

*E means “Endangered,” S means “Secure-stable,” SC means “Special concern,” T means “Threatened,” and U means “Undetermined-unknown.” These terms are defined at N.J.A.C. 7:25-4.1

HUMAN SERVICES

(a)

DIVISION OF DEVELOPMENTAL DISABILITIES Records Confidentiality and Access to Client, Division, and Provider Records

Readoption with Amendments: N.J.A.C. 10:41

Proposed: October 7, 2024, at 56 N.J.R. 1929(a).

Adopted: March 28, 2025, by Sarah Adelman, Commissioner,
Department of Human Services.

Filed: April 1, 2025, as R.2025 d.052, **without change**.

Authority: N.J.S.A. 9:6-8.10a, 30:1-12, 30:4-24.3, 30:6D-4(f), and
47:1A-1 et seq.; 34 CFR 361.38, 42 CFR Part 2 and 45 CFR
Parts 160 and 164; and 42 U.S.C. §§ 3601 et seq.

Effective Dates: April 1, 2025, Readoption;
May 5, 2025, Amendments.

Expiration Date: April 1, 2032.

Summary of Public Comments and Agency Responses:

The Division of Developmental Disabilities (Division) received comments from Carolyn Hayer, Executive Co-Director, and Lauren Agoratus, Family Voices NJ Coordinator, of SPAN Parent Advocacy Network. A summary of the comments and the Division’s response follows:

1. COMMENT: The commenters agreed with the general provisions of the Records Confidentiality and Access to Client, Division, and Provider Records rule (Records Confidentiality rule) and voiced strong appreciation for the application of the rule to all components of the Division and all service provider agencies.

RESPONSE: The Division thanks the commenters for this comment.

2. COMMENT: The commenters supported the confidentiality guidelines for photographing, audiotaping, and videotaping of individuals served by the Division pursuant to the rules and agreed that individual identifying information and community service addresses must be redacted.

RESPONSE: The Division thanks the commenters for these comments.

3. COMMENT: The commenters supported the proposed amendments for the disclosure of records and reports of certain investigations, which can be released to an individual or guardian pursuant to Stephen Komminos’ Law, but the commenters recommended similar access to people who act as part of an individual’s supported decision-making team, and to public child and adult protective service agencies, or an ombudsman.

RESPONSE: The Division thanks the commenters for the comment. The provision that permits disclosure of certain investigation records to the individuals and guardians was enacted pursuant to the Stephen Komminos’ Law. The Division does not have the authority to expand the scope of the statute. The Division notes, however, that the Records Confidentiality rule provides for the release of certain client records to an agency authorized to investigate allegations of abuse or neglect of an individual, including the Department of Children and Families, Adult Protective Services, and other agencies pursuant to N.J.A.C. 10:41-5.2(d)7.

4. COMMENT: The commenters also addressed a provision in the rulemaking that was updated to reflect recent amendments to the Department of Human Services licensing rules that allow video and audio recording in common areas of licensed residential settings, under certain circumstances. The commenters encouraged such video and audio be applied judiciously to protect individual rights and the rights of others in the community.

RESPONSE: The Division thanks the commenters for the comment. The Division agrees that administrators must remain vigilant to ensure

that the rights of the individuals served by the Division and other agencies remain protected.

Federal Standards Statement

The rules readopted with amendments are consistent with the Federal Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191 (HIPAA), 45 CFR Parts 160 and 164, and the Federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. §§ 15001 et seq., as they relate to access to and disclosure of protected health information. The rules readopted with amendments do not impose any greater requirements than those imposed pursuant to Federal statutes and regulations.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:41.

Full text of the adopted amendments follows:

SUBCHAPTER 1. GENERAL PROVISIONS

10:41-1.3 Definitions

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

...
“Community Services Office” means a location housing components of Division community services operations. An individual’s Community Services Office contact is determined by the county in which he or she resides. Community Services Office contact information can be found at https://www.nj.gov/humanservices/ddd/about/contactus/community_services/.
...

SUBCHAPTER 3. CLIENT AND AGENCY RECORDS

10:41-3.2 Public and non-public Division and provider records

(a) (No change.)

(b) The following Division and provider records are not public and can only be released upon judicial order, except that records and reports of an investigation can be released to an individual or guardian pursuant to N.J.S.A. 30:6D-76. These Division and provider records include:

1.-7. (No change.)

10:41-3.3 Photographing, audio, and videotaping of individuals

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

(c) Audio taping and videotaping of individuals is prohibited for other than treatment purposes or health care operations unless written authorization is obtained from the individual or legal guardian, except that agencies may use audio or video monitoring in accordance with N.J.A.C. 10:44A-2.2(b)21.

(d) (No change.)

(b)

DIVISION OF DEVELOPMENTAL DISABILITIES Human Rights Committees

Readoption with Amendments: N.J.A.C. 10:41A

Proposed: October 7, 2024, at 56 N.J.R. 1931(a).

Adopted: March 28, 2025, by Sarah Adelman, Commissioner,
Department of Human Services.

Filed: March 28, 2025, as R.2025 d.051, **without change**.

Authority: N.J.S.A. 30:6D-1 et seq.

Effective Dates: March 28, 2025, Readoption;
May 5, 2025, Amendments.

Expiration Date: March 28, 2032.

Summary of Public Comments and Agency Responses:

The Division of Developmental Disabilities (Division) received comments from Carolyn Hayer, Executive Co-Director, and Lauren Agoratus, Family Voices NJ Coordinator, of SPAN Parent Advocacy

Network. A summary of the comments and the Division's response follows:

1. COMMENT: The commenters agreed with the general provisions of the Human Rights Committees (HRC) rule and voiced appreciation for the scope of the rule.

RESPONSE: The Division thanks the commenters for this comment.

2. COMMENT: The commenters emphatically agreed with the proposed amendment that includes a timeline for the development of an agenda and supporting documents to be distributed to all members and guests prior to an HRC review.

RESPONSE: The Division thanks the commenters for this comment.

3. COMMENT: The commenters strongly disagree with a provider agency's authority pursuant to the rule to establish an HRC and to appoint HRC members. The commenters raised concern that HRCs established by provider agencies would amount to self-assessment.

RESPONSE: The Division thanks the commenters for the comment and appreciates the commenters' concern. However, the rules set strict limits on the appointment of HRC members to ensure a varied representative group, including members not employed by the provider agency. Further, the rule grants the Division the option to assign an observer to monitor any HRC. The proposed amendments also clarify that HRC meeting minutes must be provided to the Division for review.

4. COMMENT: The commenters recommended that the HRC rule include Disability Rights New Jersey (DRNJ) and the Office of the Ombudsman for Individuals with Intellectual or Developmental Disabilities and Their Families (Ombudsman) in the dispute resolution process when an individual disagrees with the final decision of an Administrator, after receiving a recommendation from an HRC.

RESPONSE: The Division thanks the commenters for this comment. While HRCs, DRNJ, and the Ombudsman share a similar purpose in the greater effort to protect the human and civil rights of individuals with disabilities, their authority and roles vary. The addition of DRNJ and the Ombudsman would be beyond the scope of the Department's authority and beyond the scope of this chapter.

5. COMMENT: The commenters recommended that the members of HRCs receive training regarding human and civil rights issues, including issues specifically related to the harm of restraints, seclusion, and aversive interventions.

RESPONSE: The Division thanks the commenters for this comment. The rules currently mandate orientation and training for new HRC members. Additional support is also available from the Division, which includes access to quarterly trainings, public webinars, guidance, and technical support.

Federal Standards Statement

The rules readopted with amendments are not subject to any Federal requirements or standards. Therefore, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10:41A.

Full text of the adopted amendments follows:

SUBCHAPTER 4. RESPONSIBILITIES OF THE HRC

10:41A-4.4 HRC procedures

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

(c) To the extent practicable, within a week before the meeting, an agenda shall be developed based upon referrals received and issues to be discussed and distributed in advance to all HRC members and guests. When available, all supporting documents with the referral(s) should be included with the agenda.

(d)-(m) (No change.)

SUBCHAPTER 5. RESPONSIBILITIES OF HRC CHAIRPERSON

10:41A-5.2 Minutes of the meeting

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

(c) Copies of the HRC minutes within the developmental centers and agencies shall be forwarded to the Assistant Commissioner within two weeks of the date of the meeting. The minutes shall be emailed to DDD.HRC@dhs.nj.gov.

(d)-(g) (No change.)

SUBCHAPTER 6. RESPONSIBILITIES OF AGENCIES UNDER CONTRACT WITH OR REGULATED BY THE DIVISION

10:41A-6.1 Agency HRC

(a) Agencies should have their own HRC. Those agencies unable to establish an HRC must utilize the Office of Community Services HRC upon agreement with the Community Services Administrator.

(b) (No change.)

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS

STATE BOARD OF DENTISTRY

Registered Dental Assistant Expanded Functions Program

Adopted Amendment: N.J.A.C. 13:30-2.2

Proposed: September 16, 2024, at 56 N.J.R. 1844(a).

Adopted: February 19, 2025, by the New Jersey State Board of Dentistry, Nicholas DeRobertis, DMD, President.

Filed: April 8, 2025, as R.2025 d.054, **without change**.

Authority: N.J.S.A. 45:1-15 and 45:6-1 et seq.

Effective Date: May 5, 2025.

Expiration Date: August 22, 2031.

Summary of Public Comment and Agency Response:

The official comment period ended November 15, 2024.

COMMENT: The Board of Dentistry (Board) received comments from Orville Morales, Director of Advocacy and Health Affairs, New Jersey Dental Association, on behalf of the New Jersey Dental Association, the New Jersey Dental Hygienists Association, and the New Jersey Dental Assistants Association, supporting the Board's rulemaking amending the requirements for registration as a registered dental assistant related to expanded functions.

RESPONSE: The Board thanks the commenters for their support.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments are governed by N.J.S.A. 45:6-48 et seq., and are not subject to any Federal requirements or standards.

Full text of the adoption follows:

SUBCHAPTER 2. DENTAL ASSISTANTS

13:30-2.2 Application for registration as dental assistant

(a) An applicant seeking registration as a dental assistant shall have passed the Certified Dental Assistant Examination administered by the Dental Assisting National Board (DANB) within 10 years prior to the date of application, have a certificate of completion of the online New Jersey Jurisprudence orientation taken within six months of the date of application, and shall have:

1. Satisfactorily completed and graduated, within the past 10 years, from an educational program for dental assistants approved by the Board and the Commission on Dental Accreditation; or

2. Successfully completed high school (or its equivalent), obtained at least two years of work experience as a dental assistant during the five-year period prior to making application for registration, and shall have:

i. Passed the New Jersey Expanded Functions Examination administered by DANB; or