the licensee by persons served.

"Fire official" means a person certified by the Commissioner of the Department of Community Affairs, and appointed or designated by the appointing authority of a local enforcing agency to direct the enforcement of the Uniform Fire Safety Act, and any certified fire inspector working under the direction of the fire official.

"Full license" means the authorization to operate based upon substantial compliance with this chapter. A full license shall be effective for up to one year.

"Functional literacy" means the ability to read, comprehend, and assimilate the oral and written language and numerical information required to function in a specific work or community environment, with or without accommodation strategies. Accommodation strategies may include, but are not limited to, picture instructions or calculators, computers and/or audiovisual tapes.

"Group homes" means living arrangements operated in residences leased or owned by the licensee, which provide the opportunity for persons served to live together in a home, sharing in chores and the overall management of the residence. Staff in a group home provide supervision, training, and/or assistance in a variety of forms and intensity as required to assist the persons served as they move toward independence and integration with the community.

"Guardian" means a person or agency appointed by a court of competent jurisdiction who is otherwise legally authorized and responsible to act on behalf of a minor or incompetent adult to assure provision for the health, safety, and welfare of the person and to protect his or her rights.

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"Head injury" means, for the purposes of this chapter, traumatic brain injury.

"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 group to the CEO or executive director on issues directly or indirectly affecting the rights of individuals served.

"Imminent danger" means a situation that could be expected to cause a serious risk to the health, safety or welfare of a person served.

"Individual treatment plan" (ITP) means a written plan of intervention and action developed by the transdisciplinary team in a person-centered planning process. It describes the methodologies, strategies, and programs that will be employed and monitored to provide habilitation or rehabilitation to enable persons served to acquire or restore functional skills to the highest possible level of performance, within a reasonable time period. The ITP shall also document barriers to implementation and goal achievement. The ITP shall be reviewed and modified on a regular and as-needed basis, but no less than annually. For a person who makes only specific services requests, the ITP is a service plan that addresses only those specific requests. The ITP may be appealed in accordance with licensee procedure.

"Informed consent" means a formal expression, oral or written, of agreement with a proposed course of action by someone who has the capacity, the information and the ability to render voluntary agreement.

"Integration" means participation in the mainstream of community life, that persons served maintain social relationships with family members, peers, and others in the community who do not have head injuries. In addition, integration means that persons served have equal access to and full participation in community resources and activities available to the general public.

"Interferon Gamma Release Assay" (IGRA) means a blood test to identify or rule out infection with *M. tuberculosis*. Only FDA-approved IGRAs, such as QuantiFERON-TB Gold or T-Spot.TB are acceptable.

"License" means the authorization issued by the Department of Human Services to operate a community residence providing services to persons with head injuries.

"Licensee" means the person, partnership, or corporation responsible for providing services associated with the operation of a community residence(s).

"Maladaptive behavior" means behavior that is injurious or destructive to self, others, or the environment, that demonstrates a reduction in or lack of ability that is necessary to adjust to environmental demands.

"Mental health program" means a service designed to develop, support, and maximize the quality of life and functional abilities of persons served with severe and/or persistent and diagnosed psychiatric disabilities, as a result of, or in addition to the head injury.

"Mini-team review" means a modified version of a complete transdisciplinary team, the composition of which shall always include the person served, and/or his or her guardian, and/or personal representative; the case manager; and the individual in the discipline(s) knowledgeable in the issues for review.

"Negative licensing action" means an action, which imposes a restriction on a licensee and may include suspension of admissions, issuance of a provisional license, a reduction in the licensed capacity, a denial of the license, a non-renewal of the license, a suspension of the license, or a revocation of the license.

"Neglect" means any of the following acts by a caregiver on a person served: willfully failing to provide proper and sufficient food, clothing, maintenance, medical care, or a clean and proper home; or failure to do, or permit to be done, any act necessary for the well-being of a person served. (See [N.J.S.A. 30:6D-73](#) et seq. and [N.J.A.C. 10:44D](#))

"Non-ambulatory person" means a person served not capable of independent ambulation.

"Occupant" means any person lawfully occupying or sharing occupancy of a unit of dwelling space on a regular basis or for more than 30 consecutive days.

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"Office of Investigations (OI)" means that component of the Department responsible to investigate serious unusual incidents in community programs licensed, contracted, or regulated by the Department.

"Office of Licensing" means the licensing agency, that component of the Department responsible to inspect and license programs under this chapter.

"Owner" means the person, corporation or association who must comply with [N.J.S.A. 30:11B-1](#) et seq. and this chapter. The owner may be responsible for day-to-day operations or may employ an executive leadership, if so desired or if required by the qualifications associated with the executive leadership title.

"Payment authority" means a person, a private corporation (usually an insurance company) or public agency (local, State or Federal government) that provides funding of the residential placement and related services for care of the person served.

"Person served" means a person with head injury receiving services in a community residence for persons with head injuries.

"Person with head injury" means a person with traumatic brain injury.

"Personal advocate" means a person selected by a person served to provide assistance or act on his or her behalf in non-legal matters.

"Personal care" means services and supports including, but not limited to:

1. Bathing, hair care, skin care, shaving, nail care, and oral hygiene;
2. Alimentary procedures to assist one with eating and bowel and bladder management;
3. Positioning;
4. Care of adaptive personal care devices; and
5. Feminine hygiene.

"Personal guidance" means the assistance provided to a person with head injury in activities of daily living and/or personal care because he or she routinely requires help completing such activities of daily living and/or cannot direct someone to complete such activities when physical disabilities prevent self-completion; or there is a documented health or mental health problem requiring supervision of the person for the protection of the person or others.

"Placing agency" means the person or payment authority that is responsible for selecting and/or funding a program.

"Plan of correction" means a written response outlining actions taken or to be taken to address deficiencies cited in a licensing inspection report.

"Power of attorney (POA)" means a written document that grants a person (other than the individual granting the permission), the authority to act as an agent for the grantor, within the parameters of duties and powers specified in the document.

"Process" means activities that are systematically and intentionally linked in order to produce a service.

"Program description" means a document submitted to obtain a license from the Department. A program description includes a detailed description of services provided to persons with head injuries and staff coverage, and is reviewed as part of the licensing inspection process. The program description shall be amended to reflect major changes in the provision of services.

"Protecting rights" means ensuring that the rights of a person served are not ignored or infringed upon. This affirmation and protection is reflected in all aspects of the service process, from service initiation to discharge and follow up.

"Provisional license" is a negative licensing action issued to prompt corrective actions in existing community residences. A provisional license shall be effective for less than one year.

"Rehabilitation/habilitation" means the process of providing those comprehensive services deemed appropriate to the needs of a person with a head injury in a coordinated manner in a program designed

§ 10:44C-1.3 Definitions

to achieve objectives of improved health, welfare, and the realization of the person's maximum physical, cognitive, social, psychological and vocational potential.

1. Rehabilitation services are necessary when the person with a head injury is in need of assistance in order to reacquire skills and it is beyond the person's personal capacities and resources to achieve his or her maximum potential for personal, cognitive, social, and economic adjustment and beyond the services available in the person's usual daily experience.
2. Habilitation is closely related to and is conceptually and programmatically a part of rehabilitation. The range of functional goals is the same as the range of services that shall be provided for the person to attain the goals. The chief difference is the condition or nature of the person served. Habilitation refers to the process that involves persons served who need to acquire particular skills and/or functional abilities they did not possess previously, such as independent living skills or vocational skills, while rehabilitation refers to the process that involves persons served who need to re-acquire or maximize lost skills and/or functional abilities.

"Rehabilitative treatment environment" means a rehabilitation setting that provides for:

1. The provision of a range of choices, with personal preference, self-determination and dignity of risk receiving full respect and consideration;
2. A variety of social interactions that promote community integration;
3. An environment of peer support and mentorship;
4. Professional team involvement and competence; and
5. A physical environment conducive to enhancing the functional abilities of the persons served.

"Relocate" means providing accommodations which enable a person to evacuate the premises within three minutes, if prior accommodations could not be evacuated by the person within three minutes.

"Residence" means a community residence for persons with head injuries.

"Roommate" means the person with whom one shares a bedroom.

"Self-advocacy group" means a group of persons with head injuries who meet on a regular basis (such as at house meetings) to discuss common goals, issues, needs, and wishes. With the assistance of a facilitator, if needed, a self-advocacy group can serve as a united voice for persons with head injuries.

"Substantial non-compliance" means:

1. The violation by an owner, applicant, licensee, or executive leadership of the laws of the State of New Jersey pertaining to or governing community residences for persons with head injuries;
2. One or more licensing requirements have been left unmet and the unmet licensing requirements directly endanger the health, safety, or well-being of a person served;
3. The owner, applicant, licensee or executive leadership refuses to cooperate with Department personnel in gaining admission to a residence or in conducting an investigation or inspection;
4. The owner, applicant, licensee or executive leadership has failed to adhere to the approved program description;
5. The owner, applicant, licensee or executive leadership has falsified any information in order to obtain a license;
6. The owner, applicant, licensee or executive leadership has refused to furnish the Department with files, reports, or records as required by this chapter; or
7. The owner, applicant, licensee or executive leadership has failed to act in a fiduciary capacity in order to protect the funds of persons served.

§ 10:44C-1.3 Definitions

"Supervised apartments" means apartments that are occupied by persons served and leased or owned by the licensee. Staff provide supervision, guidance, and training, as needed, in activities of daily living as defined by the needs and targeted future goals of the person served, in accordance with the requirements of this chapter. Up to four persons served may reside in a single apartment.

"Support" means activities, materials, equipment or other services designed and implemented to assist the person served. Examples include, but are not limited to, instruction, training, assistive technology, and/or removal of architectural barriers. Support also includes positive interactions between the person served and person(s) significant to the person served.

"Transdisciplinary Team" (TDT) means a group that shall be comprised of the person served and all personnel directly involved in the person-centered planning process of defining the person's capabilities and needs, in refining and meeting all of the person's goals and objectives, and in the provision of care or supervision. The team shall also include, as needed, other significant persons such as employers and those disciplines and persons involved in the provision of care or supervision. Team membership shall represent a variety of disciplines, to the extent possible. The team members shall share their knowledge and expertise in order to facilitate the assessment, planning, and implementation of the person's program. There shall be interaction and integration among the team members to ensure that the achievement of the individual's goals is facilitated. Family members, peers, and advocates shall participate at the discretion of the person served or his or her legal guardian.

"Traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma.

"Uniform Construction Code" means [N.J.S.A. 52:27D-119](#) et seq. and [N.J.A.C. 5:23](#).

"Uniform Fire Safety Act" means [N.J.S.A. 52:27D-192](#) et seq., and the related codes adopted pursuant thereto.

"Unusual incident" means an event involving a person served 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 persons served, and/or employees; or a newsworthy incident.

"Variance" means written recognition by the Department that the licensee has complied with the intent of a standard in a Department-approved alternative manner, in accordance with [N.J.A.C. 10:44C-1.10](#).

"Volunteer" means an unpaid person who supports and supplements programs and services. A volunteer may be an individual, or a member of an organized group.

"Waiver" means the temporary suspension of a standard that is granted in writing by the Office of Licensing.

"Willful non-compliance" means that action or non-action of an applicant or licensee who has knowledge of the violations of licensing rules and/or terms of the license, has been advised of the consequences of not achieving compliance and has not achieved compliance after being given an adequate opportunity to do so.

History

HISTORY:

Administrative correction.

See: [36 N.J.R. 1206\(a\)](#).

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

§ 10:44C-1.3 Definitions

In definition "Regional Assistant Director's Office", deleted the last sentence and paragraphs 1 through 3.

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote the section.

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote definitions "Abuse", "Advanced practice nurse", "Community residence for persons with head injuries", "Full license", "Group homes", "Individual treatment plan", "Negative licensing action", "Personal guidance", "Program description", "Supervised apartments", "Transdisciplinary Team"; added definitions "Community agency", "Community agency head", "Eviction", "Provisional license", "Roommate"; deleted definitions "Conditional license", "Initial license", "Licensing agency"; and substituted definition "Direct support professional" for "Direct service staff".

Annotations

Notes

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[N.J.A.C. 10:44C-1.4](#)

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§ 10:44C-1.4 Application for a license

(a) Information may be obtained from the Department as follows:

1. An application for a license may be obtained from:
Department of Human Services
Office of Licensing
PO Box 707
Trenton, NJ 08625-0707

(b) No community agency licensed by the Department shall pay, or contract, for any agency head until the Department has determined that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, that would disqualify the community agency head from such employment, pursuant to [N.J.S.A. 30:6D-63](#) through 69 (criminal history background checks).

1. No prospective community agency employee or community agency head who refuses to consent to, or cooperate in, securing of a criminal history record background check shall be considered for employment or licensure.
2. No license shall be issued to any applicant or licensee who has been adjudged civilly or criminally liable for abuse of a person served by the Department or placed in a community residence regulated by this chapter.
3. When the agency head is not the owner or licensee, the owner(s) or licensee shall also comply with a criminal history background check.

(c) An application for licensure as an operator of a community residence for persons with head injuries shall be submitted to the Office of Licensing.

1. The application shall be composed of the following:
 - i. Identification of all owners that comprise the licensee;
 - ii. A table of organization including titles, which shows reporting structure;
 - iii. Curriculum vitae for the applicant and executive leadership;
 - iv. Documentation of applicant's history of service provision to persons with head injuries for a minimum of 24 months, including survey or audit results and plans of correction;
 - v. A description of the applicant's or executive leadership's experience in providing services to persons with head injuries that demonstrates compliance with [N.J.A.C. 10:44C-2.5\(a\)](#)1 and 2;
 - vi. Documentation that the business is incorporated or otherwise authorized to do business in the State of New Jersey;

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- vii.** A list of the members of the governing body (for example, board of directors/trustees), their occupations, addresses and telephone numbers;
 - viii.** At least three professional references each, for the applicant and executive leadership;
 - ix.** A record of penalties or fines assessed against the program(s) and its ownership relative to the operation of the program(s) by any national, state, county, or local agency or court of competent jurisdiction, survey results, and plans of correction, if any, resulting from accrediting authorities, that may reasonably be considered relevant to the safety of persons served in a program and the community in which it is located; and
 - x.** An independent examination of the applicant's financial status, obtained from a certified public accountant, for the two most recent fiscal years, with the management letters.
- (d)** An application shall be considered complete when the application is filled out in its entirety and all requested information on the application has been provided, and compliance with (b) above, for the community agency head, has been determined.
- 1.** If all required elements are not received within 45 days of the initial submission, the application may be denied, and the applicant shall be prohibited from re-applying for six months, unless the Department allows such resubmission for good cause. After the six-month period has elapsed, the applicant may submit to the Department a new application for licensure.
- (e)** The Office of Licensing shall initially review the materials to determine:
- 1.** Whether all required elements have been submitted;
 - 2.** The applicant's qualifications;
 - 3.** The applicant's apparent ability to comply with this chapter;
 - 4.** The applicant's apparent ability to deliver services in accordance with its stated goals and purposes; and
 - 5.** Potential barriers to licensing.
- (f)** The Office of Licensing may employ the services of any qualified professional, as necessary, in the review process in order to conduct a thorough and valid review of the program, supports, and services to be rendered.
- (g)** Within 60 calendar days of the receipt of the completed application, the applicant shall be advised in writing of its approval or non-approval.
- (h)** Upon a determination that an application is denied, the Office of Licensing shall notify the applicant in writing of the reason through certified mail, return receipt requested.
- 1.** The applicant may submit a new application after six months.
- (i)** The licensee shall be responsible for the overall operation of each community residence for persons with head injuries, including the arrangement whereby executive leadership is delegated to a person who is employed to oversee the day-to-day operation.
- (j)** No license shall be issued to any person who has previously been denied a license by any State agency due to substantial noncompliance or due to violation of any State or Federal law pertaining to the operation of a community residential facility.
- (k)** No license shall be issued to, or held by any person who, in a final determination by a court of record or by the Division on Civil Rights, has been found to discriminate against any person on the basis of race, color, creed, gender, national origin, ancestry or disability.
- (l)** No person shall own or operate a community residence for persons with head injuries without authorization from the Office of Licensing.

§ 10:44C-1.4 Application for a license

(m) Each community residence for persons with head injuries shall be subject to inspection or investigation by the Department as deemed necessary without limitation or notice to allow for an inquiry into the facility's records, equipment, sanitary conditions, accommodations and management of the persons served.

(n) Each community residence for persons with head injuries shall be subject to an annual on-site inspection by the Office of Licensing.

(o) Upon approval of the completed application, an applicant shall submit a procedure manual to the Office of Licensing, which shall be approved upon determination that it meets the requirements at [N.J.A.C. 10:44C-2.2](#).

(p) Upon approval of the manual, the applicant shall submit job descriptions for each position included on the table of organization in the procedure manual, and which comply with the requirements set forth in this chapter, for review and approval.

(q) A program description shall be submitted to the Office of Licensing in the approved format for each proposed community residence.

History

HISTORY:

Administrative correction.

See: [38 N.J.R. 2827\(c\)](#).

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

Rewrote (a).

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the address in (a)1, substituted "Office of Licensing" for "Developmental Disabilities Licensing"; deleted (a)2; in the introductory paragraph of (c), in (c)1v, and in (h), substituted "injuries" for "injury"; in the introductory paragraph of (c), of (d), and of (g), and in (e) and (f), substituted "Office of Licensing" for "licensing agency"; in (e), inserted a comma following "supports"; and in (h), inserted a comma following "families".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

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[N.J.A.C. 10:44C-1.5](#)

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§ 10:44C-1.5 Requirements for initial licensure

- (a) Upon approval of the program description, and upon approval of the licensee's policy and procedure manual, the Office of Licensing shall conduct an on-site initial inspection of the residence to determine that it will adequately provide for the health, safety, and welfare of the persons served.
- (b) Prior to the issuance of an initial license, the following, at a minimum, shall be available:
1. Documentation which demonstrates compliance with all certificate of occupancy (CO), certificate of continued occupancy, temporary certificate of occupancy, or certificate of habitability requirements.
 - i. If the local enforcing authority does not have a process for issuing such a certificate, documentation of such shall be obtained.
 2. Documentation of any required inspection by the fire official and registration with the Department of Community Affairs;
 3. An emergency evacuation plan;
 4. A first aid kit that meets the requirements of [N.J.A.C. 10:44C-5.1\(g\)](#);
 5. Functioning utilities, including an operable telephone;
 6. If the building is not serviced by a public water supply, written approval from the local health department that the water supply is safe for human consumption;
 7. Documentation from a licensed testing entity that any septic system is functioning adequately;
 8. Furniture and food for each person served;
 9. A staff schedule that conforms to the program description approved by the Office of Licensing in accordance with [N.J.A.C. 10:44C-1.4](#);
 - i. The full names of staff shall be written on the staff schedule.
 10. A copy of the deed or lease; and
 11. Documentation that all necessary residential and vehicle insurance is in force.
- (c) The license shall document the location of each residence and shall specify the maximum number of persons with head injuries that may occupy the residence, excluding licensee's staff.
1. A room or rooms may be used as an office for exclusive use by staff.
 - i. Such rooms shall not be utilized for sleeping purposes for any person served, staff member, or any other person unless temporary approval is granted by the Office of Licensing due to an emergent problem.
 - ii. Any room identified as office space shall not be included in determining the capacity of the home.

§ 10:44C-1.5 Requirements for initial licensure

2. A room may be utilized exclusively by staff for sleeping purposes as part of the staff coverage plan, if previously approved by the Office of Licensing.
- (d) The Department shall issue a full license, which is not transferable to any other person, corporation, agency, or address, effective from the date of the on-site inspection, upon compliance with (a) and (b) above.
1. The applicant or licensee shall submit a plan of correction regarding identified deficiencies cited in the inspection report within 30 days after notification to the applicant or licensee.
- (e) If licensure is not approved, an applicant or licensee shall submit a plan of correction regarding identified deficiencies within 30 days after notification to the applicant or licensee.
1. Following receipt of the plan of correction, the Office of Licensing shall conduct an on-site review to verify the corrective action taken.
- (f) The licensee shall not operate the program or allow persons to be placed in the residence prior to approval by the Office of Licensing.
- (g) Each license issued to a licensee shall remain the property of the Department. If the Office of Licensing suspends or revokes a license, the licensee shall, upon notification, return the license to the Office of Licensing.
- (h) Once issued, a license shall not be assignable or transferable, and shall be immediately void if the program ceases to operate, relocates, or its ownership changes.

History

HISTORY:

The following annotation applies to [N.J.A.C. 10:44C-1.5](#) prior to its repeal by R.2023 d.005:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Substituted "Office of Licensing" for "licensing agency".

The following annotation applies to [N.J.A.C. 10:44C-1.5](#) subsequent to its recodification from [N.J.A.C. 10:44C-1.6](#) by R.2023 d.005:

Recodified from [N.J.A.C. 10:44C-1.6](#) and amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Section was "Issuance of an initial license". Rewrote the section. Former [N.J.A.C. 10:44C-1.5](#), Procedure manual, repealed.

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§ 10:44C-1.5 Requirements for initial licensure

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[N.J.A.C. 10:44C-1.6](#)

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§ 10:44C-1.6 Renewal of a license

(a) Full licenses shall remain in effect, unless otherwise specified by the Office of Licensing by the issuance of a provisional license, a non-renewal of license, suspension of license, or revocation of license. The renewal of a license shall be based upon the results of a re-inspection of the residence.

1. As applicable, the Office of Licensing shall provide an authorization to operate upon the request of the licensee, under exigent circumstances.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote the section.

Recodified from [N.J.A.C. 10:44C-1.7](#) and amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

Former [N.J.A.C. 10:44C-1.6](#), Issuance of an initial license, recodified to [N.J.A.C. 10:44C-1.5](#).

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[N.J.A.C. 10:44C-1.7](#)

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§ 10:44C-1.7 Plan of correction

- (a) The licensee shall submit a plan of correction regarding deficiencies cited in the inspection report within 30 days or, in accordance with a shorter time frame as established by the Office of Licensing.
1. A shorter time frame shall be established by the Office of Licensing in those instances where prompt remediation of a deficiency is required in order to protect the health, safety, welfare, and rights of persons served.
- (b) Following receipt of the plan of correction, the Office of Licensing shall conduct an unannounced on-site review to verify the corrective action taken for all deficiencies that pose a risk to the life and safety of the residents.
1. Following an on-site review, the findings of the Office of Licensing regarding the licensee's plan of correction shall be provided to the licensee. These findings shall indicate whether each deficiency is corrected, partially corrected, or not corrected, or whether further review is required by the Office of Licensing.
 - i. Should there be continuing deficiencies, or if new deficiencies are noted that document substantial or willful noncompliance, the findings shall indicate that a second plan of correction is required or that the Office of Licensing may impose a negative licensing action.
 2. If a second plan of correction is required by the Office of Licensing, the licensee shall submit the plan of correction within the time frame specified by the Office of Licensing.
- (c) Following receipt of the second plan of correction, the Office of Licensing may conduct an on-site review to verify the corrective action taken.
1. Subsequent to an on-site review, the findings of the Office of Licensing regarding the licensee's second plan of correction shall be provided to the licensee. These findings shall indicate whether or not each deficiency is corrected.
 - i. Should there be continuing deficiencies that the licensee has stated in the plan of correction had been corrected, or if other deficiencies are noted that jeopardize the health, safety, welfare, and rights of the persons served, or which document substantial or willful noncompliance, the Office of Licensing shall impose a negative licensing action.
- (d) The Office of Licensing may, when process or systemic problems are identified, require the licensee to submit an action plan and results of the implementation of the action plan, as required at [N.J.A.C. 10:44C-2.2\(b\)](#)23v.

History

HISTORY:

§ 10:44C-1.7 Plan of correction

New Rule, R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Former [N.J.A.C. 10:44C-1.7](#), Renewal of a license, recodified to [N.J.A.C. 10:44C-1.6](#).

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[N.J.A.C. 10:44C-1.8](#)

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§ 10:44C-1.8 Negative licensing action

- (a) The Office of Licensing may suspend admissions to a residence, reduce the capacity of a residence, deny a license, issue a provisional license, suspend a license, refuse to renew a license, or revoke a license for substantial or willful noncompliance.
- (b) If the Office of Licensing denies, revokes, or refuses to renew a license, the licensee shall be prohibited from re-applying for a license for one year from the date of license revocation or non-renewal. After the one-year period has elapsed, the licensee may submit to the Office of Licensing a new application for a license.
1. When a negative licensing action is based upon falsification, willful noncompliance, criminal activity by the applicant, licensee or executive leadership, or when persons have suffered physical injury or emotional harm or distress due to the applicant's, licensee's, or executive leadership's actions or failure to act, the Department may refuse to reinstate any license and/or accept any subsequent application.
- (c) When a license is suspended, the Office of Licensing shall reinstate the license when the licensee achieves compliance with the provisions of this chapter. The Office of Licensing shall not require the licensee to submit a new application for a license unless such application is expressly made a condition of the reinstatement of the license.
- (d) Each license issued to a licensee shall remain the property of the Department of Human Services. If the Office of Licensing suspends or revokes a license, the licensee shall, upon notification, return the license to the Office of Licensing.
- (e) The Department of Human Services may revoke or suspend a license whenever a licensee or the licensee's executive leadership is found to be violating any State or Federal Law pertaining to the operation of a community residence for persons with head injuries or whenever such residence shall fail to comply with specific standards established by the Department.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Section was "Denial, revocation, non-renewal or suspension of a license". Substituted "Office of Licensing" for "licensing agency" throughout; in (a), inserted a comma following "renew"; and in the introductory paragraph of (b), inserted a comma following "revokes".

Amended by R.2023 d.005, effective January 3, 2023.

§ 10:44C-1.8 Negative licensing action

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Section was "Denial, revocation, non-renewal, or suspension of a license". Rewrote the section.

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[N.J.A.C. 10:44C-1.9](#)

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§ 10:44C-1.9 Administrative hearings

- (a) Upon imposition of a negative licensing action, the licensee shall have the opportunity to request an administrative hearing pursuant to N.J.A.C. 10:48-1.
- (b) In the event of the imposition of a non-renewal, suspension or revocation, if the Department determines that persons served are not at risk and that no imminent danger(s) exist(s), the Department may permit a residence, operated by a licensee who has requested an administrative hearing as specified in (a) above, to continue to operate until a final decision is rendered as a result of the hearing.
- (c) If it is determined that the occupants of a residence are at risk, the Department shall take necessary action to assure that the risk is eliminated, including, but not limited to:
1. Removing the persons served from the residence;
 2. Placing staff approved by the Department at the residence to ensure the safety of the persons served; or
 3. The appointment of an independent monitor by the Department, paid for by the licensee.

History

HISTORY:

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (c)1, deleted "or" following the semicolon; in (c)2, substituted "; or" for the period; and added (c)3.

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[N.J.A.C. 10:44C-1.10](#)

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§ 10:44C-1.10 Waiver or variance

(a) A waiver or variance may be granted by the Office of Licensing provided that such a waiver or variance would present no danger to the health, safety, welfare, or rights of the persons served.

1. The licensee shall request the waiver with substantial detail justifying the request.
2. Issuance of a waiver or variance shall be limited to the following circumstances:
 - i. Where enforcement of the standard would result in unreasonable hardship on the residence; or
 - ii. Where the waiver or variance is in accordance with the particular needs of the persons with head injuries.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (a), substituted "may" for "shall" and "Office of Licensing" for "licensing agency", and inserted a comma following "welfare"; and in (a)2ii, substituted "injuries" for "injury".

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§ 10:44C-1.11 Complaints

- (a) The Department shall have the authority to investigate any complaint received regarding a licensee.
1. The licensee and all of its employees shall cooperate with the Department in any investigation.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (a)1, inserted "all of its employees".

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[N.J.A.C. 10:44C-1.12](#)

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§ 10:44C-1.12 Voluntary closure

(a) A licensee operating a community residence for persons with head injuries governed by this chapter shall give at least 60 days written notice to the Office of Licensing of any planned closure.

1. Such notice shall indicate that a plan is in place for transfer or discharge that complies with the provisions of [N.J.A.C. 10:44C-4.4](#).

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote the introductory paragraph of (a).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In the introductory paragraph of (a), inserted "written".

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§ 10:44C-1.13 Office of Licensing

- (a) The Office of Licensing shall enforce this chapter upon the authority delegated by the Commissioner of the Department of Human Services.
1. Pursuant to [N.J.S.A. 30:1-12\(c\)](#), the Commissioner shall have the authority to issue subpoenas to compel testimony and the production of documents.
- (b) The Office of Licensing may utilize the findings of any State, county, or municipal official empowered by statute or appropriately constituted ordinance, for example, local construction officials or fire officials, to inspect community residences.
- (c) The Office of Licensing may utilize the findings of any agency or agent that monitors the residence for the payment authority or that provides case management as required by the Medicaid Waiver.
1. The Office of Licensing may impose a negative licensing action based upon an OI investigation report.
- (d) The Office of Licensing may contact parents, relatives, legal guardians, and others interested in the care and rehabilitation of those persons served in community residences for persons with head injuries to obtain facts and opinions regarding their satisfaction with the services rendered by the licensee.
1. Evidence obtained from such parties may be utilized as part of the licensing decision.
- (e) The Office of Licensing may utilize the findings of an accrediting body to render a licensing decision.
1. Accrediting reports shall not be utilized as the sole decision criterion.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Section was "Licensing agency". Substituted "Office of Licensing" for "licensing agency" throughout; in (b), inserted a comma following "county" and following "example"; in (c)1, substituted "OI" for "SRU"; and in the introductory paragraph of (d), inserted a comma following "guardians".

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[N.J.A.C. 10:44C-1.14](#)

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§ 10:44C-1.14 Illegal operations

(a) In cooperation with the Department of Community Affairs and the Department of Health, the Office of Licensing shall investigate any community-based residence alleged to be operating without a license as required by [N.J.S.A. 30:11B-1](#) et seq., [55:13B-1](#) et seq., the Health Care Facilities Planning Act, 26:2H-1 et seq., or any other law pertaining to the licensing of community-based residential programs, as subsequently adopted into State law.

(b) The specific responsibilities of all parties to investigate complaints of an illegal operation shall be agreed upon among the authorities empowered to license community-based residences, based on the information pertaining to each case.

(c) Subsequent to inspection, joint or independent actions shall be taken as deemed necessary to suppress illegal operations.

1. Actions shall be taken to prevent an applicant from obtaining a license from any State licensing agency when the sole purpose for obtaining that license is to avoid sanctions previously initiated by a State licensing agency exercising legal jurisdiction.
2. One or more of the following actions shall be taken when it is determined that imminent danger is present:
 - i. Persons served shall be removed from the residence.
 - ii. Staff approved by the Department shall be placed at the residence to ensure the safety of the persons served; and/or
 - iii. The cause of the imminent danger shall be removed.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (a), deleted "and Senior Services" following the first occurrence of "Health", substituted "Office of Licensing" for "licensing agency", and deleted "N.J.S.A." preceding "55:13B-1" and preceding "26:2H-1"; and in (c)1, substituted "State" for "state".

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[N.J.A.C. 10:44C-1.15](#)

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§ 10:44C-1.15 Search warrants

(a) In the event that any authorized representative of the Office of Licensing is denied access to any residence, the Office of Licensing shall obtain a search warrant from a court of competent jurisdiction.

1. The application for the search warrant shall state that access to the premises is required to enforce [N.J.S.A. 30:11B-1](#) et seq.
2. The application for the search warrant shall specify one of the following:
 - i. The desired inspection is a regular inspection required as part of the normal process of renewal of a license; or
 - ii. The desired inspection is a special inspection in response to information received by the Office of Licensing indicating the possible existence of a condition that violates [N.J.S.A. 30:11B-1](#) et seq., or this chapter.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (a), and in (a)2ii, substituted "Office of Licensing" for "licensing agency" throughout; and in (a)2ii, inserted a comma following "et seq."

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§ 10:44C-2.1 General requirements

- (a) The purposes of the licensee's organization and a description of the services that it provides shall be made available to persons served, parents, guardians, advocates, and the general public. This information shall describe, in general terms, who is served, the services provided, and the goals of the licensee's organization.
- (b) The licensee shall keep the following on file:
1. A record of all admissions and discharges, including names and dates, for the previous 24 month period;
 2. A current copy of this chapter.
 - i. A current copy of this chapter shall also be kept on file in each residence;
 3. Reports of unusual incidents;
 4. Copies of all current licenses.
 - i. A copy of the current license shall also be kept on file in each residence;
 5. Written descriptions of any religious practices or restrictions that are observed if a licensee has a particular religious orientation, approved as part of the program description, in accordance with this chapter;
 6. A copy of the policy and procedure manual; and
 7. Personnel files.
- (c) A licensee having non-profit status in accordance with [26 U.S.C. § 501\(c\)\(3\)](#) shall have a board of trustees which meets the following criteria:
1. A minimum of five persons shall comprise the board;
 2. Provisions shall exist for the orientation of new board members; and
 3. Meetings shall be held with a frequency sufficient to discharge their responsibilities effectively; in no event shall the full governing body meet less than three times a year.
- (d) A licensee having for-profit status shall have a board of directors that meets the following criteria:
1. Procedures for the orientation of new members to the operations of the organization;
 2. Policies to guard against the development of a conflict of interest between a member of the board and the organization;
 3. An explanation of the board's committee structure, if any, including such subordinate groups, as may be employed to carry out the board's responsibilities;
 4. Documentation that board meetings are held at least three times a year.

§ 10:44C-2.1 General requirements

- i. Minutes shall be kept of each meeting and shall be available for review; and
5. Provisions to assure the inclusion of persons served on the board.
- (e) A licensee having for-profit status without a board of directors shall institute and maintain such a board, in accordance with (d)1 through 5 above by January 3, 2024.
 - (f) Members of a board of directors shall be informed as to whether liability insurance is provided to directors and officers for errors and omissions.
 - (g) An independent examination of the organization's financial status shall be obtained from a certified public accountant each year, and be available for review.
 - (h) Fiscal records, including payroll, purchasing, and financial statements, shall be maintained.
 - (i) When fees for services are charged, the licensee shall have a range of fees that:
 1. Is available in printed form;
 2. Includes persons paying privately as well as those funded by insurance; and
 3. Is applied equitably to each person served regardless of payment authority.
 - (j) A list of the current members of the board of trustees or board of directors, to include names, addresses, and occupations, shall be available for review. Any change to the members of the board of trustees, board of directors, or agency head shall be immediately reported to the Office of Licensing.
 - (k) The organization shall have an insurance program that adequately protects all assets and compensates staff members, trainees/interns, volunteers, members of the board of directors, if applicable, persons served, and the public for reasonable claims due to adverse events for which the organization is liable.
 - (l) Licensees that provide alcohol and other drug programs shall assure that the services provided in those programs comply with [N.J.A.C. 10:161B](#).
 - (m) Licensees that provide outpatient mental health programs shall assure that the services provided in those programs comply with [N.J.A.C. 10:37E](#) and 10:190.

History

HISTORY:

Administrative change.

See: [39 N.J.R. 455\(a\)](#).

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

In (l), updated the N.J.A.C. reference.

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (b)2, substituted a period for a semicolon; added new (b)2i, (b)3, (b)6, and (b)7; recodified former (b)3 and (b)4 as (b)4 and (b)5; in (b)4, deleted "and" from the end"; in (b)5, substituted a period for a semicolon; and in (m), inserted "10:37E and".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

§ 10:44C-2.1 General requirements

Rewrote the section.

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[N.J.A.C. 10:44C-2.2](#)

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§ 10:44C-2.2 Development and maintenance of procedure manual

- (a) The licensee shall develop and implement a manual of written procedures to ensure that the service delivery system complies with State law and rules governing community residences for persons with head injuries.
1. The procedures shall be reviewed annually and revised as necessary.
 2. Each procedure shall be designed in accordance with the principles of affirming and protecting rights of persons served within a rehabilitative treatment environment, and shall be consistent with the organizational structure and management philosophy of the licensee.
 3. While specific content for inclusion in a procedure shall be identified on an as-needed basis in this chapter, to ensure consistency, each procedure shall include:
 - i. A descriptive title which is unique so 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.
- (b) The licensee shall maintain a procedure manual containing the following documents and/or procedures:
1. A statement of philosophy, values and goals so as to govern the organization's direction and character;
 2. A table of organization that illustrates lines of authority, responsibility and communication;
 3. Administrative policies and procedures identified at [N.J.A.C. 10:44C-2.1](#) including:
 - i. Procedures for the orientation of new board members to the operations of the organization;
 - ii. Policies to guard against the development of a conflict of interest between a member of the board and organization;
 - iii. A policy on the investment of funds; and
 - iv. A policy that prohibits fee splitting with other agencies or persons as consideration for referral of the person served;
 4. A procedure for implementing a plan to deal with major emergencies requiring evacuation from the residence, including, but not limited to, a fire or a gas leak.
 - i. The procedure shall also address emergencies where evacuation may not be required, such as when the indoor air temperature is below 68 degrees Fahrenheit or above 82 degrees Fahrenheit for four consecutive hours;

§ 10:44C-2.2 Development and maintenance of procedure manual

5. A procedure for handling medical emergencies that contains provisions that conform to the requirements of [N.J.S.A. 30:6D-5.1](#) et seq. (Danielle's Law);
6. Emergency coverage and on-call procedures;
7. A procedure for reporting all unusual incidents including, but not limited to:
 - i. A written statement expressly prohibiting abuse, neglect, or exploitation; and
 - ii. A written statement regarding the obligation to report each allegation as required pursuant to [N.J.S.A. 9:6-8.10](#) and [52:27G-1](#) et seq., and Department policy;
8. A procedure for investigations;
9. A procedure to ensure sound fiscal management of the funds of a person served;
10. A New Employee Orientation Checklist, which shall include, at a minimum, all requirements at [N.J.A.C. 10:44C-2.6\(a\)](#)¹ through 8.
11. A procedure for the safekeeping of valuable personal possessions;
12. A list and schedule of all charges and fees for which a person served shall be held responsible;
13. A procedure for resolving complaints and grievances of persons served or decisions of the TDT, which shall have the following:
 - i. A minimum of two levels of appeal, the last of which shall involve the executive leadership or the licensee;
 - ii. Time frames for decision-making at each step;
 - iii. Written notification procedures;
 - iv. The rights and responsibilities of each party; and
 - v. The opportunity for the person served, his or her guardian or his or her personal advocate to obtain assistance from any of the individuals or organizations at [N.J.A.C. 10:44C-3.1\(b\)](#)²;
14. A procedure for an internal communication log to document only critical information and the necessary follow-up action taken, which shall be dated and shall include the full name and title of the person making the entry.
15. A procedure for admissions, including admission criteria, changes in supports or services, the development, implementation, review and evaluation of each person's treatment plan and transfers and discharges, that complies with the requirements of N.J.A.C. 10:44C-4;
16. A statement regarding maintaining confidentiality of persons served and records as required by N.J.A.C. 10:41-2;
17. Written procedures for medication administration, including procedures for self-medication;
18. A written policy governing the use of psychotropic medication that complies with the requirements at [N.J.A.C. 10:44C-5.3](#);
19. A procedure for assuring compliance with the requirements for testing employees for controlled dangerous substances, as set forth at [N.J.S.A. 30:6D-9.5](#) and 9.6;
20. Written procedures for the exchange of contact information of parents, family members who are actively involved in ensuring the person's welfare, or guardians, as applicable, as set forth at [N.J.S.A. 30:6D-9.5](#) and 9.6;
21. A procedure for assuring that no employee is included on the Department of Children and Families' child abuse registry, as set forth pursuant to [N.J.S.A. 30:6D-73](#) et seq., and [9:6-8.10f](#);
22. A procedure to address the use of surveillance cameras in the common areas of the residences, if applicable; and

§ 10:44C-2.2 Development and maintenance of procedure manual

- 23.** A continuous quality improvement system to identify opportunities to improve services and/or supports and to resolve identified problems. The system shall include, at a minimum:
- i. A written plan to identify how data is collected, analyzed, and utilized to determine patterns that identify process or systemic problems requiring further in-depth review;
 - ii. Input from a variety of sources, including persons served, family members, and others;
 - iii. A written summary of satisfaction surveys;
 - iv. A written summary of outcomes assessments; and
 - v. An action plan based upon an analysis at (b)23i through iv above.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (a), substituted "injuries" for "injury"; and rewrote (b).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

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§ 10:44C-2.3 Implementation of procedure manual

- (a) The procedure manual shall be available and accessible for staff use.
- (b) The licensee shall assure that staff implement policies and procedures for which they are responsible.
- (c) All staff shall be able to describe procedures that they routinely implement.
- (d) The procedure manual shall be available for review by authorized representatives of the Department.

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[N.J.A.C. 10:44C-2.4](#)

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§ 10:44C-2.4 Personnel

- (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 worker's compensation.
- (b) The licensee shall ensure that no applicant or employee comes into direct contact with persons served until they have been fingerprinted and determined by the Department of Human Services to be not disqualified, in accordance with [N.J.S.A. 30:6D-63](#) through 69 (criminal history background checks).
1. A licensee shall not employ any person who has been adjudged civilly or criminally liable for abuse of a person served by the Department or placed in a community residence regulated pursuant to this chapter.
 2. Criminal history record background checks shall be conducted at least once every two years for a community agency's head and its employees.
 3. Any individual who is required to undergo a criminal history record background check and refuses to consent to, or cooperate in, the securing of a criminal history record background check, shall be immediately removed from the person's position and the person's employment shall be terminated.
- (c) All employees who may come into contact with persons served shall be subject to and comply with the requirements for drug testing for controlled dangerous substances, in accordance with [N.J.S.A. 30:6D-9.5](#) and 9.6.
- (d) Prior to hiring any staff member or utilizing a volunteer who provides services to persons served on a planned basis, the licensee shall secure and maintain:
1. A signed application for employment from each applicant, indicating the applicant's name, address, and telephone number, education, and disclosure of the presence or absence of criminal convictions.
 2. A minimum of two documented references.
 - i. The licensee shall check a minimum of the two most recent work references or, if not available, a minimum of two personal references.
 - ii. The licensee shall document all reference checks and maintain such reference checks in the applicant's personnel record.
 - iii. The staff person conducting the reference check shall sign and date the reference check.
 - iv. References from family members of the applicant shall not be accepted.
 3. A current job description which, at a minimum, shall include the following:
 - i. A position statement that documents overall job responsibilities, including the requirement that the employee cooperate with the licensee and Department staff in any inspection or investigation;
 - ii. A list of specific duties;

§ 10:44C-2.4 Personnel

- iii. The minimum qualifications;
 - iv. The positions supervised, if applicable;
 - v. The reporting supervisor, who shall be a paid staff member; and
 - vi. The requirements for checks of criminal background and drug testing.
- (e) Upon employment, the direct support professional shall submit a written statement from a licensed physician or advanced practice nurse indicating that he or she is in good health. Such statement shall be based on a medical examination conducted within the 12 months immediately preceding the direct support professional's starting date with the licensee.
- (f) Within one year prior to or upon beginning work each direct support professional shall take a Mantoux tuberculin skin test with five tuberculin units (TU) of PPD tuberculin or an IGRA blood test.
1. The direct support professional member shall submit to the licensee written documentation of the results of any testing or certification.
 2. If the direct support professional member has had a previous positive Mantoux tuberculin skin test, or if the Mantoux tuberculin skin test is significant (10 or more millimeters (mm) of induration), or if the IGRA blood test is positive, the staff member shall submit to the licensee a statement from his or her physician or advanced practice nurse certifying that he or she poses no threat of tuberculosis contagion before he or she is allowed to come in contact with persons served and other staff.
 3. If the Mantoux tuberculin skin test is insignificant (zero to nine mm of induration), or the IGRA blood test is negative, no further testing shall be required.
 - i. The Office of Licensing or the licensee may, at any time, require a direct support professional to retake the Mantoux tuberculin skin test, if there is a reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health recommends re-testing.
 4. The licensee shall prohibit any direct support professional who fails to submit satisfactory results from a medical practitioner from having contact with persons served or other staff.
 5. Upon any known or suspected exposure to a confirmed case of *M. Tuberculosis*, the agency shall consult with the local health department and maintain documentation that all requirements for follow up testing were met.
- (g) The licensee shall maintain on file the following for all direct support professionals:
1. Mantoux tuberculin skin test or IGRA blood test results, chest x-ray, or physician's or advanced practice nurse's certification; and
 2. The results of a physical examination that clearly indicates that the staff person is capable of performing the duties required.
- (h) Personnel and other records shall contain, at a minimum:
1. Application for employment;
 2. Credentials verification, if applicable;
 3. Evidence of current licensure or certification, if applicable;
 4. Reports of performance evaluations;
 5. Records of position changes;
 6. Results of the criminal background check and of any drug testing;
 7. Orientation and training records; and
 8. Other information required by law or the licensee's policy.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote the section.

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

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[N.J.A.C. 10:44C-2.5](#)

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§ 10:44C-2.5 Minimum staff qualifications

(a) The licensee or executive leadership shall demonstrate knowledge in the design and supervision of traumatic brain injury programs, development of professional staff, application of fiscal and qualitative standards, and responsiveness to customers and the marketplace, and meet the following educational or experience qualifications:

1. An advanced degree in healthcare management or related clinical field; or
2. Five years' progressive management experience, at least two at a senior staff level.

(b) A licensee choosing to employ an executive leadership to assist in the management of community residences for persons with head injuries shall provide a written statement signed and dated by the licensee and the executive leadership that documents the following:

1. The executive leadership's working relationship to the licensee and the executive leadership's designated authority and duties;
2. The official delegation to the executive leadership of the authority and responsibility necessary to direct the organization in accordance with policy; and
3. The goals established for the executive leadership with his or her agreement.
 - i. The licensee shall maintain on file an annual documented evaluation of the executive leadership's performance based on the agreed-upon goals.

(c) A person serving as a Business Manager shall meet the following educational and/or experience qualifications:

1. A bachelor's degree in business or a related field; and/or
2. Experience which results in a working knowledge of principles and practices of business administration, budget and purchasing practices, and principles of personnel management.

(d) An agency employee serving as a case manager shall have one of the following:

1. A bachelor or masters degree in social work;
2. A bachelor of science in nursing (BSN);
3. Certification as a rehabilitation counselor (CRC);
4. Certification as an insurance rehabilitation specialist (CIRC);
5. Certification as a brain injury specialist (CBIS); or
6. A bachelor of arts degree in a health services-or human services-related field.

(e) The supervisor responsible for the operation of a residence shall have a high school diploma or equivalent and one year of experience working with persons with head injuries.

§ 10:44C-2.5 Minimum staff qualifications

- (f) Direct support professionals shall be at least 18 years of age and shall have a high school diploma or equivalent.
- (g) Direct support professionals shall have the ability to communicate with the persons served with whom they are working.
- (h) Direct support professionals shall be capable of providing any direct assistance required by persons served with whom they are working.
- (i) The licensee shall verify that all persons providing a professional service, whether through direct employment, affiliation or contract, possess credentials required by Federal and State law and/or meet established professional qualifications for their professional service.
- (j) Standards of qualification for trainees/interns shall be established and maintained as follows:
1. Trainees and interns shall be supervised by paid staff members and shall have the qualifications required for their assignments.
 - i. Information regarding any personal risks, liabilities, and insurance coverage shall be clearly communicated to the trainee or intern and, when appropriate, to the affiliating academic or training program; and
 - ii. The responsibilities of trainees/interns shall be described in writing.
- (k) Support personnel or technical assistants shall be supervised, shall have specified job duties, and shall function within the goals established by the licensee.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (d)4, deleted "or" from the end; added new (d)5; recodified former (d)5 as (d)6; and in (e), substituted "injuries" for "injury".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (f), (g), and (h), substituted "support professionals" for "service staff".

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§ 10:44C-2.6 Orientation

(a) Prior to working with persons served, all direct support professionals shall receive an orientation to acquaint them with:

1. The organization's philosophy, goals, services and practices;
2. The prevention of abuse, neglect and exploitation;
3. Unusual incident reporting and investigating procedures;
4. Emergency procedures as identified in the procedure manual; for example, the emergency evacuation plan, the operation of the fire alarm system, emergency medical treatment, emergency coverage and on-call procedures, and the use of fire extinguishers;
5. An overview of head injuries and any special needs of the persons served, for example, medical or behavioral problems requiring specific, tailored training;
6. The appropriate job description and the personnel policies of the organization, including its drug testing policies;
7. Training in life-threatening emergencies through a curriculum developed by the Division; and
8. Training pursuant to [N.J.S.A. 30:6D-9.5](#) and 9.6.

(b) Records of the orientation provided shall include a dated, signed acknowledgment by the employee receiving and the person(s) providing the orientation.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote (a)4; in (a)5, substituted "injuries" for "injury", and deleted "and" from the end; in (a)6, substituted "; and" for a period; and added (a)7.

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

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§ 10:44C-2.7 Staff training

(a) Basic staff training programs shall either be offered by the Department, or provided or obtained by the licensee after obtaining approval from the Department, to ensure staff competency. Within 90 days of employment, each employee shall successfully complete training approved by the Office of Licensing that shall address, at a minimum:

1. Overview of head injury;
2. Medication training;
3. Preventing abuse and neglect;
4. First Aid Training provided by a training entity that meets the current Emergency Cardiovascular Care (ECC) guidelines (and have a valid certificate on file); and
5. Cardio-pulmonary resuscitation training provided by a training entity that meets the current Emergency Cardiovascular Care (ECC) guidelines (and have a valid certificate on file).

(b) Staff shall receive training in all policies and procedures not covered during orientation which are relevant to the employee's job within 60 days of hire.

(c) Specialized training programs, identified as necessary during the application process or subsequently, shall include, but not be limited to:

1. Specialized feeding techniques;
 - i. Feeding tube responsibilities shall be delegated to nursing personnel.
2. Mobility procedures and the safe use of mobility devices, including those necessary for transport.
 - i. Persons who work with persons served who require assistance to use any other device or technique shall receive specific training in procedures and techniques for the use of such adaptive devices;
3. Seizure disorders, physical disabilities, or other identified medical needs; and
4. Identified mental health needs, including the need for behavior modification.
 - i. Persons who work with persons served who require behavior support plans shall receive training in the implementation of all such plans.

(d) All staff who work with persons served who have specialized needs shall receive training in such specialized training programs within 90 days of employment.

1. Only staff who demonstrate competency in the provision of services to persons with specialized needs shall provide those services.

(e) Training records pursuant to (b) and (c) above shall be maintained in the administrative offices and shall contain the following:

§ 10:44C-2.7 Staff training

1. A curriculum describing the courses or topics offered and a training plan addressing how the content of each course or topic will be delivered;
 2. Documentation of attendance through a report that includes the dated signatures of the trainer and the trainee; and
 3. Results of all training programs.
- (f) The licensee may conduct, at its discretion, and without specific prior approval from the Division, training programs in addition to training required by this chapter.
- (g) All training conducted pursuant to (b) and (c) above shall be conducted by a qualified trainer.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (a), inserted "or obtained", and substituted "Office of Licensing" for "licensing agency"; in (c)2, inserted ", including those necessary for transport"; in (c)3, inserted a comma following "disabilities"; added (c)4i and (g); in the introductory paragraph of (d), inserted "within 120 days of employment"; and in the introductory paragraph of (e), inserted "pursuant to (b) and (c) above".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

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§ 10:44C-2.8 Staff coverage

- (a) At each residence, the total number of staff shall be no less than one staff member for every three persons served when the persons are in the home and awake.
1. The ratio can be altered in accordance with the needs of the persons served as approved by the Office of Licensing during the program description approval process.
- (b) At each residence, the total number of staff shall be based on the needs of the persons served but shall be no less than one staff member for every five persons served when the persons are sleeping.
1. The ratio can be altered in accordance with the needs of the persons served as approved by the Office of Licensing during the program description approval process.
- (c) A description of the staff coverage and the staff schedule shall be initially approved as part of the program description and reviewed at each inspection.
- (d) Reduction of staff coverage as specified in any modification to the program description shall be justified in writing and sent to the Office of Licensing for approval.
1. Documented approval(s) by the TDT that a person or persons served can be left alone for specific amounts of time shall be submitted as evidence justifying modification of staff coverage.
 2. Reduction of staff coverage as specified in the approved Program Description shall be reviewed and approved by the Office of Licensing prior to implementation by the licensee, based on (d)1 above.
 3. A written response shall be provided by the Office of Licensing within 15 working days, documenting any conditions that must be met as part of the approval of the reduction of staff coverage.
 4. With the exception of an emergency, adjustments of staff ratios as specified in the approved Program Description shall not be implemented until approval is granted by the Office of Licensing.
- (e) Staff are not required to be on-site when no persons served are present in the residence, but trained staff members, familiar with the person(s) served, shall be available for emergencies.
- (f) A written staff schedule, for at least a two-week period, shall be available for review at each residence. The staff member in-charge shall be designated on the schedule for each shift.
1. The licensee shall designate specific duties and responsibilities for the in-charge staff person.
 - i. No temporary employment agency staff shall at any time be designated or utilized as "in-charge" in the absence of completion of all training required pursuant to [N.J.A.C. 10:44C-2.7](#), and a written policy stipulating the licensee's assumption of responsibility and liability of said employees' actions.
 2. At least one staff member, currently trained and certified in first aid and CPR, shall be on duty for each shift.

§ 10:44C-2.8 Staff coverage

- (g) When a specific person served requires one-to-one coverage by staff, that staff member shall be considered unique and not as a part of the overall ratio as specified in the approved Program Description for the other persons in residence.
- (h) The licensee shall assure that, if all staff have not completed necessary specialized training, in accordance with [N.J.A.C. 10:44C-2.7\(c\)](#)1, 2, 3, and 4, each required specialized training for that site has been completed by at least one person on each shift.
- (i) Staff of a supervised apartment program shall be on-site whenever any person served is present, unless otherwise stated in the served person's ITP.
1. At least one staff member must be available on the grounds of the apartment complex during the night for emergencies.
 2. The staff residence/office shall be located so that the response time to each person served is consistent with their supervision needs.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (a)1, (b)1, (d)3, and (d)4, substituted "Office of Licensing" for "licensing agency"; rewrote the introductory paragraph of (d) and (d)2; and added (h) and (i).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

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[N.J.A.C. 10:44C-2.9](#)

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 2, January 16, 2024

NJ - New Jersey Administrative Code > TITLE 10. HUMAN SERVICES > CHAPTER 44C. STANDARDS FOR COMMUNITY RESIDENCES FOR PERSONS WITH HEAD INJURIES > SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

§ 10:44C-2.9 Records: persons served

(a) A file shall be maintained for each person served in a licensed community residence for persons with head injuries.

1. The file shall be legibly marked with the name of the person served.

(b) Files shall be maintained at the residence or at the pre-determined location stated in the program description or in revisions to the program description.

(c) A person served shall have access to his or her records, unless clinically contra-indicated and documented.

(d) The record of each person served shall include:

1. Pre-admission information, as follows:

i. The full name, date of birth, and gender of the person served;

ii. The person's Medicaid numbers or medical insurance numbers;

iii. The date(s) of admission, re-admission, transfer or discharge;

iv. The names and addresses of persons or agencies responsible for placement;

v. The names and addresses of all personal physicians, advanced practice nurses and dentists;

vi. The name, address and telephone number of the legal guardian (or guardianship worker), next of kin, and other interested person(s), and a copy of the guardianship determination, if applicable;

vii. Religious preference;

viii. Pre-admission data including diagnosis, a psychological evaluation, as appropriate and/or available and developmental history, including, but not limited to, behavioral characteristics;

ix. The results of a physical examination completed within one year prior to the scheduled admission date;

x. The results of a Mantoux Skin Test or IGRA blood test completed within the past year; and

xi. An immunization record, as available and as required for persons served under the age of 22;

2. The results of an annual physical examination;

3. Annual reports from the dentist of dental examinations and corrective work done;

4. Seizure records, where indicated;

5. The current ITP;

6. Monthly reports of social and behavioral progress of a person served to correspond to the current ITP;

§ 10:44C-2.9 Records: persons served

7. A medically prescribed diet, if required;
 8. Documentation of known allergies;
 9. Medication administration records;
 10. An inventory of valuable personal possessions, including, but not limited to: personal mementos, adaptive devices, eye glasses, hearing aids, durable medical equipment, electronic equipment and accessories, jewelry, clothing, and personal furniture; and
 11. Financial records pursuant to [N.J.A.C. 10:44C-2.10](#).
- (e) The records of each person served who has been referred to other agencies for additional or concurrent services shall contain, at a minimum:
1. The place, date and reason for referral;
 2. The name of the contact person; and
 3. A report of the outcome.

History

HISTORY:

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

In (d)1ix, inserted "a" preceding "physical" and substituted "one year" for "90 days"; in (d)1x, inserted "and" at the end; deleted former (d)1xi; and recodified (d)1xii as (d)1xi.

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (a), substituted "injuries" for "injury"; in (d)1i, substituted "gender" for "sex"; in (d)1ii, deleted "Social Security," following "Medicaid"; rewrote (d)1x and (d)2, deleted former d(4); and recodified (d)5 through (d)12 as (d)4 through (d)11.

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (d)10, substituted "possessions, including, but not limited to: personal mementos, adaptive devices, eye glasses, hearing aids, durable medical equipment, electronic equipment and accessories, jewelry, clothing, and personal furniture" for "property".

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[N.J.A.C. 10:44C-2.10](#)

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§ 10:44C-2.10 Funds and financial records: persons served

- (a) Each person served shall have the right to manage his or her own personal funds consistent with his or her abilities as documented in his or her ITP.
1. If the TDT has determined that the person served cannot independently manage his or her funds and finances, the TDT shall determine how much money, if any, can be managed by the person served at any given time.
- (b) The licensee shall develop procedures regarding the management of funds for persons served who have been determined in need of assistance by the TDT.
- (c) At the time of admission, each person served shall be provided with a written statement listing the services regarding the safekeeping and management of funds.
- (d) The licensee shall obtain written authorization for any of the funds of a person served to be entrusted.
1. The authorization shall specify which funds are to be entrusted to the licensee, including, but not limited to, Personal Needs Allowance, paychecks, Patient Trust Fund, monetary gifts, payment from family members, transportation reimbursements, public assistance, income tax rebates and insurance claims.
 2. The person served and his or her guardian or power of attorney (POA), where applicable, shall sign the authorization.
- (e) For all funds entrusted to the licensee, the licensee shall maintain records and receipts of all income received and all disbursements of the funds of the person served.
1. All receipts related to disbursements of a person's funds and purchases made on behalf of a person served shall be maintained while the person served resides at the residence.
- (f) If a person's funds are entrusted to an agency, moneys received by a person served in excess of \$ 200.00 shall be placed in an interest bearing account unless otherwise determined by the TDT.
1. The account shall be in a form that clearly indicates that the licensee is acting in a fiduciary capacity regarding the funds of the person served and that any interest from the account shall accrue to the person served.
 2. The licensee may keep up to \$ 200.00 of a person's money in a non-interest bearing account or petty cash fund, to be readily available for current expenditures, providing it is kept for safekeeping in an account separate from all other funds for the residence.
 - i. Any increase in this amount shall be authorized by the person served and his or her guardian or power of attorney (POA), where applicable.
- (g) The licensee shall, upon written request from the person served and his or her guardian, where applicable, return any or all of the person's funds given to the licensee for safekeeping, including the interest accrued from deposits.

§ 10:44C-2.10 Funds and financial records: persons served

- (h) There shall be no loans of finances, resources or property from a person served to the licensee, staff member, or any other person served.
- (i) The licensee to whom the person served entrusts his or her funds shall assure that the management of such funds does not jeopardize the person's entitlements to any appropriate Federal or private benefit.
- (j) The licensee shall allow each person served and guardian, where applicable, access to a written record of all financial arrangements and transactions involving the person's funds, upon request. Copies of this record shall be made available to the person served and his or her guardian, upon request.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (d)2 and (f)2i, inserted "or power of attorney (POA)"; and in the introductory paragraph of (f), and in (f)2, substituted "\$ 100.00" for "\$ 100".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (f) and (f)2, substituted "\$ 200.00" for "\$ 100.00".

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[N.J.A.C. 10:44C-3.1](#)

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§ 10:44C-3.1 General requirements

(a) The provision of services and support shall demonstrate recognition that persons with head injuries have the same rights as all other citizens.

1. A person's exercise of his or her rights shall not be prohibited or be used as a cause for retribution against him or her.

(b) Upon admission to the program and upon subsequent request, the licensee shall provide the person served and his or her guardian, where applicable, with the following:

1. A copy of the list of rights of persons served, as specified at [N.J.A.C. 10:44C-3.4\(b\)](#);
2. The names, addresses, and telephone numbers of advocates available to assist the person served in understanding and enforcing these rights, to include, at a minimum:
 - i. Disability Rights New Jersey;
 - ii. Community Health Law Project;
 - iii. Brain Injury Alliance of New Jersey (1-800-669-4323);
 - iv. Office of Licensing;
 - v. Office of Investigations;
 - vi. Bureau of Guardianship, if applicable;
 - vii. Office of the Public Guardian;
 - viii. His or her case manager;
 - ix. Department of Children and Families' Child Abuse Control Number (1-800-792-8610) and State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873), if applicable; and
 - x. Office of the Ombudsman (1-877-582-6995), if applicable;
3. A copy of the licensee's rules and any house rules that apply to the residence of the person served;
4. A copy of the licensee's grievance procedure for appealing agency decisions, or decisions of the TDT, as required at [N.J.A.C. 10:44C-2.2\(b\)](#)13;
5. A copy of the written procedures for safekeeping of valuable personal possessions;
6. A copy of the procedure regarding toll calls/charges; and
7. A copy of the financial rights and services procedures.

(c) If a person served is unable to read (b)1 through 7 above, the text shall be read to the person served in a language or manner the person understands.

§ 10:44C-3.1 General requirements

1. The licensee shall make provisions to explain portions that are not understood and answer any questions the person served may have regarding (b)1 through 7 above.
- (d)** A copy of a written acknowledgment that (b)1 through 7 above has been explained and understood shall be immediately signed and dated by the person served, the licensee's representative(s) and the person's guardian, if present.
1. If the guardian is not present, the signed acknowledgment shall be sent to the guardian within five days.
 - i. Documentation shall be maintained in the person's record.
 2. The acknowledgment may also be witnessed by a personal advocate, if present.
 3. The acknowledgment shall be placed in the record of the person served.
- (e)** Persons served shall receive training and support in order to understand options, make choices and exercise rights and responsibilities.
1. The exercise of rights is not limited when a person served has a guardian or interested family.
- (f)** The licensee shall be responsible for utilizing a Human Rights Committee in accordance with [N.J.A.C. 10:41A](#).
- (g)** The licensee shall have procedures for the documentation of the investigation and resolution of allegations of infringements of rights.

History

HISTORY:

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

Rewrote (b)2i and (b)2ix; and in (b)2iv, substituted "Office of" for "Developmental Disabilities".

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (a), substituted "injuries" for "injury"; in the introductory paragraph of (b)2, inserted a comma following "addresses"; in (b)2iii, substituted "Alliance" for "Association"; rewrote (b)2v and (b)4; in (b)2ix, inserted "Child Abuse Control Number (1-800-792-8610) and"; in (b)3, substituted "and any house rules that" for "which", and deleted "and" from the end; added (b)5 through (b)7; in the introductory paragraph of (c), in (c)1, and in the introductory paragraph of (d), substituted "7" for "4"; and in (f), updated the N.J.A.C. reference.

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[N.J.A.C. 10:44C-3.2](#)

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§ 10:44C-3.2 Rules governing a residence

(a) The licensee may establish reasonable rules that govern the conduct of persons in their residences, including, but not limited to, rules regarding smoking and pets, provided:

1. The rules are commensurate with the abilities and rights of the persons served, at a minimum, as specified at [N.J.A.C. 10:44C-3.4\(b\)](#);
2. Persons served and their guardians, where applicable, are informed of the rules governing a residence prior to their admission, as required at [N.J.A.C. 10:44C-3.1\(b\)](#)3;
3. The persons served affected by such rules are consulted whenever a revision is considered, and there is evidence the rules are necessary to promote order and to benefit the collective group; and
4. The rules include provisions to ensure that a person served exercising his or her rights does so in such a way so as to not infringe upon the rights of, or endanger, others.

(b) The persons served at a particular residence may jointly choose to establish mutually agreed upon house rules regarding conduct in the home, in accordance with (a)1 through 4 above.

(c) Each copy of the rules shall contain a statement that a person served or a group of persons served has the right to challenge such rules as to their appropriateness through the licensee's grievance procedure, as specified at [N.J.A.C. 10:44C-2.2\(b\)](#)13.

(d) No policy, procedure, or rule of the home shall be inconsistent with or contrary to a right enumerated in [N.J.A.C. 10:44C-3.4](#).

History

HISTORY:

Administrative correction.

See: [36 N.J.R. 1206\(a\)](#).

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (a), inserted a comma following "pets"; in (a)2, inserted ", as required at [N.J.A.C. 10:44C-3.1\(b\)](#)3"; in (a)4, substituted a period for "; and"; deleted (a)5; rewrote (b); and in (c), updated the N.J.A.C. reference.

Amended by R.2023 d.005, effective January 3, 2023.

§ 10:44C-3.2 Rules governing a residence

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In the introductory paragraph of (a), substituted "their residences" for "a particular residence" and "smoking and pets," for "smoking, pets, and visitors, "; and in (a)1, inserted ", at a minimum, as specified at [N.J.A.C. 10:44C-3.4\(b\)](#)".

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[N.J.A.C. 10:44C-3.3](#)

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§ 10:44C-3.3 Self-advocacy

- (a) The licensee shall identify persons served who want a personal advocate, who wish to participate in house meetings, or who wish to participate in a self-advocacy group.
1. Persons served who wish to participate in house meetings shall be included in the process, scheduling, and agenda as much as possible, with the assistance of staff.
- (b) Persons with head injuries shall be given the opportunity to participate in a self-advocacy group of their choice.
- (c) Notices of advocacy or self-advocacy conferences, seminars or meetings shall be made available to all persons served in each residence unless determined otherwise by the TDT.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (b), substituted "injuries" for "injury"; and in (d), inserted the last sentence.

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In the introductory paragraph of (a), inserted ", who wish to participate in house meetings,"; added (a)1; and deleted (d).

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§ 10:44C-3.4 Enumeration of rights

(a) The provision of services and support shall demonstrate recognition that persons with head injuries have the same rights as all other citizens.

1. A person's exercise of his or her rights shall not be prohibited or be used as a cause for retribution against him or her.

(b) Each person served shall further be afforded the following rights and freedom while living in a community residence for persons with head injuries, unless otherwise determined by a documented person-centered planning process:

1. A safe, clean place to live and a lifestyle like other New Jersey residents;
2. Privacy, dignity, respect, and freedom from coercion;
3. Physical exercise and the opportunity to practice personal health care;
4. Keep and use his or her own clothes, money and personal things, and to have a place to put them that no one else may use;
5. Associate with members of either gender;
6. Practice the religion of his or her choice, or choose not to practice any religion;
7. Send and receive mail without it being opened or read by other people and to have help, if he or she wants it, in reading or writing letters;
8. Make or receive private telephone calls at any time;
9. Have a healthy diet and access to food at any time;
10. Have a voice in matters that affect him or her;
11. Have visitors of his or her choice at any time;
12. Competitive integrated employment or work with pay that is a commensurate wage or otherwise appropriate for the type for work he or she does and how well he or she does it;
13. Request release from a program or transfer to another program;
14. Register and vote in all elections;
15. Share in developing his or her "Individual Treatment Plan" (ITP) designed specifically for him or her and to help decide what kinds of programs would be best for him or her in that plan;
16. Have his or her ITP and all records about him or her kept confidential, unless the person or the person's legal guardian says that someone else may see them;
17. Be free from any restrictions of appropriate movement or behavior;
18. Receive special therapy services, if they will help him or her;

§ 10:44C-3.4 Enumeration of rights

19. Receive guardianship services, if the person served needs them and if the person served is an adult;
 20. Receive regular medical, dental and nursing care in order to stay in good health and to receive prompt treatment of any health problem;
 21. Be informed of the condition of his or her health and to be able to contact his or her physician or advanced practice nurse;
 22. Be free from unnecessary medical tests or treatment;
 23. Be free from isolation or physical restraint unless in an emergency;
 24. Be free from physical punishment, abuse, neglect, and exploitation;
 25. Be permitted to rise and retire at times of their choosing;
 26. Be permitted to have a choice in the selection of their roommate; and
 27. Have access to information about and be able to participate in activities in the greater community, scheduled and unscheduled.
- (c) The licensee shall ensure that staff are familiar with and observe the rights enumerated in (b) above.
1. The licensee shall assure that a copy of the rights identified at (b) above is available at each residence licensed under this chapter.
- (d) Persons served shall receive training and support in order to understand options, make choices and exercise rights and responsibilities.
1. The exercise of rights shall not necessarily be limited even when a person served has a guardian or interested family.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (a) and of (b), substituted "injuries" for "injury"; and in (b)5; substituted "either gender" for "the opposite sex".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

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§ 10:44C-3.4 Enumeration of rights

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[N.J.A.C. 10:44C-3.5](#)

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§ 10:44C-3.5 Informed consent and guardianship

- (a)** In securing informed consent, the licensee shall inform each person served or his or her guardian of:
 - 1. Any medical condition requiring intervention;
 - 2. Any need for behavioral intervention, including, but not limited to, behavior modification or the administration of psychotropic medication;
 - 3. Any other circumstance requiring intervention;
 - 4. The attendant risks of treatment;
 - 5. The attendant risks of refusing treatment;
 - 6. The right to refuse treatment; and
 - 7. The right to withdraw informed consent at any time.
- (b)** Informed consent shall not be coerced.
- (c)** Informed consent shall be obtained in writing and filed in the record of the person served.
- (d)** Any person served over the age of majority and without a court-appointed guardian shall be expected to sign his or her own informed consent forms.
- (e)** When a person served has a guardian, informed consent shall be signed by the guardian.
- (f)** Every effort shall be made to support the person served through formal and informal activities prior to pursuing guardianship, unless the person served is in risk of immediate harm.
- (g)** The removal of decision-making responsibility through guardianship shall only be considered for persons served who, through their actions, do not demonstrate adaptive behavior or do not demonstrate that they are capable of identifying or understanding the consequences of their decisions.
- (h)** The TDT shall identify the need for assistance and guardianship for each person served, unless the person served is in risk of immediate harm.
- (i)** Neither a service agency nor an employee or volunteer shall become a guardian for any person served.
- (j)** The licensee may petition the court to appoint a person to assist the person served with a particular decision.
- (k)** An advocate from a local, State or private agency may be requested to assist the person served.
- (l)** Family members may be requested to assist in making decisions with and for the person served, if the person served so desires.

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[N.J.A.C. 10:44C-3.6](#)

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§ 10:44C-3.6 Restriction or modification of rights

- (a) If the exercise of the rights of the person served is restricted or modified, the ITP shall document each restriction or modification.
1. No restriction or modification of rights shall be implemented until it is reviewed and approved by the TDT through a person-centered planning process.
 2. The ITP shall state when restrictions or modifications may be lessened or eliminated.
 3. The TDT shall review all such restrictions or modifications on an as needed basis, but not less than on a quarterly basis.
- (b) The licensee shall be responsible for utilizing a Human Rights Committee in accordance with N.J.A.C. 10:41-4.
1. The Human Rights Committee shall review all restrictions or modifications of rights.
- (c) The person served or his or her legal guardian shall be advised of his or her right to appeal any restriction or modification of rights.
1. The person served or his or her legal guardian shall be informed of his or her right to obtain assistance from any of the individuals or organizations at [N.J.A.C. 10:44C-3.1\(b\)2](#).
- (d) Any use of mechanical restraint or safeguarding equipment shall comply with [N.J.A.C. 10:42](#).

History

HISTORY:

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (a)1, inserted "through a person-centered planning process".

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§ 10:44C-3.6 Restriction or modification of rights

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[N.J.A.C. 10:44C-4.1](#)

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§ 10:44C-4.1 Pre-admission and admission

- (a) The licensee shall have written criteria for admission to a particular program, including temporary (respite) placements. These criteria shall include, at a minimum:
1. Specific services provided;
 2. A non-discrimination statement regarding admissions, assuring no one will be denied admission on the grounds of race, sex, color, national origin, religion, age, physical or mental disability, ancestry, sexual preference/affiliation, including AIDS or HIV infection, atypical cellular hereditary blood traits or any other legally protected status;
 3. A statement regarding any limitations an agency may have in providing services to a person served with a specific head injury:
 4. A statement affording all persons served and/or their guardians the opportunity of preplacement visits to the residence;
 5. A statement regarding any minimum and/or maximum age restrictions;
 6. A statement regarding respite criteria; and
 7. Fees charged by the licensee; and
 8. A statement affording all persons served, the right to have a choice in the selection of their roommate.
- (b) The number of persons with head injuries admitted to a residence shall not exceed the licensed capacity.
- (c) Prior to admissions, the licensee shall obtain the following:
1. Information that addresses eligibility for services;
 2. Results from a medical examination conducted no more than one year prior to admission;
 3. A current immunization record, as available;
 4. The results of a Mantoux Skin Test for tuberculosis or IGRA blood test, administered within one year prior to the date of admission; and
 5. Pre-admission information required under [N.J.A.C. 10:44C-2.9\(d\)](#)1i through xi.
- (d) Within 30 days of an admission, an ITP shall be developed or modified by the TDT.
- (e) Upon admission, where applicable, a written lease agreement shall be signed by the person served, the guardian, as applicable, and the landlord, which shall provide the consumer with all the rights and responsibilities accorded by New Jersey tenant and landlord law and shall be comparable to leases for all other persons in the State.

§ 10:44C-4.1 Pre-admission and admission

1. In the absence of a formal lease agreement, a consumer residency agreement shall be signed by the consumer, and guardian, as applicable, that shall provide the consumer the same protections against unlawful evictions as would otherwise be provided by a signed lease agreement. This consumer residency agreement shall provide protections addressing eviction processes and appeals comparable to existing New Jersey landlord and tenant law and shall afford the same rights to appeal an eviction as all other persons in the State.

History

HISTORY:

Administrative correction.

See: [36 N.J.R. 1206\(a\)](#).

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

In (c)2, substituted "one year" for "90 days"; in (c)3, deleted "and hepatitis B screening results in accordance with N.J.A.C. 10:48-2" following "available"; and in (c)5, updated the N.J.A.C. reference.

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (b), substituted "injuries" for "injury"; in (c)4, inserted "or IGRA blood test"; deleted former (d) through (f); and recodified (g) as (d).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (a)7, substituted "; and" for the period; and added (a)8 and (e).

Annotations

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[N.J.A.C. 10:44C-4.2](#)

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§ 10:44C-4.2 Individual treatment plan (ITP)

- (a) A TDT shall be responsible for the development of a treatment plan for each person served.
1. In the absence of a court determination, the TDT shall determine the need for personal guidance for each person served.
- (b) At service initiation, evaluations covering the areas at (b)1 through 11 below shall be obtained within 45 days.
1. An assessment of the person served, with input from the person served, of preferences, goals and needs;
 2. Physical examination and health assessment;
 3. The need for post acute care;
 4. Dental examination (including oral hygiene practices);
 5. Social: reflecting social and developmental history, social interactions, family situation and the social support network of the person served;
 6. Psychological: emotional and intellectual status;
 7. Adaptive behavior or independent living: functional skills for personal care and self-support, mobility and other areas affecting daily life;
 8. Developmental, cognitive, educational and/or vocational capabilities or needs;
 9. Medication and immunization history;
 10. Screening of nutritional, vision, auditory and speech and language areas (must reflect current status and need for support or training); and
 11. Assessment in additional areas specific to the needs of the person served, including:
 - i. Self advocacy;
 - ii. Self care;
 - iii. Functional literacy;
 - iv. Financial management, including short-or long-term budgeting skills;
 - v. Home maintenance;
 - vi. Personal hygiene skills;
 - vii. Safety and emergency procedures;
 - viii. Accessing community resources;
 - ix. Recreation and leisure skills;

§ 10:44C-4.2 Individual treatment plan (ITP)

- x. Decision making skills;
 - xi. Social and interpersonal skills; and
 - xii. Exercise of rights and responsibilities.
- (c) Treatment and/or service needs shall be identified without regard to the immediate availability of those services.
- (d) Each training program comprising the plan shall include information that addresses the following issues:
1. The need for rehabilitation and/or habilitation for the person served, and his or her learning preferences and strengths (for example, learning modality);
 2. Specific instructions for prompting or coaching the person served;
 3. How to interact with the person served during training:
 - i. What to do when no response is received;
 - ii. What to do when the person served is not cooperative; and
 - iii. What to do when the person served responds as desired;
 4. Unique learning motivation for the person; and
 5. Which environments are most conducive to promoting the learning or change of the person served.
- (e) The goals and objectives shall be written in measurable and observable terms and progress reported monthly.
- (f) Each ITP shall have a sign-in sheet, including full name and title, that documents attendance by each member of the TDT.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (b), substituted "(b)1" for "1", and inserted "and annually thereafter".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

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§ 10:44C-4.2 Individual treatment plan (ITP)

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§ 10:44C-4.3 Monitoring and review of Individual Treatment Plans

- (a) The case manager shall conduct a monthly review in order to, at a minimum:
 - 1. Monitor implementation of the plan; and
 - 2. Make needed adjustments in conjunction with the TDT so that continuous progress is made toward achieving goals.
- (b) If the case manager's review reveals the need for additional support for implementation of any element of the plan or if program modification is required, the case manager shall call for either a mini-team review or a full TDT meeting.
- (c) Any major change in residential service and/or supports of a person served shall include the utilization of the TDT.
- (d) A person served may be unsupervised for specific amounts of time with approval by the TDT documented in the ITP.
 - 1. If unsupervised time results in a change in the program description the licensee shall follow the requirements at [N.J.A.C. 10:44C-2.8\(d\)](#).
- (e) Any proposed changes to the ITP shall be recommended to the case manager immediately.
 - 1. If the case manager concludes that proposed changes to the ITP result in significant differences from the intent of the TDT, he or she shall secure input from the TDT.
 - 2. All changes in the ITP shall be communicated to the members of the TDT.
 - 3. If, after receipt of the written ITP, there is a disagreement by any party, the TDT shall meet to discuss the change.
 - 4. The ITP may be implemented pending resolution of the discussion.
- (f) The TDT shall meet at least annually to review and update the ITP.

History

HISTORY:

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Deleted former (b); recodified former (c) through (f) as (b) through (e); and added (f).

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[N.J.A.C. 10:44C-4.4](#)

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§ 10:44C-4.4 Transfer or discharge

(a) Should the licensee and the placing agency determine that a residence is no longer suitable or no longer meets the needs of a person served, the person shall not be maintained at that residence, provided substantive evidence is given to the person served and his or her guardian or advocate, as appropriate, and the placing agency.

1. The person and his or her legal guardian or advocate shall have the right to appeal the licensee's decision, in accordance with [N.J.A.C. 10:44C-2.2\(b\)](#)13.

(b) In the case of a planned transfer or discharge, at least 30 days prior to the anticipated discharge date, at a minimum, the following shall occur:

1. The person served, the family, the guardian, and the placing agency, as appropriate, shall receive 30 days' notice concerning a planned transfer or discharge;

2. An addendum to the ITP shall update the existing plan and include the specifics of the transition; and

3. The development of the discharge plan shall include the licensee, the person served and his or her guardian or POA, as appropriate, the TDT and a representative of the managed care organization, as applicable.

i. The discharge plan shall assess the continuing needs of the person served and recommend a plan for provision of follow-up services in the new environment of the person served.

ii. The full records of the person served shall be transferred.

(c) A transfer or discharge summary shall be prepared for each person served who is leaving the program, and shall contain:

1. The diagnosis or disability;

2. The strengths, abilities, needs, and preferences of the person served;

3. Desired outcomes and expectations established;

4. The services provided;

5. Desired outcomes and expectations achieved;

6. The reason for the transfer or discharge; and

7. Referrals and recommendations to assist the person served to maintain and/or improve functioning and increase independence.

(d) Upon an emergency transfer or discharge of a person served, the licensee shall make recommendations to the person, his or her legal guardian, interested family, and/or his or her personal advocate and the placing agency regarding follow-up care required.

§ 10:44C-4.4 Transfer or discharge

1. The person or his or her legal guardian and/or advocate shall have the right to appeal the emergency discharge in accordance with [N.J.A.C. 10:44C-2.2\(b\)](#)13.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (b)3, inserted "or POA", and substituted "managed care organization, as applicable" for "placing agency"; deleted former (b)3ii; recodified (b)3iii as (b)3ii; in the introductory paragraph of (d), inserted a comma following "family"; and in (d)1, updated the N.J.A.C. reference.

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (a)1, inserted a comma, and updated the N.J.A.C. reference.

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[N.J.A.C. 10:44C-5.1](#)

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§ 10:44C-5.1 General health care

- (a) A personal, primary physician or medical group/clinic or advanced practice nurse shall be identified for each person served.
- (b) Each person served shall, at a minimum, have an annual medical examination.
 - 1. The examining physician or advanced practice nurse shall sign, date and document the results of the examination.
 - 2. A copy of the results of the annual examination shall be maintained in the file of the person served. The confidentiality of this document shall be maintained in accordance with N.J.A.C. 10:41-2.
 - 3. Should a competent person served refuse such an examination, documentation signed and dated by the person served rejecting the service, as well as the name of the staff offering the service, shall be filed in the record of the person served.
 - 4. Additional documentation shall be provided whenever the refusal of treatment is considered to be necessary, but not life threatening. The document shall identify steps taken to counsel the person served regarding the risks and consequences of refusal.
- (c) Each person served shall, at a minimum, have an annual dental or oral examination.
 - 1. A record documenting the results of the dental examination, signed and dated by the dentist, shall be maintained in the record of the person served.
 - 2. Should a competent person served refuse such an examination, documentation signed and dated by the person served rejecting the service, as well as the name of the staff offering the service, shall be filed in the person's record.
 - 3. Additional documentation shall be provided whenever the refusal of any medical exam or treatment is considered necessary, but not life threatening. The document shall identify steps taken to counsel the person served regarding the risks and consequences of refusal.
- (d) Upon any known or suspected exposure to a confirmed case of *M. Tuberculosis* by a person served, the agency shall consult with the local health department and maintain documentation that all requirements for follow up testing were met.
- (e) The licensee shall follow-up on all health needs including medical treatment, pharmaceutical, dental or other needed services.
 - 1. Documentation shall be maintained in the record of the person served.
- (f) The licensee shall assure that the community residence has access to emergency medical services.
- (g) Each licensed program site shall have a first aid kit, to include:
 - 1. Antiseptic;

§ 10:44C-5.1 General health care

2. Rolled gauze bandages;
3. Sterile gauze bandages;
4. Adhesive paper or ribbon tape;
5. Scissors;
6. Adhesive bandage (for example, Band-Aids);
7. Either a standard type or a digital thermometer;
8. CPR Mask; and
9. Protective gloves.

(h) Upon confirmation that a person served has contracted a communicable disease as specified at [N.J.A.C. 8:57](#), the licensee shall assure exposed persons served are placed under a physician's or advanced practice nurse's care.

1. The physician or advanced practice nurse of the person served shall determine treatment and precautions to be taken.

- i. Documentation of treatment and precautions shall be maintained in the person's file.

2. If the person served does not live alone, the licensee shall contact the primary physician or advanced practice nurse for all other persons served in the residence.

(i) The agency shall assure that all adaptive and assistive devices are available for each person served who requires them.

History

HISTORY:

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

In (h), substituted "specified at [N.J.A.C. 8:57](#)" for "identified in the chapter Appendix, incorporated herein by reference"; deleted former (i); and recodified (j) as (i).

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote (d); and in (g)9, substituted "Protective" for "Vinyl".

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[N.J.A.C. 10:44C-5.2](#)

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§ 10:44C-5.2 Prescription medication

- (a) Persons served receiving medication shall take their own medication to the extent that it is possible, as assessed and determined by the TDT, documented in the person's ITP and in accordance with licensee procedure.
- (b) If the person served is not responsible for or capable of taking his or her own medication, trained staff members shall assist and supervise the administration of the medication as prescribed.
- (c) A written record shall be maintained of all medication administered by the trained staff members.
1. The record shall include the following:
 - i. The name of the person served;
 - ii. The date;
 - iii. The name of medication;
 - iv. The type of medication;
 - v. The dosage;
 - vi. The frequency;
 - vii. The initials and corresponding signatures of staff administering the medication or, in the case of electronic records, a means by which the identification of the administering staff is verified;
 - viii. Medication administration codes; and
 - ix. All known allergies.
- (d) If a person served is capable of taking medication without assistance, no daily medication administration record is required.
1. A current list identifying the name of the medication(s), type of medication(s), dosage, frequency, date prescribed, and the location of the medication(s) shall be filed in the record of each person served and updated as changes occur.
- (e) Written documentation shall be filed in the record of the person served indicating that all prescribed medication was re-evaluated at least annually by the prescribing physician or advanced practice nurse.
- (f) Staff shall have access to medication information, either in a reference book or an online resource approved by the licensee, current within three years and written for lay persons, which shall include information on side effects and drug interaction.
- (g) Any new medication or change in medication order by the physician or advanced practice nurse, as well as new and discontinued prescriptions, shall be immediately noted on the current written medication record by staff consistent with the licensee's procedure.

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1. Verbal orders from the physician or advanced practice nurse shall be signed by the physician or advanced practice nurse within 24 hours or by the first business day following receipt of the verbal order.
 2. The prescription shall be revised at the earliest opportunity.
- (h)** A supply of medication and prescribed nutritional supplements, adequate to insure no interruption in the medication schedule, shall be available to persons served at all times.
- (i)** The licensee or designee shall supervise the use and storage of prescription medication, ensuring that:
1. A storage area of adequate size for both prescription and over-the-counter medications shall be provided and kept locked for those persons served who are not self-administering their own medication;
 2. Each person served who administers his or her own medication shall receive training and monitoring by the licensee regarding the safekeeping of medications for the protection of others, as necessary.
 - i. Medication shall be kept in an area that provides for the safety of others, if necessary;
 3. Staff shall have a key to permit access to all medication at all times and to permit accountability checks and emergency access to medication.
 - i. Specific controls regarding the maintenance and use of the key to stored medication shall be established by agency procedure;
 4. Prescribed medication for each person served shall be separated within the storage areas, as follows:
 - i. Oral medications, eye drops, and ear drops shall be separated from other medications; and
 - ii. If necessary, medications that require refrigeration shall be maintained in a manner that provides for the safety of others, for example, by using locked boxes;
 5. All medications shall be kept in their original containers from the pharmacy and shall be properly identified with the pharmacist's label.
 - i. A person served who is self-medicating may choose adaptive equipment that continues to assure the safe storage of medication;
 6. Medications that are outdated or no longer in use shall be safely disposed of according to licensee procedure;
 7. When medication is prescribed PRN (as needed), the prescription label shall include the following:
 - i. The name of the person served;
 - ii. The date;
 - iii. The name of the medication;
 - iv. The dosage;
 - v. The specification of the interval between dosages;
 - vi. The maximum amount to be given during a 24-hour period;
 - vii. A stop date, when appropriate; and
 - viii. Under what conditions the PRN medication shall be administered; and
 8. The administration of PRN medication, along with the time of administration, shall be documented on the written medication record and shall be communicated to the on-coming shift of residential staff.
- (j)** A statement signed by the physician or advanced practice nurse regarding the usage and contraindications of over-the-counter medications shall be available for staff reference and use and shall be updated annually. This statement shall constitute a physician's order.

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(k) For medications available over-the-counter, the manufacturer's label shall be sufficient for identification purposes.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote (c)1vii, (f), the introductory paragraph of (g), and (j); in (d)1, inserted "current" and "and updated as changes occur", and inserted a comma following "prescribed"; in (h), inserted "and prescribed nutritional supplements"; in (i)1, substituted "over-the-counter" for "non-prescription"; in (i)4i, inserted ", eye drops, and ear drops"; in (i)6, substituted "safely disposed of" for "destroyed"; and added (k).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (g), substituted "order" for "dosage"; and in (i)4, substituted "Prescribed" for "Each prescribed".

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§ 10:44C-5.3 Psychotropic medication

- (a) Within two weeks after admission, the licensee shall document that the licensee attempted to obtain, for persons receiving psychotropic medication, a clinical assessment by a physician or advanced practice nurse.
- (b) The licensee shall assure that the following provisions are implemented regarding the administration of psychotropic medication in an emergency:
1. Short acting injectable psychotropic medication used in emergencies shall be administered only by a licensed physician or a licensed nurse.
 2. In an emergency, telephone orders shall be permitted provided they are signed by the physician or advanced practice nurse within 24 hours.
 3. The person served shall be monitored continuously by agency staff trained to observe for side effects.
 4. The licensee shall assure that the person served is seen by the physician or advanced practice nurse within 48 hours of the administration of the injectable medication.
 5. When a psychotropic medication is prescribed and administered in an emergency, the TDT shall meet to review the use of the psychotropic medication within five working days in order to report observations to the prescribing physician or advanced practice nurse.
 - i. The results of the review shall be recorded in the record of the person served.
- (c) Psychotropic medication shall not be used for punishment, for the convenience of staff or as a substitute for a rehabilitative treatment environment.
- (d) The use of psychotropic medication shall be documented in the ITP.
1. The TDT shall review the efficiency of psychotropic medication at least on a quarterly basis and report the findings to the prescribing physician or advanced practice nurse.
 - i. The results of the review shall be recorded in the record of the person served.
 - ii. Concerns of the TDT shall be referred to the physician or advanced practice nurse, the Behavior Management Committee and the Human Rights Committee, as necessary.
- (e) The licensee shall comply with the requirements of [N.J.A.C. 10:44C-5.2\(a\)](#) and (b) in the provision of training or assistance to persons served in administering psychotropic medication.
- (f) The licensee shall comply with the requirements of [N.J.A.C. 10:44C-5.2\(c\)](#) through (g) regarding records and documentation pertaining to psychotropic medication.
- (g) The licensee shall comply with [N.J.A.C. 10:44C-5.2\(h\)](#) regarding psychotropic medication.
- (h) The licensee shall ensure that psychotropic medication is stored as specified at [N.J.A.C. 10:44C-5.2\(i\)](#).

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(i) The licensee shall ensure that each staff member involved in the administration of psychotropic medication receives the following training:

1. Indications for drug use; and
2. Therapeutic effects and side effects.

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[N.J.A.C. 10:44C-5.4](#)

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§ 10:44C-5.4 Telephone numbers

(a) The following emergency numbers shall be easily accessed and located by each telephone:

1. 9-1-1; and
2. The telephone number to contact the licensee's staff in the event of an emergency.

(b) The following telephone numbers for reporting unusual incidents or for filing complaints shall be easily accessed and available to all persons in the residence:

1. The Department's Central Office Critical Incident Management Unit (609) 777-2851;
2. If a minor is living in the residence, the telephone number for the Department of Children and Families State Central Registry at 1-877-NJ-ABUSE (1-877-652-2873);
3. If a person served 60 years of age or older is living in the residence, the telephone number for the Office of the Ombudsman for the Institutionalized Elderly (1-877-582-6995); and
4. Office of Investigations (609-984-9663).

History

HISTORY:

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

In the introductory paragraph of (b), inserted "or for filing complaints"; in the introductory paragraph of (b)1, inserted "toll-free" and ", 1-800-832-9173"; in (b)1v, updated the telephone number; and rewrote (b)2.

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote (b)1 and (b)4.

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§ 10:44C-5.4 Telephone numbers

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§ 10:44C-5.5 Food

- (a)** Sanitary practices shall be utilized in the storage, handling, preparation and serving of all food and drink.
 - 1. Food shall be thawed in a refrigerator.
- (b)** All appliances, equipment and utensils used for eating, drinking, preparation and serving of food shall be kept clean and in good condition and thoroughly washed after each use.
- (c)** Food shall be readily accessible to persons served unless limitations have been approved through a person-centered planning process documented in the person's record.
- (d)** The licensee shall assure that each person served is provided the opportunity for the following:
 - 1. Three nutritionally balanced meals, varied in nature, in the home or in the community.
 - i. Food shall meet the medical and dietary needs of the persons served.
 - ii. When a prescribed diet is required, the licensee shall assure that all equipment necessary for preparing food is readily accessible and used appropriately.
 - iii. Documentation of all such diets shall be maintained on the menu.
 - iv. Diets shall be adjusted for age, sex, disability and activity when necessary.
 - v. The licensee shall make reasonable adjustments to personal preferences, habits, customs and appetites.
- (e)** Persons served shall be afforded the choice of dining with other persons or dining by themselves.
 - 1. If a person served decides to dine alone, such choice shall be documented in his or her ITP.
- (f)** A person served shall be allowed to eat at his or her own pace, unless otherwise determined by the TDT.
- (g)** Menus, to include all meals and available snacks, shall be dated, prepared at least one week in advance, and retained on file for a period of 30 days, unless a person's ITP documents independence in meal purchase and planning.
- (h)** Consistent with their abilities, the persons served shall be consulted for preferences in determining the weekly menu and/or changing it as desired.
- (i)** Any substitution of food from the menu shall be of equal nutritional value and shall be documented on the menu.
- (j)** At a minimum, there shall be at least a three-day supply of food at all times.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Added (a)1; deleted former (d)1ii; recodified former (d)1iii through (d)1vi as new (d)1ii through (d)1v; and in (d)1ii, substituted "prescribed" for "medical or otherwise specified".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (c), substituted "through a person-centered planning process documented in the person's record" for "by the TDT"; and added (j).

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[N.J.A.C. 10:44C-5.6](#)

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§ 10:44C-5.6 Clothing

- (a) Each person served shall have an adequate supply of clean and well-fitting clothing appropriate to age, gender identity, individual needs and preferences, community standards, and season and weather conditions.
- (b) Each person served shall have the opportunity to select and purchase clothing according to personal taste and preference.
- (c) The licensee shall provide assistance to persons served who require assistance in order to maintain their own clothing.
- (d) The licensee shall provide laundry facilities without additional charge to persons served, unless there is documentation in a person's ITP that the person served is to pay for the laundering of his or her own clothing or there is a provision in the licensee's contract for the person served to pay for the laundering of his or her clothing.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Added new (a); and recodified former (a) through (c) as (b) through (d).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (a), inserted "identity" following "gender".

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§ 10:44C-5.6 Clothing

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[N.J.A.C. 10:44C-5.7](#)

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§ 10:44C-5.7 Vehicle safety

- (a) All vehicles used under the auspices of the agency to transport persons with head injuries shall include:
1. Emergency equipment, which shall include at least three portable red reflector warning devices and either a spare tire and jack or provisions for roadside assistance and emergency alternate transport;
 2. A first aid kit to only include:
 - i. Antiseptic;
 - ii. Rolled gauze bandages;
 - iii. Sterile gauze bandages;
 - iv. Adhesive paper or ribbon tape;
 - v. Scissors;
 - vi. CPR mask;
 - vii. Protective gloves; and
 - viii. Adhesive bandages (for example, Band-Aids); and
 3. Snow tires, all weather tires, or chains, when weather conditions dictate their use.
- (b) All vehicles used under the auspices of the agency to transport persons served shall comply with all applicable safety and licensing rules established by the New Jersey Motor Vehicle Commission.
1. The licensee shall maintain valid liability insurance on all vehicles used to transport persons with head injuries.
 2. All drivers shall have a driver's license valid in the State of New Jersey.
 3. A person served whose ITP has determined that being left unattended in a vehicle would present a danger to him or her or others, he or she shall be supervised by staff members.
 4. The interior of each vehicle shall be maintained in a clean, safe condition and shall be free of obstacles obstructing clear passage to operable doors.
 5. All equipment stored in any vehicle used under the auspices of the agency to transport persons with head injuries shall be properly secured in order to prevent injury to all persons in the vehicle.
- (c) An agency vehicle shall be available at all times to provide transportation for persons served, as needed, and desired for community integration.
1. Vehicles used to transport persons served in wheelchairs shall be fully accessible and include all required safety mechanisms, which shall be maintained in working order and utilized at all times.

History

HISTORY:

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

In the introductory paragraph of (b), substituted "rules" for "regulations" and "New Jersey Motor Vehicle Commission" for "New Jersey Division of Motor Vehicles".

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (a), in (b)1, and in (b)5, substituted "injuries" for "injury"; rewrote (a)1; in (a)2vii, substituted "Protective" for "Vinyl"; in (a)2viii, inserted "and"; in (a)3, inserted a comma following "chains", and substituted a period for "; and"; and deleted (a)4.

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Added (c).

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[N.J.A.C. 10:44C-5.8](#)

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§ 10:44C-5.8 Workplace safety

(a) The licensee shall comply with the Occupational Safety and Health Administration's (OSHA) regulations (29 CFR) as they may apply to a particular type of residence the licensee operates, and shall ensure consistent and sound enforcement.

1. The licensee shall maintain on file all inspection reports and correspondence documenting non-compliance with OSHA requirements.
2. All such reports and correspondence shall be available for review by authorized representatives of the Department.

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[N.J.A.C. 10:44C-6.1](#)

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§ 10:44C-6.1 Fire safety

(a) Each community residence operated by the licensee shall be registered with the Department of Community Affairs (DCA), Bureau of Fire Code Enforcement, Life Hazard Use Registration Unit, as a life hazard use and shall be subject to inspection, as required by the inspection schedule contained in the uniform fire safety code, consistent with [N.J.S.A. 52:27D-192](#) et seq., and the rules promulgated thereunder.

1. All written reports from such inspections shall be maintained on file.

(b) Each community residence for persons with head injuries shall comply with the provisions of [N.J.S.A. 52:27D-192](#) et seq., the Uniform Fire Safety Act.

1. The Office of Licensing may identify any additional fire safety precautions required.

(c) Variances from regulations may be requested in accordance with [N.J.S.A. 52:27D-200](#).

History

HISTORY:

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

Added (d).

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (b), substituted "injuries" for "injury"; in (b)1, substituted "Office of Licensing" for "licensing agency"; and deleted (d).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote (a).

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§ 10:44C-6.1 Fire safety

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[N.J.A.C. 10:44C-6.2](#)

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§ 10:44C-6.2 Emergency evacuation plans

- (a) The licensee shall design an emergency evacuation plan for each residence, in accordance with the Uniform Fire Safety Act, [N.J.S.A. 52:27D-192](#) et seq., and the individual characteristics of the home.
1. The plan shall be further developed by evaluating each person's ability to evacuate the residence in three minutes or less, according to the following risk factors:
 - i. The person's ability to solve problems;
 - ii. The person's compliance, including any behavioral factors that adversely affect the person's ability to evacuate; and
 - iii. Medical factors, including physical disabilities, which adversely affect the person's ability to evacuate.
 2. The plan shall incorporate the following elements:
 - i. A general description of the building;
 - ii. Identification of all exits that lead directly to the outside;
 - iii. Identification of the point(s) of safety, a designated meeting spot at which the occupants assemble after evacuating the premises;
 - iv. Any special needs that the service recipients have and the assistance that will be necessary to help them evacuate within three minutes, based upon the individual emergency evacuation assessments; and
 - v. A single plan of prioritized and sequential actions required to promptly evacuate everyone from the building within three minutes.
- (b) The emergency evacuation plan shall be reviewed at least annually and revised:
1. Within 48 hours of a new person served moving into the residence, the return of a person served absent for more than 30 days, or the discharge of a person served;
 2. Whenever the level of assistance required by the current occupants to evacuate the residence changes; and
 3. Thirty days following an occupant's admission to a hospital or nursing home.
- (c) All persons served shall be able to evacuate the residence in three minutes or less.
- (d) The plan shall include one or more designated points of safety at which all persons assemble after evacuating the premises.
- (e) The licensee shall assure that all staff persons assigned to a residence at any time have been trained in the emergency evacuation plan for that residence.

History

HISTORY:

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

In (a)1v, deleted "and" at the end; in (a)1vi, substituted "; and" for a period at the end; and added (a)1vii and (d).

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Section was "Fire evacuation plans". Rewrote (b)1 and (b)2; and added (b)3 and (e).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote the section.

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[N.J.A.C. 10:44C-6.3](#)

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§ 10:44C-6.3 Fire drills

- (a) Fire drills, supervised by staff, shall be performed at a minimum of once per month.
1. Each shift shall perform at least four fire drills a year, four of which shall be during normal sleeping hours for the residents of the home.
 2. Fire drills shall be performed at random and varying times, so that persons served are engaged in a variety of routine activities during the drills.
 3. Fire drills shall assure that all means of egress are used throughout the year; except those in areas that are not routinely utilized by persons served, such as unfinished basements, furnace rooms, and garages without ramps.
 4. An egress time of three minutes or less shall be attained and maintained.
 - i. The evacuation drill shall be timed from when the alarm is sounded until the last occupant crosses the threshold of a means of egress.
- (b) Written records shall be maintained, including the following information:
1. The date and time of the fire drill;
 2. The location of the simulated fire;
 3. The means of egress used;
 4. The full names of persons served and staff who participated in the drill; and
 5. The time required for all persons to evacuate the residence.
- (c) In the event that a person served exceeds the allotted evacuation time, the licensee shall take one of the following steps:
1. Training in evacuation shall be provided to the person served upon admission.
 - i. If the person served is unable to evacuate the residence in three minutes or less after training, the licensee shall assure that (c)2, 3 or 4 below is implemented;
 2. Add awake staff to assure the three-minute time is met;
 3. Relocate persons served so that the three-minute time is met; or
 4. Conform to the I-1 Group classification (see [N.J.A.C. 5:23](#)).
- (d) Within 24 hours of admission, each person served shall participate in a fire drill to ensure knowledge of emergency egress procedures.

History

§ 10:44C-6.3 Fire drills

HISTORY:

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

Section was "Egress protocols". Rewrote (a); recodified the former introductory paragraph of (a)9 as (b), former (a)9i through (a)9v as (b)1 through (b)5, and (b) through (c) as (c) through (d); in the introductory paragraph of (b), substituted "shall be" for "are" and inserted a comma following "maintained"; in the introductory paragraph of (c)1, substituted a period for a semicolon at the end; and in (c)1i, substituted "(c)2" for "(b)2" and "below" for "above".

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote (a) and (b).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In the introductory paragraph of (a), inserted "at"; in (a)1, substituted "four" for "at least one"; and in (b)2, substituted "the simulated fire" for "each person served at the onset of the drill".

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[N.J.A.C. 10:44C-6.4](#)

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§ 10:44C-6.4 Group classification requirements

(a) Group homes housing five or fewer persons served shall meet the requirements of Group R-5 of the Uniform Construction Code, provided all persons are either ambulatory or mobile non-ambulatory (see [N.J.A.C. 5:23](#)).

(b)

One- and two-family homes housing six to 15 persons served shall meet the requirements of Group R-2 of the Uniform Construction Code, see [N.J.A.C. 5:23](#).

History

HISTORY:

Amended by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

Deleted (c).

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote (b).

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[N.J.A.C. 10:44C-6.5](#)

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§ 10:44C-6.5 Fire extinguishers

(a) Fire extinguishers shall be serviced annually and shall be of a type and number as determined by the Fire Official designated to enforce the Uniform Fire Safety Act, [N.J.S.A. 52:27D-197](#) et seq.

1. Documentation of servicing shall be available for review.

(b) Fire extinguishers, battery-operated smoke detectors, and stand-alone carbon monoxide detectors shall be checked monthly by staff to ensure all extinguishers and smoke detectors are fully charged and operable, and documentation maintained.

1. Documentation shall be available on the fire extinguisher or at the residence as part of the administrative records.

(c) Integrated hard-wired smoke and/or carbon monoxide detection systems shall be tested quarterly and documentation maintained.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Added (c).

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote (b).

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§ 10:44C-6.5 Fire extinguishers

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§ 10:44C-6.6 General home requirements

- (a) For residences housing persons served with physical disabilities, the licensee shall make accommodations to ensure maximum physical accessibility feasible for entrance to and movement within the residence based upon personal characteristics.
1. Any necessary modifications shall conform to the requirements contained in the Barrier Free Subcode, [N.J.A.C. 5:23-3.14\(b\)](#)¹⁰, which includes the accessibility regulations (see [N.J.A.C. 5:23-7.1](#) (Barrier Free Subcode)).
 2. Two means of egress shall be ramped, located in different parts of the building, and lead to the ground level.
 3. Such residences located on a floor above the ground floor shall have been designated for occupancy by non-ambulatory persons served by the fire official, including, but not limited to, safe havens, fireproof stairs, and fire suppression systems.
- (b) The exterior of the residence and the surrounding grounds shall be properly maintained and shall be free from any hazard to health or safety.
1. Sheds, garages, and other outbuildings shall be maintained in safe condition or be rendered inaccessible to persons served.
- (c) The interior of the residence shall be properly maintained and shall be free from any hazard to health or safety.
1. All interior doors shall be equipped with standard hardware that can be readily opened in an emergency. Hooks and eyes, bolts, bars, and other similar devices shall not be used on interior doors.
 - i. Where a doorknob lock requires a key or other device to open from the outside, such key or device shall be readily available to staff.
 - ii. Chain locks are prohibited on apartment doors, unless required by local ordinance or requested by the person served, in which case, the lock shall be changed to the type that can be opened from the outside with a key. The key must be available to staff at all times. In all cases, the person served must have the ability to operate the chain lock.
 2. A carbon monoxide detector(s) shall be installed in the location specified by the Uniform Construction Code ([N.J.A.C. 5:23](#)) and in compliance with the technical requirements found at [N.J.A.C. 5:23](#).
 3. Nothing shall be stored within three feet of a boiler, furnace, or water heater.
 4. Portable halogen lamps shall be prohibited.
 5. Cellophane wrapping on lamps shades shall be prohibited.
 6. The use of candles is prohibited.

§ 10:44C-6.6 General home requirements

7. Electric and gas clothes dryers shall be maintained in good repair. Vent ducts shall remain unblocked, uncrushed, and properly connected to the dryer, and the lint trap screen shall be cleaned after each use.
 8. Fireplaces and wood or pellet burning stoves and all components shall be kept clean and well maintained.
 - i. Wood or pellet burning stoves shall be permitted, only if proof of its proper installation is provided by the local construction code official, as evidence by a certificate of approval.
 - ii. Protective screening or covers shall be provided, so as to prevent occupants in the home from coming into direct contact with the fire and/or prevent sparks from flying into the home from the fireplace.
 - iii. Fireplaces, as well as wood or pellet burning stoves, if used, must be professionally inspected, and cleaned if necessary, annually, and documentation of such shall be maintained.
 9. Every exhaust fan and exhaust fan filter shall be regularly cleaned from accumulated grease.
 10. Attics and unfinished spaces without adequate flooring shall be rendered inaccessible to persons served.
- (d) Each person served shall have access to a landline or cellular telephone.
- (e) Non-slip surfaces shall be provided as appropriate:
1. As non-skid backing for scatter or throw rugs;
 2. On stairs and landings; and
 3. In each shower or bathtub.
- (f) All furniture throughout the home shall be clean and in good repair.
- (g) All common areas for living and dining shall be of sufficient size to provide enough seating for all occupants of the home at one time.
- (h) No temporary wiring shall be used except UL listed extension cords, rated appropriate to the anticipated load.
- (i) Extension cords shall not run under rugs, through walls, or through doorways.
- (j) Standby generators shall be permanently installed by a qualified technician in accordance with all local codes, permitting, and inspection requirements.
- (k) Portable generators shall only be used in accordance with the following:
1. Under a permit issued by the local enforcement agency, if such a permit is required by local municipal codes;
 2. Not plugged directly into the home's electrical receptacles or outlets;
 3. Operated outside and away from doors, vents, or open windows leading into the home;
 4. Properly grounded, dry, and shielded from contact with liquid;
 5. Operated only with heavy-duty electrical cords that are rated for outdoor use, free of any punctures or exposed wiring, kept out of the way of foot traffic, and not run underneath rugs;
 6. Powering only devices that, when operated simultaneously, do not draw more electrical capacity than the generator is designed to supply; and
 7. Not powering devices hard-wired into the home's electrical system unless the generator is plugged into a transfer switch or panel of transfer switches installed by a qualified technician in accordance with all local codes, permitting, and inspection requirements.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote the section.

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (a)1, substituted "Barrier Free" for "Barrier-Free", updated the N.J.A.C. reference, and inserted ", which includes the accessibility regulations (see [N.J.A.C. 5:23-7.1](#) (Barrier Free Subcode))".

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[N.J.A.C. 10:44C-6.7](#)

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§ 10:44C-6.7 Certificate of occupancy

A certificate of occupancy or other documentation of approval shall be obtained by the licensee from the local construction official as required by the Uniform Construction Code (see [N.J.A.C. 5:23](#)) and/or local ordinance for all repairs or renovations requiring a building permit.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Inserted "or other documentation of approval" and "for all repairs or renovations requiring a building permit".

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§ 10:44C-6.8 Exits

- (a) Locks on doors used as an approved means of egress shall be of the type that can be unlocked from the inside without the use of a key.
- (b) No interior or exterior door, window, or opening in a community residence for persons with head injuries shall be locked, fastened, or blocked, so as to prevent or impede the egress of any person in the residence.
- (c) Only commercially available security devices shall be permitted for use with sliding glass exit doors.
- (d) Means of egress shall not be obstructed.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Rewrote the section.

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§ 10:44C-6.9 Heat sources

(a) Space heaters, including, but not limited to, electrical, kerosene, and quartz heaters, shall be prohibited, unless a waiver is granted by the Office of Licensing.

1. Written documentation shall be maintained indicating that the local enforcing authority has authorized such use.

(b) Every home shall have heating facilities that are properly installed, maintained in good and safe working condition, and capable of maintaining all habitable rooms at a temperature of 68 degrees Fahrenheit (20 degrees Celsius) when the outdoor temperature is zero degrees Fahrenheit (-18 degrees Celsius).

(c) Heat sources exceeding 110 degrees Fahrenheit (43 degrees Celsius) which are accessible to persons served requiring personal guidance shall be equipped with protective guards or insulated to prevent persons served from coming into direct contact with the heat source.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In the introductory paragraph of (a), substituted "Office of Licensing" for "licensing agency"; and in (b), substituted "68" for "65".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (b), substituted "20" for "18".

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§ 10:44C-6.9 Heat sources

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[N.J.A.C. 10:44C-6.10](#)

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§ 10:44C-6.10 Water

- (a) Hot and cold running potable water shall be available at all times.
1. The potable water supply from a private well shall be tested at least once every five years by a New Jersey certified laboratory.
- (b) Hot water shall not exceed 120 degrees Fahrenheit (49 degrees Celsius) at the tap or be maintained lower than 105 degrees Fahrenheit.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Added (a)1; and in (b), inserted "or be maintained lower than 105 degrees Fahrenheit".

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[N.J.A.C. 10:44C-6.11](#)

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§ 10:44C-6.11 Railings, stairs and hallways

- (a) Every porch, balcony, staircase, or place higher than 30 inches off the ground shall be provided with adequate railings, according to the Uniform Construction Code.
- (b) All outside stairways consisting of four or more steps shall be provided with a secure handrail.
- (c) All stairways and hallways shall be kept free and clear of obstructions at all times.
- (d) All carpeting and stair treads shall be adequately secured.

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[N.J.A.C. 10:44C-6.12](#)

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§ 10:44C-6.12 Windows

- (a) Every bedroom shall have at least one operable window opening directly to the outside.
 - 1. If a bedroom has only one operable window, it shall not be blocked by an air conditioner or any permanently installed device.
- (b) First floor bedroom windows shall have an operable window space of five square feet.
- (c) Second floor bedroom windows shall have an operable window space of 5.7 square feet.
- (d) From May through October, all openable windows and doors used for natural ventilation shall be provided with easily removable insect screening in good condition.
- (e) Where the rehabilitation of an existing building creates or includes any building element of a type listed in this section, then the new element shall comply with the requirements for such an element as follows:
 - 1. At least one newly created window opening in sleeping rooms below the fourth story in occupancies in Groups R or I-1 shall:
 - i. Be operable;
 - ii. Have a sill height of not more than 44 inches; and
 - iii. Have a width of at least 20 inches, a height of at least 24 inches and a minimum total area of 5.7 square feet head to sill and from side to side;
 - 2. New window openings in sleeping rooms shall not be required to comply with [N.J.A.C. 10:44C-6.12\(e\)](#)1i-iii, above, in buildings where the sleeping room is provided with a door to a corridor having access to two remote exits or in buildings equipped throughout with an automatic fire suppression system; and
 - 3. Basement windows in buildings of Group R-2 shall comply with the requirements of [N.J.A.C. 5:23-6.26\(a\)](#)3 where the window serves as the second means of egress from the dwelling unit.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Added (a)1.

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[N.J.A.C. 10:44C-6.13](#)

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§ 10:44C-6.13 Bedrooms

(a) Occupancy shall be limited to floors on or above grade level. Bedrooms may be situated in basements under the following conditions:

1. More than half the height of the room is above grade level;
2. The basement is provided with two or more independent means of egress, at least one of which leads directly outside, unless the building has an automatic fire suppression system;
 - i. An operable window with a net clear opening of at least five square feet, a minimum net clear opening of 24 inches in height and 20 inches in width, and a sill height of not more than 44 inches above the finished floor is acceptable as one of the means of egress; and
3. There are no other conditions that may adversely affect the health, safety, welfare, or rights of persons with head injuries.

(b) Non-ambulatory persons served shall reside on the first floor of the residence, unless the local enforcing agency of the Uniform Fire Code grants a specific variance.

1. In group homes of Group R-5 or R-2, bedrooms shall not be above the second floor.

(c) There shall be no access to common areas or other bedrooms through a person's bedroom.

(d) A maximum of two persons served shall share a bedroom.

(e) Bedrooms shall contain the following minimum space per person:

1. Seventy square feet for occupancy by one person served; and
2. One hundred thirty square feet for occupancy by two persons served.

(f) At least one half of the floor area of every bedroom shall have a ceiling height of 7 1/2 feet.

1. The floor area of that part of any room where the ceiling is less than five feet shall not be considered allowable floor space.

(g) Each person served shall be provided with the following bedroom furnishings, in good repair, the style of which is consistent with his or her preference unless otherwise specified by the TDT:

1. A standard or platform bed frame;
2. A minimum of a four-inch thick mattress of fire resistant material and of sufficient size;
3. A box spring of sufficient size, unless a platform bed or spring bed frame is used;
 - i. Fold-up convertible type beds, roll-aways, cots, hide-a-beds and double deck beds shall be prohibited, unless a situation warrants short-term use.
 - ii. Vinyl or fabric mattress and box spring protectors shall be designed for that purpose and shall be of fire-resistant material. Any other form of covering, such as shipping plastic, is prohibited.

§ 10:44C-6.13 Bedrooms

4. Lighting;
 5. Ample linen supplies consisting of, at a minimum:
 - i. A clean pillow, of non-allergenic material if necessary;
 - ii. Two sets of bed linens and pillowcases; and
 - iii. One mattress cover, one blanket, and one bed covering;
 6. Drawers or a closet for the storage of personal possessions and in-season clothing, provided in the room of the person served; and
 7. One mirror, securely fastened to the wall and/or fastened to a dresser at a height appropriate for the use of the person(s) served occupying the room.
- (h) Persons served may choose to decorate their bedrooms according to personal taste and preference.
- (i) Every bedroom shall have an operable door for privacy, equipped with standard hardware that provides a privacy lock which can be readily opened from the outside in an emergency, and with only appropriate staff having access to the key, as needed. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bedroom doors.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (a)3, substituted "injuries" for "injury"; in the introductory paragraph of (g)3, inserted "or spring bed frame"; in (g)3i, inserted a comma following "prohibited", and substituted a period for a semicolon; added (g)3ii and (i); and in (g)7, deleted "chosen by the person served" following "mirror".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

Rewrote (i).

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§ 10:44C-6.14 Bathrooms

- (a) Every residence shall be provided with one flush-type toilet and sink for every four persons served and one bathtub or shower for every six persons served living in the home.
- (b) Every toilet, sink, bathtub, or shower shall be accessible without passing through any other sleeping unit and shall be available within one floor above or below the room of a person served, unless it is a master bedroom type suite where the bathroom is used solely by that bedroom's occupants.
- (c) Toilet paper, soap and toweling shall be available at each toilet and lavatory for access by each person served living in a home.
- (d) Bathroom doors shall be equipped with standard hardware which provides a privacy lock and which can be readily opened from the outside in an emergency and with only appropriate staff having access to the key, as needed. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bathroom doors.

History

HISTORY:

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (d), inserted "and with only appropriate staff having access to the key, as needed" and a comma following "bars".

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[N.J.A.C. 10:44C-6.15](#)

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§ 10:44C-6.15 Kitchens

- (a) Kitchens shall be clean and ventilated.
- (b) Containers of food shall be covered and appropriately stored above the floor on shelves or other clean surfaces and kept separate from cleaning supplies.
- (c) Disposable dinnerware shall not be used on a regular basis.
- (d) Refrigeration and storage of food shall be provided at not more than 45 degrees Fahrenheit (four degrees Celsius). Freezer compartments shall operate at no more than zero degrees Fahrenheit (-18 degrees Celsius).
- (e) Kitchen appliances shall, at a minimum, include a refrigerator, freezer, (or refrigerator with a freezer compartment), an oven, and a cooktop maintained in good condition.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

In (a), deleted "well" preceding "ventilated"; and in (d), substituted "zero" for "32" and "-18" for "zero".

Amended by R.2023 d.005, effective January 3, 2023.

See: [54 N.J.R. 1146\(a\)](#), [55 N.J.R. 58\(a\)](#).

In (d), substituted "four" for "seven"; and added (e).

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§ 10:44C-6.16 Basement use

- (a) Basements may be used for storage and laundry, provided they are dry and have adequate lighting.
- (b) Basements may be used as activity rooms if they are dry, warm, adequately lighted and have two independent means of egress, one of which leads directly outside.

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§ 10:44C-6.17 Maintenance requirements

- (a) When maintenance is the responsibility of another party, the licensee shall document that the other party has been informed of the need to correct all deficiencies relating to maintenance.
- (b) Accumulation of garbage or waste shall be prevented.
 - 1. All garbage collected for disposal shall be stored in water tight containers with tight fitting covers.
- (c) Pest control services shall be arranged in a timely manner when there is evidence of infestation.
 - 1. Agency staff may treat the infestation provided they have been trained by a licensed extermination company and the infestation has been determined to be under control by a licensed extermination company after treatments have been completed. The licensee shall retain documentation of all such training and service.
- (d) Floors, walls, ceilings, and other interior surfaces shall be kept clean and in good repair.
- (e) At each residence, doors opening to the outside and outside walkways shall be kept free of ice, snow, leaves and other hazards.

History

HISTORY:

Amended by R.2017 d.023, effective February 6, 2017.

See: [48 N.J.R. 1759\(a\)](#), [49 N.J.R. 259\(a\)](#).

Added (b)1; and rewrote (c)1.

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APPENDIX (RESERVED)

History

HISTORY:

Repealed by R.2009 d.257, effective August 17, 2009.

See: [41 N.J.R. 938\(a\)](#), [41 N.J.R. 3089\(a\)](#).

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