

**ADOPTIONS SECTION**

**HEALTH**

**HEALTH SYSTEMS BRANCH**

**DIVISION OF CERTIFICATE OF NEED AND LICENSING**

**Notice of Readoption**

**Standards for Licensure of Residential Substance Use Disorder Treatment**

**Facilities**

**Readoption with Technical Changes and Recodification: N.J.A.C. 10:161A as**

**8:111**

Authority: N.J.S.A. 26:2B-14 and 26:2G-23; and Reorganization Plan Nos. 001-2017 and 001-2018.

Authorized By: Judith M. Persichilli, R.N., B.S.N., M.A., Commissioner, Department of Health.

Effective Dates: November 10, 2021, Readoption;  
December 20, 2021, Technical Changes and Recodification.

New Expiration Date: November 10, 2028.

**Take notice** that, pursuant to N.J.S.A. 52:14B-5.1, the Commissioner of the Department of Health (Department) hereby readopts and recodifies N.J.A.C. 10:161A, Standards for Licensure of Residential Substance Use Disorder Treatment Facilities, with technical changes, as new N.J.A.C. 8:111.

Reorganization Plan No. 001-2017, A Plan for the Transfer of Mental Health and Addiction Functions From the Department of Human Services to the Department of Health (Governor Christie, filed June 29, 2017, and effective August 28, 2017), at § 1,

continued the Division of Mental Health and Addiction Services (DMAHS) of the Department of Human Services (DHS), and, in pertinent part, at § 2(b) through (f) and (i) through (m), transferred the DMAHS and all functions, powers, and duties associated with the licensure and inspection of alcohol and substance use disorder treatment programs and facilities pursuant to N.J.S.A. 26:2B-7 et seq., and the Narcotic and Drug Abuse Control Act of 1969, N.J.S.A. 26:2G-1 et seq., from the DHS and the DHS Commissioner to the Department and the Commissioner of Health. 49 N.J.R. 2303(a).

Reorganization Plan No. 001-2018, A Plan for the Transfer of Certain Mental Health and Addiction Functions From the Department of Health to the Department of Human Services (Governor Murphy, issued June 21, 2018, and effective August 20, 2018), at § 1, continued the Division of Mental Health and Addiction Services and, in pertinent part, at § 2(c) through (g) and (i) through (m), transferred from the Department and the Commissioner of Health to the DHS and the DHS Commissioner, all functions, powers, and duties established at N.J.S.A. 26:2B-7 et seq., and 26:2G-1 et seq., with one exception. 50 N.J.R. 1517(a). Reorganization Plan No. 001-2018 at § 2(c) retained and continued within the jurisdiction of the Department and the Commissioner of Health all functions, powers, and duties established at N.J.S.A. 26:2B-14, 26:2G-23, and 26:2G-24, associated with the establishment and enforcement of standards for licensure and inspection of inpatient, outpatient, and residential aftercare, alcohol use disorder and intoxication treatment facilities. *Id.*

N.J.A.C. 10:161A, Standards for Licensure of Residential Substance Use Disorder Treatment Facilities, establishes standards for licensure of residential substance use disorder treatment facilities (facilities) in New Jersey. The Department of

Human Services promulgated N.J.A.C. 10:161A as new rules in 2013. 43 N.J.R. 2218(a); 45 N.J.R. 1725(a).

In accordance with N.J.S.A. 52:14B-5.1.b, the rules at N.J.A.C. 10:161A, Standards for Licensure of Residential Substance Use Disorder Treatment Facilities, were scheduled to expire July 15, 2020. Pursuant to Executive Order Nos. 127 (2020) and 244 (2021) and P.L. 2021, c. 103, any chapter of the New Jersey Administrative Code that would otherwise have expired during the Public Health Emergency originally declared in Executive Order No. 103 (2020) is extended through January 1, 2022. Therefore, this chapter has not yet expired and the 30-day filing date pursuant to N.J.S.A. 52:14B-5.1.c has not yet occurred, therefore, pursuant to Executive Order No. 244 (2021), and P.L. 2021, c. 103, this notice of readoption is timely filed.

Subchapter 1, Definitions and Qualifications, establishes general provisions including the scope and purpose of the chapter, definitions of words and terms the chapter uses, and the minimum educational and experiential qualifications for personnel authorized to provide professional services in residential substance use disorder treatment facilities.

Subchapter 2, Licensure Procedures and Enforcement, establishes procedures by which applicants for initial or renewal of licensure are to submit applications and the minimum content thereof, and by which the Department reviews applications, conducts facility surveys, issues licenses, administers enforcement proceedings, including the procedures for aggrieved applicants and licensees to seek relief, implements plans of correction for violations, and determines to curtail admissions and temporarily or permanently modify license status.

Subchapter 2 identifies available enforcement remedies and penalties and establishes a procedure for waiver of chapter requirements.

Subchapter 3, General Requirements, establishes minimum standards to which licensees are to adhere to in operating facilities, addressing minimum services to be provided, including clinical and transportation services; compliance with applicable laws; notification, reporting, documentation, and recordkeeping obligations; personnel administration including staff-to-resident ratios, employee health screening, and recordkeeping; establishment and maintenance of written policies and procedures; and the prohibition of tobacco use in facilities.

Subchapter 4, Governing Authority, establishes standards for creation, qualifications of members, responsibilities, and operating procedures, of a governing authority that is responsible for the management, operation, and financial viability of a facility.

Subchapter 5, Administration, establishes standards for facility administration, and specifically addresses a governing body's obligations with respect to the appointment and oversight of a facility administrator, an administrator's responsibility to be present at or available to a facility, and procedures for use of an alternate or designee administrator in an administrator's absence.

Subchapter 6, Client Care Policies and Services, establishes standards for the creation and member composition of a client care policy committee; the standards and procedures for the committee's development, implementation, and minimum content of client care policies and procedures. The subchapter also establishes standards addressing client continuity of care and client safety preadmission, admission and

retention of clients; voluntary and involuntary discharge; the use of restraints; calibration of instruments; and interpretation services.

Subchapter 7, Medical Services, establishes standards for the provision of medical services in the facility, and requires the medical staff to develop, implement, and review annually written medical procedures and bylaws.

Subchapter 8, Nursing Services, establishes standards for the provision of nursing services in the facility.

Subchapter 9, Client Assessments and Treatment Plan, establishes standards for client biopsychosocial assessment and treatment; and the maintenance and minimum content of a client treatment plan for each client.

Subchapter 10, Substance Abuse Counseling and Supportive Services, establishes standards for the provision of substance abuse counseling, supportive, and co-occurring services in a facility; and the appointment of a director of substance abuse counseling services.

Subchapter 11, Educational Services, establishes standards for the provision of educational services for adolescent clients.

Subchapter 12, Laboratory and Radiological Services, establishes standards for the provision of laboratory and radiological services to clients.

Subchapter 13, Recreational Services, establishes standards for the provision of recreational services to clients.

Subchapter 14, Pharmaceutical Services, establishes standards addressing the provision of pharmaceutical services, drug administration, and medication storage. The

chapter also establishes additional standards applicable to facilities that provide medically monitored detoxification services.

Subchapter 15, Dietary Services, establishes standards addressing the provision of dietary services to clients; the responsibilities of dietary personnel, and minimum requirements for dietary services.

Subchapter 16, Emergency Services and Procedures, establishes standards addressing the establishment and posting of emergency plans, policies, and procedures to respond to emergencies, training staff, and clients as to the content of those plans, policies, and procedures; conducting drills, tests, and inspections at regular intervals to determine the readiness of facility staff and physical plant equipment to respond to emergencies. The subchapter also establishes standards for the provision of emergency medical services and equipment at a facility.

Subchapter 17, Client Rights, establishes standards addressing the development, maintenance, and posting of, and staff training in, client rights and the complaint procedures.

Subchapter 18, Continuum of Care Planning Services, establishes standards for the development and initiation of, and staff training in, continuum of care planning for clients and policies and procedures for continuum of care planning, and inclusion of family and client education in care planning.

Subchapter 19, Clinical Records, establishes standards for maintaining client clinical records including assignment of facility staff to the responsibility to ensure clinical records are maintained and stored in accordance with facility policies and

procedures; the minimum content and format of client records and clinical record entries; and records access, preservation, storage, retrieval, and confidentiality.

Subchapter 20, Infection Prevention and Control, establishes standards addressing facility implementation of an infection prevention and control program and adherence to applicable regulated medical waste disposal standards.

Subchapter 21, Housekeeping, Sanitation, and Safety, establishes standards addressing the maintenance of a sanitary client care environment in accordance with policies and procedures, housekeeping, waste storage and removal, water supply, and laundry.

Subchapter 22, Quality Assurance Program, establishes standards for facility implementation of a quality assurance program and activities.

Subchapter 23, Volunteer Services, establishes standards for provision of volunteer services in a facility, and requires the development of policies and procedures related thereto.

Subchapter 24, Physical Plant and Functional Requirements, establishes standards addressing facility construction, alteration, renovation, reconstruction, ventilation, and repair; adherence to applicable accessibility standards; plan review and review fees; exit access passageways and corridors; automatic fire alarm, detection, and suppression system; interior finishes; attached structures; and separation of outpatient and residential parts of a multiple occupancy facility.

Subchapter 25, Physical Environment, establishes standards for the physical environment of bedrooms, bathrooms, living and recreation rooms, dining rooms, storage facilities, laundry equipment rooms, kitchens, and employee rooms. The

subchapter also establishes standards for fire extinguishers, sounding devices, and ceiling heights.

Subchapter 26, Existing Facilities, establishes the physical plant standards that facilities with existing licenses must meet, and addresses fire safety and resident bedrooms.

Subchapter 27, Confidentiality, establishes that facilities must adhere to Federal substance use disorder privacy and confidentiality standards.

Chapter 161A Appendix A establishes tuberculosis surveillance procedures, which N.J.A.C. 10:161A-3.7(d) and 9.1(b)2vii incorporate by reference.

Chapter 161A Appendix B establishes guidelines for use of Suboxone® (buprenorphine and naloxone) and Subutex® (buprenorphine), which N.J.A.C. 10:161A-7.1(a) incorporates by reference.

Chapter 161A Appendix C establishes Vivitrol® (naltrexone) injection guidelines, which N.J.A.C. 10:161A-7.1(a) incorporates by reference.

The Department has reviewed N.J.A.C. 10:161A and has determined that, subject to the technical changes and recodification described below, the existing chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was originally promulgated, as amended and supplemented over time, and should be readopted as N.J.A.C. 8:111.

In addition to readopting and recodifying the existing rules, the Department is making technical changes throughout the chapter to update references throughout the chapter to the licensing authority by:

1. Deleting references to the “Department of Human Services,” “DHS,” “Division of Mental Health and Addiction Services,” and “DMHAS,” and adding in place thereof, references to the “Department of Health” or the “Department”;

2. Deleting references to the “Office of Licensing” or “OOL” and adding in place thereof, references to the “Division of Certificate of Need and Licensing” or “Office.”;

3. Updating contact information; and

4. Correcting cross-references.

Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 10:161A is readopted, and shall continue in effect for seven years, and is recodified as N.J.A.C. 8:111.

**Full text** of the technical changes and recodification follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## CHAPTER [161A] **111**

### STANDARDS FOR LICENSURE OF RESIDENTIAL SUBSTANCE USE DISORDER

#### TREATMENT FACILITIES

##### SUBCHAPTER 1. DEFINITIONS AND QUALIFICATIONS

###### [10:161A]**8:111**-1.1 Scope and applicability

(a) This chapter applies to substance (alcohol and drug) abuse treatment facilities that provide residential substance use disorders treatment to adults [and adolescents] including, but not limited to, halfway houses, extended care facilities, long-term residential facilities, short-term residential treatment facilities and non-hospital-based (medical) detoxification, or any other similar such organization. The rules in this chapter constitute the basis for the licensure and inspection of residential substance use

disorders treatment facilities by the New Jersey Department of [Human Services, Division of Mental Health and Addiction Services (DMHAS)] **Health**.

(b) (No change.)

[10:161A]8:111-1.2 (No change in text.)

[10:161A]8:111-1.3 Definitions

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

“ABAM” means the American Board of Addiction Medicine, [4601 North Park Avenue, Upper Arcade, Suite 101, Chevy Chase, MD 20815-4520,] **for which the contact information is 8735 W. Higgins Rd., Ste. 300, Chicago, IL 60631, telephone (301) 656-3378, and website [www.abam.net](http://www.abam.net)**.

...

“ASAM” means the American Society of Addiction Medicine, [4601 North Park Ave., Upper Arcade, Suite 101, Chevy Chase, MD 20815] **for which the contact information is 11400 Rockville Pike, Suite 200, Rockville, MD 20852, telephone (301) 656-3920, [www.asam.org](http://www.asam.org)**.

“ASAM [Patient Placement] Criteria” means the criteria developed by the American Society of Addiction Medicine, contained in [“Patient Placement Criteria for the Treatment of Substance Related Disorder,” 2d] **ASAM, *The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions*, 3d Edition [revised (2001) (ASAM PPC-2R)] (2013)**, incorporated herein by

reference, as amended and supplemented, which can be obtained from [the] ASAM [Publications Center, 1-800-844-8948].

“ASI” means the [Addiction Severity Index] **Research and Evaluation Group of the Public Health Management Corporation (REG-PHMC), *Addiction Severity Index***, 5th Edition (**1990**), incorporated herein by reference, as amended and supplemented, which is an instrument designed to provide important information about aspects of a client’s life that may contribute to his or her substance use disorder, [as developed and] available from the [Treatment Research Institute, 600 Public Ledger Building] **REG-PHC, for which the contact information is Centre Square East, 1500 Market Street, Suite 1500**, Philadelphia, PA [19106] **19102, telephone (215) [399-0980] 985-2500**, [[www.tresearch.org/asi.htm](http://www.tresearch.org/asi.htm)] **website <https://research.phmc.org>**.

[“Assistant Commissioner” means the individual responsible for administratively overseeing substance abuse at the New Jersey Department of Human Services, Division of Mental Health and Addiction Services.]

...

[“BOCA” means the model building code of the organization formerly called Building Officials and Code Administrators International Inc., now called the International Code Council; which can be obtained at 4051 W. Flossmoor Road, Country Club Hills, IL 60477-5795, <http://www.ICCsafe.org>, 1-888-422-7233, or from the ICC Store, 1-800-786-4482.]

...

**“Center for Substance Abuse Treatment” or “CSAT”** means the [Federal] Center for Substance Abuse Treatment within the [Department of Health and Human

Services,] Substance Abuse and Mental Health Services Administration[, <http://www.samhsa.gov/about/csat.aspx>] of the United States Department of Health and Human Services, for which the contact information is 5600 Fishers Lane, Rockville, MD 20857, telephone (240) 276-1660, website <https://www.samhsa.gov/about-us/who-we-are/offices-centers/csat>.

...

“Certified Alcohol and Drug Counselor” [(] or “CADC[)]” means a person who holds a current, valid certificate issued by the New Jersey State Board of Marriage and Family Therapy Examiners, as recommended by the Alcohol and Drug Committee, pursuant to N.J.S.A. 42:2D-5 and N.J.A.C. 13:34C-2.3, [accessible at <http://www.nj.gov/oag/ca/medical/alcdrug.htm>, or] for which the contact information is PO Box 45040, Newark, NJ 07101, telephone (973) [504-6582] 504-6369, website <https://www.njconsumeraffairs.gov/ad/adc/Pages/default.aspx>.

...

“Commissioner” means the Commissioner of the New Jersey Department of [Human Services] **Health**.

...

“Conditional license” means a license pursuant to N.J.A.C. [10:161A]8:111-2.7. A conditional license requires the licensee to comply with all specific conditions imposed by [OOL] **the Division of Certificate of Need and Licensing**, in addition to the licensure requirements in this chapter.

...

**“Construction guidelines” means the model building code of the International Code Council, 2018, New Jersey Edition, for which the contact information is 4051 W. Flossmoor Road, Country Club Hills, IL 60477-5795, <http://www.ICCsafe.org>, (888) 422-7233.**

...

“Controlled dangerous substances” or “controlled substances” means drugs subject to the [Federal Controlled Dangerous Substances] **Comprehensive Drug Abuse Prevention and Control** Act of 1970 (Title 11, Public Law 91-513, 21 U.S.C. §§ 801 et seq.), the New Jersey Controlled Dangerous Substances Act [of 1970], N.J.S.A. 24:21-1 et seq., and the Controlled Dangerous Substances rules, N.J.A.C. 13:45H.

...

“Curtailment” means an order [by OOL, which] **of the Department that** requires a licensed substance use disorders treatment facility to cease and desist all admissions and readmissions of clients to the facility or affected service.

...

“DMHAS” [or “Division”] means the Division of Mental Health and Addiction Services, the single State agency for substance abuse issues in the State of New Jersey, and is a division within the New Jersey Department of [Human Services] **Health**, <http://www.state.nj.us/humanservices/divisions/dmhas>.

[“DOH” means the New Jersey Department of Health.”

“DSM-IV-TR” means the Diagnostic and Statistical Manual of Mental Disorders, 4th Edition, Text Revision, incorporated herein by reference, as amended and supplemented, the standard classification of mental disorders in the United States,

published by and available from the American Psychiatric Association, 1000 Wilson Boulevard, Arlington VA 22209, <http://psychiatryonline.com/about.aspx>.]

...

“Deficiency” means a determination by [OOL] **the Division of Certificate of Need and Licensing** of one or more instances in which a State licensing rule or a Federal certification regulation has been violated.

“Department” [or “DHS”] means the New Jersey Department of [Human Services] **Health**.

...

“**Division of Certificate of Need and Licensing**” or “**Division**” means the **Division of Certificate of Need and Licensing within the Health Services Branch of the Department, for which the contact information is Division of Certificate of Need and Licensing, New Jersey Department of Health, PO Box 358, Trenton, NJ 08625-0358.**

...

“Drug” means any article recognized in the [official] United States Pharmacopoeia-National Formulary [(USP 31-NF 26)], ***USP-NF Online*, a regularly updated web-based publication that is** accessible at [<http://www.usp.org>] **<https://www.uspnf.com>**, or the [official] Homeopathic Pharmacopoeia **Convention of the United [States/Revision Service] States (HPCUS), *Homeopathic Pharmacopoeia of the United States (HPUS)*, a regularly updated web-based publication that is** accessible at <http://www.hpus.com>, both of which are incorporated herein by reference, as amended and supplemented, including, but not limited to, a controlled substance, a

prescription legend drug, an over-the-counter preparation, a vitamin or food supplement or any compounded combination of any of the above or transdermal patch or strip, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease or medical condition in humans/animals or intended to affect the structure or function of the human body.

“Drug screening test negative” means a urine or other [DHS-approved] **Department-approved** specimen from a client that tests negative for drugs of abuse, except that for a client in an opioid treatment facility, the specimen is negative for drugs of abuse and shows the presence of methadone.

“Drug screening test positive” means a urine or other [DHS-approved] **Department-approved** specimen from a client that tests positive for illegal substances or pharmaceuticals other than those prescribed for the client by a licensed practitioner.

**“DSM” means the American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders (DSM-5®)*, Fifth Edition (2013), incorporated herein by reference, as amended and supplemented, available from the American Psychiatric Association, for which the contact information is 800 Maine Avenue, S.W., Suite 900, Washington, DC 20024, telephone (800) 368-5777 and (202) 459-9722, website <https://www.psychiatry.org>.**

...

“Extended care facility” means a residential substance use disorders treatment facility in which treatment primarily is designed to help clients overcome denial of addiction, enhance treatment acceptance and motivation, prevent relapse, promote

reintegration into the community and generally approximates the ASAM [PPC-2R] **PPC**, Level III.3 (medium intensity) treatment modality.

...

“HIV” means [Human Immunodeficiency Virus] **human immunodeficiency virus**.

"Halfway house" means a residential substance use disorders treatment facility, operating in a physically separate location, in which the halfway house treatment modality is programmatically separate and distinct from short-term substance use disorders residential services or long-term substance use disorders residential services. A halfway house provides substance use disorders treatment designed to assist clients in adjusting to regular patterns of living, engaging in occupational training, obtaining gainful employment, and independent self-monitoring and otherwise generally approximates the ASAM [PPC-2R] **PPC**, Level III.1 (low intensity) treatment modality.

...

“Health care facility” means a general hospital, comprehensive rehabilitation hospital, nursing home, or other health care facility licensed pursuant to P.L. 1971, c. 136 (N.J.S.A. 26:2H-1 et seq.), and a State psychiatric hospital operated by the Department of [Human Services] **Health** and listed [in] **at** N.J.S.A. 30:1-7.

..

"Hospital-based (medical) detoxification" means a residential substance abuse treatment facility operated as a distinct part or unit of an acute care hospital (separately and concurrently licensed by DOH) designed primarily to provide short-term care prescribed by a physician and conducted under medical supervision to treat a client's

physical symptoms caused by addictions, according to medical protocols to each type of addiction, and generally approximates ASAM [PPC-2R] **PPC**, Level IVD (medically managed intensive inpatient detoxification) treatment modality.

...

“Licensed Clinical Alcohol and Drug Counselor” [( ) or “LCADC( )]” means a person who holds a current, valid license issued pursuant to N.J.S.A. 45:2D-4 and 45:2D-16 and N.J.A.C. 13:34C-2.2 and 2.19(c).

“Long-term residential substance use disorders treatment facility” or “long-term residential facility” means a residential substance use disorders facility in which treatment is primarily designed to foster personal growth and social skills development, with intervention focused on reintegrating the client into the greater community, and where education and vocational development are emphasized and generally approximates ASAM [PPC-2R] **PPC**, Level III.5 (high intensity, clinically-managed) treatment modality.

...

“New Jersey Substance Abuse Monitoring System” or “NJSAMS” means the client data collection information system required by DMHAS to be used by all New Jersey substance use disorders treatment facilities to record and report all client data including, but not limited to, admission, status, services, discharge, and such other information as DMHAS may require, at:

[\[http://samsdev.rutgers.edu/samstraining/mainhome.htm\]](http://samsdev.rutgers.edu/samstraining/mainhome.htm)

<https://njsams.rutgers.edu/njsams>.

“Non-hospital-based (medical) detoxification” means a residential substance use disorders treatment facility designed primarily to provide short-term care prescribed by a physician and conducted under medical supervision to treat a client’s physical symptoms caused by addictions, according to medical protocols appropriate to each type of addiction, and generally approximates ASAM [PPC-2R] **PPC**, Level III.7D (medically monitored intensive inpatient detoxification) treatment modality.

“Non-hospital-based (medical) detoxification/enhanced” means an organized service delivered by medical and nursing professionals, which provides 24-hour medically supervised evaluation and withdrawal management in a permanent facility with inpatient beds. Services are delivered under a defined set of physician-approved policies and physician-monitored procedures for clinical protocols. This care approximates ASAM [PPC-2R] **PPC** Level III.7D care but enhances that level to include the ability to treat the following:

- 1.- 5. (No change.)

...

[“Office of Licensing” or “OOL” means the Office of Licensing within the DHS Office of Program Integrity and Accountability.]

...

“Plan of correction” means a plan developed by the facility and reviewed and approved by [OOL] **the Division**, which describes the actions the facility will take to correct deficiencies and specifies the timeframe in which those deficiencies will be corrected.

...

“Provisional license” means a license that has been reduced because the facility is not in full compliance with all licensing rules in this chapter. A provisional license holder is subject to [OOL] oversight **from the Division** until it comes into full compliance with this chapter.

...

“Residential substance use disorders treatment facility or program” means a facility, or a distinct part of a facility, that provides care for the treatment of substance use disorders, for 24 or more consecutive hours to two or more clients who are not related to the governing authority or its members by marriage, blood, or adoption. The term “residential substance use disorders treatment facility includes facilities that provide residential substance use disorders treatment services to adolescents, women with dependent children, and adult males and/or females. These facilities include halfway houses, extended care facilities, long-term residential facilities, and short-term residential facilities; and any similar facility providing substance use disorders treatment services including hospital-based and non-hospital-based detoxification through a structured recovery environment involving professional clinical services, generally [approximates] **approximating** ASAM [PPC-2R] **PPC** Level III.

"SAMHSA" means the Substance Abuse and Mental Health Services Administration within the [Federal] **United States** Department of Health and Human Services, <http://www.samhsa.gov>.

...

“Short-term residential substance use disorders treatment facility” or “short-term residential facility” means a substance use disorders treatment facility in which

treatment is designed primarily to address specific addiction and living skills problems through a prescribed 24-hour per day activity regimen on a short-term basis, and generally approximates ASAM [PPC-2R] **PPC**, Level III.7 (medically monitored intensive inpatient treatment) treatment services.

“Signature” means at least the first initial and full surname and title (for example, RN, LPN, DDS, MD, DO, CADC) of a person, legibly written, with his or her own hand. If electronic signatures are used, they shall be used in accordance with N.J.A.C.

[10:161A]8:111-19.4(b)1.

...

"Substance abuse/dependence" means a maladaptive pattern of substance use manifested by recurrent and significant adverse consequences related to the repeated use of substances including alcohol, tobacco, and other drugs. There may be repeated failure to fulfill major role obligations, repeated use in situations in which it is physically hazardous, multiple legal problems, and recurrent social and interpersonal problems. For the purpose of this chapter, substance abuse and substance dependence also means other substance-use related disorders as defined in the [DSM-IV-TR] **DSM**.

...

“Survey” means the evaluation of the quality of care and/or the fitness of the premises, staff, and services provided by a facility as conducted by [OOL and/or its designees] **the Division** to determine compliance or non-compliance with this chapter and other applicable State licensing rules or statutes.

...

“Universally accepted practices” means treatment measures not currently proven through empirical data or research but recognized by authorities (that is, SAMHSA, CSAT, [the National Institute on Drug Abuse, <http://www.nida.nih.gov>] **NIDA**, and the National Institute on Alcohol Abuse and Alcoholism, <http://www.niaaa.nih.gov>) for substance use disorders treatment.

...

“Waiver” means a written approval by [OOL] **the Division**, following a written request from a facility, to allow an alternative to any rule or regulation in this chapter, provided that the alternative(s) proposed would not endanger the life, safety, or health of clients or the public. Any approvals of waivers shall be given by [OOL] **the Division**, in writing, as described below at N.J.A.C. [10:161A]8:111-2.13, and are [time limited] **time-limited**.

[10:161A]8:111-1.4 Qualifications and responsibilities of the medical director and physicians

(a)-(e) (No change.)

(f) Physicians providing medical care to clients in a residential substance use disorders treatment facility shall be responsible for:

1. Ensuring the provision or documentation of a complete medical examination as required by N.J.A.C. [10:161A]8:111-9.1;

2.- 5. (No change.)

(g)-(h) (No change.)

Recodify existing 10:161A-1.5 and 1.6 as **8:111-1.5 and 1.6** (No change in text.)

[10:161A]**8:111-1.7** Qualifications and responsibilities of the administrator of the facility

(a)-(b) (No change.)

(c) The administrator's responsibilities shall include, but need not be limited to, the following:

1.- 10. (No change.)

11. Implementing and monitoring the quality of all services provided at the facility, including the review of program outcomes available through NJSAMS[.];

i. When appropriate, share facility outcome data with relevant staff, DMHAS, **the Department** and [where], **when** necessary, [with] the governing authority;

12. (No change.)

13. Establishing policies and procedures for provision of emergency services to clients, including policies and procedures for broader-based emergency situations resulting from either internal incidents, external incidents, or natural disasters.

i. Such policies shall include guidelines for the immediate notification to [DHS] **the Department** of such situations, a contingency plan with a minimum of explanation of timeframes for service interruption to clients, closure and reopening of a facility and procedures governing the dispensing and, [where] **when** necessary, monitoring of client treatment medications;

14. Establishing written policies and procedures for non-emergency closures.

i. Policies established under this paragraph shall include the timely notification to [DHS] **the Department** of such closures, the timeframes for service

interruption, closures and reopening, and procedures governing the dispensing and, where clinically necessary, monitoring of medications administered to clients.

ii. Facilities shall submit a written request to [DHS] **the Department** at least 48 hours before closing for non-emergency reasons.

iii. Facilities shall not close for non-emergency reasons without receiving written approval from [DHS] **the Department** to do so;

15. Identifying priority populations (for example, pregnant, [IV] **intravenous** drug users, women with children, HIV, etc.) for admission and treatment as evidenced by protocols, policies, and procedures to provide such treatment services, or where appropriate, referral procedures with interim services available until transfer is completed;

16. Ensuring that [OOL] plans of correction, licensing deficiencies, and complaint reports are addressed as specified by [OOL] **the Department**.

i. (No change.)

17. - 19. (No change.)

[10:161A]8:111-1.8 (No change in text.)

[10:161A]8:111-1.9 Qualifications and responsibilities of the substance abuse counseling staff

(a)-(c) (No change.)

(d) Each substance abuse counselor shall be responsible for the following:

1. (No change.)

2. Assessing clients using the ASI or using other standardized assessment tool [and for adolescents using the CASI or using other evidence-based validated assessment tool] and diagnosing clients for substance disorders using the [DSM-IV-TR]

**DSM;**

3. Determining the appropriate level of care based on ASAM [PPC-2R] **PPC;**

4. - 6. (No change.)

7. Reviewing clients throughout the treatment episode according to ASAM [PPC-2R] **PPC**, to determine the need for continued services or discharge/transfer;

8. - 9. (No change.)

10. Contacting referral sources, providing case consultation, and coordination with referral sources (for example: mental health treatment providers, criminal justice agencies, schools, employers, the [Division of Youth and Family Services] **Department of Children and Families**);

11. - 13. (No change.)

[10:161A]8:111-1.10 Qualifications of dietitians and food service supervisors

(a) The facility shall engage at least one dietitian registered by the Commission on Dietetic Registration **of the Academy of Nutrition and Dietetics (CDR)**, 120 South Riverside Plaza, Suite [2000] **2190**, Chicago, Illinois 60606-6995, **telephone (800) 877-1600, ext. 5500, website <http://www.cdrnet.org/>**.

(b) The facility shall engage food service supervisors who, if not dietitians, are:

1. Graduates of a dietetic technician or dietetic assistant training facility approved by the [American Dietetic Association's Commission on Dietetic Registration, 120 South Riverside Plaza, Suite 2000, Chicago, Illinois, 60606-6995, [www.cdrnet.org](http://www.cdrnet.org)] **CDR**; or

2. (No change.)

(c) Halfway houses may employ as a food service supervisor an individual possessing 18 hours or more of approved classroom instruction in food service supervision in a health care facility; or certification by ServSafe, [www.servsafe.com](http://www.servsafe.com), or an equivalent food protection program certified by the American National Standards Institute, [<https://www.ansica.org/wwwversion2/outside/Default.asp>] <https://ansi.org>, under standards set by the Conference for Food Protection, [www.foodprotect.org](http://www.foodprotect.org), [1302 Silver Spur Circle, Lincoln, CA 95648] **30 Elliott Court, Martinsville, IN 46151-1331, telephone (317) 696-0573**. The food service supervisor shall be on site a minimum of five days per week and is responsible for ensuring that protocols for meal preparation and food storage are performed seven days a week even in his or her absence.

## SUBCHAPTER 2. LICENSURE PROCEDURES AND ENFORCEMENT

### [10:161A]8:111-2.1 Applications for licensure

(a) All facilities operating as residential substance use disorders treatment facilities shall be licensed by [OOL] **the Division** in accordance with this chapter. No facility shall operate a residential substance use disorders treatment facility until [OOL] **the Division** issues a license to do so.

(b) Any person, organization, or corporation planning to operate a residential substance use disorders treatment facility shall obtain application forms from, and submit completed application forms with the appropriate fees for each site to[:

New Jersey Department of Human Services] **the** Office of [Program Integrity]

**Certificate of Need** and [Accountability

Attention: Office of] Licensing [(OOL)

PO Box 707

Trenton, NJ 08625-0707].

(c) [OOL] **The Division** will maintain and update the initial license application, renewal application, and inspection fees pertinent to newly licensed applicants and/or ongoing licensure and will update such fees by amending the fee subsection of this section as needed.

(d) (No change.)

(e) An application fee schedule shall be established and maintained by [DHS] **the Department**, and will be included with the licensing application provided by [DHS] **the Department**. As per this fee schedule, established rates at the time of submission of each application will apply. All applicants shall submit a non-refundable application fee and a [DHS] **Department** inspection fee as follows:

1. First time applicants of newly created treatment agencies:

i. (No change.)

ii. Initial and ongoing biennial [DHS] **Department** inspection fee (\$500.00);

2. Licensed facilities maintaining their licensure status:

i. (No change.)

ii. Ongoing biennial [DHS] **Department** inspection fee (\$500.00);

3. - 4. (No change.)

(f) Once licensed, each facility shall be assessed an ongoing biennial inspection fee of \$500.00. This fee shall commence in the first year the facility is inspected, along with the annual licensure fee for that year. Subsequently, an annual application for license renewal fee and license applications to reflect facility changes will be assessed as per the following [DHS] **Department** Fee Schedule:

<b>Type of Facility</b>	<b>New Facility Fee</b>	<b>License Renewal Fee</b>	<b>License Modification to Add Beds or Services</b>	<b>License Modification to Relocate or Reduce Services</b>	<b>Transfer of Ownership Interest</b>	<b>Initial Biennial [DHS] Inspection Fee</b>
Residential Substance Abuse Treatment Facility	\$500.00 + \$3.00/Bed	\$500.00 + \$3.00/Bed	\$500.00	\$250.00	\$1,500	\$500.00

(g) (No change.)

(h) An application for licensing shall not be considered complete until the facility submits the licensing fee and the initial biennial inspection fee and all other requested information on the licensure application is complete. [OOL] **The Division** shall notify applicants in writing when the application is complete.

(i)-(k) (No change.)

(l) The license issued by [OOL] **the Division** shall specify the services that the facility is licensed to provide. The facility shall provide only those services [in] **at** (j) and (k) above for which **the Division authorizes or licenses** it [is licensed or authorized by OOL] to provide. Any provision of services not specifically listed on the license shall be considered unlicensed provision of services and [OOL] **the Division** shall take all appropriate enforcement action.

#### [10:161A]8:111-2.2 Licenses

(a) (No change.)

(b) Once issued, a license shall be granted for a period of one year (12 consecutive months), and shall be eligible for annual renewal on and up to 30 days following the license anniversary date (each renewal must be dated back to the license anniversary date) upon submission of the appropriate licensing and inspection fees, [providing] **provided that** the [license has not been] **Division has not** suspended or revoked [by OOL] **the license** and the facility otherwise continues to be in compliance with all local rules, regulations, and other requirements.

(c) (No change.)

#### [10:161A]8:111-2.3 Application requirements

(a) Any person, organization, or corporation applying for a license to operate a residential substance use disorders treatment facility shall specify the services [in] **at** N.J.A.C. [10:161A]8:111-2.1(j) **that** the facility seeks to provide on the application.

(b) No facility shall admit clients until **the Division has issued a license to** the facility [has been licensed by OOL] to operate the specific modality or modalities of treatment as referenced [in] **at N.J.A.C. [10:161A]8:111-2.1(j)**.

(c) [Survey] **The Division may make survey** and other site visits [may be made] to a facility at any time [by authorized OOL staff]. Such visits may include, but shall not be limited to, the review of all program documents, client records, and conferences with clients. Such visits may be announced or unannounced.

(d) [As of July 15, 2013, upon] **Upon** annual renewal of its current license, each facility shall specify the types of services to be provided therein, including if the facility wishes to change the specification of services on the license.

(e) If a facility adds any service listed [in] **at N.J.A.C. [10:161A]8:111-2.1(j)** during the annual licensure period, the facility shall submit an application to [OOL] **the Division** for an amended license, as well as adhere to all applicable local, State, and Federal approvals prior to providing the additional service. An amended license shall be based upon compliance with this chapter, and may be contingent upon an on-site inspection by [representatives of OOL] **the Division**.

(f) The applicant shall indicate on its application if a facility is new or otherwise innovative, not fitting into any of the categories specified [in] **at N.J.A.C.**

**[10:161A]8:111-2.1(j)**, and shall then submit a complete program description with the application, including, at a minimum, the following:

1. - 8. (No change.)

(g) [OOL] **The Division** shall determine [if] **whether** the new and/or innovative facility is effective, safe, and does not violate client rights or compromise client health and safety,

and, if licensure is granted, shall determine whether the licensed facility is approved in part or whole.

(h)-(i) (No change.)

[10:161A]8:111-2.4 Newly constructed, renovated, expanded, or relocated facilities

(a) (No change.)

[10:161A]8:111-2.5 Review and approval of a license application

(a) The applicant or [OOL] **the Division** may request a preliminary review meeting to discuss the applicant's proposed facility[. Such a functional preapplication review], **which** shall provide the applicant with an opportunity for technical assistance regarding the necessity, feasibility, requirements, costs, and benefits of applying for a license.

(b) Following receipt of an application, [OOL] **the Division** shall review it for completeness, and **shall confirm its** receipt of relevant fees as set forth [in] **at** N.J.A.C.

[10:161A]8:111-2.1. If [OOL] **the Division** deems that the application is incomplete, [OOL] **it** shall notify the applicant in writing of any missing information.

1. The applicant shall be permitted to supply any missing information in the application to [OOL] **the Division** within 30 working days of notification. If the application [is not deemed complete by OOL in writing to the applicant within] **remains incomplete after** six months **have elapsed since the issuance pursuant to (b) above of the written incompleteness notice**, [it] **the Division** shall [be denied] **deny** the application as incomplete and the applicant may reapply after 30 days. [OOL] **The**

**Division** shall not consider any application until it [is deemed as] **deems the application to be** complete [by OOL].

(c) Once the application is deemed complete, [OOL] **the Division** shall review it to determine whether the applicant meets the licensing criteria to operate a facility and whether the facility is safe as demonstrated by the information contained in the application. [OOL] **The Division**, [may also,] at its discretion, **may** consider information obtained from other State agencies and/or agencies in other states, in determining whether to license the facility.

1. [OOL] **Within 30 days of receiving an application, the Division** shall schedule a meeting to conduct a functional review, [as per] **in accordance with** (a) above, with the applicant to explore and define the facility concept, including feasibility and need for proposed services [within 30 days of application receipt by OOL].

2. If [OOL] **the Division** does not schedule a functional review meeting within 30 days **of receiving an application**, the applicant can request one in writing.

3. Within 30 working days after receiving notification from the applicant that the building is ready for occupancy, [OOL] **the Division** shall schedule a survey of the proposed facility to determine if the facility complies with this chapter.

i. Within 45 days after completion of the survey required in this paragraph, [OOL] **the Division** shall notify the applicant in writing of the findings of the survey, including any deficiencies.

ii. If [OOL] **the Division** documents deficiencies, [OOL] **it** shall schedule additional surveys of the residential substance use disorders treatment facility upon notification from the applicant that the documented deficiencies have been corrected.

[Additional] **The Division shall schedule additional** surveys [shall be scheduled by OOL] **to occur** within 15 working days after receipt of the applicant's notification that the documented deficiencies have been corrected.

(d) [OOL] **The Division** shall approve a complete application for licensure if:

1. [OOL] **The Division** is satisfied that the applicant and its description of the physical plant, finances, hiring practices, management, ownership, operational, and treatment procedures and history of prior operations, if any, are in substantial compliance with this chapter and will adequately provide for the life, safety, health, or welfare of the clients and/or their families.

i. [Where] **If applicable, the new or otherwise innovative facility [from] of the type at N.J.A.C. [10:161A]8:111-2.3(f) does not present significant risk of harm to the life, safety, health, or well-being of the clients and the applicant demonstrates that the facility is reasonably within the bounds of accepted practice;**

2. (No change.)

3. The applicant has provided [OOL with] **the Division** written approvals for the facility from the local zoning, fire, health, and building authorities. When seeking local approvals, any residential substance use disorders treatment facility, providing opioid treatment and opioid detoxification or other detoxification where prescription drugs will be dispensed, shall specifically notify the municipality in which the facility is to be located of the full scope of services to be provided therein. Notification to the municipality shall include notification to appropriate and relevant local authorities and/or officials; and

4. The applicant has provided [OOL] **the Division** with written approvals for the facility from the local authorities or local official for any water supply and sewage disposal systems not connected to an approved municipal system.

(e) In no instance shall any applicant admit clients to the facility until [OOL] **the Division** issues a license to the applicant for the facility. Any client admissions to the applicant's residential treatment facility prior to the issuance of [an OOL license] **licensure** shall be considered unlicensed admissions and [OOL] **the Division** shall take all appropriate enforcement actions in response thereto.

#### [10:161A]8:111-2.6 Surveys

(a) When both the written application for licensure is approved and the building is ready for occupancy, [OOL licensure staff] **the Division** shall conduct a survey of the facility within 30 working days to determine if the facility complies with the rules in this chapter.

1. [OOL] **The Division** shall notify the facility in writing of the findings of the survey, including any deficiencies found, within 20 working days after completion of the survey [by OOL].

2. The facility shall notify [OOL] **the Division**, in writing, when the deficiencies have been corrected. Within 30 working days of receiving written notification that the deficiencies have been corrected, [OOL] **the Division** will reschedule at least one resurvey of the facility prior to occupancy; additional resurveys may be scheduled prior to occupancy until all deficiencies are corrected.

[10:161A]8:111-2.7 Conditional license

(a) [A] **The Division may issue a** conditional license [may be issued by OOL] with specific conditions and standards defined on such license [granted by OOL] when the purposes and intent of the proposed facility are outside the scope of a regular license. All standards within this chapter apply unless specifically mentioned in the conditions of said license.

(b) [OOL] **The Division** may issue a conditional license if [OOL] **it** determines that it is in the best interest of the clients benefiting from the treatment facility in question and in order to preserve and/or improve the proper functioning of the facility.

(c) [OOL] **The Division** may issue a conditional license in order to address contingencies and/or special facility needs that can be addressed by the applicant and monitored by [OOL] **the Division**, as agreed between [OOL] **the Division** and the applicant, with the safety and [well being] **well-being** of the clients and staff of the facility as the overriding priority.

(d) [A] **The Division may issue a** conditional license [may be issued] to a facility providing a type or category of service [not] **that is neither** listed [in] **at** N.J.A.C. [10:161A]8:111-2.1(j) and (k) nor otherwise addressed by this chapter.

(e) [A] **The Division may issue a** conditional license [may be issued] to a new facility that was reviewed before it begins to provide services. Within 30 working days of [OOL] **the Division** receiving written notification from the facility that it is fully operational, [OOL] **the Division** shall schedule a follow-up visit to determine whether the facility is functioning in accordance with this chapter and is eligible to receive a regular license.

(f) The conditional license shall be conspicuously posted in the facility at all times in accordance with N.J.A.C. [10:161A]8:111-2.2(c).

(g) (No change.)

#### [10:161A]8:111-2.8 Periodic surveys following licensure

(a) [Authorized OOL staff] **The Division** may conduct announced or unannounced visits and periodic surveys of licensed facilities. The **Division shall keep confidential the** identity of clients [shall be kept confidential] on all data [collected by OOL] **it collects** for survey purposes.

(b) (No change.)

(c) In addition to periodic surveys, [OOL] **the Division** may conduct surveys to investigate complaints of possible licensure violations regarding the facility, the facility's physical plant, clients, or staff. The identity of a complainant shall be kept confidential and shall not be considered public information.

#### [10:161A]8:111-2.9 Deficiency findings

(a) [A] **The Division may cite a** deficiency [may be cited by OOL] upon any single or multiple determination that the facility does not comply with a licensure rule. Such findings may be made as the result of either an on-site survey or inspection or as the result of the evaluation of written reports or documentation submitted to [OOL] **the Division** or the omission or failure to act in a manner required by rule.

(b) At the conclusion of a survey or within 20 business days thereafter, [OOL] **the Division** shall provide a facility [with] a written summary of any factual findings used as

a basis to determine that a licensure violation has occurred and a statement of each licensure rule to which the finding of a deficiency relates.

[10:161A]8:111-2.10 Informal dispute resolution

(a) A facility may request an opportunity to discuss the accuracy of survey findings with representatives of [DHS] **the Department** in the following circumstances during a survey:

1.-2. (No change.)

(b) Following completion of the survey, a facility may contact the Director of [OOL] **the Division** to request an informal review of deficiencies cited. The request must be made in writing within 10 business days of the receipt of the written survey findings. The written request must include:

1-2. (No change.)

(c) The review will be conducted within 20 business days of the request by staff of [DHS] **the Department** who did not directly participate in the survey. The review can be conducted in-person at the offices of [DHS] **the Department**, by teleconference, or, by mutual agreement, solely by review of the documentation as submitted.

(d) A decision will be issued by [DHS] **the Department** within 20 business days of the conference or the review. If the determination is to affirm the facility's elements of the dispute, it will result in removal of the deficiency from the report. When a [DHS] **Department** decision does not affirm the facility's elements of the dispute, a written plan of correction must be submitted within 10 business days of notification of the decision.

The facility retains all other rights to appeal deficiencies and enforcement actions taken pursuant to this chapter.

[10:161A]8:111-2.11 Plan of correction

(a) [OOL] **The Division** may require that the facility submit a written plan of correction specifying how each deficiency that has been cited will be corrected, along with the timeframes for completion of each corrective action. A single plan of correction may address all events associated with a given deficiency.

(b) The plan of correction shall be submitted within 10 business days of the facility's receipt of the notice of violations, unless [OOL] **the Division** specifically authorizes an extension for cause. [Where] **If** deficiencies are the subject of informal dispute resolution pursuant to N.J.A.C. [10:161A]8:111-2.10, the extension shall pertain only to the plans of correction for the deficiencies under review.

(c) [OOL] **The Division** may require that the facility's representatives and/or board of directors appear at an office conference to review findings of serious or repeated licensure deficiencies and to review the causes for such violations and the facility's plan of correction.

1. Each facility shall provide [OOL] **the Division** with the current mailing addresses for all members of the board of directors.

(d) The **Division shall review the** plan of correction [shall be reviewed by OOL] and will [be approved where] **approve it if** the plan demonstrates that compliance will be achieved in a manner and time that ensures the health and safety of clients or residents. If the **Division does not approve the** plan, [is not approved, OOL] **it may**

request that an amended plan of correction be submitted within 10 business days. In relation to violations of [resident] **residents'** or [clients] **clients'** rights, [OOL] **the Division** may direct specific corrective measures that must be implemented by facilities.

[10:161A]8:111-2.12 Surrender of a license

(a) When a facility elects to voluntarily surrender a license, it shall provide written notice of its intention to do so and the specific date on which it shall surrender its license, as follows:

1. The facility shall provide [OOL with] **the Division** at least 45 [days] **days'** notice prior to the license surrender date;

2. The facility shall provide each client, prescribing physician(s), and primary substance abuse counselor(s) [with] at least 30 [days] **days'** prior notice of its intention to surrender its license. In consultation with [OOL] **the Division**, the facility shall arrange for each client to be transferred to a licensed facility or other licensed program capable of providing the appropriate level of client care;

3.-4. (No change.)

(b) When a facility is ordered by [OOL] **the Division** to surrender its license, the facility administrator named in the original license application, the person(s) currently acting in their capacity, and/or the facility's appropriate legal representative shall provide written notice of the surrender as required [by] **at** (a)2, 3, and 4 above, unless the order sets forth other or additional notice requirements.

(c) All notices to [OOL] **the Division** regarding voluntary or ordered surrender of a license, and the physical license, shall be sent to the address set forth at N.J.A.C.

[10:161A]8:111-2.1(b). All notices and the original license must be sent to [OOL] **the Division** within seven working days of the date that such decision is announced by the agency director, verbally or otherwise, to clients and/or facility staff and/or seven days from the postmarked receipt date of the [OOL] **Division's** written licensure surrender request.

[10:161A]8:111-2.13 Waiver

(a) An applicant for licensure or a current licensee may seek a waiver of one or more provisions of this chapter, provided that the applicant or licensee demonstrates that compliance represents an unreasonable hardship for the applicant or licensee and such a waiver is determined by [OOL] **the Division** to be consistent with the general purpose and intent of its enabling statute and this chapter; is consistent with prevailing [OOL] policy and procedure **of the Division**; and would not otherwise jeopardize recovery, endanger the life, safety, health, or welfare of the client populations to be served, their families, personnel who work or would work at the facility, or the public.

(b) An applicant or a current licensee seeking a waiver shall submit the request in writing to the address set forth at N.J.A.C. [10:161A]8:111-2.1(b), and shall include the following:

1.-5. (No change.)

6. Such other additional information that [OOL] **the Division** may determine necessary and appropriate for evaluation and review of the waiver request on a case-by-case basis, including timeframes within which the waiver will no longer be needed; [OOL] **the Division** shall determine whether the requested timeframes are reasonable.

(c) [OOL] **The Division** may revoke a waiver at any time if [OOL] **the Division** determines that the waiver no longer fulfills the purpose and intent of this chapter or that continuing the waiver would jeopardize client recovery or endanger the life, safety, health, or welfare of the client, personnel, or the public.

Recodify existing 10:161A-2.14 and 2.15 as **8:111-2.14 and 2.15** (No change in text.)

[10:161A]**8:111-2.16** Effective date of enforcement actions

The assessment of civil monetary penalties, revocation of a license, or the placement of a license on provisional status shall become effective 30 business days after the date of mailing or the date personally served on a licensee, unless the licensee shall file with [OOL] **the Division** a written answer to the charges and give written notice to [OOL] **the Division** of its desire for a hearing, in which case the assessment, suspension, revocation, or placement on provisional license status shall be held in abeyance until the administrative hearing has been concluded and a final decision is rendered by the Commissioner, or designee thereof. Hearings shall be conducted, in accordance with N.J.A.C. [10:161A]**8:111-2.**

[10:161A]**8:111-2.17** Enforcement actions

(a) The Commissioner[, or designee thereof,] may assess a penalty for violation of licensure rules according to the following standards:

1. (No change.)

2. For a violation of an order for curtailment of admissions, [OOL] **the Division** shall construe the order for curtailment of admissions as an order of revocation and shall impose penalties consistent with (a)1 above;

3. Failure to obtain prior approval from [OOL] **the Division** for occupancy of a new or renovated area, or initiation of a new or enhanced service, shall be considered operation of a facility without a license and [OOL] **the Division** shall impose penalties consistent with (a)1 above;

4. Construction or renovation of a facility without the New Jersey Department of Community Affairs' approval of construction plans shall be considered operation of an unlicensed facility and [OOL] **the Division** shall impose penalties consistent with (a)1 above, until the newly constructed or renovated facility is determined by [OOL] **the Division** to be in compliance with licensure standards. This determination shall take into account any waivers granted by [OOL] **the Division**; and

5. Operation of a licensed facility following the transfer of ownership of a substance use disorders treatment facility without prior approval of [OOL] **the Division** shall be considered operation of an unlicensed facility and [OOL] **the Division** shall impose penalties consistent with (a)1 above. Such penalties may be assessed against each of the parties at interest.

(b) The Commissioner[, or designee thereof,] may take the following additional enforcement actions:

1. For violations of licensure rules related to client care or physical plant standards that represent a risk to the health, safety, or welfare of clients of a facility or the general public, [OOL] **the Division** shall reduce the facility's license to provisional

status pursuant to N.J.A.C. [10:161A]8:111-2.20(a) to allow the facility to correct all rule violations;

2. [Where] **If** there are multiple deficiencies related to client care or physical plant standards throughout a facility and/or such violations represent a direct risk that a client's physical or mental health will be compromised or where an actual violation of a client's rights is found, [OOL] **the Division** shall begin the process to suspend or revoke the license and may seek an injunction pursuant to N.J.S.A. 26:2G-29 and 30:1-12. Any further operation of the facility shall be construed as operation of an unlicensed facility and [OOL] **the Division** shall impose fines consistent with (a)1 above;

3. For repeated violations of any licensing rule within a 12-month period or on successive annual inspections, or failure to implement an approved plan of correction, where such violation was not the subject of a previous penalty assessment, [OOL] **the Division** may, at its discretion, reduce the license to provisional status, or move to suspend or revoke the license. In doing so, the following factors will be considered:

i.-viii. (No change.)

4. For violations resulting in either actual harm to a client, or in an immediate and serious risk of harm, [OOL] **the Division** shall reduce the license to provisional status or move to suspend or revoke the license and may seek an injunction pursuant to N.J.S.A. 26:2G-29 and 30:1-12; and

5. For failure to report information to [OOL] **the Division** as required by statute or licensing rule, after reasonable notice and an opportunity to cure the violation, the facility shall be subject to a fine of not more than \$500.00 pursuant to N.J.S.A. 26:2B-14.

(c) Except for violations deemed to be immediate and serious threats, [OOL] **the Division** may decrease the penalty assessed, in accordance with (a)1 above, based on the following factors:

1.-8. (No change.)

(d) In addition to the imposition of penalties, in accordance with (a)1 above, [OOL] **the Division** may also curtail admissions consistent with N.J.A.C. [10:161A]8:111-2.19.

[10:161A]8:111-2.18 Failure to pay a penalty; remedies

(a) Within 30 days after the mailing date of a Notice of Proposed Assessment of a Penalty, a facility that intends to challenge the enforcement action shall notify [OOL] **the Division** of its intent to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) The penalty becomes due and owing upon the 30th day from mailing of the Notice of Proposed Assessment of Penalties, if a notice requesting a hearing has not been received by [OOL] **the Division**. If a hearing has been requested, the penalty is due 45 days after the issuance of a final agency decision by the Commissioner, or designee thereof, if [OOL's] **the assessment of the Division** has not been withdrawn, rescinded, or reversed, and an appeal has not been timely filed with the New Jersey Superior Court, Appellate Division pursuant to New Jersey Court Rule 2:2-3.

(c) (No change.)

[10:161A]8:111-2.19 Curtailment of admissions

(a) [OOL] **The Division** may issue an order curtailing all new admissions and readmissions to a substance use disorders treatment facility including, but not limited to, the following circumstances:

1. (No change.)

2. For the purpose of limiting the census of a facility if clients must be relocated upon closure; when [OOL] **the Division** has issued a Notice of Proposed Revocation; or suspension of a substance use disorders treatment facility license;

3. (No change.)

4. For exceeding the licensed or authorized bed or service capacity of a substance use disorders treatment facility, except in those instances where exceeding the licensed or authorized capacity was necessitated by emergency conditions and where immediate and satisfactory notice was provided to [OOL] **the Division**.

(b) The order for curtailment may be withdrawn upon [an OOL] **a finding of the Division** that the facility has achieved substantial compliance with the applicable licensing rules or Federal certification requirements and that there is no immediate and serious threat to client safety; or in the case of providers exceeding licensed capacity, has achieved a census equivalent to licensed and approved levels. Such order to lift a curtailment may reasonably limit the number and priority of clients to be admitted by the facility in order to protect client safety. The facility shall be notified that the order for curtailment has been withdrawn within 20 working days after the [OOL] **issuance of the finding by the Division**.

[10:161A]8:111-2.20 Provisional license

(a) [OOL] **The Division** may place a substance use disorders treatment facility on provisional license status when the following circumstances apply:

1. Upon issuance of a Notice of Revocation of a License or a Notice of Suspension of a License, pursuant to N.J.A.C. [10:161A]8:111-2.18 or 2.19, for a period extending through final adjudication of the action;

2. Upon issuance of an order for curtailment of admissions pursuant to N.J.A.C. [10:161A]8:111-2.16, until [OOL] **the Division** finds the facility has achieved substantial compliance with all applicable licensing rules;

3. -4. (No change.)

(b) [A] **The Division shall notify a facility [placed] when it places the facility** on provisional license status [shall be provided notice of same], in accordance with the notice requirements set forth at N.J.A.C. [10:161A]8:111-2.15. Provisional license status is effective upon receipt of the notice, although the facility may request a hearing to contest provisional license status in accordance with [the requirements set forth in] N.J.A.C. [10:161A]8:111-2.22. [Where] **If** a facility chooses to contest provisional license status by requesting a hearing in accordance with [the provisions set forth in] this section and [in] N.J.A.C. [10:161A]8:111-2.24, provisional license status remains effective at least until the final decision or adjudication (as applicable) of the matter, or beyond in instances where [OOL's] **the action placing the facility on provisional license status** is upheld, in accordance with this section. In addition, provisional license status remains effective in cases where the underlying violations that caused the

issuance of provisional licensure status are the subject of an appeal and/or litigation, as applicable, in accordance with this section.

(c) While a facility is on provisional license status, the following shall occur:

1. [OOL] **The Division** shall not authorize or review any application for approval of additional beds or services filed by the facility with [OOL] **the Division**;

2. [OOL] **The Division** shall notify any government agency that provides funding or third-party reimbursement to the facility or that has statutory responsibility for monitoring the quality of care rendered to clients that the facility's license has been deemed provisional and the reasons therefor. Upon resolution favorable to the facility, [DHS] **the Department** shall notify the same government agencies and third parties; and

3. (No change.)

(d) While on provisional license status, [DHS] **the Department** may place specific conditions on the facility's continued operation, including that the facility seek qualified professional and/or clinical assistance to bring itself into compliance with this chapter.

(e) (No change.)

#### [10:161A]8:111-2.21 Suspension of a license

(a) (No change.)

(b) Upon a finding described [in] **at** (a) above, the Commissioner shall serve notice in-person or by certified mail to the facility or its registered agent of the nature of the findings and violations and the proposed order of suspension. Such notice shall be served within five days of the finding. The notice shall provide the facility with a 30-day

period from receipt to correct the violations and provide proof to [OOL] **the Division** of such correction or to request a hearing.

(c) If [OOL] **the Division** determines that the violations have not been corrected, and the facility has not filed notice within 30 days of receipt of the Commissioner's notice pursuant to (e) below requesting a hearing to contest the notice of suspension, then the license shall be deemed suspended. Upon the effective date of the suspension, the facility shall cease and desist from the provision of substance use disorders treatment services and effect an orderly transfer of clients to licensed facilities or other approved services and shall document all transfers.

(d) Within five working days, [OOL] **the Division** shall approve and coordinate the process to be followed during an evacuation of the facility or cessation of services pursuant to an order for suspension or revocation.

(e) If the facility requests a hearing within 30 days of receipt of the Notice of Proposed Suspension of License, [DHS] **the Department** shall arrange for an immediate hearing to be conducted by the Office of Administrative Law (OAL), and a final agency decision shall be issued by the Commissioner as soon as possible, adopting, modifying, or rejecting the initial decision by the OAL. If the Commissioner affirms the proposed suspension of the license, the order shall become final.

(f) Notwithstanding the issuance of an order for proposed suspension of a license, [DHS] **the Department** may concurrently or subsequently impose other enforcement actions pursuant to this chapter.

(g) [DHS] **The Department** may rescind the order for suspension upon a finding that the facility has corrected the conditions that were the basis for the action.

[10:161A]8:111-2.22 Revocation of a license

(a) (No change.)

(b) The notice shall be served in accordance with N.J.A.C. [10:161A]8:111-2.12 and the facility has a right to request a hearing pursuant to N.J.A.C. [10:161A]8:111-2.24.

[10:161A]8:111-2.23 Injunction

(a)-(b) (No change.)

€ Within five working days, [DHS] **the Department** shall approve and coordinate the process to transfer/relocate all of the facility's current clients. Upon the court issuing an injunction or temporary restraint the facility shall cease and desist the provision of substance use disorders treatment services and effect an orderly transfer of clients to substance use disorders treatment facilities or other services approved by [DHS] **the Department** and the facility shall document all transfers.

(d) Notwithstanding the issuance of an injunction and/or temporary restraint, [DHS] **the Department** may concurrently or subsequently impose other enforcement actions pursuant to this chapter. (e) [DHS] **The Department** shall seek to lift the injunction [and or] **and/or** temporary restraint upon its determination that the facility has corrected the conditions that were the basis for the action.

[10:161A]8:111-2.24 Hearings

(a) Notice of a proposed enforcement action shall be afforded to a facility pursuant to N.J.A.C. [10:161A]8:111-2.15.

(b) (No change.)

(c) [DHS] **The Department** shall transmit the hearing request to the New Jersey Office of Administrative Law (OAL) within seven working days of [the] **its** receipt [thereof by DHS].

(d) (No change.)

#### [10:161A]8:111-2.25. Settlement of enforcement actions

(a) (No change.)

(b) [DHS] **The Department** shall schedule a settlement conference within 30 days but [DHS] **the Department** and the party may extend that time if both parties agree.

(c) [DHS] **The Department** has the discretion to settle the matter as it deems appropriate. Settlement terms may include [DHS's] **the Department's** agreement to accept payment of penalties over a schedule not exceeding 18 months where a facility demonstrates financial hardship.

(d) (No change.)

### SUBCHAPTER 3. GENERAL REQUIREMENTS

Recodify existing 10:161A-3.1 and 3.2 as **8:111-3.1 and 3.2** (No change in text.)

#### [10:161A]8:111-3.3 Ownership

(a) [OOL] **The Division** shall hold the licensee for a facility responsible for ensuring that the facility is and remains in compliance with all applicable statutes, rules, and

regulations related to the construction and maintenance of the physical plant, regardless of whether the licensee owns the physical plant.

(b) Facilities in which ownership of the physical plant, and/or the property on which it is located is by an entity other than the licensee for the facility, shall provide notice of the current ownership of the property(ies), upon request.

1. (No change)

2. The facility shall provide [OOL] **the Division** written notice of any change in ownership of the physical plant or land on which it is located at least 30 days prior to such change[, at the address set forth at N.J.A.C. 10:161A-2.1(b)].

© (No change.)

#### [10:161A]8:111-3.4 Submission of documents and data

(a) Upon request, the facility shall submit to [DMHAS] **the Department** any documents required to be maintained by the facility, in accordance with this chapter. Information identifying clients shall be kept confidential at all times by [DMHAS] **the Department** as required by Federal confidentiality regulations at 42 CFR Part 2 and Federal HIPAA requirements at 45 CFR Part 160.

(b) The facility shall report monthly to [DMHAS] **the Department** all client admissions to, and discharges from the facility, and such additional client and service data as [DMHAS] **the Department** may require, on the NJSAMS or other [DMHAS] **Department**-designated reporting systems.

[10:161A]8:111-3.5 Personnel

(a) (No change.)

(b) The facility administrator shall establish written policies and procedures addressing the period of time during which staff in recovery are determined to be continuously substance-free (alcohol and/or other drug) before being employed in the facility, and which address the consequences of employee use of alcohol, tobacco, or illegal substances during working hours or when representing the treatment facility. The facility shall establish written policies precluding illegal substance, alcohol use and tobacco use, or showing evidence of use (for example, paraphernalia, cigarette packs, or other tobacco products) within the facility, on the grounds of the facility or when representing the facility.

1. (No change.)

2. Facilities shall immediately comply with the New Jersey Smoke-Free Air Act, [P.L. 2005, c. 383] **N.J.S.A. 26:3D-55, et seq.**, [in] which **prohibits** the smoking of tobacco products [is prohibited] within all buildings.

(c)-(d) (No change.)

(f) Facilities shall maintain a staff-to-client ratio as follows:

1. Notwithstanding the counselor-to-client ratios specified [in] **at N.J.A.C. [10:161A]8:111-10.1**, facilities serving adults shall have at least one staff member responsible for the supervision of each 24 adult clients during waking hours, and at least one staff member responsible for each 30 adult clients during sleeping hours, except that during waking or sleeping hours no less than two staff shall be present and awake at all times.

(i) (No change.)

2.-4. (No change.)

(g)-(h) (No change.)

[10:161A]8:111-3.6 Policy and procedure manual

(a) The administrator shall develop, implement, and ensure the review, at least annually, of a policy and procedure manual(s) about the organization and operation of the facility.

1.-2. (No change.)

3. The policy and procedure manual shall be maintained on-site at the facility and available for review at all times by clients, staff, [DHS] **the Department**, and the public.

(b) The facility shall ensure that, at a minimum, the following is contained in the policy and procedure manual(s):

1.- 8. (No change.)

9. Policies and procedures that ensure the accessibility of and use of telephone(s) by clients.

i.-ii. (No change.)

iii. Such policies and procedures shall not prevent clients from contacting the local police in the event of an emergency or from contacting [DHS] **the Department** to issue a complaint regarding the facility;

10. Policies and procedures for answering and responding to incoming telephone calls for clients at times other than the facility's designated business hours.

i. The facility must use [either] an answering service, [or] assign a designated on-call staff, or provide an alternative method approved by [OOL] **the Division**, to ensure that clients have access to emergency incoming telephone calls on a 24-hour-a-day basis, seven days a week.

11. Policies and procedures addressing the use of sanctions in the facility.

i. The following practices are expressly forbidden in facilities serving adolescents:

(1)-(2) (No change.)

(3) Use of a behavior management room, unless such a room is permitted and regulated under the auspices of the Department of Children and Families (DCF) or [OOL] **the Division**; and

(4) (No change.)

12.-16. (No change.)

[10:161A]8:111-3.7 Employee health

(a)-(c) (No change.)

(d) The facility shall require all employees, including medical staff members, to submit to tuberculosis testing using a two-step Mantoux in accordance with the Tuberculosis Surveillance Procedures for Substance Abuse Treatment Facilities [published by [DMHAS], [and] incorporated herein by reference as N.J.A.C. [10:161A] 8:111 Appendix A.

1.-7. (No change.)

(e)-(f) (No change.)

[10:161A]8:111-3.8 Reportable events

(a) (No change.)

(b) The facility shall immediately notify [DHS] **the Department** at (609[-292-5760]) **530-7473**, [or after hours at 866-666-8108,] as well as immediately fax a report to [DHS] **the Department** at (609[-292-3816]) **530-4850**, regarding any event occurring within the facility that jeopardizes the health, safety, or welfare of clients or staff as set forth in this subchapter, including, but not limited to, the following:

1.-6. (No change.)

€ The facility shall provide [DHS with] **the Department** a written report **by** no later than five business days after the event or circumstances listed [in] **at** (b) above. This written report does not replace the required immediate telephone contact and faxed report to [DHS] **the Department**.

1. (No change.)

(d) The facility shall notify [OOL] **the Division** in writing of the resignation or termination of employment of the administrator, medical director, director of nursing or the director of substance abuse counseling services and the name(s) and qualifications of the replacement(s) or acting replacement(s) no later than seven days following the date of resignation(s) or termination(s).

(e) (No change.)

[10:161A]**8:111-3.9** Notices

(a) The facility shall conspicuously post a notice that the following information is available in the facility during its normal business hours for clients and the public:

1. All waivers granted by [OOL] **the Division**;
- 2.-5. (No change.)
6. [DHS] **The complaint telephone number of the Department, which is 1 (877)**

**712-1868**; and

7. (No change.)

Recodify existing 10:161A-3.10, 3.11, and 3.12 as **8:111-3.10, 3.11, and 3.12** (No change in text.)

#### SUBCHAPTER 4. GOVERNING AUTHORITY

[10:161A]**8:111-4.1** Responsibility of the governing authority

(a) Every facility shall have a governing authority, which shall assume legal responsibility for the management, operation, and financial viability of the facility. The governing authority shall have written policies and protocols for the following:

- 1.-14. (No change.)

15. Establishing client complaint procedures that support client rights, that are conspicuously posted and accessible to clients in client service areas and are understood by clients from point of service admission to discharge, as per N.J.A.C.

[10:161A]**8:111-6**;

16. (No change.)

17. Ensuring that the client care policies required [in] **at N.J.A.C. [10:161A]8:111-6** are developed and maintained;

18. Establishing a pharmacy and therapeutic committee, if so required at N.J.A.C. [10:161A]8:111-14.1(b);

19.-24. (No change.)

25. Reviewing any notices issued by [OOL] **the Division** regarding non-compliance with any requirements of this chapter or any violations of law by the facility, staff, volunteers, or consultants, ensuring corrective measures have been taken, and where appropriate, advising [OOL] **the Division** of such corrective measures;

26.-28. (No change.)

(b) The governing authority shall act in accordance with a plan of operation or bylaws that shall set forth policies and procedures for its conduct and oversight of the operation of the residential substance use disorders treatment facility, including:

1.-5. (No change.)

6. The authority and responsibilities of the administrator and designee as described at N.J.A.C. [10:161A]8:111-1.7, including his or her reporting responsibilities to the governing authority;

7.-10. (No change.)

## SUBCHAPTER 5. ADMINISTRATION

[10:161A]8:111-5.1 (No change in text.)

## SUBCHAPTER 6. CLIENT CARE POLICIES AND PROCEDURES

[10:161A]8:111-6.1 (No change in text.)

[10:161A]8:111-6.2 Client continuity of care and client safety

(a) Client care policies shall facilitate continuity of care and client safety, and shall include, but need not be limited to, the following:

1.-22. (No change.)

23. Care and documentation of deceased clients, including notification of local law enforcement and [DHS] **the Department**, pronouncement of death, recording of death in the client's clinical record, immediate notification of the deceased client's family, guardian, or legal representative, if not present at the time of death, and person responsible for the deceased.

(b)-(d) (No change.)

[10:161A]8:111-6.3 Standards for preadmission, admission, and retention of clients

(a)–(c) (No change.)

(d) Only facilities licensed by [OOL] **the Division** to provide medically monitored detoxification services or hospitals providing medical detoxification services in a designated unit or facility shall admit clients requiring medically monitored detoxification.

(e) A facility shall adhere to N.J.A.C. [10:161A]8:111-24.5 and comply with the Federal ADA requirements governing the provision of reasonable accommodations for persons with physical disabilities.

(f) Upon admission, the facility shall ensure that each client has received a physical examination, according to the medical standards at N.J.A.C. [10:161A]8:111-7.1 and 9.1(b). In addition, a physician shall certify that the client is:

1.-3. (No change.)

(g)-(h) (No change.)

[10:161A]8:111-6.4 (No change in text.)

[10:161A]8:111-6.5 Use of restraints

(a) Pharmacological restraints shall only be used in a facility licensed by [OOL that provides] **the Department to provide** medical detoxification services. No other types of restraints (for example, physical or medical devices) are permitted in [OOL-licensed] **Department-licensed** substance use disorders treatment facilities.

1. (No change.)

(b) (No change.)

(c) Any serious incident (for example, client or staff injury or death) occurring as a result of administering a pharmacological restraint shall be reported immediately to the medical director, the administrator, the governing authority, [DHS] **the Department**, and the police.

Recodify existing 10:161A-6.6 and 6.7 as **8:111-6.6 and 6.7** (No change in text.)

## SUBCHAPTER 7. MEDICAL SERVICES

### [10:161A]8:111-7.1 Provision of medical services

(a) Every residential substance use disorders facility shall provide for the rendering of medical services to clients. All residential substance use disorders treatment facilities governed by this chapter shall comply with all guidelines issued from CSAT that mandate any Federal Food and Drug Administration-approved medications for detoxification and maintenance. All facilities shall also comply with the [DMHAS] Buprenorphine Guidelines[, Administrative Bulletin 4-2007], incorporated herein by reference as chapter Appendix B and with the [DMHAS] Vivitrol® Injectable Guidelines, [Administrative Bulletin (issued November 30, 2010)], incorporated herein by reference, as chapter Appendix C.

1.-2. (No change.)

(b) Prior to a client's admission, facilities shall perform or have performed:

1. A physical examination of the client upon admission that meets the standards of N.J.A.C. [10:161A]8:111-9.1(b).

i. The physical examination requirements for a client at admission may be waived if the facility verifies and documents that a physical examination meeting those requirements [in] at N.J.A.C. [10:161A]8:111-9.1(b) were performed within 30 days prior to admission;

2.-3. (No change.)

(c)-(f) (No change.)

[10:161A]8:111-7.2 (No change in text.)

## SUBCHAPTER 8. NURSING SERVICES

[10:161A]8:111-8.1 Provision of nursing services

(a) Every hospital-based (medical) detoxification facility, non-hospital-based (medical) detoxification facility, short-term residential facility, long-term residential facility, and extended care facility shall provide nursing services, as follows:

1.-3. (No change.)

4. Extended care facilities shall have nursing services on-site a minimum of two hours daily.

i. Extended care facilities shall comply with N.J.A.C. [10:161A]8:111-1.5(f).

ii. (No change.)

5. (No change.)

(b) (No change.)

## SUBCHAPTER 9. CLIENT ASSESSMENTS AND TREATMENT PLAN

[10:161A]8:111-9.1 Client assessment

(a) A residential substance use disorders treatment facility shall provide within 72 hours of admission, a comprehensive biopsychosocial assessment of all clients using the Addiction Severity Index or a similar standardized validated assessment instrument that assesses medical status, employment and support, tobacco, drug and alcohol use, legal status, family status/social status, psychiatric status, including diagnosis, as well as behavioral risk factors for HIV and Hepatitis. In order to ensure that the client is placed

in the appropriate treatment facility, the client must be assessed for level of care determination based upon the ASAM [PPC-2R] **PPC**.

1.-3. (No change.)

4. If the physical examination and clearance is not conducted prior to admission, the client shall be assessed at admission by a registered professional nurse, licensed physician, or other licensed medical practitioner to ensure that the client does not exhibit potential symptoms of communicable disease, such as persistent coughing, fever, etc. The full physical examination shall be completed within 72 hours of admission, except as otherwise required for clients receiving detoxification services, or if conducted within 30 days pre-admission and waived [per] **pursuant to N.J.A.C.**

[10:161A]**8:111-7.1(b)1.**

(b) (No change.)

[10:161A]**8:111-9.2** Client treatment planning

(a) The facility shall establish a client treatment plan that is specific, measurable, and outcomes-focused for every client, which shall be developed based on the assessments made of the client in accordance with N.J.A.C. [10:161A]**8:111-9.1.**

1. The facility shall initiate development of a measurable client treatment plan upon the client's admission, and shall enter the client's treatment plan into the client record within 72 hours following the client's admission.

i. (No change.)

ii. Clients shall be continually assessed, using the ASAM [PPC-2R] **PPC**, to assess level of care and needs.

2. (No change.)

(b)-(f) (No change.)

## SUBCHAPTER 10. SUBSTANCE ABUSE COUNSELING AND SUPPORTIVE SERVICES

[10:161A]8:111-10.1 (No change in text.)

[10:161A]8:111-10.2 Director of substance abuse counseling services

Every facility shall appoint a director of substance abuse counseling services with the qualifications and responsibilities specified in N.J.A.C. [10:161A]8:111-1.8.

[10:161A]8:111-10.3 Supportive services

(a) Every facility shall provide or coordinate the following services for each client as appropriate to the client's treatment plan:

1.-4. (No change.)

5. Names, addresses, and telephone numbers of offices where information concerning Medicaid coverage may be obtained; and

6. [DMHAS] **The Department's** address and telephone number **shall be conspicuously posted throughout the facility and, at a minimum,** in the admissions waiting area or room, in the client service area of the business office, and in other public areas [shall be conspicuously posted throughout the facility].

(b) Every facility shall provide support services in accordance with its client care policies governing financial arrangements established pursuant to N.J.A.C. [10:161A]8:111-6.2.

(c)-(d) (No change.)

[10:161A]8:111-10.4 (No change in text.)

Recodify existing 10:161A-11, 12, and 13 as **8:111-11, 12, and 13** (No change in text.)

#### SUBCHAPTER 14. PHARMACEUTICAL SERVICES

[10:161A]8:111-14.1 Provision of pharmaceutical services

(a) Residential substance use disorders treatment facilities shall make pharmaceutical services available to clients 24 hours a day, seven days a week, directly or through written affiliation agreements.

1. (No change.)

2. If the facility has an institutional pharmacy, the pharmacy shall comply with all laws applicable to any pharmacy operated in this State, including N.J.A.C. 13:39[,] State Board of Pharmacy [Rules] **rules**, and current registration with the Federal Drug Enforcement Administration and [DMHAS] **the Department**, in accordance with N.J.S.A. 24:21-1 et seq. (New Jersey Controlled Dangerous Substance Act).

(b)-(d) (No change.)

[10:161A]8:111-14.2 Standards for drug administration

(a) The facility's policies and procedures shall ensure that medication(s), in the correct strength and dosage and at the correct time intervals, are administered to the correct client through the prescribed route of administration. The facility's policies and

procedures shall ensure a method of tracking the line of possession of the medications while in the facility and shall describe the facility's plan to ensure the adequate maintenance of supplies, including at least the following:

1.-5. (No change.)

6. Procedures for documenting and reporting adverse medication reactions, medication errors and medication defects, subject to the following:

i. (No change)

ii. Medication product defects shall be reported in accordance with the [United States Pharmacopoeia, USP27NF22 (2004), incorporated herein by reference, as amended and supplemented, published by the US Pharmacopeia Convention, 12601 Twinbrook Parkway, Rockville, MD 20852] **USP-NF Online**;

7.-13. (No change.)

14. Data to be maintained on each medical unit, including:

i. (No change.)

ii. Specific information on medications and other drugs, including indications, contraindications, actions, reactions, interactions, cautions, precautions that should be taken, toxicity and dosages that is, Physician's Desk Reference (PDR), [United States Pharmacopeia (USP)] **USP-NF Online**; and

iii. Antidote information and the telephone number of the State Poison Information and Education System Center [1-800-POISON-1] **1 (800) 222-1222**.

15.-16. (No change.)

[10:161A]8:111-14.3 Standards for storage of medications

(a) The facility shall keep all medications in locked storage areas, stored in accordance with manufacturer's instructions at or near the medical unit(s).

1. The facility shall store all medications that require refrigeration in a locked box within a refrigerator, in the locked medication room, at temperatures that conform with [United States Pharmacopoeia] **USP-NF Online** requirements of 36 to 46 degrees Fahrenheit.

2.-5. (No change.)

(b) (No change.)

[10:161A]8:111-14.4 Additional standards for facilities that provide medically monitored detoxification services

(a)-(b) (No change.)

(c) Every facility that provides detoxification services shall have a unit dose medication distribution system that complies with the following:

1. (No change.)

2. Each medication shall be individually wrapped, labeled with its generic name, trade name (if appropriate), strength, lot number or reference code, expiration date, manufacturer's or distributor's name, and ready for administration to the client.

i. If the facility repackages medications in single unit packages, the facility shall establish written standards for labeling packages to assure identification of the lot number or reference code and the manufacturer's or distributor's name in

accordance with the [United States Pharmacopeia (USP)] **USP-NF Online** or generally accepted pharmacy practices.

3.-4. (No change.)

Recodify existing 10:161A-15 as **8:111-15** (No change in text.)

## SUBCHAPTER 16. EMERGENCY SERVICES AND PROCEDURES

[10:161A]**8:111-16.1** (No change in text.)

[10:161A]**8:111-16.2** Drills, tests, and inspections

(a)-(b) (No change.)

€ The facility shall examine its fire extinguishers annually and maintain or replace them in accordance with manufactu'er's requirements[,]; National Fire Protection Association (NFPA) 10, [2002] **2018** edition, incorporated herein by reference, as amended and supplemented; N.J.S.A. 52:27D-198, the Uniform Fire Safety Act; and N.J.A.C. 5:70, the New Jersey Uniform Fire Code. NFPA publications are available from the NFPA, One Battery March Park, [P.O.] **PO** Box 9101, Quincy, MA 02269-9101, [1-](800[-]) 344-3555, <http://www.nfpa.org>.

(d) The facility shall conduct the following inspections:

1.-5. (No change.)

6. Annual elevator inspection in [accord] **accordance** with N.J.A.C. 5:23-12.3, Elevator safety subcode[, Reference Standard ASME A17.1-96]; and

7. (No change.)

(e) (No change.)

[10:161A]8:111-16.3 (No change in text.)

## SUBCHAPTER 17. CLIENT RIGHTS

[10:161A]8:111-17.1 (No change in text.)

[10:161A]8:111-17.2 Rights of each client

(a) Each client receiving services shall have:

1.- 8. (No change.)

9. The right to be free from mental, sexual, and physical abuse, exploitation, coercive acts by staff and other clients and from the use of restraints unless restraints are authorized pursuant to N.J.A.C. [10:161A]8:111-6.5.

i. (No change.)

10. The right to confidential treatment of information about the client.

i. Information in the client's clinical record shall not be released to anyone outside the program without the client's written consent to release the information in accordance with Federal statutes and rules for the Confidentiality of Alcohol and Drug Abuse Client Records at 42 U.S.C. §§ 290dd-2 and 290ee-2 and 42 CFR Part 2 and the provisions of the HIPAA, unless the release of the information is required and permitted by law, a third-party payment contract, a peer review or the information is needed by [DMHAS] **the Department** for statutorily authorized purposes.

ii. (No change.)

11.-19. (No change.)

(f) [10:161A]8:111-17.3 Complaina) The administrator shall provide all clients and their families with the name, address, and telephone number of the following State office [where] **to which** clients and their families may submit complaints:

New Jersey State Department of Human Services

Office of Program Integrity and Accountability

[Attention: Office of Licensing

P.O.] **PO** Box [707] **700**

Trenton, [New Jersey] **NJ** 08625-[0707] **0700**

Telephone: toll-free 1-877-712-1868

(b) (No change.)

Recodify existing 10:161A-18 as **8:111-18** (No change in text.)

#### SUBCHAPTER 19. CLINICAL RECORDS

[10:161A]8:111-19.1 Maintenance of clinical records

(a) The residential substance use disorders treatment facility shall establish and implement policies and procedures for production, maintenance, retention, and destruction of clinical records (including electronic records), which shall be reviewed at least annually by the administrator. The policy and procedure manual shall address the written objectives, organizational plan, and quality assurance program for all clinical records, subject to the following:

1.-2. (No change.)

3. The facility shall maintain all clinical records and components thereof on-site at all times unless:

i.-ii. (No change.)

iii. Off-site storage of clinical records is approved by [OOL] **the Division** pursuant to N.J.A.C. [10:161A]8:111-19.6; and

4. (No change.)

(€€ (No change.)

(f) The facility shall establish policies and procedures to provide copies of a client's clinical record to the client, his or her legally authorized representative, or a third-party payer where permitted by law or otherwise authorized in writing by the client, consistent with N.J.A.C. [10:161A]8:111-19.5.

[10:161A]8:111-19.2 (No change in text.)

[10:161A]8:111-19.3 Contents of clinical records

(a) The facility shall require, at a minimum, the following to be included in the clinical record:

1.-14. (No change.)

15. Reports of accidents or incidents required to be reported to the administrator, governing authority, and/or [DHS] **the Department**;

16.-23. (No change.)

Recodify existing 10:161A-19.45 and 19.5 as **8:111-19.4 and 19.5** (No change in text.)

[10:161A]**8:111**-19.6 Preservation, storage, and retrieval of clinical records

(a) (No change.)

(b) If the facility plans to cease operation, it shall notify [OOL] **the Division**, in writing, at least 14 days before cessation of operation, of the location where clinical records shall be stored and of methods for their retrieval.

1. The facility shall store all clinical records on-site unless off-site storage is approved by [OOL] **the Division**.

2. [OOL] **The Division** shall approve off-site storage if the notice from the facility requesting approval ensures that off-site storage shall maintain:

i.-ii. (No change.)

## SUBCHAPTER 20. INFECTION PREVENTION AND CONTROL

[10:161A]**8:111**-20.1 Infection prevention and control

(a)-(b) (No change.)

(c) The infection control committee, in consultation with each service in the facility, shall develop, implement, and annually review and revise as necessary written policies and procedures regarding infection prevention and control, addressing at least the following:

1.-2. (No change.)

3. The facility's infection and control practices shall be in compliance with the CDC infection control guidelines [in] **at** (c)2 above, and with the Occupational Safety and Health Administration (OSHA) rules at 29 CFR 1910.1030, Bloodborne Pathogens,

incorporated herein by reference, [issued under 29 U.S.C. § 653,] available from the OSHA website, [www.osha.gov](http://www.osha.gov);

4.-11. (No change.)

[10:161A]8:111-20.2 (No change in text.)

Recodify existing 10:161A-21 as **8:111-21** (No change in text.)

## SUBCHAPTER 22. QUALITY ASSURANCE PROGRAM

[10:161A]8:111-22.1 (No change in text.)

[10:161A]8:111-22.2 Quality assurance activities

(a) The facility's quality assurance program shall provide for an ongoing process, including documentation, that monitors and evaluates client care services, staffing, infection prevention and control, housekeeping, sanitation, safety, maintenance of physical plant and equipment, client care statistics, discharge planning services, volunteer services, and shall include, but not be limited to:

1. Evaluation of the behavioral and pharmacological approaches to treatment to ensure that treatment practices are evidence-based or based on best practice information to provide treatment services consistent with recognized treatment principles and practices for each level of care and type of client served, as defined at N.J.A.C. [10:161A]8:111-1.3;

2.-6. (No change.)

7. The quality assurance plan shall include, at a minimum, an annual review of staff qualifications and credentials, and staff orientation and education that includes core functions addressing ASAM **criteria** (ASAM PPC[-2R]), [medication assisted] **medication-assisted** treatment, and professional ethics.

(b) The administrator shall follow-up on the findings of the quality assurance program to ensure that effective corrective actions have been taken, or that additional corrective actions are no longer indicated or needed. The following shall apply:

1. The administrator shall follow-up on all recommendations resulting from findings of the quality assurance program or [OOL] **the Division**;

2. Deficiencies jeopardizing client or staff safety shall be verbally reported to the governing authority and to [OOL] **the Division** immediately, with written correspondence provided to the governing authority and [OOL] **the Division** within five working days.

(c) The facility shall identify and establish indicators of quality care and outcome objectives specific to the facility and in response to those emerging issues related to client care and/or deficiencies.

1. (No change)

2. The facility shall monitor and evaluate each of the specific indicators at least annually, and develop reports as required by the facility, governing authority, and [OOL] **the Division**.

(d) (No change.)

Recodify existing 10:161A-23 as **8:111-23** (No change in text.)

## SUBCHAPTER 24. PHYSICAL PLANT AND FUNCTIONAL REQUIREMENTS

[10:161A]**8:111-24.1** Physical plant general compliance for new construction or alteration

(a) New buildings and alterations or additions to existing buildings, for freestanding residential substance use disorders treatment facilities shall conform with the New Jersey Uniform Construction Code, N.J.A.C. 5:23, incorporating specified subchapters of the model code of the International Building Code [2006] **2018**, New Jersey Edition [published by the International Code Council, 4051 W. Flossmoor Road, County Club Hills, IL 60477-5795, appropriate to Use Groups I-1], as amended and supplemented, **available at <https://codes.iccsafe.org>**; and the Guidelines for Design and Construction of **Residential Health, Care, and Support Facilities** [2010], **2018 Edition**, published by the American Institute of Architects Press, 1735 New York Avenue, NW, Washington, DC 20006, 800-242-3837, <http://www.fgiguideines.org/>, incorporated herein by reference, as amended and supplemented.

(b) New buildings and alterations and additions to existing buildings for residential substance use disorders treatment facilities which are part of an acute care hospital shall conform with the New Jersey Uniform Construction Code, N.J.A.C. 5:23, incorporating specified subchapters of the International Building Code [2006] **2018**, New Jersey Edition, [published by the International Code Council, 4051 W. Flossmoor Road, County Club Hills, IL 60477-5795, appropriate to Use Group I-2,] as amended and supplemented, **available at <https://codes.iccsafe.org>**, and the Guidelines for Design

and Construction of **Residential Health, Care, and Support** Facilities [2010], **2018 Edition**, published by The American Institute of Architects Press, 1735 New York Avenue, NW, Washington, DC 20006, 202-626-7475, <http://www.fgiguilines.org/>, incorporated herein by reference, as amended and supplemented.

[10:161A]8:111-24.2 (No change in text.)

[10:161A]8:111-24.3 Plan review and fees

(a)-(b) (No change.)

(c) Each agency shall submit one set of floor and furniture plans to [OOL] **the Division**, for a cursory review and inclusion in [OOL] **its** facility files. Submit floor and furniture plans to[:

Department of Human Services

Office of Program Integrity and Accountability

Attention: Office of Licensing

[P.O.] **PO** Box 707

Trenton, NJ 08625-0707] **the Division**.

[10:161A]8:111-24.4 Alterations, replacements, and damage to existing facilities

(a)-(c) (No change.)

[10:161A]8:111-24.5 Provision for persons with physical disabilities

All facilities shall be made available and accessible to [the] persons with physical disabilities pursuant to the New Jersey Uniform Construction Code, N.J.A.C. 5:23; and the American National Standard ICC/ANSI A117.1-[2003] **2017**, incorporated **herein** by reference, as amended and supplemented, available [through the ANSI website, [www.webstore.ansi.org](http://www.webstore.ansi.org)] at <https://codes.iccsafe.org>.

[10:161A]8:111-24.6 Restrictions

Mixed use occupancy shall not be permitted in buildings classified as High Hazard (H), Factory (F), or Assembly (A-2) Use Groups, in accordance with N.J.A.C. 5:23 and [P.L.] **Pub. L.** 100-336, the Americans with Disabilities Act, as amended and supplemented, and the [Accessibility Guidelines for Buildings and Facilities (2002)] **2010 ADA Standards for Accessible Design**, incorporated herein by reference, as amended and supplemented[. The Accessibility Guidelines are], available at [the United States Access Board website, [www.access-board.gov/adaag/html/adaag.htm](http://www.access-board.gov/adaag/html/adaag.htm)] or from the Superintendent of Documents, Government Printing Office, Washington, DC 20402] [https://www.ada.gov/2010ADASTandards\\_index.htm](https://www.ada.gov/2010ADASTandards_index.htm).

[10:161A]8:111-24.7 Ventilation

Ventilation shall be provided in accordance with the International Mechanical [Code/2009] **Code/2018**, as incorporated [in] at N.J.A.C. 5:23-3.20, incorporated herein by reference, as amended and supplemented.

[10:161A]8:111-24.8 Exit access passageway and corridors

The width of passageways, including doors, aisles, and corridors, in a facility shall not be less than 44 inches. If an existing building(s) is being converted to a residential substance use disorders treatment facility, in whole or part, the authority having jurisdiction may consider an exception that would allow a 36-inch corridor, in accordance with N.J.A.C. [10:161A]8:111-2.13.

Recodify existing 10:161A-24.9, 24.10, 24.11, and 24.12 as **8:111-24.9, 24.10, 24.11, and 24.12** (No change in text.)

Recodifying existing 10:161A-25 and 26 as **8:111-25 and 26** (No change in text.)

## SUBCHAPTER 27. CONFIDENTIALITY

[10:161A]8:111-27.1 Confidentiality

All substance (alcohol and drug) abuse treatment facilities that provide residential substance use disorders treatment to adults [and adolescents] including, but not limited to, halfway houses, extended care facilities, long-term residential facilities, short-term residential treatment facilities, and non-hospital-based (medical) detoxification or any other similar such organization shall comply with the confidentiality provisions as set forth in HIPAA and the Federal Confidentiality of Alcohol and Drug Abuse Patient Records regulation at 42 CFR Part 2, both of which are accessible at [\[http://hipaa.samhsa.gov/privacyrule.htm\]](http://hipaa.samhsa.gov/privacyrule.htm) <https://ecfr.federalregister.gov>.

Recodify existing 10:161A Appendices A, B, and C as **8:111 Appendices A, B, and C**

(No change in text.)