

(e) A notice of denial, suspension, or revocation or a notice to limit the number of affiliations of a certified individual or business shall be issued to the violator.

1. (No change.)

2. A notice under this section shall:

i.-iii. (No change.)

iv. Advise the violator of the right to request an adjudicatory hearing pursuant to the procedure at N.J.A.C. 7:28-[27A.31]27.31; and

v. Become final if a request for adjudicatory hearing is not submitted to the Department in accordance with N.J.A.C. 7:28-[27A.31]27.31 or when a submitted request for adjudicatory hearing, in accordance with N.J.A.C. 7:28-[27A.31]27.31 has been adjudicated and upheld.

(f)-(k) (No change.)

7:28-[27A.30]27.30 (No change in text.)

7:28-[27A.31]27.31 Request for adjudicatory hearing

(a) Within 20 calendar days from receipt of a notice limiting the number of affiliations pursuant to N.J.A.C. 7:28-[27A.5(i)]27.5(i), or a certification denial, or a suspension or revocation issued by the Department pursuant to N.J.A.C. 7:28-[27A.29]27.29, the individual or business may request an adjudicatory hearing to contest such action by submitting a written request to the Department to the following two addresses:

1.-2. (No change.)

(b)-(e) (No change.)

7:28-[27A.32]27.32 (No change in text.)

7:28-[27A.33]27.33 One-time certification application requirements for a certified radon measurement business, specialist, and technician and certified radon mitigation business and specialist

(a) Notwithstanding the expiration date of its certification, a business or individual that is a certified radon measurement business, specialist, or technician or a certified radon mitigation business or specialist as of June 6, 2022, shall submit a complete initial application to the Department in accordance with N.J.A.C. 7:28-[27A.7, 27A.11, 27A.18, 27A.21, or 27A.24]27.7, 27.11, 27.18, 27.21, or 27.24, such that the Department receives the application on or before October 4, 2022.

(b)-(g) (No change.)

7:28-[27A.34]27.34 Radon mitigation technician

(a) Notwithstanding the expiration date of his or her certification, an individual who is certified as a radon mitigation technician as of June 6, 2022, shall submit to the Department a complete renewal application as specified at (d) and (e) below or, if the individual meets the requirements of a certified radon mitigation specialist, a complete initial application in accordance with N.J.A.C. 7:28-[27A.24]27.24, such that the Department receives the application on or before October 4, 2022.

(b)-(g) (No change.)

(h) A certified radon mitigation technician may submit an application to be certified as a radon mitigation specialist when he or she meets the requirements at N.J.A.C. 7:28-[27A.24]27.24, Radon mitigation specialist—initial application.

(i) (No change.)

(j) A certified radon mitigation technician shall affiliate with at least one business in accordance with N.J.A.C. 7:28-[27A.5]27.5.

1. For each business, the certified individual shall:

i. Review and comply with the radiological safety plan in accordance with N.J.A.C. 7:28-[27A.15]27.15;

ii. Take radiation safety training and pass a subsequent examination in accordance with N.J.A.C. 7:28-[27A.13(g)]27.13(g); and

iii. Sign an affiliation form in accordance with N.J.A.C. 7:28-[27A.5]27.5; and

2. (No change.)

(k) (No change.)

(l) Prior to the installation of a mitigation system, a certified radon mitigation technician shall provide the client with a copy of a written contract that has been signed by the affiliate and the client. The contract shall be supplied on behalf of the certified business, as provided at N.J.A.C. 7:28-[27A.13(l)]27.13(l).

(m) Prior to performing work on an existing mitigation system, a certified radon mitigation technician on behalf of the certified business shall, as provided at N.J.A.C. 7:28-[27A.26(h)]27.26(h), advise the client in writing whether the mitigation system meets the most recent authorized mitigation protocol, and provide a written estimate of the upgrades needed, and the cost to bring the system into compliance.

(n) A certified radon mitigation technician shall, on behalf of the certified business, as provided at N.J.A.C. 7:28-[27A.13(n)]27.13(n), allow an uncertified individual to assist with only basic construction tasks during the installation of the radon mitigation system.

(o) (No change.)

HUMAN SERVICES

(a)

OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY

Community Residences for Individuals with Developmental Disabilities

Adopted Amendments: N.J.A.C. 10:44A-1.1, 1.3, 1.4, 1.9, 1.10, 1.11, 1.12, 2.1 through 2.6, 2.9, 2.10, 3, 4.1, 4.2, 5.1, 5.2, 5.3, 5.4, 5.5, 5.7, 5.8, 6.1 through 6.10, and 6.12 through 6.17

Adopted Repeals and New Rules: N.J.A.C. 10:44A-1.5, 1.6, 1.7, 1.8, 2.7, 2.8, and 5.6

Adopted Repeal: N.J.A.C. 10:44A Appendix

Authority: N.J.S.A. 30:11B-1 et seq., specifically, 30:11B-4.

Proposed: June 20, 2022, at 54 N.J.R. 1117(a).

Adopted: November 15, 2022, by Sarah Adelman, Commissioner, Department of Human Services.

Filed: January 11, 2023, as R.2023 d.021 **with non-substantial changes**, not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Effective Date: February 6, 2023.

Expiration Date: March 29, 2026.

Summary of Public Comments and Agency Responses:

The Department of Human Services (Department) received comments from the following individuals in response to publication of the notice of proposal:

Cheryl Price, SCS Social Services;
Tracey Belvedere, Hudson Milestones;
Debra Santa Lucia, ALFA Development;
Katherine Troyer, Ramsey, NJ;
Carolyn T. Torre, Nursing Policy Consultant;
Anna Cerami;
Catherine Chin, ABCD;
Laurie Tompkins, Bancroft;
Kathleen Freeman, Nursing/Autism Educator Disability and Special Education Advocate/Volunteer;
Nicole Siddell-Duran, Meredith Gruff;
Thomas Baffutto, Patricia Jones, ARC-New Jersey;
Monica Icaobino, Keystone Community Resources;
Dorothy Blakeslee;
Frank Harrington, American Association of Nurse Practitioners;
Joseph Dougherty, CaringHouse;
Mary Kneuer, Natalie Trump, Melanie McGackin, Maria Schiavello, Todd Cooper;
Kyoko Coco, Health & Safety Subcommittee of NJ Regional Family Support Council;
Bonnie Brien;
Mary A. Ciccone, Disability Rights NJ;
Maureen Shea, Director NJACP; and
Eileen Cole.

COMMENT: Two stakeholders provided comments about the maximum number of individuals who may reside in a community residence. One commenter requested that the Department identify the maximum number of individuals allowed to reside in a newly developed group home and suggested that number should be four. Another commenter expressed concern that a residence with up to 16 individuals may violate the Federal Home and Community-Based Services (HCBS) Final Rule.

RESPONSE: The Department is satisfied that the adopted rule complies with the HCBS Final Rule. 42 CFR 441.301 does not indicate a maximum number of residents, but rather states that a residence may not have the qualities of an institutional setting. Such qualities include settings located in privately owned facilities that provide inpatient treatment, settings on the grounds of, or adjacent to, a public institution, or settings that isolate individuals receiving HCBS from the greater community. The adopted rule permits up to 16 residents in a community residence, but prohibits a residence from having the qualities of an institutional setting. Further, the 16-person census has typically been applicable to supervised apartment programs rather than group homes. The Department requires all settings governed by this rulemaking to maintain integration with the community and has a process for determining whether a setting complies with the HCBS Final Rule based on the characteristics of that setting, and not solely the number of individuals who live there. Certain settings require heightened scrutiny.

COMMENT: Three stakeholders commented on the list of advocates in the proposed regulations. One commenter suggested that the several units within the Department's Office of Program Integrity and Accountability (OPIA) be listed. Another commenter noted that they could not locate the section in the proposed regulations that lists the names and contact information of advocates for individuals with Intellectual and Developmental Disabilities (I/DD). Another commenter suggested that support coordinators be included in the list of advocates.

RESPONSE: The Department is satisfied that the adopted rules sufficiently list the advocates. While the list at N.J.A.C. 10:44A-3.1(b) was deleted, it has been added at N.J.A.C. 10:44A-4.1(e)3. The list of advocates includes an individual's support coordinator or case manager. The list also includes OPIA's Office of Licensing. The Department does not consider it necessary to include OPIA's various units as this single point of contact is sufficient as a minimum requirement.

COMMENT: A stakeholder commented the Department should have the ability to immediately suspend a provider's license when there is a danger to individuals.

RESPONSE: N.J.A.C. 10:44A-1.8 lists several negative licensing actions that OPIA may take when a provider is in violation of the rules, which include a license suspension. The Department retains discretion to immediately remove individuals from a home when there is an imminent danger.

COMMENT: A stakeholder commented that there should be external monitoring of health and safety and that health professionals and other interested parties should be able to review electronic health records.

RESPONSE: In addition to the requirement for an annual medical examination, each resident must have a personal physician or advanced practice nurse (APN), and providers are required to follow up on necessary medical care. Electronic health records are not prohibited by the rules, but they may only be reviewed in accordance with State and Federal confidentiality rules.

COMMENT: A stakeholder commented that the circumstances for which corrective actions could be implemented should be expanded and listed, as an example, a provider not implementing person-centered approaches to care.

RESPONSE: Corrective actions are implemented for a variety of reasons, including not implementing person-centered care.

COMMENT: A commenter stated that individuals, as well as their families and guardians, should be notified if a community residence is at risk or if there is an administrative hearing regarding a provider, including the results. The commenter also stated that individuals should be offered alternative living arrangements.

RESPONSE: The Department publicly posts a quarterly risk management report showing agencies that trigger established risk management thresholds. Individuals and their families and/or guardians

can select alternative living arrangements at any time. Licensees are required by State law to have due process when certain negative licensing actions are issued, which may include a hearing before the Office of Administrative Law (OAL). OAL hearings often involve confidential information and may not be open to the public. Final agency decisions, which follow initial decisions from OAL hearings, have been publicly published on the Department's website since 2014.

COMMENT: A commenter stated that unannounced visits should occur during open investigations.

RESPONSE: Various Department units complete unannounced visits routinely, in response to certain allegations, or randomly. As such, the Department believes the rules are sufficient, as written.

COMMENT: In addition to the requirement at N.J.A.C. 10:44A-1.12 that licensees provide at least 60 days' written notice of a voluntary closure to the Department, several commenters recommended that written notice should also be provided to individuals, families, guardians, and support coordinators, so planning and alternate living arrangements may occur as soon as possible.

RESPONSE: The Department agrees that individuals, families, guardians, and support coordinators should be given sufficient notice. The Department believes that the adopted rules will provide licensees and support coordinators sufficient time to work with families and individuals served to address any potential residential changes.

COMMENT: A commenter stated that external monitoring should be required to oversee health and safety, and to allow families, guardians, and advocates to contact OPIA or other independent contractors to alert them of issues.

RESPONSE: OPIA and the Division of Developmental of Developmental Disabilities ("the Division" or "DDD") conduct inspections and oversee other monitoring functions to protect the health and safety of individuals receiving services. Families, guardians, and advocates can advise OPIA and/or the Division of issues at any time, including calling the Division's hotline.

COMMENT: A commenter proposed that providers should have independent audits of their finances.

RESPONSE: The New Jersey Department of the Treasury, Office of Management and Budget's (OMB) Policy Circular 15-08 outlines audit requirements for provider agencies receiving funds from the State. Each provider that receives a minimum amount of State funding from the Department is required to submit an independent audit report to the Department. The Department's Office of Auditing ensures that each provider meets the requirements of OMB Policy Circular 15-08, reviews the audit reports, and shares them with the appropriate division(s).

COMMENT: A commenter recommended that consequences be established that motivate providers to maintain quality.

RESPONSE: The negative licensing actions that can be taken when an agency is not in compliance are found at N.J.A.C. 10:44A-1.7, 1.8, and 1.9. The Department believes the rules are sufficient, as written.

COMMENT: One commenter expressed appreciation for the Department allowing APNs to serve as designated health service providers for residents, but commented that APNs should be approved by the Department to order durable medical equipment (DME) for residents. Another commenter agreed that APNs should be allowed to order DMEs.

RESPONSE: The Department agrees that APNs should be authorized to order DMEs for residents and intended to allow this in the rules. N.J.A.C. 10:44A-5.1(i)1 is changed upon adoption to reflect this clarification.

COMMENT: An advocate commented that behavior support plan training should be individualized and that strategies should be consistent for individuals who attend day programs or school in addition to a residential program. The advocate further stated that data should be collected in all settings and reviewed by the Board Certified Behavior Analyst because the behavior support plan could be detrimental to the individual if it is not meeting its stated purpose.

RESPONSE: The Department agrees that behavioral support plan training should be individualized. Accordingly, it requires persons who work with individuals with behavior support plans to be trained on the implementation of their specific plans. The Department also agrees that behavior support plans should be reviewed to ensure they are appropriate

and effective. Identification of training needs and behavioral support plan review are part of the person-centered planning process.

COMMENT: Several advocates commented about the need for regulatory requirements for lighting, cleaning, maintenance of HVAC systems, cleaning schedules, checks for cleanliness, clothes being washed separately, garbage disposals being prohibited, and dishwashers.

RESPONSE: The Department appreciates these comments but finds that the existing requirements regarding maintenance of community residences are sufficient. N.J.A.C. 10:44A-6.6 requires the interior and exterior of residences to be properly maintained and free from any hazard to health or safety, and N.J.A.C. 10:44A-6.9 requires heating sources to be properly maintained in good and safe working condition. These general requirements allow OPIA to address any specific issues that may arise, such as those raised by the commenters.

COMMENT: Two advocates commented about the need for individuals to have an adequate supply of bed linens, towels, and bath rugs, and that these items should be appropriately laundered.

RESPONSE: Providers are responsible for properly maintaining and cleaning residences, as well as personal items. The Department believes that specific requirements for these individual needs should be addressed through the person-centered planning process, rather than in the rules.

COMMENT: An advocate commented that an inventory of each individual's clothing should be itemized and recorded, and that an individual's clothes should be washed separately from that of other residents.

RESPONSE: As adopted, N.J.A.C. 10:44A-5.6 provides that each individual shall have an adequate supply of clean and appropriate clothing and requires providers to assist individuals with maintenance and laundering of their clothing if they need such assistance. The Department believes that the rules are sufficient and that any specific needs can be addressed through the person-centered planning process.

COMMENT: In response to the requirement that all garbage collected for disposal be stored in water-tight containers with tight-fitting covers, a provider asked about situations where a town's required disposal vessel is not waterproof and whether a residence may use a small dumpster instead.

RESPONSE: The requirement is for water-tight containers, meaning a lid that is properly affixed to the top preventing water from getting in and pooling at the bottom. If a dumpster is what is provided by the disposal company, and allowed by the municipality, the requirement to have a lid from preventing water and other outside variables from entering would still be applicable.

COMMENT: A provider asked the Department to define what is included in the client record and to specify which client records are the property of the Department. The provider also stated that internal agency reports and consultations should not be part of the client record.

RESPONSE: N.J.A.C. 10:44A-2.9 indicates what records must be included in the client record. As stated in the rule, the client record is the property of the Department. Internal agency reports and consultations, to the extent that they are not delineated in the adopted rule, are not required to be in the client record. However, these records are the property of the Department, to the extent they relate to the provision of services to individuals receiving services from the Division. The Department notes that N.J.A.C. 10:41 also addresses records confidentiality and access to client, Division, and provider records.

COMMENT: An advocate asked whether the Department reviews provider manuals again after a provider license is approved. Another commenter asked when the Division reviews provider manuals.

RESPONSE: The Department may review provider manuals and policies again due to statutory changes, a provider request for technical assistance, a complaint that a provider policy is in conflict with Departmental rules, or following an inspection.

COMMENT: An advocate asked whether a telephone landline and voicemail are required and whether there are rules on whether the phone must be answered and messages returned.

RESPONSE: N.J.A.C. 10:44A-1.5(b)5 requires that a residence have an operable telephone, but does not require that it be a landline. While the rules do not specify that a phone have voicemail or set specific protocols on answering phones and messages, provider responsiveness is a general expectation of providing services.

COMMENT: An advocate asked what are outcome assessments, as referenced at N.J.A.C. 10:44A-2.2(b)22, whether such data is recorded, and whether it is reviewable by parents and guardians.

RESPONSE: Outcome assessments are an evaluation of a licensee's continuous quality improvement system, which is designed to identify opportunities to improve services and resolve identified problems. Data is recorded pursuant to N.J.A.C. 10:44A-2.2(b)22i. Data may be reviewable by parents and guardians at the discretion of the licensee.

COMMENT: An advocate asked that the Department include a reference for "DDD shifting expectations," as referenced at N.J.A.C. 10:44A-2.7(a)1.

RESPONSE: DDD shifting expectations is a part of the Division's mandatory training requirements and is further described in the Divisions' Community Care Program Manual and Supports Program Manual.

COMMENT: An advocate noted that providers have denied guardians access to records in the past because the regulations state that the records belong to the Department, and asked for clarification on whether this is acceptable. Another commenter asked the Department to include language clarifying what records are available to the parent or guardian.

RESPONSE: N.J.A.C. 10:44A-2.9(c), which was not amended in the rulemaking, states that "[a]n individual shall have access to his or her records, unless clinically contraindicated and documented." An individual's guardian has this same access. As a general matter, providers are not permitted to deny a guardian access to the individual's records. However, there may be records that are not part of the individual's records that are not required to be disclosed. The Department notes that N.J.A.C. 10:41, Records Confidentiality and Access to Client, Division, and Provider Records, also addresses access to client records.

COMMENT: An advocate asked what are medication administration codes, as referenced at N.J.A.C. 10:44A-5.2(c)1ix.

RESPONSE: Medication administration codes are approved abbreviations used on electronic or paper medication administration records.

COMMENT: A provider asked whether the records of individuals being served in supervised apartments may be stored in a nearby designated location and not the actual residence.

RESPONSE: While N.J.A.C. 10:44A-2.9(b), as proposed, requires individuals' records to be stored at the residence, the Department considers the staff office or area at a supervised apartment site to be part of the residence. Accordingly, the storing of individual files at a staff office or area at a supervised apartment site is acceptable. However, to maintain appropriate care, certain records, such as the medication administration record must be kept at the actual apartment.

COMMENT: A commenter stated that electronic records that can be accessed at multiple locations should be allowed, that APNs should be allowed to use electronic records, and that electronic records would allow health professionals and other interested parties to review changes in health beyond an annual checkup.

RESPONSE: Electronic records are permitted and used by many provider agencies.

COMMENT: A provider recommended that N.J.A.C. 10:44A-2.2(b)14i be amended to allow logs for internal communication to be signed by electronic verification of a sign-in, rather than by only traditional signatures.

RESPONSE: The subchapter does not require traditional signatures and the Department will allow an electronic signature through a secure login.

COMMENT: A commenter asked that the Division set a standard for service monitoring of electronic health records and daily recordkeeping that is clear and consistent throughout the provider community and that the system be transferrable to any other agency serving the individual.

RESPONSE: It is a general requirement that paper and/or electronic records be accurate and properly maintained, and that records be transferred to any new provider.

COMMENT: A commenter recommended that the Department require agencies to establish health record and recordkeeping systems that track essential health outcomes and daily activities, and that this information be accessible to direct support professionals and supervisors, as well as families and guardians.

RESPONSE: Licensees are required to maintain documentation of all medical appointments and follow-up care and to input this information into a Critical Information Log accessible and required to be viewed by staff. These requirements are set forth at N.J.A.C. 10:44A-1.3, 2.2, and 5.1. Licensees are required to provide medical information updates to guardians, as determined through the person-centered planning process and in accordance with N.J.A.C. 10:41.

COMMENT: A commenter stated that guardians should be allowed to review medical records annually, and to review medical records including medication administration records while in the home. The commenter also stated that guardians should be given copies of records if requested without a medical release or unreasonable delay. The commenter also generally asked whether guardians and parents have access to records.

RESPONSE: N.J.A.C. 10:44A-2.9(c) provides that an individual shall have access to his or her records, unless clinically contraindicated and documented. An individual's guardian is entitled to this same access, and does not need a separate release to access records, as long as proof of guardianship has been established. A parent who is guardian of an individual has this same access. A parent who is not guardian of an individual would not necessarily have access to an individual's records unless the individual or their guardian authorized such access, with certain limited exceptions. The timeliness of the provision of medical records is governed by the Health Insurance Portability and Accountability Act (HIPAA), which providers are expected to follow.

COMMENT: A commenter noted a need to ensure that electronic records can be accessed from multiple locations.

RESPONSE: Electronic records are permitted and used by many provider agencies. Access is determined by the agency's technology infrastructure.

COMMENT: A commenter recommended that client records should be allowed to be available at the program during any inspection, review, or as requested, rather than maintained at the residence. The commenter also noted that there is no mention of electronic health records being accepted.

RESPONSE: N.J.A.C. 10:44A-2.9(b) requires client records to be stored at the residence. However, the Department notes that the staff office or area at a supervised apartment site is considered part of the residence for the purpose of this regulation. Electronic health records are acceptable.

COMMENT: A commenter stated that medical records should include "provider employed in-house psychiatry," should be shared with the resident's medical doctors, and should be accessible to residents or their families.

RESPONSE: N.J.A.C. 10:44A-2.9(c) provides that an individual shall have access to his or her records, unless clinically contraindicated and documented. N.J.A.C. 10:41 also addresses records confidentiality and access to client, Division, and provider records. The Planning Team should develop a plan to provide medical records to other medical providers, where necessary. The need for a provider-employed in-house psychiatrist would be based on individual need, as well as the infrastructure and design of the program, and is not generally required.

COMMENT: A commenter recommended that the definition of "critical information" include "health concerns, including recent seizure activity," noting that it is important for incoming staff to know whether a resident is not feeling well or is experiencing behavioral or mood issues.

RESPONSE: Critical information includes all information necessary to ensure the health, safety, and welfare of individuals receiving services, and the examples provided in the definition are non-exhaustive. Critical information includes health concerns, such as the examples listed by the commenter. Providers are also required to keep a communication log, which covers areas that may not also be considered critical information. Staff are expected to review both logs.

COMMENT: A commenter suggested that group homes should be considered "health care facilities" because of residents' medical needs, require better medical oversight, should expand critical information documented, and should report critical information to healthcare professionals.

RESPONSE: The exclusion of DDD group homes as health care facilities is technical pursuant to the Health Care Facilities Act, which applies to certain facilities regulated by the Department of Health. It is not meant to imply that providers are not required to address residents' health

care needs. In addition to critical information requirements, providers also keep a communication log, which covers other important information. Staff are expected to review both logs and to report information to medical professionals, as necessary, to protect the health of individuals served. In addition to the requirement for an annual medical examination at N.J.A.C. 10:44A-5.1(b), each individual must have a personal primary physician or medical group and the provider is required to follow-up on all individual health needs.

COMMENT: A commenter stated that the Critical Information Log, which is required pursuant to N.J.A.C. 10:44A-2.2(b)14, should be shared with the parent/guardian and not be internal only.

RESPONSE: The Department finds that N.J.A.C. 10:44A-2.2(b)14 is sufficient, as written. Information deemed critical in nature regarding a specific individual can be shared with the guardian. However, the Critical Information Log contains information about all individuals in a residence and, therefore, cannot be shared.

COMMENT: A commenter recommended that the proposed rules include language promoting collaboration with individuals and their families, including, but not limited to, inviting them to meetings and making critical information readily available to them.

RESPONSE: Such collaboration is expected through the person-centered planning process overseen by the support coordinator.

COMMENT: A commenter recommended that the OPIA Office of Licensing Bulletin on Privacy in Residential Living Spaces include the following language: "For agency providers, entry into an individual's locked room without permission shall be noted in the Critical Information Log, along with the emergent reason and any associated actions taken."

RESPONSE: The Department agrees that the situation described in the comment should be noted in the Critical Information Log. The examples provided in the definition of "critical information" in the proposed rule are non-exhaustive, so it will not be changed upon adoption to include this situation. The recommendation that the commenter's language be included in the bulletin goes beyond the scope of the rulemaking, but will be considered by the Department, if deemed necessary in the future.

COMMENT: A commenter recommended that the Critical Information Log be permitted to be maintained electronically.

RESPONSE: The proposed rules does not prohibit the Critical Information Log from being maintained electronically, so it is allowed. The Department does not consider it necessary to change the rule upon adoption.

COMMENT: Several commenters recommended that the Department supplement or replace "care manger" with the support coordinator as a member of the "Planning Team," as defined at N.J.A.C. 10:44A-1.3.

RESPONSE: This change is unnecessary because "care manager" is separately defined at N.J.A.C. 10:44A-1.3 to include the case manager or support coordinator.

COMMENT: Several commenters recommended that the Department change the definition of "person-centered planning" to include working in partnership with the individual and their representatives to achieve the individuals' preferences and choices.

RESPONSE: The Department finds that the definition is sufficient, as written. Individuals, families, and guardians are part of the person-centered planning team and should be working as partners in this process.

COMMENT: An advocate commented that "eviction" should be defined in a manner that meets the requirements of the HCBS Final Rule. According to the commenter, "[b]ecause of the HCBS requirements that licensees enter into a landlord/tenant relationship with the resident, it is important that eviction be defined in a manner that meets the requirements of the HCBS Rule, which requires that the individual must have the same responsibilities and protections from eviction that tenants have pursuant to the landlord/tenant laws of New Jersey. The centerpiece of that law is New Jersey's Eviction for Good Cause statute, N.J.S.A. 2A:18-61.1 et seq. Furthermore, the definition should specifically refer to all New Jersey landlord/tenant protections including, but not limited to, those at N.J.S.A. 2A:18-61.1 et seq." The commenter further recommended that the regulations clarify that the forum for seeking an eviction is the Superior Court, Special Civil Part.

RESPONSE: The Department thanks the commenter for this feedback, but does not share the same interpretation of the referenced State and Federal laws. The HCBS Final Rule does not require licensees to enter

into leases with residents that strictly mirror landlord/tenant eviction processes, but rather allows for residency agreements or other forms of written agreements that offer “protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law” in settings in which landlord-tenant law does not apply. 42 CFR 441.301(c)(4)(iv)(A). In community residences where a provider agency is providing services in conjunction with housing, the Division requires providers and residents to enter into residency agreements that offer comparable protections to leases. The process followed in circumstances where a provider requests discharge of an individual is outlined in the residency agreement and is as follows: The provider will notify the individual/guardian/support coordination of their intent to terminate services/housing; the provider will follow policies as outlined in Division Circular #36-Transfer or Discharge by notifying the Division and including substantive evidence as to why the action is being taken; the Division reviews the submission to determine if the request meets applicable standards; the decision is communicated; if the termination of services/housing is approved, the service provider must continue to support the individual until alternative services can be identified. Disputes regarding these decisions are governed by Department regulations and Title 30 of the New Jersey Statutes, and are appealable through the administrative appeals process and ultimately to the Appellate Division; they are not cognizable in the New Jersey Superior Court, Special Civil Part. If the Special Civil Court exercised such jurisdiction, situations could arise where an individual can no longer be appropriately served by a provider agency, yet continues to reside in that agency’s home, thus jeopardizing the individual’s health and safety. Such a result would be untenable and would violate New Jersey law requiring the provision of appropriate services to Division service recipients. For these reasons, the Department declines to include a definition of “eviction” in the proposed rules that requires a discharge process before the Superior Court, Special Civil Part.

COMMENT: An advocate recommended that “person-centered planning process” be defined consistent with the Federal person-centered planning rule, 42 CFR 441.301(c)(1), (2), and (3).

RESPONSE: “Person-centered planning,” as defined in the regulation, means a process of helping individuals, in accordance with their needs and preferences, to achieve a lifestyle that is consistent with the norms and patterns of general society and in ways that incorporate the principles of age appropriateness and least restrictive interventions. The Department finds that this definition is sufficient. The person-centered planning process utilized in New Jersey is robust and consistent with 42 CFR 441.301(c)(1), (2), and (3). It is defined in various sections of the Division’s Community Care Program Manual and Supports Program Manual, particularly at sections 6 - Care Management, 7 - Service Plan, and 17.18 - Support Coordination. These sections require conflict-free care management; state that the individual is at the center of the process; contain operating principles; discuss planning team membership and resolving differences of opinion among planning team members; and include the definition of support coordination service.

COMMENT: An advocate stated the proposed rules do not include a definition for “roommate,” and that the regulations should have a definition that specifies that a roommate is a person with whom one shares a bedroom and should also make clear that individuals sharing units must have a choice of roommates, as required at 42 CFR 441.301(c)(4)(vi)(B)(2).

RESPONSE: The definition of roommate is included in the proposed rules at N.J.A.C. 10:44A-1.3. Individuals are afforded a choice in roommate pursuant to 42 CFR 441.301(c)(4)(vi)(B)(2). This requirement is included in the addendum to the residency agreement and in the Division’s Community Care Program Manuals and Supports Program Manual at Section 11.7-Home- and Community-Based Services (HCBS) Setting Compliance.

COMMENT: A commenter recommended that a definition of “housemate” be added to distinguish from the term “roommate.”

RESPONSE: The Department finds the definitions are sufficient, as written. The term housemate is not utilized in the rules and, therefore, a definition will not be added.

COMMENT: The definition of “staffing description” describes an activity that is contrary to a person-centered approach. It was

recommended to reflect person-centeredness in all definitions, so as to support each individual’s needs.

RESPONSE: The Department finds this definition is sufficient, as written. While the rules do not include a definition of staffing description, the program description, which includes the number of staff per shift, is based on the supervision and needs of the individuals, as determined through a person-centered planning process.

COMMENT: An advocate recommended that the definition of “planning team” be clarified to address situations when the legal guardian is the parent or family member because an individual with a guardian or a provider may otherwise be able to make decisions without the guardian. The commenter further stated that the onus should be on the provider to prove that a guardian may not be acting in the best interest of the individual. The commenter also stated that the provider’s policy and procedure manual should be given to individuals and guardians on admission and upon request, and should be located on the agency’s website and accessible for review by individuals and guardians. Further, changes made to policies and procedures should be sent to individuals and guardians.

RESPONSE: All members of the person-centered planning team, including the individual served, guardian, and residential provider, have input into the services and supports provided in a community-based setting. A provider may not disregard a guardian’s court-ordered decision-making authority by excluding a guardian from the planning process. Providers are not prohibited from providing their policies and procedures manual to stakeholders or publishing it on their website.

COMMENT: A commenter stated that the definition of “neglect” should be more specific and recognize the importance of structured, engaging, and meaningful onsite programming, so that individuals are not left alone, unoccupied, and disengaged.

RESPONSE: The definition of “neglect” in the proposed rules mirrors the statutory definition at N.J.S.A. 30:6D-74, and will not be changed.

COMMENT: A provider questioned the requirement that a licensee provide substantive evidence to the Division when it determines a residence is no longer suitable or no longer meets the needs of a resident, and that the individual be served at the residence until an alternate placement is available.

RESPONSE: The Department is required, pursuant to 42 CFR 441.301(c)(4)(iv)(A), to offer “protections that address eviction processes and appeals comparable to those provided under the jurisdiction’s landlord tenant law” in settings in which landlord-tenant law does not apply. In community residences where a provider agency is providing services in conjunction with housing, DDD requires providers and residents to enter into residency agreements that offer comparable protections to leases. If a residential provider decides that they can no longer serve an individual, the provider must follow the process outlined in the established residency agreement. That process includes: the provider will notify the individual/guardian/support coordination of their intent to terminate services/housing; the provider will follow policies as outlined in Division Circular #36-Transfer or Discharge by notifying the Division and including substantive evidence as to why the action is being taken; the Division reviews the submission to determine if the request meets applicable standards; the decision is communicated; if the termination of services/housing is approved, the service provider must continue to support the individual until alternative services can be identified. This process provides comparable protections to the jurisdiction’s landlord tenant law.

COMMENT: Two commenters stated that N.J.A.C. 10:44A-1.9 deletes “removing the individuals from the residence” as an option for the Department when taking a negative licensing action, and inserts “assignment of staff approved by the Department” and “appointment of an independent monitor.” The commenters also asked how the Department will have sufficient staff to cover all shifts.

RESPONSE: The Department did not delete “removing the individuals from the residence” as an option when taking a negative licensing action. In the event the Department allows the assignment of staff to alleviate a situation, it will ensure that there is sufficient staff to cover all shifts.

COMMENT: Two commenters asked whether group homes currently classified as R-3 may be grandfathered in, to remain as R-3.

RESPONSE: Reclassification of the use group is not required, unless otherwise directed by the local municipality.

COMMENT: A provider recommended that the word “and” after N.J.A.C. 10:44A-6.3(c)2 be replaced with the word “or,” as a provider may take any of the listed steps when a resident is unable to evacuate the residence in three minutes or less if the step is effective.

RESPONSE: The Department agrees with this comment and the language will be changed to replace “and” with “or.” This change is permissible as the list was never intended to be all inclusive, as reflective in the existing lead-in text of “including, but not limited to, ...” therefore, “or” is the appropriate term.

COMMENT: A commenter states that information about an individual’s ability to evacuate is essential to know prior to their admission, not just within 48 hours.

RESPONSE: The Department finds N.J.A.C. 10:44A-6.2 is sufficient, as written. While provider agencies may have information on an individual and their potential to respond to an emergency situation prior to their admission, the emergency evacuation plan has to reflect the individual’s needs in their new setting, which also includes the layout of the home. This cannot be completed until a fire drill is completed within 24 hours of the admission of the individual.

COMMENT: A commenter requested clarification regarding the requirement at N.J.A.C. 10:44A-6.3(a)8 that individuals be free from physical restraint and not “locked in” to be presumed to have a prompt self-evacuation capability. The commenter asked what would happen if an individual becomes aggressive during the evacuation and staff needs to provide a physical intervention to manage the evacuation safely. The commenter also asked about the meaning of “locked in.”

RESPONSE: N.J.A.C. 10:44A-6.3(a) addresses the circumstances to be met for individuals to be presumed to have self-evacuation capability. In the event that an individual needs physical assistance or intervention during an evacuation drill, the expectation is that staff would support the individual to safely evacuate or stop the drill, if necessary. If the supports an individual requires to safely evacuate change, the Emergency Evacuation Assessment and Emergency Evacuation Plan must be updated to reflect this change. The reference to “locked in” means that an individual cannot be locked in a bedroom or a house with no ability to unlock an area of exit without a key.

COMMENT: A commenter stated that it may be difficult to specify the location of every individual during a fire drill in larger, two-story homes, and asked for clarification on whether “upstairs” is acceptable on the form.

RESPONSE: N.J.A.C. 10:44A-6.3(a)9ii concerns documenting the location of the simulated fire, which needs to be detailed. If the fire drill form includes the location of the individuals prior to the drill, the use of the term “upstairs” would be acceptable, so long as there is no conflicting information with the rest of the evacuation. This provision was not amended in the rulemaking and will remain, as written.

COMMENT: A commenter recommended that the word “awake” be removed from N.J.A.C. 10:44A-6.3(c)1. The commenter suggested that staff responsibilities should be based on individual’s needs, and recommended that the language instead read: “add staff who are available to assist in the case of an emergency evacuation to assure the three-minute evacuation time is met.”

RESPONSE: The Department finds this rule is sufficient, as written. Where the evacuation cannot be completed in less than three minutes, adding staff who are awake, rather than sleeping, is a step that may be taken to ensure evacuation in sufficient time.

COMMENT: A commenter requested clarification of the expectations at N.J.A.C. 10:44A-6.3(a), that occupants use the nearest exit during fire drills, and that fire drills ensure that all means of egress are used throughout the year, except in those areas that are not routinely utilized by individuals. The commenter noted that agencies have been cited for making errors in this area.

RESPONSE: Fire drills should be varied and simulate that fires occur in different parts of a residence and that individuals are located in different parts of the residence during the drills. Therefore, while occupants are required to evacuate from the nearest exit during a fire drill, that exit will vary, as providers simulate fires in different areas of the residence. The use of egresses shall be varied and individuals can utilize any non-high

risk egress, as long as it does not take them through the simulated fire location.

COMMENT: A commenter recommended that N.J.A.C. 10:44A-6.6(a)2 be amended to read: “Two means of egress shall be accessible to the individuals who reside in the residence, located in different parts of the building and lead to ground level.” The commenter noted that individuals’ needs should determine whether the means of egress should be ramped rather than ramps being required.

RESPONSE: The Department finds this rule is sufficient, as written. N.J.A.C. 10:44A-6.6(a)2 applies to residences housing individuals with physical disabilities who require accessible egresses in homes. This rule also conforms to N.J.A.C. 5:23-7.1, Barrier Free Subcode of the State’s Uniform Construction Code.

COMMENT: A commenter asked that the term “safe haven” be clarified as used at N.J.A.C. 10:44A-6.6(a)3.

RESPONSE: Safe havens are areas within buildings where individuals can shelter in place during an emergency, rather than leaving the building. The official location of a safe haven is determined by the local fire official, as indicated at N.J.A.C. 10:44A-6.6(a)3.

COMMENT: A commenter recommended that all issues related to egress should be located in one section to promote effective referencing of the regulations.

RESPONSE: The Department finds N.J.A.C. 10:44A-6.3 is sufficient, as written. While mentioned in various sections, exits and egresses are described in both general terminology and in reference to emergency evacuation.

COMMENT: A commenter stated that the use of LED candles and the momentary use of candles on a birthday cake should be allowed.

RESPONSE: The Department finds this rule is sufficient, as written. N.J.A.C. 10:44A-6.6(c)6 prohibits the use of live flame candles indoors; it does not prohibit LED candles.

COMMENT: Several commenters stated that providers should be allowed 72 hours, rather than 48 hours, to complete emergency evacuation plans.

RESPONSE: The Department agrees with this comment and N.J.A.C. 10:44A-6.2(b)1 will be changed upon adoption to allow providers 48 hours after the initial drill to revise the Emergency Evacuation Plan, for a total of 72 hours, as long as any necessary staffing changes to ensure a safe three-minute evacuation time are implemented after the initial drill.

COMMENT: A provider commented that the time an individual has to participate in a drill after moving in or returning to a residence should be 48 hours and not 24 hours.

RESPONSE: Fire safety and evacuation is of the utmost importance. Providers will be given 72 hours to review the evacuation plan and make any required revisions based on a fire drill being conducted within the first 24 hours of an individual’s placement. Staffing changes and other follow-up may be necessary based on the outcome of the fire drill, some of which may not be able to be completed in that same 24-hour time frame.

COMMENT: An advocate recommended that procedure manuals contain major emergency plans addressing loss of power, floods, and loss of hot water, as well as information on what to do during severe weather warnings. The advocate also commented that a chain of command should be required for emergencies, guardians should be provided with emergency contact numbers, and guidelines for temporary evacuation should be provided. Another commenter also recommended that there be a chain of command for emergency coverage. A commenter asked if there was a typo at N.J.A.C. 10:44A-2.2(b)5i, specifically, if the word “not” should be struck from the phrase “may not be required.”

RESPONSE: Agencies are required by Occupational Safety and Health Administration rules to have emergency preparedness plans. Additionally, there is no prohibition with sharing emergency contact information with guardians. In a situation when an agency has to temporarily relocate, the agency notifies the Department to convey necessary information and receive direction. The direction varies based on where the individuals are relocating and their unique needs. There is no typographical error - the rule addresses a plan concerning temperature issues when evacuation may not be required - such as using portable air conditioners or fans.

COMMENT: Several commenters recommended that the telephone number for the Ombudsman for People with I/DD and their Families

should be included on the list of emergency numbers at N.J.A.C. 10:44A-5.4.

RESPONSE: The Department finds this rule is sufficient, as written. While the Department encourages individuals and their guardians and families to contact the Ombudsman with concerns, calling the Ombudsman to address emergency situations would not necessarily provide the timeliest response from the Department.

COMMENT: A commenter stated that there should be an emergency contact capable of answering medical questions 24 hours a day, seven days a week.

RESPONSE: Provider agencies are required to have policies and protocols in place to address the emergency medical needs of residents, including calling 911.

COMMENT: A commenter questioned why the phone number of the Unusual Incident Coordinator is listed with the emergency telephone numbers at N.J.A.C. 10:44A-5.4.

RESPONSE: Providing the phone number for incident reporting enables individuals and staff to report any incidents in a timely and confidential manner.

COMMENT: A commenter recommended that family and guardian councils be mandated.

RESPONSE: The New Jersey Council on Developmental Disabilities has Regional Family Support Planning Councils throughout the State. The Division also collaborates with the New Jersey Council on Developmental Disabilities Family Advisory Council on at least a monthly basis. The rules do not prohibit provider agencies from having their own councils. The Stephen Komminos' Law provides families and guardians with the opportunity to connect with other families choosing to do so.

COMMENT: An advocate recommended that policies and procedures should be put in place to afford individuals and their families more consideration in decision-making.

RESPONSE: All members of the person-centered planning team, which includes the individual served, support coordinator, guardian, residential provider, and any other person(s) approved by the individual, have input into the services and supports provided in a community-based setting.

COMMENT: An advocate stated that all of the Division's "rights" publications should reflect the rights of residents in HCBS settings. The advocate also commented that if input from the individual is sought and that individual is unable to provide input, the legal guardian should make decisions. According to the commenter, there are standards that are contrary to this.

RESPONSE: This comment is beyond the scope of this rulemaking. The Division has updated its Participant Statement of Rights and Responsibilities document. All members of the person-centered planning team, which includes the individual served, support coordinator, guardian, residential provider, and any other person(s) approved by the individual, have input into the services and supports provided in a community-based setting.

COMMENT: A commenter stated that individuals should be permitted to make decisions; if they cannot, their guardian, and not the provider, should be making decisions about what is best for their adult child.

RESPONSE: The planning team, as defined at N.J.A.C. 10:44A-1.3, includes the guardian. If a parent or family member is not the guardian, the individual or their guardian may allow them to be members of the planning team.

COMMENT: Two commenters stated that a third party should oversee grievance resolution, parents or guardians should be allowed to file grievances and be included in the resolution, and the Division should provide a platform to mediate issues between individuals, families/guardians, and providers as equal partners.

RESPONSE: This is not a regulatory issue that can be addressed through the rules. An individual's support coordinator should assist with disagreements between planning team members and discuss them with the Division, when necessary. Additionally, complaints related to abuse, neglect, or exploitation can be made through the Division's hotline.

COMMENT: Two commenters recommended that the rules allow a guardian or interested family member to initiate a Human Rights Committee (HRC) investigation or meeting. A commenter also stated that a guardian or family member should be a partner in the individual's care.

RESPONSE: The Department finds the rule is sufficient, as written. N.J.A.C. 10:44A-3.1(e) requires that agencies have an HRC in accordance with N.J.A.C. 10:41A. Referrals to the HRC are addressed at N.J.A.C. 10:41A-2.1(c), which allows individuals and guardians to initiate the HRC.

COMMENT: A commenter recommended that the regulations be clarified to achieve a balance between collaboration and individual rights to protect the health and safety of the individual. The commenter further stated that the concept of partnership and collaboration should be included throughout the regulations. The commenter recommended that a communications policy define the minimum frequency, point person, and key topics.

RESPONSE: Individuals, families, and guardians are part of the person-centered planning team and should be working as partners as described in the Division's Community Care Program Policies and Procedures Manual and Supports Program Policy and Procedures Manual. Frequency of interaction, key topics, and the point person may vary based on the needs of the individual. These areas can be addressed through the person-centered planning process.

COMMENT: A commenter recommended that the proposed rules include language promoting collaboration with individuals and their families including, but not limited to, inviting them to meetings, and making critical information readily available and easily accessible to them.

RESPONSE: Such collaboration is expected through the person-centered planning process overseen by the support coordinator. Sections 6, 7, and 17.18 of the Division's Community Care Program and Supports Programs manuals describe this.

COMMENT: A commenter stated that individuals and families/guardians should have timely access to investigations and reports.

RESPONSE: Investigation reports are generally considered confidential; however, a redacted version can be requested through DDD as part of the requirements of the Stephen Komminos' Law. For more information, please see: <https://nj.gov/humanservices/ddd/individuals/consumer/reportsuspectedabuse/>.

COMMENT: A commenter stated that the planning team should include the guardian/family, as they can provide a robust description of the individual's needs.

RESPONSE: The planning team includes the guardian. To the extent family members are not the guardian, the individual or the guardian may request that they be part of the planning team.

COMMENT: A commenter stated that guardians should be allowed to attend scheduled medical appointments.

RESPONSE: There is no prohibition for guardians to attend medical appointments; however, it is the responsibility of the agency to maintain the appropriate documentation about the content of the appointment, decisions made, follow-up care, etc.

COMMENT: A commenter recommended that the rules include a proactive statement that a guardian or family member will have extensive knowledge of the individual and should be a partner in the individual's care.

RESPONSE: The Department finds the rules are sufficient, as written. Guardians are part of the planning team and are included in the person-centered planning process.

COMMENT: A commenter stated that an independent mediator or committee with family members, and not agency administrators, should make decisions for complaints and grievance.

RESPONSE: This is not a regulatory issue that can be addressed through rulemaking. An individual's support coordinator should assist with disagreements between planning team members and discuss them with the Division when necessary.

COMMENT: A commenter stated that quality assurance measures should be allowed to be submitted anonymously; complaints and unresolved grievances should be referred to the Ombudsman for reporting, investigating, and determining the culpability of alleged retaliations; and any complaints indicating legal violations should be referred to the Attorney General.

RESPONSE: Complaints, anonymous or otherwise, related to abuse, neglect, or exploitation can be made through the Division's hotline. OPIA,

or the provider agency, depending on the nature of the allegations, investigates complaints and determines whether the allegations are substantiated. OPIA reviews all investigations conducted by an agency to ensure they are thorough. The Department and provider agencies do not refer allegations to the Ombudsman, but any individual may make such a referral and the telephone number for the Ombudsman must be provided by the licensee to an individual upon admission. As required at N.J.S.A. 30:6D-76.d, upon the initiation of an investigation, OPIA contacts the Office of the Attorney General, which determines whether to participate in the investigation. OPIA also contacts law enforcement when an incident may involve criminal conduct.

COMMENT: A commenter recommended that the regulations require that meals reflect the Food and Drug Administration (FDA) dietary guidelines, residents have appropriate access to water, and residents have daily exercise and access to outdoors.

RESPONSE: The Department finds the rules are sufficient, as written, as licensees have health and safety standards and may not neglect the individuals under their care. Moreover, each individual's nutrition and dietary requirements are to be addressed through the person-centered planning team process.

COMMENT: A provider questioned the requirement at N.J.A.C. 10:44A-5.5(k) that there shall be at least a three-day supply of food at all times, asking what if it is the day before an agency goes food shopping or has specialty items delivered.

RESPONSE: The Department finds this rule is sufficient, as written. The rule is being implemented due to inspections frequently revealing little food at a residence and agency staff reporting they are going shopping that day. The requirement of having at least three days' worth of food eliminates the possibility of individuals not having enough food in the home, even on grocery shopping days.

COMMENT: An advocate commented that residences should be required to: have a meat thermometer and temperature guidelines for cooking posted; keep diet histories, including documentation of food actually consumed by individuals; maintain menus and deviations; prepare another meal if the meal that is prepared is not well received; document food actually consumed and have that documentation reviewed by a qualified individual for variety and nutritional content; and train staff.

RESPONSE: The Department finds the rules are sufficient, as written. The need for any individualized tracking of meals is determined through the person-centered planning process. Agencies are responsible to train staff in meeting individuals' specialized needs. Further, N.J.A.C. 10:44A-5.5, regarding food, requires reasonable adjustments to individual preferences, habits, customs, and appetites, and for individuals to be consulted in determining or changing preferences consistent with their abilities.

COMMENT: A provider recommended that the microwave be added as an acceptable method to thaw frozen food. Another commenter stated that there should be additional ways to defrost, including cold water and microwave thawing.

RESPONSE: The Department finds the rule is sufficient, as written. At N.J.A.C. 10:44A-5.5(a)1, thawed refers to a long process of defrosting food. However, the regulation does not prohibit a microwave from being used to defrost food when taking an item directly out of the freezer.

COMMENT: A commenter stated that training is needed on nutrition, food preparation, and health choices.

RESPONSE: Specialized training as to individual care can be determined as part of the person-centered planning process.

COMMENT: A commenter stated that food options should be healthy, as referenced by the "Your Personal Rights" document.

RESPONSE: N.J.A.C. 10:44A-5.5(d)1 requires nutritionally balanced meals. Desired and unique needs, such as specific healthy foods can be determined based on the person-centered planning process.

COMMENT: A commenter stated that a three-day supply of bottled water should be required.

RESPONSE: The Department feels the rules are sufficient, as written. All homes are required to have clean drinking water. Bottled water is not a requirement.

COMMENT: Several commenters stated that preferred foods and drinks should be available and incorporated into the weekly menu. Another commenter stated that a well-balanced diet should be required.

RESPONSE: The Department finds the rules are sufficient, as written. N.J.A.C. 10:44A-5.5(d)1 requires nutritionally-balanced meals. Desired and unique needs, such as specific healthy foods can be determined based on the person-centered planning process.

COMMENT: A provider stated that the requirement that food be available in the house prior to an individual moving in could be wasteful as it could be days or weeks before the individual moves in. The provider asked how the provider could be certain of all of the individual's food preferences before their arrival. The commenter also asked for clarification regarding the perishability of foods to be available prior to moving in.

RESPONSE: If an individual is not scheduled to move in immediately following the initial inspection, the agency may provide an explanation of how food will be purchased and available prior to the first individual moving in.

COMMENT: Several commenters sought clarification on proposed N.J.A.C. 10:44A-6.6(j), which provides that "[s]tandby generators shall be permanently installed by a qualified technician, in accordance with all local codes and permitting and inspection requirements." The commenters also asked for clarification regarding the requirements around portable generators at N.J.A.C. 10:44A-6.6(k). The commenters asked whether generators are now required or whether this is only required if a provider elects to purchase a generator. One provider asked if solar power with battery backup is sufficient. Two commenters proposed different language for these subsections.

RESPONSE: The Department's intent was to impose requirements if providers elect to use a generator and it agrees that clarification is needed regarding these rules. N.J.A.C. 10:44A-6.6(j) will be revised as follows: "Standby generators and battery back-up power systems, if present, shall be permanently installed by a qualified technician in accordance with all local codes, permitting and inspection requirements." The requirements for the use of portable generators are set forth at N.J.A.C. 10:44A-6.6(k).

COMMENT: A provider stated that the requirement at N.J.A.C. 10:44A-6.6(a)2 to have two means of ramped egress should apply only to individuals who are non-ambulatory, and not to all individuals with physical disabilities.

Response: The Department finds that this rule is sufficient, as written. Individuals could be ambulatory but have physical disabilities impacting their gait requiring ramped egress.

COMMENT: Several commenters stated that if well water is used, maintenance and a contract for same should be required.

RESPONSE: The Department finds that N.J.A.C. 10:44A-6.10 is sufficient, as written. The New Jersey Private Well Testing Act, N.J.S.A. 58:12A-26 et seq., sets forth requirements for well water, which providers are obligated to comply with if they use well water.

COMMENT: A commentator stated that the requirement that staff at a supervised apartment be located where they can adequately respond to the resident should be based on the needs of the individuals served. The commenter also asked whether the location for the staff office of a group home should also be according to each agency's policy, as long as staff can respond to emergencies.

RESPONSE: The Department finds that the rules are sufficient, as written. Typical supervision in a group home is considered to be 24 hours a day, seven days a week, so a staff office would need to be on-site. The supervision/staffing needs are dependent upon the needs of the individuals in the residence.

COMMENT: A commenter stated that records of repair, maintenance, and evaluation of the heating system shall be kept by the licensee.

RESPONSE: The Department finds the rule is sufficient, as written. N.J.A.C. 10:44A-6.7 requires documentation for any repairs that are made according to the Uniform Construction Code, as well as any local ordinances.

COMMENT: A commenter noted that N.J.A.C. 10:44A-6.12(a)1 provides that if a bedroom has only one window it cannot be blocked by an air conditioner, and questioned how an appropriate temperature can be ensured in that circumstance.

RESPONSE: A portable air conditioner that only has a vent going to the window, which can be readily removed in the event of an emergency, is acceptable.

COMMENT: A commenter asked that the requirement at N.J.A.C. 10:44A-6.13(f) that an individual's bedroom have a mirror be qualified with the following language: "unless that person has a documented preference to not have a mirror."

RESPONSE: The Department finds this rule is sufficient, as written. N.J.A.C. 10:44A-6.13(f) provides "[e]ach individual shall be provided with the following bedroom furnishings, in good repair, the style of which is consistent with his or her preference unless otherwise specified by the Planning Team."

COMMENT: A commenter asked whether a window can be the source of ventilation in a bathroom and suggested language to that effect.

RESPONSE: Yes, a window can be the source of ventilation in a bathroom. The Department does not find that amended language is necessary, as N.J.A.C. 10:44A-6.14(e) does not require a specific type of ventilation.

COMMENT: A commenter stated that there should be a separate regulatory scheme for individuals with severe I/DD, severe autism, and/or severe communication needs, as such individuals lack the capacity to participate in a service plan.

RESPONSE: The Department finds that the rules are sufficient, as written, because the needs of each individual, even those with the same diagnosis, are unique. The proposed rules set minimum requirements for the operation of community residences for individuals with I/DD. Each licensee is required to meet the unique needs of every individual in their care through the person-centered planning process. The individual and/or their guardian participate in this process along with the others the individual/guardian elect to include.

COMMENT: A provider commented that OPIA should not be able to identify additional fire safety precautions; only fire professionals should make this determination.

RESPONSE: OPIA would only identify additional fire safety precautions in consultation with the New Jersey Department of Community Affairs, Division of Fire Safety. N.J.A.C. 10:44A-6 will remain as written.

COMMENT: A commenter stated that there should always be a phone available in a group home.

RESPONSE: N.J.A.C. 10:44A-1.5(b)5 requires that an operable telephone be available in all community residences.

COMMENT: Two commenters stated that the regulations should require proper food, clothing, shelter, hygiene, medical care, dental care, and supervision, and that threats of harm should be eliminated.

RESPONSE: The Department finds that the rules are sufficient, as written. The rules have various requirements concerning the areas noted in the comment.

COMMENT: A provider commented that, contrary to the Smart Growth Development Impact Analysis, there will be an impact on available housing units, as shared bedrooms are phased out.

RESPONSE: The Smart Growth Development Impact Analysis is based upon the entire New Jersey Statewide housing supply, and not the number of community residences, which are a small percentage of the Statewide housing supply. Shared bedrooms are not expressly prohibited, but in any circumstance where they do exist, it must be documented that the individual has been provided a choice of roommate in the setting and that they have been offered the option to live in a private unit (see section 11.7 of the Community Care Program or Supports Program Manual for more information).

COMMENT: A provider recommended that pop and shake ice packs be included in the list of items required for first aid kits, as set forth at N.J.A.C. 10:44A-5.1(g).

RESPONSE: The Department declines to change the list, but notes that providers may include additional items in first aid kits, as long as they are not medicinal.

COMMENT: A commenter asked what will happen to unlicensed group homes.

RESPONSE: The proposed rules are not applicable to unlicensed residential settings.

COMMENT: A commenter stated that the regulations reference documents that are not available without a paid subscription or access to certain libraries, which makes it difficult to obtain the laws.

RESPONSE: All statutes are available on the internet for free at <https://nj.gov/state/dos-statutes.shtml>, as well as public libraries and are also available on the New Jersey Legislature's website: <https://www.njleg.state.nj.us/>. The New Jersey Administrative Code and New Jersey Register are available on the Office of Administrative Law website, www.state.nj.us/oal/rules/access/.

COMMENT: Several commenters stated that there should be enough vehicles to transport all individuals at once so they can participate in community activities. If there are two individuals who require an accessible vehicle, there should be one vehicle that can accommodate both individuals, or multiple vehicles to accommodate each individual at the same time.

RESPONSE: The Department finds the rule is sufficient, as written. N.J.A.C. 10:44A-5.7(c) provides: "An agency vehicle shall be available at all times to provide transportation for individuals, as needed, and as desired by individuals for community integration."

COMMENT: A commenter stated that a provider should be required to maintain tire replacement equipment in their vehicles even if they have roadside assistance.

RESPONSE: The Department finds that N.J.A.C. 10:44A-5.7(a) is sufficient, as written. The rule requires providers to have tire replacement equipment or provisions for roadside assistance and emergency alternate transport. Providers may maintain both, but if they have roadside assistance in lieu of tire changing equipment, it is the agency's responsibility to ensure that the roadside assistance either provides a tire or a mechanism to transport the individuals.

COMMENT: A commenter recommended that seat belt safety should be incorporated in the regulations.

RESPONSE: The Department finds this rule is sufficient, as written. N.J.A.C. 10:44A-5.7(b) provides: "The licensee shall verify that all vehicles under the auspices of the licensee used to transport individuals with developmental disabilities shall comply with all applicable safety and licensing regulations established by the New Jersey Motor Vehicle Commission." This requirement would incorporate the use of seat belts.

COMMENT: A commenter stated that the Department should not have deleted existing N.J.A.C. 10:44A-2.2(b)11, which required "[a] procedure to address the development, implementation, review and evaluation of each individual's habilitation plan."

RESPONSE: The Department finds new N.J.A.C. 10:44A-2.2(b)11 is sufficient, as written. The Individual Habilitation Plan (IHP) no longer exists and has been replaced by the Individual Service Plan (ISP), which is the reason for the rule amendments. The procedures for plan development, implementation, review, and evaluation are in the Division's Community Care Program and Supports Program Manuals.

COMMENT: Several commenters stated that staff should attest that they read, comprehend, and will implement each person's individualized person-centered plan within three days of working in the residence.

RESPONSE: Staff are required, pursuant to N.J.A.C. 10:44A-2.6, to be oriented to the home in which they are working, as well as to have completed all required on-boarding training and specialized training as applicable to the residents. A timeline for all trainings is outlined in the Division's Community Care Program Manual. If staff cannot be trained in specific specialized needs, they have to work on a shift with someone who is. The Department feels the rules are sufficient, as written.

COMMENT: An advocate stated that service plans should identify future targeted goals that are operationalized and measurable, and that data must be taken and records kept, determining if a goal is met.

RESPONSE: The Department finds that the definition of service plan in the rule is sufficient. More specific elements and requirements for service plans are outlined in DDD's Community Care Program Supports Program Manuals.

COMMENT: Two providers requested clarification on the types of privacy lock required for bedrooms and bathrooms. The provider asked whether penny locks are sufficient, and explained why requiring key locks could be dangerous.

RESPONSE: A penny lock on a bathroom door or other type of lock that has been in place, as long as it has afforded privacy, will continue to be acceptable. In order to ensure compliance with HCBS requirements, a lock accessed through keys, and any other devices used to gain access through any door lock mechanism (for example, key cards, codes, etc.) to

their living unit shall be the default for bedroom doors. Any restriction that would preclude a lock from being used must be discussed with the planning team and documented in the ISP. This includes review of the restriction by the Human Rights Committee.

COMMENT: A provider commented that the rules about locks are confusing and read as if locks cannot be used. The provider recommends amended language at N.J.A.C. 10:44A-6.8(b).

RESPONSE: The Department finds this rule is sufficient, as written. The purpose of N.J.A.C. 10:44A-6.8(b) is to clarify that locks on interior doors that do not grant a person access to unlock the door and create a potential for a resident to be locked-in are prohibited.

COMMENT: A commenter stated that key locks should not be used on bathrooms, and that unoccupied bathrooms should not be locked to prevent use by residents.

RESPONSE: Privacy locks utilizing a thumb turn or push pin will continue to be allowed on bathrooms, as long as privacy for individuals is maintained.

COMMENT: A commenter stated that basements should have a privacy lock and not a keyed lock if they are used as an activity room pursuant to N.J.A.C. 10:44A-6.16(b) because it could be dangerous if the key cannot be found.

RESPONSE: The Department finds that the existing rule is sufficient, as N.J.A.C. 10:44A-6.8(b) provides that “[n]o interior or exterior door, window or opening in a community residence for individuals with developmental disabilities shall be locked, fastened or blocked so as to prevent or impede the egress of any person in the residence ...”

COMMENT: A provider recommended that the word “written” be deleted from the following provision at N.J.A.C. 10:44A-5.2(g)9: “The administration of PRN medication, along with the time of administration, shall be documented on the written medication record and shall be communicated to the on-coming shift of residential staff.”

RESPONSE: The Department agrees with this comment and the language in this rule will be changed to delete the word “written,” as the medication record need not be written.

COMMENT: A commenter stated that a nurse should review MARs monthly, at a minimum.

RESPONSE: The rules do not require all providers to employ nurses; however, providers are responsible for maintaining accurate MARs.

COMMENT: A commenter stated that “the route and preparation of medication (liquid, chewable, administer in applesauce, pudding)” should be included at N.J.A.C. 10:44A-5.2.

RESPONSE: The Department finds N.J.A.C. 10:44A-5.2 is sufficient, as written. Route and preparation of medication is required to be included on the prescription or physician’s order.

COMMENT: A commenter stated that a record should be kept when an individual is capable of taking medication without assistance.

RESPONSE: If an individual served is able to take their medications independently, staff are not required to track the administration of their medication. Guidance for individuals that are able to self-medicate begins at N.J.A.C. 10:44A-5.2(d).

COMMENT: A commenter stated that N.J.A.C. 10:44A-5.2(g) should include a requirement that when a new medication is administered, staff should report to the staff nurse any potential and emerging side effects that may indicate an allergy or intolerance to the drug. The commenter also stated that verbal orders from the physician or APN should be confirmed, in writing, within 24 hours or by the first business day following receipt of order.

RESPONSE: The Department finds the rules are sufficient, as written. The regulations do not require all agencies to hire a nurse. Staff are already required to confirm verbal orders, in writing, as well as to update and communicate any adverse effects.

COMMENT: A commenter stated that over-the-counter medications can be given at the request of the guardian if the criteria for administration is valid.

RESPONSE: The Department finds the rules are sufficient, as written, as all over-the-counter medications that are administered in a licensed residential setting shall be prescribed by a physician or APN through a prescription or the Over the Counter (OTC) Form. If symptoms present that are in-line with the requirement of the medication order, the OTC can

be administered. OTC medication cannot be administered solely at the request of a guardian.

COMMENT: A commenter requested clarification as to whether nurse practitioners are permitted to make a statement of good health.

RESPONSE: The proposed rules allow an APN to conduct the annual medical examination.

COMMENT: A commenter requested clarification as to whether a “free and clear of communicable disease” statement is only required if a physical is not available within one year or a Mantoux or IGRA is not available within 30 days.

RESPONSE: The Department finds the rules are sufficient, as written. Clarification is available at N.J.A.C. 10:44A-2.9(d)1x, xi, and xii.

COMMENT: A commenter noted that medical orders are often electronic, and asked for clarification on whether this is acceptable.

RESPONSE: Copies of electronic prescriptions and physician’s orders meeting the requirements of a prescription will continue to be accepted.

COMMENT: A commenter stated that the provider’s policy and procedure manual should be given to individuals and guardians on admission and upon request, but should also be located on the agency’s website and accessible for review by individuals and guardians. The commenter also stated that changes made to policies and procedures should be sent to individuals and guardians. Another commenter stated that the policy and procedure manuals should be distributed annually and accessible on agency websites.

RESPONSE: Providers are not prohibited from providing their policies and procedures manual to stakeholders.

COMMENT: A commenter asked whether the rights document referenced at N.J.A.C. 10:44A-3.1 is DDD’s “Your Personal Rights” document. Another commenter asked for clarification on the rights document cited in the regulation.

RESPONSE: The current version of the DDD rights document is titled Participant Statement of Rights and Responsibilities. It is not referenced by title in the chapter in the event the title changes.

COMMENT: A commenter asked who is responsible for training on resident rights and will that entity be qualified to conduct training.

RESPONSE: A representative of the agency reviews rights with the individuals and their families/guardians.

COMMENT: A commenter stated that providers should be prohibited from retaliating against individuals and families.

RESPONSE: Retaliation is prohibited. If a family feels as though a provider has retaliated against them, it should be reported through the Division abuse hotline. More information can be found at: <https://nj.gov/humanservices/ddd/documents/Family-Provider-Relations.pdf>.

COMMENT: A commenter recommended that the rules require that staff be available to stay with a resident who has been hospitalized for a medical issue and who needs 24-hour-a-day, seven-day-a-week supervision.

RESPONSE: The rules address services provided in the community setting, but issues about supervision for hospitalized individuals can be addressed with the Division.

COMMENT: An advocate stated that staff supervision requirements should be determined based on the individual NJCAT scores and data kept by providers. The advocate further commented that the presence of staff should be in accordance with supervision needs and should be determined and documented in the service plan.

RESPONSE: The NJCAT is a factor when considering the level of staffing needed in a licensed residential setting. However, staffing levels are determined through the person-centered planning process and documented in the ISP.

COMMENT: An advocate stated that the staff schedule should be written and accessible to guardians and posted in the home.

RESPONSE: The Department finds that the rules are sufficient, as written. There is no prohibition on sharing the staff schedule with a guardian.

COMMENT: A commenter stated that a minimum staff ratio should be posted in the residence.

RESPONSE: The Department feels the rules are sufficient, as written. There is a requirement that the staff schedule must match the staffing ratio outlined on the licensee’s program description.

COMMENT: A commenter stated the rules should indicate that staff may be responsible for individuals off-site, and not just on-site.

RESPONSE: The Department believes the rules are sufficient, as written. The program description and staff schedule reflect what level of supervision and staffing is needed on-site. If additional staff is needed in the community, that can be assessed through the person-centered planning process and documented accordingly.

COMMENT: A commenter stated that providers should be required to report inadequate staff levels to the Division.

RESPONSE: Staffing in a particular residence is based on the needs of the individuals residing in the home. Administrative Order 2:05, Incident Reporting and Management, defines when inadequate staffing is reportable to the Department.

COMMENT: A commenter stated that staff supervision needs should be documented in the ISP and staff supervision should be provided accordingly.

RESPONSE: Staffing levels required for an individual are determined through the person-centered planning process and documented in the ISP.

COMMENT: A commenter stated that the staff coverage requirements at N.J.A.C. 10:44A-2.8 are vague.

RESPONSE: The Department finds this rule is sufficient, as written. Specific staff coverage is determined through the person-centered planning process and documented in the ISP.

COMMENT: A commenter stated that providers should consider removing the individual if they want to leave.

RESPONSE: Individuals have the right to leave their residential provider should they desire. Individuals can work with the support coordinator to identify an alternate agency in these circumstances.

COMMENT: A commenter stated that the requirement at N.J.A.C. 10:44A-2.6(a) that direct support professionals must receive orientation prior to working with individuals should apply to all staff.

RESPONSE: The Department finds this rule is sufficient, as written, as it addresses orientation of new direct support professionals. Appendix E of the Division's Community Care Program Manual outlines the training requirements and associated timeframes for staff trainings.

COMMENT: A commenter stated that the executive director should have experience with and knowledge of the population being served. The commenter also stated that agencies serving people with complex needs should be required to have a clinical director and a nurse on staff.

RESPONSE: The Department finds this rule is appropriate, as written. N.J.A.C. 10:44A-2.5(a)3 requires the licensee or executive director to have knowledge in the design and supervision of programs serving individuals with developmental disabilities, development of staff, and the application of fiscal and qualitative standards. The rules do not require agencies to have a clinical director or nurse, but individual needs must be met as determined by the person-centered planning process.

COMMENT: A commenter stated that community residences need more professional input from specialists.

RESPONSE: The need for specialists and professional input is based on the needs of individuals, as determined through the person-centered planning process.

COMMENT: Two commenters stated that community residences should provide the same standard of care as other licensed facilities, such as assisted living facilities, including having certified staff.

RESPONSE: The Department finds the rules are sufficient, as written. The rules set minimum requirements for community residences for individuals with I/DD. The individuals served in these residences have different needs and abilities than individuals in other licensed settings, such as assisted living residences.

COMMENT: A commenter stated that direct support professionals should not be required to have a high school diploma, or equivalent, and asked the Department to consider a probationary period for individuals without a diploma.

RESPONSE: The Department finds that N.J.A.C. 10:44A-2.5(c) is sufficient, as written, and that direct support professionals should meet the minimum requirement of having a high school diploma or equivalent.

COMMENT: Two commenters stated that training should be required on common causes of death in the I/DD population.

RESPONSE: Specific risks should be addressed in the person-centered planning process. The Division also regularly publishes informational

bulletins on common causes of death, such as choking, constipation, dehydration, GERD, sepsis/infection, and seizures. Please see <https://nj.gov/humanservices/ddd/individuals/healthsafety/> for more information.

COMMENT: Two commenters stated that staff should be competent in required care, including medication administration by licensed healthcare personnel.

RESPONSE: The Department finds the rules are sufficient, as written. Staff must be proficient in required care, including medication administration.

COMMENT: A commenter stated that training should be provided on life-threatening emergencies through a curriculum developed by the Division, including training on the Fatal Five.

RESPONSE: The Department finds that the training requirements in the rules are sufficient, as written. Provider agencies may conduct additional trainings, as necessary, to address individual needs. The Division also regularly publishes informational bulletins on the common causes of death, such as choking, constipation, dehydration, GERD, sepsis/infection, and seizures. Please see <https://nj.gov/humanservices/ddd/individuals/healthsafety/> for more information.

COMMENT: A commenter stated that the rules should reference the Division's Policies and Procedures Manuals for the Support Program and the Community Care Program, and clarify how its training requirements relate to the training requirements in the regulations. The commenter also asked for clarification on the reference to the DDD Shifting Expectations training referenced at N.J.A.C. 10:44A-2.7(a)1. The commenter stated that training should be required on normal behaviors and individuals' habits. The commenter further recommended that training should be required on nutrition, food preparation, healthy choices, communication standards and modes, things to do in communities, and support groups.

RESPONSE: The Department finds the rules are sufficient, as written. The trainings listed at N.J.A.C. 10:44A-2.7(a) are the minimum required trainings. The Division may require additional trainings and a provider may conduct additional trainings. The Department may also require additional specialized training pursuant to N.J.A.C. 10:44A-2.7(d) and the person-centered planning process may identify the need for specific training.

COMMENT: A commenter stated that there should be training on healthcare tracking, such as weight.

RESPONSE: Individualized needs for support, to include monitoring of diet, behavior, and health data (including weight), are determined through the person-centered planning process, and may require a prescription from the individual's healthcare provider and approval from the Human Rights Committee. Specialized training in areas as it relates to individual care and special needs can be determined, as necessary, based on the person-centered planning process.

COMMENT: A commenter stated that there should be training on communication standards and modes.

RESPONSE: Specialized training in areas as it relates to individual care and special needs can be determined, as necessary, based on the person-centered planning process.

COMMENT: A commenter stated that there should be training on things to do in the community and DDD support groups.

RESPONSE: Specialized training in areas as it relates to individual care and special needs can be determined, as necessary, based on the person-centered planning process.

COMMENT: Several commenters recommended staff training on the following: Fatal Five; Ed Plus 2; Aspiration/Choking; Seizures; Constipation/Bowel Obstruction; Dehydration; Infection/Sepsis; UTI; GERD; Knowing When to Act; etc.

RESPONSE: Specialized training in areas as it relates to individual care and special needs can be determined, as necessary, based on the person-centered planning process. The Division regularly publishes informational bulletins on the common causes of death such as choking, constipation, dehydration, GERD, sepsis/infection, and seizures. Please see <https://nj.gov/humanservices/ddd/individuals/healthsafety/> for more information.

COMMENT: A commenter stated that all staff working with an individual should be thoroughly trained on any durable medical equipment used, including how to report broken equipment to ensure that it is repaired, ordered, and replaced.

RESPONSE: Staff are required pursuant to N.J.A.C. 10:44A-2.6 to be oriented to the home in which they are working, as well as complete all required training and specialized training, as applicable, to the individuals in the homes where they work.

COMMENT: A commenter stated that staff overseeing individuals using wheelchairs must be properly trained and must confirm that there are no repairs needed to the wheelchair before leaving the residence.

RESPONSE: Staff are required pursuant to N.J.A.C. 10:44A-2.6 to be oriented to the home in which they are working, as well as complete all required training and specialized training, as applicable, to the individuals in the homes where they work.

COMMENT: A commenter stated that it is impractical to train staff on every policy and procedure that impacts them, and suggested that a general training on policy and procedure should be sufficient.

RESPONSE: The Department finds the minimum training requirements are appropriate, as written. The Department also notes that training requirements are consistent with the Division's Community Care Program Manual.

COMMENT: A commenter asked whether electronic signatures as attestation of training for trainees and trainers is acceptable.

RESPONSE: Electronic signatures are permitted, as long as they follow the requirements set forth at N.J.A.C. 10:44A-2.7.

COMMENT: An advocate stated that staff should be trained on using augmentative communication devices; staff should know what to do if they witness abuse and neglect; staff should be trained on sanitary food practices, dysphagia, and choking; and providers should post posters on the Fatal Five emergencies with all information needed.

RESPONSE: Specialized trainings particular to individuals and their needs are identified through the person-centered planning process. Staff complete abuse and neglect training as part of their required training.

COMMENT: A commenter stated that the requirement at N.J.A.C. 10:44A-2.2(b)21 to have a procedure to address the use of surveillance cameras in common areas should apply to any one- and two-way communication technology. The commenter also suggested that the word "surveillance" should be deleted because it has negative connotations.

RESPONSE: The Department agrees with this comment. The reference to "surveillance cameras" at N.J.A.C. 10:44A-2.2(b)21 will be changed upon adoption to "video/audio monitoring" to address the negative connotation of surveillance and to include audio monitoring.

COMMENT: An advocate stated that staff must agree to be videotaped.

RESPONSE: Staff are made aware of the use of video/audio monitoring as part of agency policy.

COMMENT: A commenter stated that families might want cameras in the house and bedrooms, particularly for monitoring seizures.

RESPONSE: A procedure governing the use of cameras in common areas, if used, is set forth at N.J.A.C. 10:44A-2.2(b)21. Cameras in private areas, such as bedrooms, are determined by the planning team, including the guardian, with approval from the Human Rights Committee.

COMMENT: A commenter recommended that OPIA share expectations for procedures around the use of surveillance cameras.

RESPONSE: OPIA maintains communication with licensees on a regular basis and provides guidance on particular policies and procedures, when requested.

COMMENT: Several commenters questioned the requirement that the systems in a home be able to maintain all habitable rooms at a temperature of 68 degrees Fahrenheit, when the outside temperature is zero degrees Fahrenheit, and 82 degrees during summer temperatures, suggesting other temperatures were more appropriate.

RESPONSE: The rule is intended to address when providers have to take action due to a mechanical or other issue, wherein, a cooling system cannot maintain a temperature below 82 degrees or a heating system cannot maintain a temperature above 68 degrees. The individuals can determine the temperature at which they would like the thermostat set; however, the provider must ensure the system is working properly.

COMMENT: Two commenters stated that the rules should require the recording and monitoring of diet, behavior, and health data.

RESPONSE: Individualized needs for support, including monitoring of diet, behavior, and health data, are determined through the person-centered planning process, and may require a prescription from the

individual's healthcare professional, and approval from the Human Rights Committee.

COMMENT: A commenter stated that menstruation cycles, cleanliness prompts, seizures, normal behaviors, sleeping patterns, food preferences, communication preferences, and recreation should be tracked.

RESPONSE: Individualized needs for support, including monitoring of diet, behavior, and health data, are determined through the person-centered planning process, and may require a prescription from the individual's healthcare professional and approval from the Human Rights Committee.

COMMENT: A commenter stated that there is no individual tracking, other than medication.

RESPONSE: Individualized needs for support, including monitoring of diet, behavior, and health data, are determined through the person-centered planning process, and may require a prescription from the individual's healthcare professional, and approval from the Human Rights Committee.

COMMENT: Several commenters stated that providers should respect individuals' and families' preferences about visitation times and durations.

RESPONSE: Pursuant to the HCBS Final Rule, individuals have the right to have visitors of their choosing at any time.

COMMENT: A commenter stated that the planning team, not the Division, should determine whether an individual is no longer suitable for a home or if the home no longer meets the needs of the individual. The commenter also recommended that the rules define substantive evidence needed to demonstrate that an individual should be discharged.

RESPONSE: The person-centered planning team should be the starting point for conversations about whether an individual continues to be suitable for a home or if the home no longer meets the needs of the individual. The proposed amendments establish and stress the planning team approach to each individual's treatment. The specific nature of each individual's placement determination is beyond the scope of the proposed amendments, which are designed to set the minimal requirements of the community residences providing service.

COMMENT: A commenter recommended that the phrase gender identity, and not gender, should be used, in relation to an individual having an adequate supply of clean and well-fitting clothing.

RESPONSE: The Department agrees with this comment and N.J.A.C. 10:44A-5.6(a) will be changed upon adoption to update "gender" to "gender identity."

COMMENT: A commenter stated belongings should be labeled.

RESPONSE: The Department finds the rules are sufficient, as written. At the request and agreement of the planning team, as documented in the individual's record, an individual's items may be labeled.

COMMENT: A commenter stated that an inventory of clothing should be required; clothes should be washed separately from other residents; and providers should be required to replace missing clothing.

RESPONSE: Laundry and inventory tracking can be addressed through the person-centered planning process.

COMMENT: A commenter stated that absorbency incontinence undergarments should be well-fitting and appropriate.

RESPONSE: Any specific brand or style of incontinence undergarment, when prescribed by a physician or APN, can be determined through the person-centered planning process.

COMMENT: A commenter asked who would review the independent examination of an organization's financial status.

RESPONSE: The annual review of an organization's financial status shall be available to the Department for review. A licensee may have additional obligations depending on their organizational status. The Department's Office of Auditing may also review a licensee's financial status.

COMMENT: A commenter stated that non-interest-bearing accounts for residents should be allowed.

RESPONSE: The Department finds this rule is sufficient, as written. N.J.A.C. 10:44A-2.10(b)2 provides: "If an individual's personal funds are entrusted to an agency, moneys received by an individual in excess of \$200.00 shall be placed in an interest-bearing account unless otherwise determined by the planning team." Therefore, non-interest bearing

accounts can be used if agreed upon through the person-centered planning process.

COMMENT: A commenter stated that people might want to put their limited funds in care, rather than paperwork required by license group home, and asked what happens to existing unlicensed group homes.

RESPONSE: The rules set forth at N.J.A.C. 10:44A are not applicable to unlicensed residential settings.

COMMENT: A commenter stated that the Department should address Bureau of Guardianship Services (BGS) guardians' refusal to sign entrustment of fund forms.

RESPONSE: This comment is beyond the scope of the rulemaking.

Federal Standards Statement

The requirements of the adopted amendments, new rules, and repeals do not exceed those imposed by Federal law; specifically, the Centers for Medicare and Medicaid Services rules that include the waiver for Home and Community Based Services at 42 CFR Parts 430, 431, 435, 440, 441, and 447. Therefore, a Federal standards analysis is not required.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks *thus*; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. GENERAL PROVISIONS

10:44A-1.1 Purpose and scope

(a) (No change.)

(b) This chapter shall apply to a variety of program models, to include group homes and supervised apartments that are provider-managed.

(c) (No change.)

(d) Community residences for persons with head injuries are licensed pursuant to N.J.A.C. 10:44C.

(e) If none of the individuals with developmental disabilities at a particular place of residence require personal guidance, as determined by the planning team, licensing shall be available on a strictly voluntary basis, in recognition of an individual's right to choose independent living.

10:44A-1.3 Definitions

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

"Abuse" means wrongfully inflicting, or allowing to be inflicted, physical abuse, sexual abuse, or verbal or psychological abuse or mistreatment by a caregiver on an individual with a developmental disability, as defined at N.J.S.A. 30:6D-74.

"Advanced practice nurse," also known as a nurse practitioner (see N.J.S.A. 45:11-46.c), is as defined at N.J.S.A. 45:11-23 and may, in addition to those tasks lawfully performed by a registered professional nurse, manage specific common deviations from wellness, and stabilized long-term care illnesses by initiating laboratory and other diagnostic tests and prescribing or ordering certain medications, treatments, and devices (see N.J.S.A. 45:11-49).

"Application for licensure" means a document supplied by the Division's Provider Enrollment Unit that, when properly completed, begins the licensing process.

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

"Behavior support plan" means any individualized written planned action or set of actions taken in advance of, or subsequent to, the occurrence of a target behavior, whose purpose is to modify the frequency or intensity of the behavior.

"Care manager" means the representative of any agency who coordinates the provision of social services and/or habilitation services to individuals with developmental disabilities, and which may be a case manager or support coordinator.

"Central Registry" means the "Central Registry of Offenders Against Individuals with Developmental Disabilities" established pursuant to N.J.S.A. 30:6D-73 et seq., and N.J.A.C. 10:44D, which creates a list of caretakers who have committed acts of abuse, neglect, or exploitation and,

after being afforded due process rights, have been prohibited from employment working with individuals with developmental disabilities.

"Community agency" means an agency licensed by the Department to provide services to individuals with developmental disabilities.

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

"Community residence for individuals with developmental disabilities" means any community residential facility housing up to 16 individuals with developmental disabilities which provides food, shelter, personal guidance, and/or training and integration with the community. Such residences shall not be considered health care facilities within the meaning of the "Health Care Facilities Planning Act," P.L. 1971, c. 136 (N.J.S.A. 26:2GH-1 et seq.), and shall include, but not be limited to, group homes, halfway houses, supervised apartments, and hostels. Such residences shall not be located on the grounds or immediately adjacent to public institutions serving a similar population. Community care residences are also community residences for individuals with developmental disabilities; however, these owner-occupied living arrangements are governed by N.J.A.C. 10:44B.

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

"Direct support professional" means any licensee and any full time, part time, temporary employment services, or contract employee at a community residence for persons with developmental disabilities present in the living or program area who works directly with individuals served. This term includes "caregiver" as defined at N.J.A.C. 10:44D-1.2, does not include housekeepers, food service workers, maintenance workers, clerical staff, or volunteers.

"Eviction" means an actual expulsion of a tenant out of the premises.

"Exploitation" means the act or process of a caregiver using an individual with a developmental disability or his or her resources for another person's profit or advantage (see N.J.S.A. 30:6D-73 et seq., and N.J.A.C. 10:44D).

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

"Governing authority" means the organization or person designated to assume the legal responsibility for the management, operation, and fiscal viability of the community agency.

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

"Negative licensing action" means an action which imposes a restriction on a licensee, including, but not limited to, suspension of admissions, issuance of a provisional license, a reduction in the licensed capacity, a denial of the license, a non-renewal of the license, a suspension of the license, or a revocation of the license.

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

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

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

“Person-centered planning” means a process of helping individuals, in accordance with their needs and preferences, to achieve a lifestyle that is consistent with the norms and patterns of general society and in ways which incorporate the principles of age appropriateness and least restrictive interventions.

“Personal funds” means an individual’s wages and cash gifts.

“Personal guidance” means the assistance provided to an individual with developmental disabilities in activities of daily living because he or she routinely requires help completing such activities of daily living and/or cannot direct someone to complete such activities when physical disabilities prevent self completion; or there is a documented health or mental health problem requiring supervision of the person for the protection of the individual or others. In the absence of a court determination, the planning team determines the need for personal guidance for each individual.

“Planning team” (PT) means an individually constituted group responsible for the development of a single, integrated service plan. The team consists of the individual receiving services, the legal guardian, the parents, or family member (if the adult individual desires that the parent or family member be present), the care manager, those persons who work most directly with the individual served, and professionals and representatives of service areas who are relevant to the identification of the individual’s needs and the design and evaluation of programs to meet them.

“Private placement” means the status of an individual who does not receive residential services from the Division of Developmental Disabilities at the time of his or her admission to a community residence governed by this chapter.

“Program description” means a document submitted to obtain a license from the Department. A program description includes a description of services provided to individuals and staff coverage that assures supervision to every individual served at the program, in accordance with their service plan, and is reviewed as part of the licensing inspection process. The program description is amended, as necessary.

“Provider managed” means a setting where services and supports are coordinated by a single service provider, the licensee, that manages all aspects of residential services for the individuals residing there.

“Roommate” means the person with whom one shares a bedroom.

“Service plan” (SP) means a written, individualized habilitation plan, consistent with the requirements at N.J.S.A. 30:6D-10 through 12, developed by the PT. It is an outcome-based planning tool that, at a minimum, identifies each individualized program, support, and/or service requested by and provided to the individual, for which the individual demonstrates a need. It identifies the person and/or provider responsible for its implementation. The complexity of the service plan will vary according to the individual’s interests, preferences, and needs. The service plan format must be approved by the Division.

“Supervised apartments” means apartments that are occupied by individuals with developmental disabilities and leased or owned by the licensee. Staff provide supervision, guidance, and training, as needed, in activities of daily living as defined by the individual’s needs and targeted future goals, in accordance with the requirements of this chapter. Up to four individuals may reside in a single apartment.

“Valuable personal possessions” includes, but is not limited to: mementos, durable medical equipment, adaptive devices, eyeglasses, hearing aids, jewelry, clothing, bank/credit cards, electronic equipment, and accessories and furniture.

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

10:44A-1.4 Application for licensure

(a) Application for licensure shall be initiated by completing and mailing the Combined Application to Become a Medicaid/DDD Approved Provider and the Attestation for Individual Supports Provider, as detailed at: <http://www.nj.gov/humanservices/ddd/programs/sppp.html>.

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

1. No prospective community agency head who refuses to consent to, or cooperate in, securing of a criminal history record background check shall be considered for employment or licensure.

2. When the agency head is not the owner or licensee, the owner(s) or licensee shall also comply with a criminal history background check.

(c) An application for licensure as an operator of a group home or supervised apartment program shall be submitted to the Division.

1. The application shall be composed of the following:

i. A table of organization, including titles, which shows reporting structure;

ii. (No change.)

iii. Identification of all owners that comprise the licensee;

iv. A description of the applicant’s or executive director’s experience in providing services to individuals with developmental disabilities that demonstrates compliance with N.J.A.C. 10:44A-2.5(a)1, 2, and 3;

v. (No change.)

vi. A list of the governing body (for example, board of directors/trustees), which includes names, current mailing addresses, and their occupations;

vii. At least three professional references each, for the applicant and executive director;

viii. Documentation of agency history of service provision to individuals with developmental disabilities for a minimum of 24 months, including survey or audit results and plans of correction;

ix. A record of penalties or fines assessed against the program(s) and its ownership relative to the operation of the program(s) by any national, state, county, or local agency or court of competent jurisdiction which may reasonably be considered relevant to the safety of individuals in a program and the community in which it is located; and

x. An independent examination of the organization’s financial status, obtained from a certified public accountant, for the two most recent fiscal years, with the Management Letters.

(d) An application shall be considered complete when the application is filled out in its entirety and all requested information on the application has been provided, and compliance with (b) above, for the community agency head, has been determined.

1. If all required elements are not received within 45 days of the initial submission, the application may be denied, and the applicant shall be prohibited from re-applying for six months, unless the Department allows such resubmission for good cause. After the six-month period has elapsed, the applicant may submit to the Division a new application for licensure.

(e) The Division shall review the completed application to determine:

1. Whether all required elements have been submitted;

2. The applicant’s qualifications;

3. The applicant’s apparent ability to comply with this chapter;

4. The applicant’s apparent ability to deliver services, in accordance with its stated goals and purposes; and

5. Potential barriers to licensing.

(f) The Department may employ the services of any qualified professional, as necessary, in the review process in order to conduct a thorough and valid review of the program, supports, and services to be rendered.

(g) Within 60 calendar days of the receipt of the completed application, the applicant shall be advised, in writing, by the Department of its approval or non-approval. The Department may extend this deadline under exceptional circumstances.

1. Upon a determination that an application is denied, the applicant may submit a new application after six months.

(h) Falsification of any information during the application process shall be sufficient cause to deny the application.

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

1. This requirement shall not extend to licensees currently operating community residences for the developmentally disabled in New Jersey whose procedure manuals have been approved.

2. Upon approval of the manual, the applicant shall submit job descriptions to the Division of Developmental Disabilities for each position included on the table of organization in the procedure manual, for review and approval.

(j) No person shall own or operate a community residence for individuals with developmental disabilities without authorization from the Office of Licensing.

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

(l) Each community residence for individuals with developmental disabilities shall be subject to an annual on-site inspection by the Office of Licensing.

(m) No license shall be issued to any person who has previously been denied a license by any State agency due to substantial noncompliance or due to violation of any Federal law pertaining to the operation of a community residential facility.

(n) No license shall be issued to, or held by any person who, in a final determination by a court of record or by the Division on Civil Rights, has been found to discriminate against any person on the basis of race, color, creed, gender, national origin, ancestry, or disability.

10:44A-1.5 Requirements for an initial license

(a) A program description shall be submitted to the Division of Developmental Disabilities for each community residence.

1. The program description shall be reviewed for completeness by staff of the Division of Developmental Disabilities, the Office of Licensing, and other Division and/or Department staff, as deemed appropriate.

2. After a determination that the program description is complete, the Office of Licensing shall conduct an on-site initial inspection of the residence to determine that it will adequately provide for the health, safety, and welfare of the individuals served.

(b) Prior to the issuance of an initial license, the following, at a minimum, shall be available:

1. Documentation that demonstrates compliance with all Certificate of Occupancy (CO), Certificate of Continued Occupancy, Temporary Certificate of Occupancy, or Certificate of Habitability requirements.

i. If the local enforcing authority does not have a process for issuing such a certificate, documentation of such shall be obtained.

2. Documentation of any required inspection by the Fire Official and registration with the Department of Community Affairs;

3. An emergency evacuation plan;

4. A first aid kit that meets the requirements at N.J.A.C. 10:44A-5.1(g);

5. Functioning utilities, including an operable telephone;

6. If the building is not serviced by a public water supply, written approval from the local health department that the water supply is safe for human consumption;

7. Documentation from a licensed testing entity that any septic system is functioning adequately;

8. Furniture and food for each individual served;

9. A staff schedule that conforms to the program description, in accordance with N.J.A.C. 10:44A-1.5.

i. Full names of staff shall be written on the staff schedule;

10. A copy of the deed or lease; and

11. Documentation that all necessary residential and vehicle insurance is in force.

(c) The Department shall issue a non-transferable full license, effective from the date of the on-site inspection, upon compliance with (a) and (b) above.

(d) If licensure is not approved, an applicant or licensee shall submit a plan of correction regarding all deficiencies within 30 days after notification to the licensee.

1. Following receipt of the plan of correction, the Office of Licensing shall conduct an on-site review to verify the corrective action taken, in accordance with N.J.A.C. 10:44A-1.7.

(e) The license shall document the location of each residence and shall specify the maximum number of individuals with developmental disabilities that may occupy the home or apartment, excluding licensee's staff.

(f) The licensee shall not operate the program or allow individuals to be placed in the residence prior to approval by the Office of Licensing.

(g) Each license issued to a licensee shall remain the property of the Department. If the Office of Licensing suspends or revokes a license, the licensee shall, upon notification, return the license to the Office of Licensing, in accordance with N.J.A.C. 10:44A-1.8(c).

(h) Once issued, a license shall not be assignable or transferable, and shall be immediately void if the program ceases to operate, relocates, or its ownership changes.

10:44A-1.6 Renewal of a license

(a) The renewal of a license shall be based upon the results of a re-inspection of the residence.

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

(b) Full licenses shall remain in effect, unless otherwise specified by the Department by the issuance of a provisional license, a non-renewal of license, suspension of license, or revocation of license.

10:44A-1.7 Plan of correction

(a) A licensee shall submit a plan of correction regarding all deficiencies within 30 days, or in accordance with a shorter time frame, as established by the Office of Licensing.

1. A shorter time frame shall be established by the Department in those instances where prompt remediation of a deficiency is required in order to protect the health, safety, welfare, and rights of individuals receiving services.

(b) Following receipt of the plan of correction, the Office of Licensing shall conduct an unannounced on-site review to verify the corrective action taken for all deficiencies that pose a risk to the life and safety of the residents.

1. Following an on-site review, the findings of the Office of Licensing regarding the licensee's plan of correction shall be provided to the licensee. These findings shall indicate that each deficiency is corrected, partially corrected, not corrected, or further review is required by the Office of Licensing.

i. Should there be continuing deficiencies, or if new deficiencies are noted that document substantial or willful noncompliance, the findings shall indicate that a second plan of correction is required or that the Office of Licensing may impose a negative licensing action.

2. If a second plan of correction is required by the Office of Licensing, the licensee shall submit the plan of correction within the time frame specified by the Office of Licensing.

(c) Following receipt of the second plan of correction, the Office of Licensing may conduct an on-site review to verify the corrective action taken.

1. Subsequent to an on-site review, the findings of the Office of Licensing regarding the licensee's second plan of correction shall be provided to the licensee. These findings shall indicate whether or not each deficiency is corrected.

i. Should there be continuing deficiencies that the licensee has stated in the plan of correction have been corrected, or if other deficiencies are noted that jeopardize the health, safety, welfare, and rights of the individuals, or that document substantial or willful noncompliance, the Office of Licensing shall impose a negative licensing action.

(d) The Office of Licensing may, when process or systemic problems are identified, require the licensee to submit an action plan and results of the implementation of the action plan, as required at N.J.A.C. 10:44A-2.2(b)22v.

10:44A-1.8 Negative licensing action

(a) The Office of Licensing may suspend admissions to a residence, reduce the capacity of a residence, deny a license, issue a provisional license, suspend a license, refuse to renew a license, revoke a license, or take other action for substantial noncompliance or willful noncompliance.

1. When a license is suspended, the Office of Licensing may reinstate the license when the licensee achieves compliance with the provisions of this chapter. The Department shall not require the licensee to submit a new application for a license, unless such application is expressly made a condition of the reinstatement of the license.

(b) When any negative licensing action is based upon falsification, willful noncompliance, criminal activity on the part of the applicant, licensee, or executive director, or when individuals have suffered physical harm due to the applicant's, licensee's, or executive director's actions or failure to act, the Department may refuse to reinstate any license and/or accept any subsequent application.

(c) Each license issued to a licensee shall remain the property of the Department of Human Services. If the licensing agency suspends or revokes a license, the licensee shall, upon notification, return the license to the licensing agency.

10:44A-1.9 Administrative hearings

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

(c) If it is determined that the occupants of a home are at risk, the Department shall take action to eliminate such risk. Such action may include, but are not limited to:

1. Removing the individuals from the residence;
2. The assignment of staff approved by the Department at the residence to ensure the safety of the individuals; or
3. The appointment of an independent monitor by the Department, paid for by the licensee.

10:44A-1.10 Waiver or variance

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

1.-2. (No change.)

10:44A-1.11 Complaints

(a) The Department shall have the authority to investigate any complaint received regarding a licensee.

1. The licensee and all of its employees shall cooperate with the Department in any investigation.

10:44A-1.12 Voluntary closure

A licensee operating a community residence for individuals with developmental disabilities governed by this chapter shall give at least 60 days' written notice to the Division of Developmental Disabilities, Office of Licensing, and the Division of Medical Assistance and Health Services of any planned closure.

SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

10:44A-2.1 General requirements

(a) The purposes of the licensee's organization and a description of the services that it provides shall be made available to individuals, parents, guardians, advocates, and the general public. This information shall describe, in general terms, who is served, the services provided, and the goals of the licensee's organization.

(b) The licensee shall keep the following on file:

1. (No change.)
2. A current copy of this chapter.
 - i. A current copy of this chapter shall also be kept on file in each residence;
3. Copies of all current licenses.
 - i. A copy of the current license shall also be kept on file in each residence;

4. Written descriptions of any religious practices or restrictions that are observed if a licensee has a particular religious orientation;

5. Reports of unusual incidents;

6. A copy of the policy and procedure manual; and

7. Personnel files.

(c) (No change.)

(d) A licensee having for-profit status shall have a board of directors that meets the following criteria:

1. Procedures for the orientation of new members to the operations of the organization;

2. Policies to guard against the development of a conflict of interest between a member of the board and the organization, which shall include nepotism by relatives and family members;

3. An explanation of the board's committee structure, if any, including such subordinate groups as may be employed to carry out the board's responsibilities;

4. Documentation that board meetings are held at least three times a year.

i. Minutes shall be kept of each meeting and shall be available for review; and

5. Provisions to assure the inclusion of individuals served on the board.

(e) A licensee having for-profit status without a board of directors shall institute and maintain such a board in accordance with (d)1 through 5 above by *[(12 months from the effective date of this rulemaking)]* ***February 6, 2024***.

(f) Members of a board of directors shall be informed as to whether liability insurance is provided to directors and officers for errors and omissions.

(g) An independent examination of the organization's financial status shall be obtained from a certified public accountant each year, reviewed, and approved by the governing board, and be available for review.

(h) A list of the current members of the board of trustees or board of directors, to include names, addresses, and occupations, shall be available for review. Any change to the members of the board of trustees, board of directors, or agency head shall be immediately reported to the Office of Licensing.

10:44A-2.2 Development and maintenance of procedure manual

(a) (No change.)

(b) The licensee shall maintain a procedure manual containing the following documents and/or procedures:

1.-2. (No change.)

3. A procedure for assuring compliance with the Central Registry;

4. A New Employee Orientation Checklist, which shall include, at a minimum, all requirements at N.J.A.C. 10:44A-2.6(a)1 through 8;

5. A procedure for implementing a plan to deal with major emergencies requiring evacuation from the residence, such as a fire or a gas leak.

i. The procedure shall also address emergencies where evacuation may not be required, such as when the indoor air temperature is below 68 degrees Fahrenheit or above 82 degrees Fahrenheit for four consecutive hours;

6. A procedure for handling medical emergencies that includes the requirement to call 9-1-1 in the event of a life-threatening emergency, in accordance with N.J.S.A. 30:6D-5.1 et seq. (Danielle's Law), and N.J.A.C. 10:42A;

7. Emergency coverage and on-call procedures;

8. A procedure for reporting all unusual incidents, including, but not limited to:

i. A written statement expressly prohibiting abuse, neglect, or exploitation; and

ii. A written statement regarding the obligation to report each allegation as required at N.J.S.A. 9:6-8.10 and 52:27G-1 et seq., and Department policy.

9. A procedure for investigations;

10. A procedure to ensure sound fiscal management of individual's personal funds;

11. A procedure for the safekeeping of valuable personal possessions;

12. A list and schedule of all charges and fees for which an individual shall be held responsible;

13. A procedure for resolving complaints and grievances of individuals that has a minimum of two levels at which the grievance shall be heard, the last of which involves the licensee or the executive director;

14. A procedure, separate from individuals' records, for internal communication, to include the use of a separate log to document critical information and the action taken by the licensee to follow-up:

i. Each log entry shall be dated and signed with the full name of the staff person making the entry;

15. A procedure for admissions that complies with the requirements at N.J.A.C. 10:44A-4;

16. A statement regarding maintaining confidentiality of individuals receiving services and records, as required at N.J.A.C. 10:41-2;

17. Written procedures for medication administration, including procedures for self-medication;

18. Written procedures for assuring compliance with the requirements for testing employees for controlled dangerous substances, in accordance with N.J.S.A. 30:6D-9.5;

19. Written procedures for the exchange of contact information of parents, family members who are actively involved in ensuring the individual's welfare, or guardians who choose to, as set forth at N.J.S.A. 30:6D-9.5 and 9.6;

20. A procedure for assuring that no employee is included on the Department of Children and Families' Child Abuse Registry, as set forth at N.J.S.A. 30:6D-73 et seq., and 9:6-8.10f;

21. A procedure to address the use of *[surveillance cameras]* ***video/audio monitoring*** in the common areas of the residences, if applicable; and

22. A continuous quality improvement system to identify opportunities to improve services and/or supports and to resolve identified problems. The system shall include, at a minimum:

i. A written plan to identify how data is collected, analyzed, and utilized to determine patterns that identify process or systemic problems requiring further in-depth review;

ii. Input from a variety of sources, including persons receiving services, family members, and others;

iii. A written summary of satisfaction surveys;

iv. A written summary of outcomes assessments; and

v. An action plan based upon an analysis at (b)22i through iv above.

10:44A-2.3 Implementation of procedure manual

(a) (No change.)

(c) The licensee shall assure that staff implement all procedures for which they are responsible.

(d) (No change in text.)

10:44A-2.4 Personnel

(a) (No change.)

(b) The licensee shall ensure that no applicant or employee comes into direct contact with individuals served until they have been fingerprinted and a determination has been made by the Department of Human Services that the applicant or employee is not disqualified, in accordance with N.J.S.A. 30:6D-63 through 69 (criminal history background checks).

1. A licensee shall not employ any person who has been adjudged civilly or criminally liable for abuse of a developmentally disabled person.

2. Criminal history record background checks shall be conducted at least once every two years for a community agency's head and its employees.

3. Any individual who is required to undergo a criminal history record background check and refuses to consent to, or cooperate in, the securing of a criminal history record background check shall be immediately removed from the person's position and the person's employment shall be terminated.

(c) A licensee shall not hire, maintain the employment of, contract for, or utilize as a volunteer who provides services to individuals on a planned basis, any person who is placed on the Central Registry, or who is included on the child abuse registry of the Department of Children and Families.

(d) All employees who may come into contact with individuals served shall be subject to and comply with the requirements for drug testing for controlled dangerous substances, in accordance with N.J.S.A. 30:6D-9.5.

(e) Prior to hiring any staff or utilizing a volunteer who provides services to individuals on a planned basis, the licensee shall secure and maintain:

1. A signed application for employment from each applicant, indicating the applicant's name, address, and telephone number, education and disclosure of the presence or absence of criminal convictions;

2. A minimum of two documented references:

i. The licensee shall check a minimum of the two most recent work references or, if not available, a minimum of two personal references;

ii. The licensee shall document all reference checks and maintain such reference checks in the applicant's personnel record;

iii. Each reference check shall include, at a minimum, the name of the person giving the reference, the name of the person taking the reference, and the date that the reference was obtained; and

iv. References from family members of the applicant shall not be accepted.

3. A current job description that, at a minimum, shall include the following:

i. A position statement that documents overall job responsibilities, including the requirement that the employee cooperate with the licensee and Department staff in any inspection, inquiry, or investigation;

ii. A list of specific duties;

iii. The minimum qualifications;

iv. The positions supervised, if applicable;

v. The reporting supervisor; and

vi. The requirements for checks of criminal background, the central registry, the child abuse registry, and drug testing.

(f) Upon employment, direct support professionals shall submit a written statement from a licensed physician or advanced practice nurse indicating that he or she is in good health. Such statement shall be based on a medical examination conducted within the 12 months immediately preceding the direct support professional's starting date with the licensee.

(g) Within one year prior to or upon beginning work, each direct service staff member shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin or an IGRA blood test.

1. The direct support professional shall submit to the licensee written documentation of the results of any testing or certification.

2. If the direct support professional has had a previous positive Mantoux tuberculin skin test, if the Mantoux tuberculin skin test is significant (10 or more millimeters (mm) of induration), or if the IGRA blood test is positive, the staff member shall submit to the licensee a statement from his or her physician or advanced practice nurse certifying that he or she poses no threat of tuberculosis contagion before he or she is allowed to come in contact with individuals being served and other staff.

3. If the Mantoux tuberculin skin test is insignificant (zero to nine mm of induration), or the IGRA blood test is negative, no further testing shall be required.

i. The Office of Licensing or the licensee may, at any time, require a direct support professional to retake the Mantoux tuberculin skin test, if there is a reason to believe or suspect that the staff member may have contracted tuberculosis or if the Department of Health recommends re-testing.

4. The licensee shall prohibit any direct support professional who fails to submit satisfactory results from a medical practitioner from having contact with the individuals receiving services or other staff.

5. Upon any known or suspected exposure to a confirmed case of *M. Tuberculosis*, the licensee shall consult with the local health department and maintain documentation that all requirements for follow up testing were met.

10:44A-2.5 Minimum staff qualifications

(a) The licensee or the executive director shall have:

1. A Bachelor's degree;

2. Five years of progressive management experience working with people with developmental disabilities, at least two of which shall have been supervisory in nature, at a senior or administrative level; and

3. Knowledge in the design and supervision of programs serving individuals with developmental disabilities, development of staff, and the application of fiscal and qualitative standards.

(b) (No change.)

(c) Direct support professionals shall be at least 18 years of age and shall have a high school diploma or equivalent.

(d) Direct support professionals shall have the ability to communicate with the individuals with whom they are working.

(e) Direct support professionals shall be capable of providing any direct assistance and/or training required by individuals with whom they are working.

(f) (No change.)

10:44A-2.6 Orientation

(a) Prior to working with individuals receiving services, all direct support professionals shall receive an orientation to acquaint them with:

1.-3. (No change.)

4. Emergency procedures as identified in the procedure manual; for example, the emergency evacuation plan, emergency medical treatment, emergency coverage and on-call procedures, the operation of the fire alarm system, and use of fire extinguishers;

5. An overview of developmental disabilities and any special needs of the individuals being served, for example, medical or behavioral problems requiring specific, tailored training;

6. The appropriate job description and the personnel policies of the organization, including its drug testing policies;

7. Training in life-threatening emergencies through a curriculum developed by the Division; and

8. Training consistent with N.J.S.A. 30:6D-9.5 and 9.6.

(b) Records of the orientation provided shall be maintained in the employee's personnel file and shall include a dated, signed acknowledgment by the employee receiving and the person(s) providing the orientation.

10:44A-2.7 Staff training

(a) Within 90 days of employment, each direct support professional basic staff training required by the Division that shall address, at a minimum:

1. DDD Shifting Expectations;

2. Preventing abuse and neglect;

3. First aid training provided by a training entity that meets the current Emergency Cardiovascular Care (ECC) guidelines (and have a valid certificate on file); and

4. Cardio-pulmonary resuscitation (CPR) training provided by a training entity that meets the current Emergency Cardiovascular Care (ECC) guidelines (and have a valid certificate on file).

(b) Staff shall complete medication training and demonstrate competency prior to administering any medication to individuals receiving services.

1. Staff administering medication shall demonstrate competency on an annual basis.

(c) Staff shall receive training in all policies and procedures not covered during orientation that are relevant to the employee's job.

(d) Specialized training programs, identified as necessary by the Department, or by the placing agency or by the licensee during the application process, or identified as necessary at any subsequent time, shall be completed by staff within 90 days of employment and shall include, but not be limited to:

1. Persons who work with individuals who require specialized feeding techniques shall receive training in the use of those techniques.

i. Feeding tube responsibilities shall be delegated to nursing personnel.

2. Persons who work with individuals who use mobility devices shall receive training in mobility procedures and the safe use of mobility devices, including those necessary for transport.

i. Persons who work with individuals who require assistance to use any other device or technique shall receive specific training in procedures and techniques for the use of such adaptive devices.

3. Persons who work with individuals with seizure disorders, physical disabilities, or other identified medical needs shall receive training in the provision of training, assistance, and care to those individuals.

4. Persons who work with individuals with identified mental health needs shall receive training in the provision of training, assistance, and care to those individuals.

5. Persons who work with individuals who require behavior support plans shall receive training in the implementation of all such plans.

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

1. A curriculum describing the courses or individual topics offered and a training plan addressing how the content of each course or topic will be delivered;

2. Documentation of attendance through a report that includes the dated signatures of the trainer and the trainee; and

3. Results of those training programs that the Division requires.

(f) The licensee may conduct, at its discretion, and without specific prior approval from the Division, training programs, in addition to, the trainings required by this chapter.

(g) All training conducted pursuant to (c) above shall be conducted by a qualified trainer.

10:44A-2.8 Staff coverage

(a) A written staff schedule, for at least a two-week period, shall be available for review at each residence, with the full names of staff.

1. The schedule shall specify the on-site coverage, in accordance with the program description (N.J.A.C. 10:44A-2.2).

2. The employee in-charge shall be designated on the schedule for each shift.

i. No temporary employment agency staff shall at any time be designated or utilized as "in-charge" in the absence of completion of all training required at N.J.A.C. 10:44A-2.7, and a written policy stipulating the licensee's assumption of responsibility and liability of said employees' actions.

3. At least one staff member currently trained and certified in first aid and CPR shall be on duty for each shift.

(b) The licensee shall assure that, if all staff have not completed necessary specialized training, in accordance with N.J.A.C. 10:44A-2.7(c), each required specialized training for that site has been completed by at least one person on each shift.

(c) Staff are not required to be on-site when no individuals are present in the residence, but trained, paid agency staff, familiar with the individual(s), shall be available for emergencies, in accordance with N.J.A.C. 10:44A-2.2(b)7.

(d) Staff of a group home or supervised apartment program shall be on site whenever any individual is present, in accordance with their supervision needs.

(e) The staff residence/office of the supervised apartment program shall be located so that the response time to each individual served is consistent with their supervision needs.

10:44A-2.9 Records of individuals receiving services

(a) An individual file shall be maintained for each individual receiving services in a licensed community residence for individuals with developmental disabilities.

1. (No change.)

2. The client record is the property of the Department.

(b) Files for individuals residing in group homes and supervised apartments shall be maintained at the residence.

(c) (No change.)

(d) Individual records shall include:

1. Pre-admission information, as follows:

i.-iv. (No change.)

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

vi.-viii. (No change.)

ix. The SP;

x. The results of a physical examination completed within the past year;

xi. The results of a Mantoux Skin Test or IGRA blood test;

xii. In the absence of the results at subparagraph (d)ix or xi above, written certification from a physician or advanced practice nurse stating the individual is free of communicable disease shall be obtained prior to admission, and the licensee shall obtain the absent documentation as soon as possible, within a time frame approved by the Office of Licensing; and

xiii. (No change.)

2. The results of an annual physical examination;

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

4. Seizure records, where indicated;

5. A medically prescribed diet, if required;

6. Documentation of known allergies;

7. Medication administration records;

8. An inventory of valuable personal possessions, including, but not limited to, personal mementos, adaptive devices, eyeglasses, hearing aids, durable medical equipment, electronic equipment and accessories, jewelry, clothing, and personal furniture;

9. Authorizations and acknowledgements, as required at N.J.A.C. 10:44A-4.1(e);

10. Identification of the person's capabilities and needs, including, but not limited to:

i. The ability to remain unsupervised, specific to location and length of time, including in a vehicle;

ii. The ability to self-medicate;

iii. The ability to manage their personal funds;

iv. All prescribed adaptive equipment; and

v. Any rights restrictions; and

11. The current Behavior Support Plan approved by the PT, as applicable.

10:44A-2.10 Individual financial records: personal funds

(a) Each individual shall have the right to manage his or her own personal funds consistent with his or her abilities.

1. If it has been determined that the individual cannot independently manage his or her funds/finances, the PT shall determine how much money, if any, can be managed by the individual at any given time.

(b) For all personal funds entrusted to the licensee, the licensee shall maintain records and receipts of all income received and all disbursements of the individual's funds.

1. All receipts related to disbursements of an individual's entrusted funds and purchases made on behalf of an individual shall be maintained while the individual resides at the residence.

2. If an individual's personal funds are entrusted to a licensee, moneys received by an individual in excess of \$200.00 shall be placed in an interest-bearing account, unless otherwise determined by the PT.

3. The licensee may keep up to \$200.00 of an individual's entrusted funds in a non-interest-bearing account or petty cash fund, to be readily available for current expenditures, providing it is kept for safekeeping in an account separate from all other funds for the residence.

4. Any increase in this amount shall be authorized by the individual and his or her guardian, where applicable, and documented in the individual's record.

(c) The licensee shall, upon written request from the individual and his or her guardian, where applicable, return any or all of the individual's funds entrusted to the licensee, including the interest accrued from deposits.

(d) There shall be no loans of finances, resources, or property from an individual receiving services to the licensee, staff member, or any other individual receiving services.

(e) The licensee to whom the individual entrusts his or her funds shall ensure that the management of such funds does not jeopardize the individual's entitlements to any appropriate Federal or private benefit.

(f) The licensee shall allow each individual and guardian, where applicable, access to a written record of all financial arrangements and transactions involving the individual's entrusted funds, upon request.

1. Copies of this record shall be made available to the individual and his or her guardian, upon request.

SUBCHAPTER 3. ADVOCACY AND RIGHTS

10:44A-3.1 General requirements

(a) (No change.)

(b) The licensee shall comply with the provisions at N.J.S.A. 30:6D-1 et seq. (Developmentally Disabled Rights Act).

(c) The licensee shall ensure that staff are familiar with and observe the rights and responsibilities of individuals with developmental disabilities enumerated in the Division's rights document.

(d) Individuals receiving services shall receive training and support in order to understand options, make choices, and exercise rights and responsibilities.

1. The individual's exercise of their rights is not limited when an individual has a guardian or interested family.

(e) The licensee shall be responsible for utilizing a Human Rights Committee, in accordance with N.J.A.C. 10:41A (Human Rights Committees).

10:44A-3.2 Rules governing a residence

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

1. The rules are commensurate with the individuals' abilities and rights, as detailed in the Division's rights document;

2. Individuals and their guardians, where applicable, are informed of the rules governing a residence prior to their admission, as required at N.J.A.C. 10:44A-4.1;

3.-4. (No change.)

5. Each copy of the rules contains a statement that an individual or a group of individuals has the right to challenge such rules as to their appropriateness through the licensee's grievance procedure, in accordance with N.J.A.C. 10:44A-2.2(b)13.

(b) The individuals served at a particular residence may jointly choose to establish mutually agreed upon house rules regarding conduct in the home, in accordance with (a)1 through 5 above.

10:44A-3.3 Self-advocacy

(a) The licensee shall identify individuals who want a personal advocate, who wish to participate in house meetings, or who wish to participate in a self-advocacy group.

1. Individuals who wish to participate in house meetings shall be included in the process, scheduling, and agenda as much as possible, with the assistance of staff.

(b) (No change.)

(c) Notices of advocacy or self-advocacy conferences, seminars, or meetings shall be made available to all individuals in each residence unless determined otherwise by the PT.

SUBCHAPTER 4. SERVICE DELIVERY

10:44A-4.1 Pre-admission and admission

(a) The licensee shall have written criteria for admission to a particular program, including temporary (respite) placements. These criteria shall include, at a minimum:

1. (No change.)

2. A non-discrimination statement regarding admissions, assuring no one will be denied admission on the grounds of race, sex, color, national origin, religion, age, physical or mental disability, ancestry, sexual preference or affiliation, AIDS or HIV infection, atypical cellular hereditary blood traits, or any other legally protected status;

3.-6. (No change.)

7. A statement regarding all techniques that may be employed by the licensee to provide behavior support.

i. The licensee shall comply with N.J.A.C. 10:42 (Mechanical Restraints and Safeguarding Equipment) in the use of mechanical restraints and safeguarding equipment; and

8. A statement affording all individuals the right to have a choice in the selection of their roommate.

(b) The number of individuals with developmental disabilities admitted to a residence shall not exceed the licensed capacity.

(c) Prior to admission, the Division of Developmental Disabilities shall provide the licensee with information that complies with N.J.A.C. 10:46 that addresses eligibility for services.

(d) Upon admission, where applicable, a written lease agreement shall be signed by the individual, the guardian, as applicable, and the landlord, which shall provide the consumer with all the rights and responsibilities accorded by New Jersey tenant and landlord law and shall be comparable to leases for all other persons in the State.

1. In the absence of a formal lease agreement, a consumer residency agreement shall be signed by the consumer, and guardian, as applicable,

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

(e) Upon admission to the program and upon subsequent request, the licensee shall, without cost to the individual, provide the individual receiving services and his or her guardian, where applicable, with the following:

1. A copy of the written procedures for safekeeping of valuable personal possessions, as required at N.J.A.C. 10:44A-2.2(b)11;
2. A copy of the Division's rights document;
3. The names, addresses, and telephone numbers of advocates available to assist the individual in understanding and enforcing these rights, to include, at a minimum:
 - i. Disability Rights New Jersey;
 - ii. Office of Licensing;
 - iii. Bureau of Guardianship, if applicable;
 - iv. His or her case manager/support coordinator;
 - v. Division of Developmental Disabilities' abuse hotline (800-832-9173);
 - vi. Department of Children and Families' Child Abuse Control number (1-800-792- 8610), if applicable; and
 - vii. Office of the Ombudsman (1-877-582-6995), if applicable.
4. A copy of the licensee's rules and any house rules that apply to the individual's residence;
5. A copy of the grievance procedure for appealing licensee decisions, as required at N.J.A.C. 10:44A-2.2(b)13;
6. A copy of the fee schedule, as required at N.J.A.C. 10:44A-2.2(b)12; and
7. A written statement listing the services regarding the safekeeping and management of entrusted funds.

(f) The licensee shall make provisions to explain portions that are not understood and answer any questions the individual may have regarding (e)1 through 7 above.

1. If an individual is unable to read (e)1 through 7 above, the text shall be read to the individual in a language or manner the individual understands.

(g) A copy of a written acknowledgment that (e)1 through 7 above has been explained and understood shall be immediately signed and dated by the individual, the licensee's representative(s), and the individual's guardian, if present.

1. If the guardian is not present, the signed acknowledgment shall be sent to the guardian within five days, and documentation shall be maintained in the individual's record.

2. The acknowledgment may also be witnessed by a personal advocate, if present.

3. The acknowledgment shall be placed in the individual's record.

(h) At the time of admission, the licensee shall obtain written authorization for any of the individual's funds to be entrusted.

1. The authorization shall specify which funds are to be entrusted to the licensee, including, but not limited to, paychecks, Patient Trust Fund, monetary gifts, payment from family members, transportation reimbursements, public assistance, income tax rebates, and insurance claims, and shall state that the licensee is acting in a fiduciary capacity regarding the funds.

2. The individual and his or her guardian, where applicable, shall sign the authorization.

3. A copy of the signed entrustment authorization shall be maintained in the individual's record.

10:44A-4.2 Changes in supports/services

(a) Any major change in an individual's residential service and/or supports shall include the utilization of the PT.

(b) Should the licensee determine a residence is no longer suitable or no longer meets the needs of an individual, substantive evidence shall be given to the Division.

1. Until an alternate placement is available, the individual shall continue to be served at that residence.

SUBCHAPTER 5. HEALTH AND SAFETY

10:44A-5.1 General health care

(a) A personal, primary physician, medical group/clinic, or advanced practice nurse shall be identified for each individual receiving services.

(b) Each individual shall, at a minimum, have an annual medical examination.

1. The examining physician or advanced practice nurse shall sign, date, and document the results of the examination.

2. (No change.)

(c) (No change.)

(d) Upon any known or suspected exposure to a confirmed case of *M. Tuberculosis* by an individual served, the licensee shall consult with the local health department and maintain documentation that all requirements for follow up testing were met.

(e) (No change.)

(f) The licensee shall ensure that the community residence has access to emergency medical services.

(g) Each licensed program site shall have a first aid kit, to include:

1.-5. (No change.)

6. Adhesive bandage (for example, band-aids);

7. Either a standard type or a digital thermometer;

8. CPR mask; and

9. Protective gloves.

(h) Upon confirmation that an individual has contracted a communicable disease, as specified at N.J.A.C. 8:57, the licensee shall ensure exposed individuals are placed under the care of a physician or advanced practice nurse.

1. (No change.)

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

(i) The agency shall assure that all adaptive and assistive devices are available and in working condition for each individual who requires them.

1. Durable medical equipment shall not be utilized without an order from the physician ***or advance practice nurse***, which shall be maintained in the individual's record.

10:44A-5.2 Prescription medication

(a) Individuals receiving medication shall take their own medication to the extent that it is possible, as assessed and determined by the PT, documented in the individual's record, and in accordance with licensee procedure.

(b) (No change.)

(c) A record shall be maintained of all medication administered by the licensee or the designee.

1. The record shall include the following:

i.-vi. (No change.)

vii. The initials and corresponding signatures of staff administering the medication or in the case of electronic records, a means by which the identification of the administering staff is verified;

viii. All known allergies; and

ix. Medication administration codes.

(d) If an individual is capable of taking medication without assistance, no daily medication administration record is required.

1. A current list identifying the name of the medication(s), type of medication(s), dosage, frequency, date prescribed, and the location of the medication(s) shall be filed in the individual's record and updated as changes occur.

(e) Written documentation shall be filed in the individual's record indicating that all prescribed medication was re-evaluated at least annually by the prescribing physician or advanced practice nurse.

(f) Staff shall have access to medication information, either in a reference book or an online resource approved by the licensee, current within three years and written for lay persons, which shall include information on side effects and drug interaction.

(g) Any new medication or change in medication order by the physician or advanced practice nurse, as well as new and discontinued prescriptions, shall be immediately noted on the current medication record by staff consistent with the licensee's procedure.

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1. Verbal orders from the physician or advanced practice nurse shall be confirmed, in writing, within 24 hours or by the first business day following receipt of the verbal order.

2. (No change.)

(h) A supply of medication and prescribed nutritional supplements, adequate to ensure no interruption in the medication schedule, shall be available to individuals at all times.

(i) The licensee or designee shall supervise the use and storage of prescription medication, ensuring that:

1. A storage area of adequate size for both prescription and over-the-counter medications shall be provided and kept locked for those individuals who are not self-administering their own medication.

2.-3. (No change.)

4. Prescribed medication for each individual shall be separated within the storage areas, as follows:

i. Oral medications, eye drops, and ear drops shall be separated from other medications; and

ii. (No change.)

5.-6. (No change.)

7. Medications that are outdated or no longer in use shall be safely disposed of, according to licensee procedure;

8. When medication is prescribed PRN (as needed), the prescription label shall include the following: the individual's name, date, name of medication, dosage, specification of interval between dosages, maximum amount to be given during a 24-hour period, a stop date, when appropriate, and under what conditions the PRN medication shall be administered; and

9. The administration of PRN medication, along with the time of administration, shall be documented on the *[written]* medication record and shall be communicated to the on-coming shift of residential staff.

10:44A-5.3 Over-the-counter medications

(a) A statement signed by the physician or advanced practice nurse regarding the usage and contraindications of over-the-counter medications shall be available for staff reference and use and shall be updated annually. This statement shall constitute a physician's order.

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

10:44A-5.4 Emergency telephone numbers

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

1. 9-1-1; and

2. The telephone number to contact the licensee's staff in the event of an emergency.

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

1. The Division's hotline number;

2. If a minor is living in the residence, the telephone number for the Department of Children and Families' Child Abuse Control number (1-800-792-8610);

3. If an individual 60 years of age or older is living in the residence, the telephone number for the Office of the Ombudsman (toll free in New Jersey at 1-800-624-4262); and

4. The Unusual Incident Coordinator in the Department identified for the program location.

10:44A-5.5 Food

(a) Sanitary practices shall be utilized in the storage, handling, preparation, and serving of all food and drink.

1. Food shall be thawed in a refrigerator.

(b) (No change.)

(c) Food shall be readily accessible to individuals receiving services unless limitations have been approved by the PT through a person-centered planning process documented in the individual's record.

(d)-(e) (No change.)

(f) Food shall meet the medical and dietary needs of the individuals receiving services.

1. When a prescribed diet is required, the licensee shall ensure the following:

i. That all necessary equipment is readily accessible and utilized by the licensee's staff and/or the individual, as necessary; and

ii. That all necessary food and nutritional supplements are available.

2. (No change.)

(g) An individual shall be allowed to eat at his or her own pace, unless otherwise determined by the PT.

(h) Menus, to include all meals and available snacks, shall be dated, prepared at least one week in advance, and retained on file for a period of 30 days, unless an individual's SP documents independence in meal purchase and planning.

(i)-(j) (No change.)

(k) At a minimum, there shall be at least a three-day supply of food at all times.

10:44A-5.6 Clothing

(a) Each individual shall have an adequate supply of clean and well-fitting clothing appropriate to age, gender *identity*, individual needs and preferences, community standards, season, and weather conditions.

(b) Each individual shall have the opportunity to select and purchase clothing according to individual taste and preference.

(c) The licensee shall provide assistance to individuals who require assistance in order to maintain their own clothing.

(d) The licensee shall provide laundry facilities without additional charge to individuals, unless there is documentation in an individual's SP that the individual is to pay for the laundering of his or her own clothing.

10:44A-5.7 Vehicle safety

(a) All agency vehicles used under agency auspices to transport individuals with developmental disabilities shall have the following:

1. Emergency equipment which shall include at least three portable red reflector warning devices and either a spare tire and jack or provisions for roadside assistance and emergency alternate transport.

2. A first aid kit to include:

i.-iv. (No change.)

v. Scissors;

vi. Adhesive bandages (for example, band-aids);

vii. CPR masks; and

viii. Protective gloves.

3. Snow tires, all weather tires, or chains when weather conditions dictate their use.

(b) The licensee shall verify that all vehicles under the auspices of the licensee used to transport individuals with developmental disabilities shall comply with all applicable safety and licensing regulations established by the New Jersey Motor Vehicle Commission.

1.-2. (No change.)

3. Individuals receiving services whose PT has determined that being left unattended in a vehicle would present a danger to themselves or others shall be supervised, accordingly.

4. The interior of each vehicle shall be maintained in a clean, safe condition and shall be free of obstacles obstructing clear passage to operable doors.

i. All items maintained in the vehicle shall be securely fastened at all times.

(c) An agency vehicle shall be available at all times to provide transportation for individuals, as needed, and as desired by individuals for community integration.

1. Vehicles used to transport individuals in wheelchairs shall be fully accessible and include all required safety mechanisms, which shall be maintained in working order and utilized at all times.

10:44A-5.8 Workplace safety

(a) The licensee shall comply with the Occupational Safety and Health Administration's (OSHA) regulations (29 CFR Part 1910) as they may apply to a particular type of residence the licensee operates, and shall ensure consistent and sound enforcement.

1.-2. (No change.)

SUBCHAPTER 6. FIRE SAFETY AND PHYSICAL ENVIRONMENT

10:44A-6.1 Fire safety

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

1. (No change.)

(b) Each community residence for individuals with developmental disabilities shall comply with the provisions at N.J.S.A. 52:27D-192 et seq. (Uniform Fire Safety Act).

1. The Office of Licensing may identify any additional fire safety precautions required to keep service recipients safe.

(c) (No change.)

10:44A-6.2 Emergency evacuation plans

(a) The licensee shall design an emergency evacuation plan for each residence, in accordance with the Uniform Fire Safety Act (N.J.S.A. 52:27D-192 et seq.), and the individual characteristics of the home.

1. The plan shall be further developed by evaluating each individual's ability to evacuate the residence in three minutes or less, according to the following risk factors:

- i. The individual's ability to solve problems;
- ii. The individual's compliance, including any behavioral factors that adversely affect the individual's ability to evacuate; and
- iii. Any medical factors, including physical disabilities, which adversely affect the individual's ability to evacuate.

2. The plan shall incorporate the following elements:

- i. A general description of the building;
- ii. Identification of all exits that lead directly to the outside;
- iii. Identification of the point(s) of safety, a designated meeting spot at which the occupants assemble after evacuating the premises;
- iv. Any special needs that the service recipients have and the assistance that will be necessary to help them evacuate within three minutes, based upon the individual emergency evacuation assessments; and
- v. A single plan of prioritized and sequential actions required to promptly evacuate everyone from the building within three minutes.

(b) The emergency evacuation plan shall be reviewed at least annually and revised, as needed:

1. Within *[48]* *72* hours of a new individual moving into the residence, the return of a resident absent for more than 30 days, or the discharge of a resident;
2. Whenever the level of assistance required by the current occupants to evacuate the residence changes; and
3. Thirty days following an occupant's admission to a hospital or nursing home.

(c) (No change.)

(d) The licensee shall ensure that all staff persons assigned to a residence at any time have been trained in the emergency evacuation plan for that residence.

10:44A-6.3 Egress protocols

(a) Individuals residing in a community residence are presumed to have a prompt self-evacuation capability when the following conditions are met:

1. A site-specific evacuation plan is written and implemented that conforms to the requirements at N.J.A.C. 10:44A-6.2;
2. Fire drills, supervised by staff, are performed a minimum of once per month, during which all occupants shall evacuate from the nearest exit;
3. (No change.)
4. Fire drills are performed at random and varying times so that individuals are engaged in a variety of routine activities during the drills;
5. Fire drills ensure that all means of egress are used throughout the year, except those in areas that are not routinely utilized by individuals, such as unfinished basements, furnace rooms, and garages without ramps;
6. A prompt egress time of three minutes or less is attained and maintained.

i. The evacuation drill shall be timed from when the alarm is sounded until the last occupant crosses the threshold of a means of egress;

7. (No change in text.)

8. Written records are maintained including the following information:

i.-ii. (No change.)

iii. The means of egress used;

iv. The full names of individuals and staff who participated in the drill; and

v. The time required for all persons to evacuate the residence.

(b) Within 24 hours of admission, each individual shall participate in a fire drill to ensure knowledge of emergency egress procedures.

(c) If the individual is unable to evacuate the residence in three minutes or less after re-training, the licensee shall take steps that result in prompt evacuation in subsequent drills, including, but not limited to, the following:

1. Add awake staff to ensure the three-minute time is met;

2. Relocate individuals so that the three-minute time is met; *[and]* *or*

3. Conform to the I-1 Use Group classification (N.J.A.C. 5:23-6.21 and 6.21A).

10:44A-6.4 Group classification requirements

(a) Group homes housing five or fewer individuals shall, at a minimum, meet the requirements of Group R-5 of the Uniform Construction Code (see N.J.A.C. 5:23-6.27).

(b) One- and two-family homes housing six to 16 individuals with developmental disabilities shall meet the requirements of Group R-2 of the Uniform Construction Code (see N.J.A.C. 5:23-6.26 and 6.26A).

10:44A-6.5 Fire safety equipment

(a) Fire extinguishers shall be serviced annually and shall be of a type and number as determined by the fire official designated to enforce the Uniform Fire Safety Act (N.J.S.A. 52:27D-192 et seq.)

1. (No change.)

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

1. (No change.)

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

10:44A-6.6 General home requirements

(a) For residences housing individuals with physical disabilities, the licensee shall make accommodations to ensure maximum physical accessibility feasible for entrance to and movement within the residence based upon individual characteristics.

1. Any necessary modifications shall conform to the requirements contained in the Barrier Free Subcode, N.J.A.C. 5:23-3.14(b)10 (which includes the accessibility rules—see N.J.A.C. 5:23-7.1 (Barrier Free Subcode)).

2. Two means of egress shall be ramped, located in different parts of the building, and lead to the ground level.

3. Such residences located on a floor above the ground floor shall have been designated for occupancy by non-ambulatory individuals by the fire official, including, but not limited to, safe havens, fire-proof stairs, and fire suppression systems.

(b) The exterior of the residence and the surrounding grounds shall be properly maintained and shall be free from any hazard to health or safety.

1. Sheds, garages, and other outbuildings shall be maintained in a safe condition or be rendered inaccessible to individuals.

(c) The interior of the residence shall be properly maintained and shall be free from any hazard to health or safety.

1. All interior doors shall be equipped with standard hardware which can be readily opened in an emergency. Hooks and eyes, bolts, bars, and other similar devices shall not be used on interior doors.

i. Where a doorknob lock requires a key or other device to open from the outside, such key or device shall be readily available to staff.

ii. Chain locks are prohibited on apartment doors, unless required by local ordinance. In this case, the lock shall be changed to the type that can be opened from the outside with a key. The key must be available to staff

at all times. In all cases, the individual must have the ability to operate the chain lock.

2. A carbon monoxide detector(s) shall be installed with the technical requirements and in the location specified by the Uniform Construction Code (N.J.A.C. 5:23).

3. Nothing shall be stored within three feet of a boiler, furnace, or water heater.

4. Portable halogen lamps shall be prohibited.

5. Cellophane wrapping on lamps shades shall be prohibited.

6. The use of candles indoors is prohibited.

7. Electric and gas clothes dryers shall be maintained in good repair. Vent ducts shall remain unblocked, uncrushed, and properly connected to the dryer, and the lint trap screen shall be cleaned after each use.

8. Fireplaces and wood or pellet burning stoves and all components shall be kept clean and well maintained.

i. Wood or pellet burning stoves shall be permitted only if proof of its proper installation is provided by the local construction code official, as evidence by a certificate of approval.

ii. Protective screening or covers shall be provided to prevent occupants in the home from coming into direct contact with the fire and/or prevent sparks from flying into the home from the fireplace.

iii. Fireplaces, as well as wood or pellet burning stoves, if used, must be professionally inspected, and cleaned as necessary, annually, and documentation of such shall be maintained.

9. Every exhaust fan and exhaust fan filter shall be regularly cleaned from accumulated grease.

10. Attics and unfinished spaces without adequate flooring shall be rendered inaccessible to individuals.

(d)-(i) (No change.)

(j) Standby generators ***and battery back-up power systems, if present,*** shall be permanently installed by a qualified technician, in accordance with all local codes*,* ***[and]*** permitting*,* and inspection requirements.

(k) Portable generators shall only be used in accordance with the following:

1. Under a permit issued by the local enforcement agency, if such a permit is required by local municipal codes;

2. Not plugged directly into the home's electrical receptacles or outlets;

3. Operated outside and away from doors, vents, or open windows leading into the home;

4. Properly grounded, dry, and shielded from contact with liquid;

5. Operated only with heavy-duty electrical cords that are rated for outdoor use, free of any punctures or exposed wiring, kept out of the way of foot traffic and not run underneath rugs;

6. Powering only devices that, when operated simultaneously, do not draw more electrical capacity than the generator is designed to supply; and

7. Not powering devices hard-wired into the homes' electrical system, unless the generator is plugged into a transfer switch or panel of transfer switches installed by a qualified technician, in accordance with all local codes and permitting and inspection requirements.

10:44A-6.7 Certificate of Occupancy

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

10:44A-6.8 Exits

(a) (No change in text.)

(b) No interior or exterior door, window, or opening in a community residence for individuals with developmental disabilities shall be locked, fastened, or blocked, so as to prevent or impede the egress of any person in the residence, unless approved by the local enforcing agency.

(c) Only commercially available security devices shall be permitted for use with sliding glass exit doors.

(d) Means of egress shall not be obstructed.

10:44A-6.9 Heat sources

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

1. (No change.)

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

(c) (No change.)

10:44A-6.10 Water

(a) Hot and cold running potable water shall be available at all times.

1. The potable water supply from a private well shall be tested at least once every five years by a New Jersey certified laboratory.

(b) Hot water at the tap shall not exceed 120 degrees Fahrenheit (49 degrees Celsius) or be maintained lower than 105 degrees Fahrenheit.

10:44A-6.12 Windows

(a) Every bedroom shall have at least one operable window opening directly to the outside.

1. If a bedroom has only one operable window, it shall not be blocked by an air conditioner or any permanently installed device.

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

10:44A-6.13 Bedrooms

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

1. (No change.)

2. The room is provided with two or more independent means of egress, at least one of which leads directly outside.

i. An operable window with a net clear opening of at least five square feet, a minimum net clear opening of 24 inches in height and 20 inches in width, with a sill height of not more than 44 inches above the finished floor is acceptable as one of the means of egress; and

3. (No change.)

(b)-(e) (No change.)

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

1.-2. (No change.)

3. A box spring of sufficient size, unless a platform bed or spring bed frame is used;

i. (No change.)

4. (No change.)

5. Ample linen supplies consisting of, at a minimum:

i.-ii. (No change.)

iii. One mattress cover, one blanket, and one bed covering. Shipping plastic shall be removed from the mattress and box spring.

6. (No change.)

7. One mirror, securely fastened to the wall and/or fastened to a dresser at a height appropriate for the use of the person(s) occupying the room.

(g) (No change.)

(h) Every bedroom shall have an operable door for privacy, equipped with standard hardware that provides a privacy lock that can be readily opened from the outside in an emergency, and with only appropriate staff having access to the key, as needed. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bedroom doors.

10:44A-6.14 Bathrooms

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

(d) Bathroom doors shall be equipped with standard hardware, which provides a privacy lock, which can be readily opened from the outside in an emergency, and with only appropriate staff having access to the key, as needed. Hooks and eyes, bolts, bars, and other similar devices shall not be used on bathroom doors.

(e) Bathrooms shall be clean and ventilated.

10:44A-6.15 Kitchens

(a) Kitchens shall be clean and ventilated.

(b)-(c) (No change.)

(d) Refrigeration and storage of food shall be provided at no more than 40 degrees Fahrenheit (four degrees Celsius). Freezer compartments shall operate at no more than zero degrees Fahrenheit (-18 degrees Celsius).

(e) Kitchen appliances shall, at a minimum, include a refrigerator, freezer (or refrigerator with a freezer compartment), an oven, and a cooktop, maintained in good condition.

10:44A-6.16 Basement use

(a) (No change.)

(b) Basements may be used as activity rooms if they are dry, warm, and have adequate lighting.

10:44A-6.17 Maintenance requirements

(a) (No change.)

(b) Accumulation of garbage or waste shall be prevented.

1. All garbage collected for disposal shall be stored in water-tight containers with tight-fitting covers.

(c) When there is evidence of infestation, pest control services shall be arranged in a timely manner.

1. Agency staff may treat the infestation provided they have been trained by a licensed extermination company and the infestation has been determined to be under control by a licensed extermination company after treatments have been completed. The licensee shall retain documentation of all such training and service.

(d)-(e) (No change.)

INSURANCE

(a)

NEW JERSEY INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

Individual Health Coverage Program Individual Health Benefits Plans

Adopted Amendments: N.J.A.C. 11:20 Appendix Exhibits A and B

Proposed: December 1, 2022 (see 55 N.J.R. 8(a)).

Adopted: December 29, 2022, by the New Jersey Individual Health Coverage Program Board, Ellen DeRosa, Executive Director.

Filed: December 29, 2022, as R.2023 d.012, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17B:27A-2 et seq.

Effective Date: January 1, 2023.

Operative Date: April 1, 2023.

Expiration Date: January 12, 2025.

Summary of Hearing Officer's Recommendation and Agency Response:

The New Jersey Individual Health Coverage Program Board (IHC Board) held a hearing on Thursday, December 15, 2022, by Microsoft Teams to receive testimony with respect to the health benefits plans, set forth at N.J.A.C. 11:20 Appendix Exhibits A and B. Ellen DeRosa, Executive Director of the IHC Board, served as hearing officer.

One member of the public attended the hearing. A copy of the testimony was provided. The comments are addressed in the comments and responses below. The hearing officer made no recommendations regarding the proposed amendments. The hearing record may be reviewed by contacting Ellen DeRosa, Executive Director, New Jersey Individual Health Coverage Program Board, PO Box 325, Trenton, NJ 08625-0325.

Summary of Public Comments and Agency Responses:

The following is a summary of the comments received from members of the public and the IHC Board's responses. The IHC Board received a

total of 431 timely written comments. Written comments were received from the following:

William Russiello, Ira Mendlesberg, Mark Waltzer, Zoe Leach, Janna Bogan, Naomi Godfrey, Lauren Piscitelli, Louise Marinucci, Anita Gyamera, Samantha Allen, Denise Lytle, Sarah Hoban, Christi Cheek, Jessica Ramirez, Barbara Maddelna, Tracy Toler-Phillips, Leandra Gerena, Evelyn C. Murphy, Cori Bishop, David Lavender, Margaret O'Shea, Deirdre Brown, Amy Pearlmuter, Lorraine Franz, Eileen Bird, Judy Manton, Mariel Hufnagel, Maria Eva Doringo, Kelly Kenny, Lelan Lockwood, Cori Herbig, Eddie Rivera, Lynne Berk, Kimberly Furniss, Jodi Fekete, Regina Sheeran, Jodi Magee, Susan Bennett, Margaret Deuchar, Gina Ragette, Patricia Ricker, Francesca Rodriguez, S Barbuto, Saray Ramos, Marietta Cahill, Donna Burdick, Nancy Kozersky, Ashely DeNegre, Lee Harman, Andrea Long, Maria Palmer, Rachel Grecavich, Carol Cohen, Sally Jane Gellert, Deborah Ward, Marissa Anema, Phoebe Pollinger, Lois Porreca, Miah Brawley-Wang MD, Christopher Banko, Maryjane Genestra, Carolyn Loudermilk, Stephanie Calluori, Betty Ann Duggan, Linda Rogers, Jami Thall, New Jersey Policy Perspective, All Above All, Planned Parenthood Action Fund of New Jersey, Maria Franchino, Richard Pieslak, Peggy Burke, Norine Koza, Rosemarie Stone, Dr. Angela Lockhart, Jessica Peck, Jennifer Rykert Dean, Msgr. Kenard Tuzeneu, Diane Perretti, Rickard J. Knott, Kathy Salter, Karin A. Mille, Ken Stanton, Kathy O'Keefe, Bill Murphy, James R. Weidner MD, Kurt Kalenak, Eileen Fisher, Carol Wright, Dave Larkin, Sherwood and Sue Wheeler, Mary Burns, Mary Reilly, James McCracken, Colette Liddy, David Furbish, Donald Weigl, Karen Iveson, Jean A. Manigold, Diane Potts, Brianna Bals, Dennis and Teresa O'Brien, Anthony Musillo, Charlene Braid, Marta Neri, Marianne Lynch, Lori Evans, Barbara Karg, Charles Wasilewski, Theresa Petrik, Joy and Tom, Marie D'Urso, Amy Galarowicz, Robert Budelman, Phil Horjus, Frank Coluccio, Barb, Deborah Melicharek, M Cecilia Q Insignares CEO, Barbara Carunchio, Maria Spinelli, Joe Burns, Gloria Fetta, Christine Freitag, Fred and Mary Hofmann, Emily Sparks, Rick Beckley, Mary Granahan, Katherine Wahl, Mary Ann Carr, Deborah S. Deane, Lois Moran, John Loftus, Bruce Young, Andrew and Jo-Ann Sangataldo, Mary Lawler, Joseph Tevington, Carol Donofrio, Marlys Prescott, Pat Hammond, Bruce Young, Lauren Pristas, Joshua Gabrielsen, Dolores Steinberg, Maria Ramirez, Theresa Temple, Lea Novak, Donna Young, Michele Alford, Carol Riggs, Lowell Patterson, Frank and Mary Anne LaCava, Raquel Perez, Claire Howson, Audrey Henry, Donna Hart, Jennifer, Rosalind S. Edman, Ph.D., Henrietta Scharibone, Siobain Rogers, William Menzel, Carmen Galindo, Jenica Purisima, Marybeth Boesner, Professor F. Apicella, Marvelia Mangogna, Robert Coda, Brain Flanagan, Walter Olshanski, Dana Veronica, Anne Marie Crann, Elizabeth Crann, Kathleen Warwick, Jonathan DeGraff-Cipriani, Meire, Patricia L. Wenzel, M. Glynn, Charles Wasilewski, Maria Franchino, Terry, Mark Stadler, Jacklyn DeGraff-Cipriani, Louise Riccobene, Matthew Avigliano, Davey Willans, Gerrie MacMichael, Lois Dark, Linda and Joseph Garafalo, Dr. James Brunn, John Croce, Barabara Moser, RN, Anita Davies Bagnall, Lawrence Skalko, Lisa Dalia, R Douglass, John E. Kane Jr., Michael Casey, Alice Grippaldi, Maureen Sullivan, Joseph Miczak, Marianne Komek, Marie Tasy, Mary Ann Carr, Theodore Tyszkiewicz, V Terranova, Noreen I. Susinno, Sister Laura Bezila, MPF, Sharon Z, Mary Fahsbender, Loren Grace Bond, Amy Verzella, MG, barbabbs, Mary Rausch, Brian Zanyor, Karen Hannon, Kerry Shannon, John Provinsal, Eleanor Iannelli, Lou Karrer, Joseph C. Santoliquido, Charles Elbert, Mike Sacchetti, Gina Sacchetti, Henry Wright, David Goeller, Toni Esposito, Eugenia and Mark Skuby, Sean Hurley-Del Vecchio, John Clymore, Joan Carbone, Anthony Losito, Carol Doyle, Richie DeVito, David M. Ricci, Fred Kimble, Susan Wright, Marianne Gennaro, Lois Anderson, Daniela Patrelli, Mary Jane Deutsch, Julia Wakelee, Jeanne Dikdan Gigli, Matt and Helen Bajek, Joe Burns, Frank McLaughlin, Christine Roth, Patricia Staley, Coleen Harris, Ethel Hermenau, James Punch, Theresa Westdyke, Jacinto Fernandes, Susan M. Roman, doctorpetersonc, iraqvet72, romanseight6, noahnsteve, Joseph Abbruscato, Fred Replik, Alicja Jurek Kosecki, Joseph Fagan, Angela Tejada, Gerard Murphy, Judy Jordan, Joseph Kapp, Deborah Stump, Angela Amend Kwasnik, Camilla Coniglio, Valerie Ryan, Rosanne Rosty, Charles Wasilewski, Joe and Noel Porretta, Patricia Talrico, JoAnne Lotorto, Margarita Sori, erikkladzenski, Racie Blewitt, Frederick