

bylaws and any amendments in the Clerk’s Office of the county in which the property is located.

3. The association shall maintain a record of the filing, which shall be available to any owner, or designee, upon request.]

2. An association that is not required to file bylaws with the county clerk’s office shall not be required to record its bylaws in the county clerk’s office. Such an association shall provide a full set of all validly adopted bylaws and any amendments to owners at the time of closing, and a copy of the bylaws shall be available to any owner or designee of an owner upon request.

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

(g) If an insufficient number of ballots or proxies are received at the special meeting **or annual meeting** to determine whether the proposed amendment has been approved or rejected, then the meeting shall be adjourned for 30 days or longer, as approved by the association membership.

1. (No change.)

2. The period between the original special meeting **or annual meeting** and the next special meeting for the amendments to the bylaws shall not be longer than 11 months from the date the notice of the meeting was sent.

3. If the proxies or ballots received prior to the extension date are valid under the bylaws, then they remain valid for the upcoming special meeting **or annual meeting**.

(h)-(j) (No change.)

HUMAN SERVICES

(a)

OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY

Community Residences for Individuals with Developmental Disabilities

Proposed 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

Proposed Repeals and New Rules: N.J.A.C. 10:44A-1.5, 1.6, 1.7, 1.8, 2.7, 2.8, 4.3, and 5.6

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

Authorized By: Sarah Adelman, Acting Commissioner, Department of Human Services.

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

Calendar Reference: See Summary below for an explanation of exception to calendar requirement.

Proposal Number: PRN 2022-083.

Submit comments in writing by August 20, 2022, to:

Douglas Swan
Office of Program Integrity and Accountability
Department of Human Services
PO Box 700
Trenton, New Jersey 08625-0700
Fax: (609) 341-2451
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The agency proposal follows.

Summary

The Department of Human Services (Department) is proposing amendments, repeals, and new rules to comply with the Department’s Fee-for-Service initiative, the Centers for Medicare and Medicaid Services’ guidelines for funding, Danielle’s Law, P.L. 2003, c. 191 (N.J.S.A. 30:6D-5.1—5.6), and Stephen Komninos’ Law, P.L. 2017, c. 238 (N.J.S.A. 30:6D-9.1 et seq., 30:6D-5.4, and 30:6D-74 et seq.). The notice of proposal constitutes the general physical and program requirements for community residences, also known as group homes,

supervised apartments, or supported living, which are licensed by the Department to serve individuals with developmental disabilities. The rules set minimum requirements in the areas of general provisions and licensing procedures, organization and administration, advocacy and rights, service delivery/habitation, health and safety, and fire safety and physical environment. This rulemaking is necessary to implement the Department’s statutory mandate to license community residences for individuals with developmental disabilities. The Department has reviewed the rulemaking and has determined that it is adequate, reasonable, efficient, understandable, and responsive to the purposes for which they were promulgated. The Department will notify agencies and organizations representing the regulated community of this rulemaking.

Throughout the chapter, every reference to the “licensing agency” will be changed to the “Office of Licensing”, and “direct service staff” will be changed to “direct support professionals.”

SUBCHAPTER 1. GENERAL PROVISIONS

N.J.A.C. 10:44A-1.1 Purpose and Scope

This section defines the purpose and scope of the chapter. Amendments at subsection (b) are proposed to limit the scope of the section to residences that are provider-managed, as opposed to those that are considered own home settings and/or under the Supports Program. Proposed new subsection (d) is proposed to clarify that community residences for persons with head injuries are regulated under a separate chapter. Lastly, proposed recodified subsection (e) updates the terminology from “interdisciplinary team” to “planning team.”

N.J.A.C. 10:44A-1.3 Definitions

This section sets forth the meaning and uses of particular terms included in the chapter. Proposed updates to the definitions for abuse, application for licensure, case manager, community residence for the developmentally disabled, exploitation, group homes, interdisciplinary team, negative licensing action, neglect, person centered planning, personal guidance, private placement, program description, supervised apartments, and waiver are proposed in accordance with other rules and organizational changes, as discussed throughout this rulemaking. The following new definitions are being proposed to comport with statutory and organizational changes: advanced practice nurse, authorization to operate, behavior support plan, Central Registry, community agency, community agency head, critical information, direct support professional, eviction, governing authority, interferon gamma release assay (IGRA), Office of Investigations, Office of Licensing, personal funds, planning team, provider managed, roommate, service plan, and valuable personal possessions. The following terms are proposed for deletion: Annex A, community services, individual habilitation plan, licensing agency, mobile non-ambulatory individual, special response unit, and supported living.

N.J.A.C. 10:44A-1.4 Application for Licensure

This section sets out the Community Residence for Individuals with Developmental Disabilities application process for licensure. Proposed changes to subsection (a) delete the requirement for applications to be submitted to a regional office. Applicants will be directed to <http://www.nj.gov/humanservices/ddd/programs/sppp.html> for information regarding the submission of a combined license application to become a Medicaid/Division of Developmental Disabilities (“DDD” or “Division”) Approved Provider and an Attestation for Individual Supports Provider. Amendments at subsection (b) are proposed to include the requirement for criminal background checks of every community agency head and employee of an agency licensed by or applying to be licensed by the Department. The criminal history record will be reviewed against a list of disqualifying crimes. Proposed new paragraph (b)1 provides that a community agency head will not be considered for licensure or employment if the criminal history record background check is refused. New paragraph (b)2 requires owners and licensees who are not community agency heads to comply with criminal background check requirements. Proposed amendments at subsection (c) add the following requirements for applications to operate group homes or supervised apartment programs: identification of all owners, at least three professional references, submission of any previous licensing history of

assessed fines or penalties, as well as surveys and plans of correction, and an independent financial assessment. Proposed new subsections (d) and (e) propose application reviews for completeness, timeliness, and substance (that is, qualifications, ability to deliver services, etc.). Proposed new subsection (f) provides discretion to employ any qualified professional services during the review process. Proposed new subsection (g) requires that an applicant be advised, in writing, of their approval or non-approval within 60 calendar days of receipt of the completed application, unless there are exceptional circumstances that would impact the deadline.

Proposed new subsection (h) makes falsification of information sufficient cause to deny an application. Proposed new subsection (i) incorporates the text from existing N.J.A.C. 10:44A-1.5, Procedure manual, which is proposed for repeal, with modifications that will require the submission of a procedure manual for review and approval upon approval of the completed application and prior to the opening of a community residence. Proposed new subsection (j) states that ownership or operation of a community residence must be authorized by the Office of Licensing. The authorization can be given verbally. Proposed subsection (k) provides that community residences for individuals with developmental disabilities will be subject to inspection or investigation by the Office of Licensing, without limitation or notice. Proposed new subsection (l) requires annual on-site inspections of community residences for individuals with developmental disabilities. Proposed new subsection (m) advises community residence operators that they will not be issued licenses if the agency was previously denied a license for substantial non-compliance or due to violation of relevant Federal laws. Proposed new subsection (n) prohibits the issuance or continuance of a license held by any person if the Division on Civil Rights has made a final determination of discrimination against any person on the basis of creed, color, gender, national origin, ancestry, or disability.

N.J.A.C. 10:44A-1.5 Procedural Manual

Proposed new N.J.A.C. 10:44A-1.5, Requirements for an initial license, incorporates the text of N.J.A.C. 10:44A-1.6, Issuance of a license, which is proposed for repeal, with modifications. Subsection (a) will require the submission of a program description to the Division of Developmental Disabilities for each community residence. Paragraph (a)1 provides that the program description will be reviewed for completeness. After completeness is determined, proposed new paragraph (a)2 requires the Office of Licensing to conduct an initial on-site inspection to ensure that the residence will adequately provide for the health, safety, and welfare of the individuals served. Proposed subsection (b) incorporates the minimum documentation requirements that must be made available for review upon request by the Office of Licensing, including documentation of any required inspection by the fire official and registration with the Department of Consumer Affairs, as well as documentation that any septic system is functioning adequately. The subsection also requires that the written schedule include the full name of staff member, a copy of the deed or lease to the property, and documentation that all necessary residential and vehicle insurance is active. Proposed new subsections (c), (d), and (e) retain the text from N.J.A.C. 10:44A-1.5. New subsection (f) is proposed to provide that the licensee must be approved by the Office of Licensing before operating the program and allowing individuals to be placed in the residence. Proposed new subsections (g) and (h) provide that each license is the non-transferable property of the Department and becomes void if the program moves, stops operating, or changes ownership.

N.J.A.C. 10:44A-1.6 Issuance of an Initial License

This section incorporates the substance of section N.J.A.C. 10:44A-1.7, Renewal of a license. Proposed subsection (a) will require license renewal to be based upon a re-inspection of the residence. The Office of Licensing, as applicable, will provide an authorization to operate if requested by the licensee. Subsection (b) clarifies that the license will remain in effect as a full license, unless the Department issues a negative licensing action based upon the inspection.

N.J.A.C. 10:44A-1.7 Renewal of a License

Proposed new N.J.A.C. 10:44A-1.7, Plan of correction, includes the substance of subsections (b), (c), (d), and (e) of existing N.J.A.C. 10:44A-

1.7. Plans of correction will continue to be required for all licensing deficiencies. Subsection (b) provides that the Office of Licensing shall make unannounced on-site visits to residences in order to verify corrective actions taken for deficiencies that present a risk to the safety or health of residents. The Office of Licensing may require that process and systemic problems be addressed by the licensee through their continuous quality improvement plan in accordance with existing N.J.A.C. 10:44A-2.2(b)14v (proposed as new N.J.A.C. 10:44A-2.2(b)22v).

N.J.A.C. 10:44A-1.8 Denial, Revocation, Non-Renewal, or Suspension of a License

N.J.A.C. 10:44A-1.8 is proposed for repeal and replacement to restructure the section and to add suspension of admissions to a residence, reduction of capacity, as well as the issuance of a provisional license, as negative actions that may be taken against a licensee.

N.J.A.C. 10:44A-1.9 Administrative Hearings

Proposed amendments at subsection (c) will clarify that, if it is determined that the occupants of a home are at risk, the Department shall take action to eliminate such risks, which may include assignment of staff by the Department or the appointment of an independent monitor.

N.J.A.C. 10:44A-1.10 Waiver or Variance

The proposed amendments to this section state that the Office of Licensing “may” grant, rather than “shall” grant, waivers or variances, with sufficient justification.

N.J.A.C. 10:44A-1.11 Complaints

The proposed amendment to this section requires licensees “and all of their employees” to cooperate with the Department in the investigation of complaints or incidents.

N.J.A.C. 10:44A-1.12 Voluntary Closure

An amendment is proposed to require licensees to provide notice of planned closures of a community residence for individuals with developmental disabilities to the Office of Licensing and the Division of Medical Assistance and Health Services.

SUBCHAPTER 2. ORGANIZATION AND ADMINISTRATION

N.J.A.C. 10:44A-2.1 General Requirements

Subsection (a) sets forth the information that licensees are required to make available for various groups and includes proposed amendments to delete “with developmental disabilities” and replace the term “document” with “information.” Subsection (b) includes proposed amendments to revise the list of records that are required to be kept on file by the licensee including: reports of unusual incidents, a current copy of this chapter at each residence, policy and procedure manuals, as well as personnel files. Proposed new subsection (d) is proposed to provide criteria and requirements for the Board of Directors of for-profit agencies; and proposed new subsection (e) includes a reasonable period of time (one year) in which for-profit agencies without a current board of directors must develop one. Proposed new subsection (f) requires members of the board of directors to be informed as to whether liability insurance will be provided to directors or officers. Proposed new subsection (g) requires an annual independent financial examination of the agency by certified public accountants that will be reviewed and approved by the governing board. Proposed new subsection (h) requires a current list of board members and that any changes require notification to the Office of Licensing.

N.J.A.C. 10:44A-2.2 Development and Maintenance of Procedure Manual

Amendments proposed at subsection (b) include new and recodified paragraphs to incorporate requirements for procedures covering Central Registry compliance, Danielle’s Law, investigations, safeguarding residents’ property, fees and charges, employee complaint resolution, internal communication log maintenance, Stephen Komminos’ Law, including drug testing policies, Child Abuse Registry, and surveillance cameras.

N.J.A.C. 10:44A-2.3 Implementation of Procedure Manual

Proposed new subsection (c) specifies that staff are required to implement all procedures for which they are responsible.

N.J.A.C. 10:44A-2.4 Personnel

Proposed amendments at subsections (b), (c), and (d) (which are proposed for deletion and replacement) include the New Jersey statutory changes to the Criminal History Background Checks procedures, Child Abuse Registry checks, Central Registry checks, employee health records, and drug testing that are to be used in order to determine the eligibility of current and prospective employees. The rulemaking also includes amendments at subsection (e) (which is proposed for deletion and replacement) to set forth the minimum amount of information to be gathered when a potential employee's references are checked and prohibits the submission of family members as references. Amendments at subsection (f) (which is also proposed for deletion and replacement) and proposed new subsection (g) require written statements of good health from a physician or an advance practice nurse, as well as, inclusion of the IGRA blood test as an alternative to the Mantoux tuberculin skin test for the required medical testing of employees. The proposed amendments require the agency to consult with the local health department when there is a known or suspected exposure to a confirmed case of *M. tuberculosis*. A requirement is also proposed for the maintenance of documentation showing that requirements for follow up testing have been met.

N.J.A.C. 10:44A-2.5 Minimum Staff Qualifications

Amendments to the standard qualifications at subsection (a) are proposed to require that a licensee or executive director have at least a bachelor's degree, progressive management experience, and knowledge of programs serving persons with developmental disabilities. Subsection (e) is proposed for amendment to include training, in addition to "direct assistance."

N.J.A.C. 10:44A-2.6 Orientation

Proposed amendments at subsection (a) include mandatory employee training in emergency procedures that are identified in the procedure manual, life-threatening emergencies, and Stephen Komminos' Law. The proposed amendments at subsection (b) include the requirement to maintain documentation of orientation trainings in personnel files.

N.J.A.C. 10:44A-2.7 Staff Training

This section is proposed for repeal and replacement to update and restructure the section. Specifically, the proposed amendments at subsection (a) update mandatory direct support professional basic training, in accordance with Division of Developmental Disabilities (DDD) requirements that such training be completed within 90 days of employment. The new basic training requirements, at a minimum, substitute DDD Shifting Expectations for the previous overview of developmental disabilities training, require abuse and neglect prevention training, and clarify the approved entities for First Aid and CPR Training. Staff who administer medication must complete medication administration training, demonstrate competency prior to providing the service, and complete additional training annually thereafter. Specialized training requirements at existing subsection (c) are amended and add paragraphs (c)4 and 5 to address working with individuals with mental health needs, as well as individuals who require behavioral health support plans. Subsection (e) includes language regarding the maintenance of training records in administrative officers and what the records must contain. Subsection (g) provides that the requirements for specialized training programs must be conducted by qualified trainers.

10:44A-2.8 Staff Coverage

This section is proposed for repeal and replacement to restructure the section and to further define staff scheduling requirements.

N.J.A.C. 10:44A-2.9 Records of Individuals Receiving Services

The proposed amendments at subsection (a) clarify that individuals' service records are the property of the Department. Amendments at subsection (b) specify that records must be maintained at the residence. Subsection (d) provides updates to individual records requirements, including further defining the required items in the inventory of an

individual's possessions, inclusion of admissions authorizations and acknowledgements, as well as identification of the individual's capabilities and needs. The proposed amendments to this subsection also provide more options for the documentation of health information maintained for individuals in a residence by accepting a certification from a physician or advance practice nurse that an individual is free of communicable diseases when results of a physician examination, a Mantoux Skin test, or an IGRA blood test are not available.

N.J.A.C. 10:44A-2.10 Individual Financial Records: Individual Funds

This rulemaking revises the section heading, replacing the term "individual" with "personal," in reference to the funds of the individuals receiving services. This section provides guidance on the management of these funds either by the individual or as entrusted to the agency in the event that the individual is not able to manage them on their own. Existing subsections (b), (c), and (d) are proposed for deletion and subsections (e) through (j) are proposed for deletion, but are recodified within the section to update the structure of the section. The proposed amendments specify the reporting requirements of an individual's types of funds and removes licensing oversight of funds managed by provider agencies that are the representative payee.

SUBCHAPTER 3. ADVOCACY AND RIGHTS**N.J.A.C. 10:44A-3.1 General Requirements**

Existing subsections (b), (c), and (d) are proposed for deletion and replacement for structure. The proposed amendments at subsection (b) add a cross-reference to the Developmentally Disabled Rights Act, N.J.S.A. 30:6D-1 et seq., in place of a listing of various rights afforded individuals that receive services. The amendments also provide the requirements for various admissions acknowledgements that are relocated to N.J.A.C. 10:44A-4. Subsection (e) is proposed for amendment, as subsection (e) is being revised to correct a cross-reference to N.J.A.C. 10:41A, Human Rights Committees.

N.J.A.C. 10:44A-3.2 Rules Governing a Residence

The proposed amendments revise the language at subsection (a) to clarify some of the parameters in which licensees may establish reasonable rules governing the conduct of the individual residents. Proposed new paragraph (a)5 incorporates the substance of existing subsection (c) with a slight modification to provide greater clarity regarding the individuals' rights to challenge the appropriateness of the rules through the licensee's grievance process. Subsection (b) is proposed to provide the individuals in a residence with the opportunity to jointly establish mutually agreed upon house rules in accordance with subsection (a). The rulemaking deletes existing subsections (c) and (d).

N.J.A.C. 10:44A-3.3 Self-Advocacy

The proposed amendments incorporate language regarding house meetings at N.J.A.C. 10:44A-3.2(d), and are revised to better reflect the purpose of this activity.

SUBCHAPTER 4. SERVICE DELIVERY/HABILITATION

The notice of proposal amends the heading of the subchapter by deleting the term "habilitation."

N.J.A.C. 10:44A-4.1 Pre-Admission and Admission

Many of the amendments proposed in this section are incorporated from other sections of this chapter that are specific to pre-admissions and admissions. The proposed amendments at subsection (a) add requirements that the written criteria for admission into a program will include a statement describing the techniques that a licensee uses to provide behavioral supports and the right of a resident in the selection of a roommate. The proposed deletion of the text at subsection (b) removes references to regional offices. Proposed new subsection (c) incorporates the text of existing paragraph (d)1 with a modification requiring the Division of Developmental Disabilities to provide licensees with eligibility services information prior to admissions. The rulemaking deletes existing paragraphs (d)2, 3, 4, and 5. Proposed new text at subsection (d) requires either a lease compliant with New Jersey law or a consumer residency agreement addressing evictions, rights, and appeals. Amendments at subsections (e), (f), and (g) incorporate text from N.J.A.C.

10:44A-3.1(b), (c), and (d) and clarify existing requirements regarding specific information that must be supplied to an individual upon admission to a program that pertain to specific legal rights, as well as a list of persons/entities who can help advocate for those rights. The amendments also require that the portions of subsection (e) that are not understood by the individual receiving services be explained and, if necessary, to be read to the individual in a language or manner that the individual will understand. The licensee must maintain documentation to evidence compliance with these requirements. Proposed new subsection (h) incorporates some of the deleted provisions at N.J.A.C. 10:44A-2.10, regarding the required authorization for an agency to be entrusted with the personal funds of individuals and act in a fiduciary capacity. Existing subsection (h) is proposed for deletion because service plans (SP) are now used in the place of the former Individual Habilitations Plans (IHPs).

N.J.A.C. 10:44A-4.2 Changes in Supports/Services

The proposed amendment deletes paragraph (a)1 and recodifies (a)2 as new subsection (b) with modification to requiring licensees to show substantial evidence to the Division with regard to a determination that the residence is no longer suitable for a particular individual and that the individual remains in the residence and receives services until an alternate placement is available.

N.J.A.C. 10:44A-4.3 Individual Habilitation Plan (IHP)

This section is proposed for repeal because IHPs are no longer used. Service Plans (SP) are now used and include the required information previously captured by the former IHP.

SUBCHAPTER 5. HEALTH AND SAFETY

N.J.A.C. 10:44A-5.1 General Health Care

The proposed amendments allow advanced practice nurses to provide primary medical care to individuals. Proposed new subsection (d) updates the required follow-up regarding suspected tuberculosis cases and proposed amendments at subsection (f) revise the language regarding required access to medical services. The proposed amendments at subsection (g) mandate that the first aid kits in the residences have a CPR mask and protective gloves. The proposed amendment at subsection (h) updates the cross-reference and proposed new subsection (i) requires the ordering of adaptive and assistive equipment to be done by the physician or advanced practice nurse and made available in good working order to the individual. New paragraph (i)1 provides that durable medical equipment cannot be used without an order that must be maintained in the individual's record.

N.J.A.C. 10:44A-5.2 Prescription Medication

The proposed amendments at subsections (c) through (i) add provisions regarding advanced practice nurses, electronic medication administration records, and updated documentation requirements.

N.J.A.C. 10:44A-5.3 Over-the-Counter Medications

The proposed amendments clarify what constitutes a physician's order and sufficient labeling for over-the-counter medications.

N.J.A.C. 10:44A-5.4 Emergency Telephone Numbers

The proposed amendments at subsection (a) identify the emergency telephone numbers that are required to be located by each telephone in a residence. New subsection (b) identifies the telephone numbers for reporting unusual incidents or for filing complaints that must be accessible to everyone in the residence and incorporates text from deleted subsection (a) regarding telephone numbers for reporting abuse concerning minors and individuals over the age of 60.

N.J.A.C. 10:44A-5.5 Food

The proposed amendment at subsection (a) requires licensees to only defrost food in refrigerators, and at subsection (f), the amendments update the requirements to maintain necessary food, nutritional supplements, and equipment for prescribed diets. The proposed amendment at subsection (c) requires that food be readily available to residents, unless otherwise documented in a person-centered plan. New subsection (k) requires licensees to maintain at least a three-day supply of food at all times.

N.J.A.C. 10:44A-5.6 Clothing

This new section restructures the existing section and new subsection (a) states that each individual shall have an adequate supply of clean and well-fitting clothing.

N.J.A.C. 10:44A-5.7 Vehicle Safety

Amendments are proposed at subsection (a) to allow licensees to carry roadside assistance support in lieu of tire replacement equipment in their vehicles and to require a CPR mask and protective gloves in the vehicle first aid kit. Proposed new subparagraph (b)4i requires all items maintained in the vehicle to be secured at all times. New subsection (c) requires an agency vehicle is to be available for individuals' needs and desired community integration. New paragraph (c)1 requires that vehicles used to transport wheelchairs shall be accessible and have safety mechanisms maintained in working order and must be used at all times.

N.J.A.C. 10:44A-5.8 Workplace Safety

The proposed amendment at subsection (a) revises the cross-reference to the Occupational Safety and Health Administration's rules.

SUBCHAPTER 6. FIRE SAFETY AND PHYSICAL ENVIRONMENT

N.J.A.C. 10:44A-6.1 Fire Safety

Each residence is required to register with the Department of Community Affairs (DCA). The proposed amendment at subsection (a) provides that the residence must be registered as a life hazard use with the DCA, Bureau of Fire Code Enforcement, Life Hazard Use Registration Unit, and comply with a schedule of inspections consistent with DCA's rules. Proposed revisions at subsection (b) specify that the Office of Licensing can identify additional fire safety precautions, but the precautions no longer need to be incorporated into a contract with the licensee.

N.J.A.C. 10:44A-6.2 Fire Evacuation Plans

The proposed amendment to this section expands its current scope from fire to any type of emergency evacuation and revises the section heading from "fire evacuation plans" to "emergency evacuation plans." The proposed amendments at subsection (a) clarify the requirements for the development and content of the evacuation plan. Proposed amendments at subsection (b) provide the timeframe for the plan to be reviewed and revised, if necessary. Proposed new subsection (d) provides that the licensee must ensure that staff is trained in the emergency evacuation plans for that residence.

N.J.A.C. 10:44A-6.3 Egress Protocols

The rule provides the process for self-evacuations by individuals. Proposed revisions at subsection (a) provide clarification for the conditions that must be met for an individual to be presumed capable of self-evacuation. Proposed amendments at subsection (b) provide that individuals must experience a fire drill within 24 hours of admission to ensure they understand the protocol for evacuating the residence in an emergency. Proposed new subsection (c) clarifies that retraining can occur in the event an individual is unable to evacuate in three minutes or less, prior to taking other actions.

N.J.A.C. 10:44A-6.4 Use Group Classification Requirements

This section amends the term "Use Group" to "Group," in the section heading and the subsections, in accordance with changes to the Uniform Construction Code, N.J.A.C. 5:23. The proposed amendment at subsection (a) specifies that the current requirements of Group R-5 of the Uniform Construction Code are the minimum requirements for the group home. The cross-references to N.J.A.C. 5:23 at subsections (a) and (b) have been revised to specify the applicable rules. Subsection (c) is proposed for deletion.

N.J.A.C. 10:44A-6.5 Fire Extinguishers

The rulemaking revises the section heading from "fire extinguishers" to "fire safety equipment" because carbon-monoxide detectors are being added as an additional safety precaution. The amendment at subsection (b) requires the testing of stand-alone carbon monoxide detectors quarterly and new subsection (c) requires testing of hard-wired smoke

and/or carbon monoxide detection systems quarterly. The testing must be documented.

N.J.A.C. 10:44A-6.6 General Home Requirements

This rulemaking amends paragraph (a)1 and adds (a)2 and 3 requiring residences with non-ambulatory individuals to maintain two means of ramped egress located in different parts of the building, and safe havens for residences above the ground floor. Proposed amendments at subsection (b) and new paragraph (b)1 provide that outbuildings, such as sheds and garages, shall be maintained safely or rendered inaccessible to individuals receiving services. Additional requirements are proposed at subsection (c), as well as new subsections (j) and (k) for the safety of the interior of the residences which include, but are not limited to:

- i. Accessible keys for door locks;
- ii. Carbon monoxide detectors;
- iii. Specific fire prevention guidelines;
- iv. Clothes dryers in safe conditions;
- v. Fireplaces, wood, or pellet-burning stoves are required to be safe and annually inspected by professionals;
- vi. Clean exhaust fans;
- vii. Unfinished spaces without adequate flooring as inaccessible;
- viii. Stand-by and portable generators that are installed by professional technicians; and
- ix. Specific guidelines on the use of portable generators.

N.J.A.C. 10:44A-6.7 Certificate of Occupancy

The proposed amendment allows an approval from a local construction official to be used in place of a Certificate of Occupancy as required by the Uniform Construction Code and/or local ordinances when a building permit is required for repairs or renovation.

N.J.A.C. 10:44A-6.8 Exits

The amendments to this section propose deleting the text at existing subsection (a). The amendments provide that doors cannot prevent or impede individuals from leaving the building, unless approved by the local enforcing agency, only commercially available security devices will be permitted for sliding glass doors, and an individual's ability to leave or exit cannot be obstructed.

N.J.A.C. 10:44A-6.9 Heat Sources

An amendment is proposed at subsection (b) to increase the indoor temperature from 65 to 68 degrees when the outside temperature is zero degrees Fahrenheit.

N.J.A.C. 10:44A-6.10 Water

The rulemaking codifies the existing text and adds new paragraph (a)1 requiring well water to be tested at least every five years. Proposed new subsection (b) requires hot water temperatures to be maintained between 105 and 120 degrees Fahrenheit.

N.J.A.C. 10:44A-6.12 Windows

Proposed new paragraph (a)1 prohibits blocking a window by air conditioners or other devices in bedrooms with only one operable window.

N.J.A.C. 10:44A-6.13 Bedrooms

For a room in which a window is the second means of egress, the proposed amendment adds subparagraph (a)2i to specify the window size and height from the floor. The amendments add a requirement at paragraph (f)2 to allow spring form bed frames, and at paragraph (f)5iii to require that shipping plastic be removed from mattresses and box springs. An amendment is also proposed at subsection (h) to require privacy locks for bedroom doors, which can be readily opened by staff in an emergency and to prohibit hooks, bolts, and bars.

N.J.A.C. 10:44A-6.14 Bathrooms

Subsection (d) requires privacy locks for bathroom doors, but an amendment is proposed to revise the subsection to clarify that appropriate staff should have access to the bathroom door key, in the event of an emergency. The rulemaking also adds new subsection (e) to require that bathrooms are clean and ventilated.

N.J.A.C. 10:44A-6.15 Kitchens

The proposed amendment at subsection (d) revises the maximum temperatures for refrigerators and freezers. An amendment is proposed, adding new subsection (e) to require that kitchen appliances shall include a refrigerator, freezer, oven, and cooktop that are in good repair.

N.J.A.C. 10:44A-6.16 Basement Use

The proposed amendment at subsection (b) removes the requirement that the use of a basement as an activity room must be approved by the local construction official.

N.J.A.C. 10:44A-6.17 Maintenance Requirements

The rulemaking adds paragraph (b)1, requiring garbage to be kept in water-tight containers. The proposed amendment at subsection (c) will add paragraph (c)1 to permit agency staff to treat a pest infestation if trained by a licensed extermination company. After staff completes a treatment, a determination must be made by a licensed extermination company that the infestation is under control.

Appendix

The chapter Appendix, which contains a Table of Communicable Diseases, is proposed for repeal, because this version is outdated. A current version is available online, and is added as a cross-reference to the Department of Health's rules, as noted above.

As the Department has provided a 60-day comment period for this notice of proposal, this notice is exempted from the rulemaking calendar requirements, pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The proposed amendments, new rules, and repeals will have a positive social impact by ensuring that community residences for individuals with developmental disabilities continue to be subject to regulatory oversight pursuant to statute. Such residences will continue to be inspected by the Department to ensure their compliance with rules designed to promote the health, safety, and welfare of the individuals receiving services. As discussed in the Summary, licensees will continue to be required to comply with rules specifying general provisions and licensing procedures, organization and administration, advocacy and rights, service delivery/habitation, health and safety, and fire safety and physical environment.

Economic Impact

The proposed amendments, new rules, and repeals are expected to result in a minimal net increase in costs. The proposed amendments, new rules, and repeals will affect agencies operating more than 2,000 community residences for individuals with developmental disabilities, both privately and publicly funded. The proposed amendments, new rules, and repeals will have a necessary economic impact on licensees by continuing to subject them to regulatory oversight, thereby enabling them to continue to operate pursuant to statute. Licensees will be obligated to make the necessary expenditures to comply with rules specifying general provisions and licensing procedures, organization and administration, advocacy and rights, service delivery/habitation, health and safety, and fire safety and physical environment. The proposed amendments, new rules, and repeals impose no economic burden on the individuals who live in community residences, or on their families.

Federal Standards Statement

The requirements of the proposed 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.

Jobs Impact

The Department anticipates no impact, either positive or negative, on job creation due to the proposed amendments, new rules, and repeals. There is no anticipated change in the number of individuals served, living in residences controlled by the proposed amendments, new rules, and repeals. The number of persons employed at a residence in order to maintain the service levels described in the amendments, new rules, and repeals is not expected to change. The proposed amendments, new rules, and repeals will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The proposed amendments, new rules, and repeals should have no impact on the agriculture industry.

Regulatory Flexibility Analysis

Some of the programs, facilities, and employers of record that receive State funding to provide services to individuals with developmental disabilities may be considered small businesses pursuant to N.J.S.A. 52:14B-16 et seq., the Regulatory Flexibility Act. The amendments, new rules, and repeals impose only minimal recordkeeping and reporting requirements and include additional compliance requirements on small businesses. The current requirements that are already in place will remain in effect. The costs of compliance are as discussed in the Economic Impact above. All of the requirements placed on small businesses are the same as those required of larger organizations and have been mandated by authorized legislation. The amendments, new rules, and repeals are designed to maintain public safety and are in accordance with the Regulatory Flexibility Act; no lesser or differing standards can be applied to small businesses.

Housing Affordability Impact Analysis

The proposed amendments, new rules, and repeals will have no impact on the affordability of housing in New Jersey. There is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to the Department's licensing program for community residences for individuals with developmental disabilities.

Smart Growth Development Impact Analysis

The proposed amendments, new rules, and repeals will have no impact on the number of housing units or the availability of affordable housing in this State and will have no effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules pertain to the Department's licensing program for community residences for individuals with developmental disabilities.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department of Human Services evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:44A-1.5, 1.6, 1.7, 1.8, 2.7, 2.8, 4.3, 5.6, and 10:44A Appendix.

Full text of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [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[, and supported living, as specified in the licensee's program description and, as applicable, in DDD contractual agreements] **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.

[(d)] **(e)** If none of the individuals with developmental disabilities at a particular place of residence require personal guidance, as determined by the [interdisciplinary team] **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 any act or omission that deprives an individual of his or her rights or which has the potential to cause or causes actual physical injury or emotional harm or distress. Examples of abuse include but are

not limited to: acts that cause pain, cuts, bruises, loss of a body function; sexual abuse; temporary or permanent disfigurement, death; striking with a closed or open hand; pushing to the ground or shoving aggressively; twisting a limb; pulling hair; withholding food; forcing an individual to eat obnoxious substances; use of verbal or other communications to curse, vilify, degrade an individual or threaten an individual with physical injury. Planned use of behavioral intervention techniques which are part of an approved behavior modification plan or Individual Habilitation Plan are not abuse or neglect.]

"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).

...
 ["Annex A" means a detailed program narrative, which includes a description of services and the staff coverage to be provided for individuals living in community based settings. The Annex A is reviewed as part of the licensing inspection process and the contract renewal process.]

"Application for licensure" means a document supplied by the [appropriate Division Regional Office] **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.

...
 ["Case] **Care manager" means the [authorized] 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 [the developmentally disabled] 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] 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, [supported living arrangements,] and hostels. [Skill development homes and family care homes] **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.

["Community Services" means a component of the Division of Developmental Disabilities which provides housing and supportive services to aid persons with developmental disabilities in establishing themselves in the community. Geographic regions and locations of offices are as follows:

1. Northern Regional Office, serving Sussex, Warren, Morris, Bergen, Passaic, and Hudson Counties, at the Greenbrook Regional Center, 275 Greenbrook Road, Green Brook, N.J. 08872;
2. Upper Central Regional Office, serving Essex, Somerset, and Union Counties, at the Greenbrook Regional Center, 275 Greenbrook Road, Green Brook, N.J. 08872;
3. Lower Central Regional Office, serving Mercer, Middlesex, Ocean, Hunterdon, and Monmouth Counties, Capital Center, 50 East State St., PO Box 726, Tinton, N.J. 08625-0726; and
4. Southern Regional Office, serving Camden, Atlantic, Salem, Gloucester, Cumberland, Cape May, and Burlington Counties, 101 Haddon Avenue, Suite 17, Camden, N.J. 08103-1485.]

"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 any unjust or improper use of an individual or his or her resources for one's profit, advantage or gratification.]

"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.

...
"Individual Habilitation Plan" (IHP) means a written, plan of intervention and action that is developed by the interdisciplinary team in accordance with N.J.S.A. 30:6D-10 through 12, and N.J.A.C. 10:44A-4.3. The IHP specifies both the prioritized goals and objectives being pursued by each individual and the steps being taken to achieve them, and may identify a continuum of skill development that outlines progressive steps and the anticipated outcomes of services. The IHP is a single plan that encompasses all relevant components, such as an education plan, a behavior modification plan, a program plan, a rehabilitation plan, a treatment plan and a health care plan. The complexity of the IHP will vary according to the needs, capabilities and desires of the person. In most instances, the IHP will address all of the major needs which have been identified. The major needs are prioritized. For an individual who makes

only specific services requests, the IHP is a service plan that addresses only those specific requests.

"Interdisciplinary Team" (IDT) means an individually-constituted group responsible for the development of a single, integrated IHP. The team consists of the person receiving services, the legal guardian, the parents or family member (if the adult desires that the parent or family member be present), 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.]

"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.

...
"Licensing agency" means Developmental Disabilities Licensing, within the Office of Licensing, Department of Human Services.

"Mobile non-ambulatory individual" means an individual capable of independent bed to wheelchair transfer and capable of following procedures for evacuation from the facility.]

"Negative licensing action" means an action which imposes a restriction on a licensee, [and may include] 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 the failure of a paid or unpaid caregiver to provide for the care and safety of individuals under his or her supervision, or failure to provide and maintain proper and sufficient food, clothing, health care, shelter, and/or supervision.]

"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 [persons] 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 [handicaps] 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 [interdisciplinary team] planning team determines the need for personal guidance for each individual[, in accordance with N.J.A.C. 10:44A- 4.3(c)].

...
"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 [and/or funding] from the Department. A program description includes a [detailed] 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 [also included in Annex A of the contract and is] amended, [annually] 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.

[“Special Response Unit” (SRU) means that component of the Department responsible to investigate serious unusual incidents in community programs licensed, contracted or regulated by the Department.]

“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.**

[“Supported living” means a living arrangement in which a highly flexible array of services and supports are provided in a variety of settings.]

“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 [licensing agency] **Office of Licensing.**

10:44A-1.4 Application for licensure

[(a) An application for licensure may be obtained by contacting the appropriate Regional Assistant Director’s Office (see the definition of “Community Services” at N.J.A.C. 10:44A-1.3):

1. Northern Region and Upper Central Region
c/o Greenbrook Regional Center
275 Greenbrook Road
Green Brook, NJ 08812
2. Lower Central Region Capital Center
50 East State Street PO Box 726
Trenton, NJ 08625-0726
3. Southern Region
101 Haddon Avenue, Suite 17
Camden, NJ 08103-1485

(b) Except as otherwise provided in the Rehabilitated Convicted Offenders Act (N.J.S.A. 2A: 168A-1 et seq.), no license shall be issued to any applicant or licensee who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offenses.]

(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 [, or supported living arrangement] program shall be submitted to the [appropriate Regional Assistant Director’s Office of Community Services] 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. Documentation that the applicant is not disqualified from licensure, as provided in (b) above;]

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 [developmentally disabled persons] **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. References; and

viii. The program description.

2. Licensees operating community residences in New Jersey on or before February 7, 2000 shall be required only to provide any changes in (c)1 above as part of the application process.

3. Applicants shall document on the application whether they will accept Division placements and/or seek Division funding.

(d) The program description shall be reviewed for completeness by staff of the Regional Office, the licensing agency, and other Division and/or Department staff deemed appropriate.

1. The program description shall be available for review by developmentally disabled persons, their guardians and their advocates in accordance with N.J.A.C. 10:41-2.8(a).

(e) The applicant, the licensing agency and the Division Administrative Practice Officer shall be informed in writing of the approval or non-approval of the application, within 20 working days of such approval or non-approval.]

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 [may] shall take action to eliminate such risk. Such action may include, but are not limited to:

1. [Remove] Removing the individuals from the residence; [or]
2. [Place] 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 [shall] may be granted by the [licensing agency] 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 [appropriate Regional Office of Community Services,] 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 [with developmental disabilities], parents, guardians, advocates, and the general public. This [document] 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[; and].

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 [, approved as part of the program description, in accordance with this chapter.];

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).

(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 implementing a plan to deal with major emergencies requiring evacuation from the residence, such as a fire or a gas leak;

4. A procedure for handling medical emergencies;
 5. A procedure for reporting all unusual incidents;
 6. A procedure for the reporting of suspected abuse, neglect or exploitation of the individuals receiving services, including, at a minimum:

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

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

iii. A written statement regarding specific agency investigation procedures;

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

8. A procedure for resolving complaints and grievances of individuals receiving services;

9. A procedure, separate from individuals' records, for internal communication, to include the use of a log to document critical information and the associated action taken as necessary;

10. A procedure for admissions, including admission criteria, discharges, and changes in supports / services, which comply with the requirements of N.J.A.C. 10:44A-4;

11. A procedure to address the development, implementation, review and evaluation of each individual's habilitation plan as required by N.J.S.A. 30:6D-10 et seq.;

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

13. Written procedures for medication administration, including procedures for self-medication; and

14. 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 which 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 of (b)14i through iv above.]

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 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)-(b) (No change.)

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

[(c)] (d) (No change in text.)

10:44A-2.4 Personnel

(a) (No change.)

[(b) Except as otherwise provided in the Rehabilitated Convicted Offenders Act (N.J.S.A. 2A:168A-1 et seq.), no licensee shall employ any person who has been convicted of forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offenses.

1. A licensee shall not employ any person who has been adjudged civilly or criminally liable for abuse of a developmentally disabled person receiving services from the Department or placed in a community residence regulated by this chapter.

(c) Prior to hiring any staff or utilizing a volunteer who provides specific services 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 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; and

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

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

ii. A list of specific duties;

iii. The minimum qualifications;

iv. The positions supervised, if applicable; and

v. The reporting supervisor.

(d) Upon employment, direct service staff shall submit a written statement from a licensed physician indicating that he or she is in good health. Such statement shall be based on a medical examination conducted within the six months immediately preceding the direct service staff's starting date with the licensee.

(e) Within one year prior to or upon beginning work and annually thereafter, each direct service staff member shall take a Mantoux tuberculin skin test with five TU (tuberculin units) of PPD tuberculin.

1. The direct service staff member shall submit to the licensee written documentation of the results of any testing or certification.

2. If the direct service staff member has had a previous positive Mantoux tuberculin skin test, or if the Mantoux tuberculin skin test is significant (10 or more millimeters (mm) of induration), the staff member shall submit to the licensee a statement from his or her physician 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), no further testing shall be required.

i. The licensing agency or the licensee may, at any time, require a direct service staff member to retake the Mantoux tuberculin skin test, if there is a reason to believe or suspect that the staff member may have contracted tuberculosis or if the State Department of Health and Senior Services recommends retesting.

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

(f) The licensee shall maintain on file the following for all direct service staff:

1. Mantoux tuberculin skin test results; or chest x-ray or physician's certification; and

2. The results of a physical examination.]

(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 [or a high school diploma or equivalent]; [and]
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 [service staff] **support professionals** shall be at least 18 years of age and shall have a high school diploma or equivalent.

(d) Direct [service staff] **support professionals** shall have the ability to communicate with the individuals with whom they are working.

(e) Direct [service staff] **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 [staff] **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 [fire] **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; [and]

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 [or at the predetermined location stated in the program description/Annex A].**

- (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 IHP as amended or modified as specified at N.J.A.C. 10:44A-4.2(c);]
ix. The SP;
 x. The results of a physical examination completed within [90 days prior to the scheduled admission date] **the past year;**
 xi. The results of a Mantoux Skin Test[, completed within the past year, obtained within 30 days prior to admission] **or IGRA blood test;**
 xii. [Certification] **In the absence of the results at subparagraph (d)1x or xi above, written certification** from a physician or **advanced practice nurse** stating the individual is free of communicable disease [(written documentation) shall be [provided to the licensee within 72 hours of] **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 [and the results of the Mantoux Skin Test readministered every year];
 3. Annual reports from the dentist of dental examinations, **dental care**, and corrective work done;
 [4. Initial reports of unusual incidents;
 5. Seizure records, where indicated;
 6. The current IHP;
 7. Monthly reports of individuals' social and behavioral progress to correspond to the current IHP;
 8. A medically prescribed diet, if required;
 9. Documentation of known allergies;
 10. Medication administration records;
 11. An inventory of valuable personal property; and
 12. Financial records pursuant to N.J.A.C. 10:44A-2.10.]
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: [individual] **personal funds**

(a) Each individual shall have the right to manage his or her own personal funds consistent with his or her abilities [as documented in his/her IHP].

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

[(b) The licensee shall develop procedures regarding the management of individuals' funds for individuals who have been determined in need of assistance by the IDT.]

(c) At the time of admission each individual shall be provided with a written statement listing the services regarding the safekeeping and management of funds.

(d) The licensee shall obtain written authorization for any of the 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, Personal Needs Allowance, paychecks, Patient Trust Fund, monetary gifts, payment from family members, transportation reimbursements, public assistance, income tax rebates and insurance claims.

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

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

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

(f) If an individual's funds are entrusted to an agency, moneys received by an individual in excess of \$100.00 shall be placed in an interest bearing account unless otherwise determined by the IDT.

1. The account shall be in a form that clearly indicates that the licensee is acting in a fiduciary capacity regarding the individual's funds and that any interest from the account shall accrue to the individual.

2. The licensee may keep up to \$100.00 of an individual's money in a non-interest bearing account or petty cash fund, to be readily available for current expenditures, providing it is kept for safekeeping in an account separate from all other funds for the residence.

i. Any increase in this amount shall be authorized by the individual and his or her guardian, where applicable.

(g) 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 given to the licensee for safekeeping, including the interest accrued from deposits.

(h) 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.

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

(j) 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 funds, upon request.

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

(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) Upon admission to the program and then upon subsequent request, the licensee shall provide the individual receiving services and his or her guardian, where applicable, with the following:

1. A copy of the Division's rights document;
2. 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. New Jersey Protection and Advocacy, Inc.;
 - ii. Community Health Law Project;
 - iii. Office of Licensing, Developmental Disabilities Licensing;
 - iv. Bureau of Guardianship, if applicable;
 - v. His or her case manager;
 - vi. Division of Youth and Family Services' Child Abuse Control number (1-800-792- 8610), if applicable; and
 - vii. Office of the Ombudsman (1-877-582-6995), if applicable.

3. A copy of the licensee's rules which apply to the individual's residence; and

4. A copy of the licensee's grievance procedure for appealing agency decisions, which shall have a minimum of two levels of appeal, the last of which shall involve the executive director or the licensee.

(c) If an individual is unable to read (b)1 through 4 above, the text shall be read or the meaning conveyed to the individual in a language or manner the individual understands.

1. The licensee shall make provisions to explain portions that are not understood and answer any questions the individual may have regarding (b)1 through 4 above.

(d) A copy of a written acknowledgment that (b)1 through 4 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.

i. 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.]

(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 [ensure that staff are familiar with and observe the rights and responsibilities enumerated in the approved rights document] **be responsible for utilizing a Human Rights Committee, in accordance with N.J.A.C. 10:41A (Human Rights Committees).**

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

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

(g) The licensee shall be responsible for utilizing a Human Rights Committee in accordance with N.J.A.C. 10:41-4.]

10:44A-3.2 Rules governing a residence

(a) The licensee may establish reasonable rules that govern the conduct of individuals in [a particular] **their** residences, including, but not limited to, rules regarding smoking[,] **and** pets [and visitors], 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. The licensee complies with the rules contained in this chapter regarding the requirements for a grievance process/appeal of a licensee decision (see N.J.A.C. 10:44A-2.2(b)8).

(b) An individual or a group of individuals shall be given a copy of such rules, and additional copies shall be made available upon subsequent request.

(c) Each copy of the rules shall contain 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)8.

(d) The process of conducting house meetings shall include the individual as much as possible unless the IDT has determined otherwise. The scheduling of such meetings shall include the individuals living in the home. Staff shall assist the individuals with setting the schedules and agendas for house meetings.]

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 [IDT] **PT**.

SUBCHAPTER 4. SERVICE [DELIVERY/HABILITATION] 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/affiliation] **preference or affiliation**, [including] AIDS or HIV infection, atypical cellular hereditary blood traits, or any other legally protected status;

3.-6. (No change.)

[7. Fee structures.

(b) The appropriate Regional Office shall make referrals to licensed community residences funded by the appropriate Regional Office.

1. All admissions of private placements shall be reported in writing to the licensing agency within five days.

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

(d) Prior to admissions, the appropriate Regional Office shall provide the licensee with the following:

1. Information which complies with N.J.A.C. 10:46 which addresses eligibility for services;
2. Results from a medical examination conducted no more than 90 days prior to admission;
3. A current immunization record, as available and hepatitis B screening results in accordance with N.J.A.C. 10:48-2;
4. The results of a Mantoux Skin Test for tuberculosis, administered within one year prior to the date of admission; and
5. Pre-admission information required under N.J.A.C. 10:44A-2.9(a)1i through xi.]

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) [The] Upon admission to the program and upon subsequent request, the licensee shall, [at the time of admission, and] 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 written statement explaining the individual's rights;
3. A copy of the rules governing the residence, as applicable;
4. A copy of the grievance procedure; and]
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 [regarding toll calls/charges] 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 [(e)1 through 5 above] portions that are not understood and answer any questions the

individual[s] may have regarding [this information] (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) The individual's guardian shall be notified, in writing, that the individual has had this information explained to him or her.

1. A copy of the notifications shall be maintained in the individual's record.

(h) Within 30 days of an admission, an IHP shall be developed or modified in conjunction with the IDT in accordance with N.J.S.A. 30:6D-10 et seq.]

(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 [IDT] PT.

[1. In the case of a planned transfer or discharge, at least 30 days prior to the anticipated discharge date, at a minimum:

i. An addendum to the IHP shall update the existing plan and include the specifics of the transition.

ii. The development of the discharge plan shall include the licensee, the individual and his or her guardian, as appropriate, the IDT and a representative of the placing agency.

iii. The discharge plan shall assess the individual's continuing needs and recommend a plan for provision of follow-up services in the individual's new environment.

iv. The appropriate Division regional office shall be notified.

v. The individual's full records shall be transferred.

2. Should the licensee, and the placing agency determine a residence is no longer suitable or no longer meets the needs of an individual, the individual shall not be maintained at that residence provided substantive evidence is given to the placing agency.

i. All discharges of private placements shall be reported in writing to the licensing agency within five days.]

(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, [or] 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) Each year the individual served shall take a Mantoux tuberculin skin test.

1. If the individual has had a previous positive Mantoux tuberculin skin test, or the result of the Mantoux tuberculin skin test is significant (10 or more mm of induration), the licensee shall require:

i. That the individual obtain a written statement from a physician certifying that he or she poses no threat of tuberculosis contagion; or

ii. A protocol to follow, recommended by the physician before allowing the individual to come into contact with other individuals being served and staff.

2. The licensee shall support the individual in adhering to the recommended follow-up testing, if any, by the physician.]

(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 [is located in an area where a local rescue squad and an area hospital are available for emergency medical care] **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); [and]

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 identified in the chapter Appendix, incorporated herein by reference], **as specified at N.J.A.C. 8:57, the licensee shall ensure exposed individuals are placed under [a physician's] 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 licensee shall comply with N.J.A.C. 10:48-2 regarding the screening, treatment and control of viral Hepatitis B.]

(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, 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 [Interdisciplinary Team] **PT**, documented in the individual's [IHP] **record**, and in accordance with licensee procedure.

(b) (No change.)

(c) A [written] 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;** [and]

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 [a] 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 [dosage] order** by the physician **or advanced practice nurse, as well as new and discontinued prescriptions**, shall be immediately noted on the current [written] medication record by staff consistent with the licensee's procedure.

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 [insure] **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 [non-prescription] **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. [Each individual's prescribed] **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 [destroyed] **safely disposed of**, according to licensee procedure;

[8. Non-prescription medications shall be properly safeguarded and stored separately from prescription medication;

9. 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

10. 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.]

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 [from] **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) Over-the-counter medications shall be documented separately from the record utilized for prescription medication.]

(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 telephone number of the Division of Developmental Disabilities' hotline, as well as the nearest hospital, fire department, ambulance service, police department local Poison Control Center (if applicable), and licensee's emergency telephone number (if applicable)]

The following emergency numbers shall be easily accessed and located by each telephone[.]:

[1. If a minor is living in residence, the telephone number for the Division of Youth and Family Services' Office of Child Abuse Control (toll free in New Jersey at 1-800-792-8610) shall also be easily accessed and located by each telephone.

2. 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) shall also 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 [IDT] 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 [medical or otherwise specified] prescribed diet is required, the licensee shall [assure that all necessary equipment is readily accessible] 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 [IDT] 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 [IHP] 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, 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 [spare tire, jack and] 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; [and]

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[; and].

[4. A 10:BC dry chemical extinguisher.]

(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 [Division of] Motor Vehicle[s] Commission.

1.-2. (No change.)

3. Individuals receiving services whose [IHP] 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, [on an annual basis] 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 [of] at N.J.S.A. 52:27D-192 et seq. (Uniform Fire Safety Act).

1. The [Division] Office of Licensing may identify[, in a contract with a licensee,] any additional fire safety precautions required to keep service recipients safe.

(c) (No change.)

10:44A-6.2 [Fire] 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. Mobility;

ii. Ability to problem-solve;

- iii. Ability to evacuate;
- iv. Compliance issues;
- v. Medical factors; and
- vi. Behavioral 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. [Whenever a new individual moves] **Within 48 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;** [and]
- 2. Whenever **the level of assistance required by the current occupants [develop problems evacuating] 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 [drawn up and followed] **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 [assume different fire location simulations that require] **ensure that all means of egress [be] 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. The evacuation plan includes a designated meeting spot at which the individuals assemble after evacuating the premises;]

[7.] **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;

[8.] 7. (No change in text.)

[9.] **8.** Written records are maintained including the following information:

- i.-ii. (No change.)
- [iii. The evacuation plan followed; and]
- 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) In the event that an individual exceeds the allotted evacuation time, the licensee shall take one of the following steps:

- 1. Provide training in evacuation to the individual;
- 2. Add awake staff to assure the three-minute time is met;
- 3. Relocate individuals so that the three-minute time is met; or
- 4. Conform to the I-1 Use Group classification (N.J.A.C. 5:23).
- (c) Within 24 hours of admission, each individual shall participate in a fire drill to ensure knowledge of emergency egress procedures.]

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

10:44A-6.4 [Use group] Group classification requirements

(a) Group homes housing five or fewer individuals shall, **at a minimum**, meet the requirements of [Use] Group [R-3] **R-5** of the Uniform Construction Code[, provided all individuals are either ambulatory or mobile non-ambulatory] (see N.J.A.C. 5:23-6.27).

(b) [One-and] **One- and** two-family homes housing six to 16 individuals with developmental disabilities shall meet the requirements of [Use] Group R-2 of the Uniform Construction Code[, provided all individuals are either ambulatory or mobile non-ambulatory] (see N.J.A.C. 5:23-6.26 and 6.26A).

(c) The classification of community residences for individuals with developmental disabilities into Use Group R-3 or R-2 when some individuals are not capable of prompt self-evacuation shall be dependent upon the following:

1. Community residences for individuals with developmental disabilities housing up to two people not capable of prompt self-evacuation shall be classified as R-3 (for five or fewer) or R-2 (for more than five people) provided the following provisions are met:

i. An interconnected smoke detection system complying with the building subcode for the designated use group shall be provided;

ii. The egress protocol, including a site-specific evacuation plan, shall be followed;

iii. Within 24 hours of admission, each new occupant shall participate in a fire drill to ensure compliance with the egress protocols;

iv. One awake staff shall be provided for overnight coverage. Additional awake staff shall be added, as necessary, on a temporary or permanent basis to meet the requirements of the egress protocols as specified in N.J.A.C. 10:44A-6.3;

v. An exit door opening directly to the outside shall be available within 50 feet of each bedroom; and

vi. Ramps shall be provided at all required exits when necessary for wheelchair accessibility.

2. Community residences for individuals with developmental disabilities housing three to five people not capable of prompt self-evacuation shall be classified as R-2 provided the following additional conditions are met:

i. Emergency egress lighting is provided;

ii. A sprinkler system complying with NFPA 13R is provided;

iii. The smoke detection system is tied into a central station; and

iv. Two awake overnight staff are provided.

3. Community residences housing more than five people not capable of prompt self- evacuation shall meet the requirements for an I-2 Use Group classification.]

10:44A-6.5 Fire [extinguishers] **safety equipment**

(a) Fire extinguishers shall be serviced annually and shall be of a type and number as determined by the [Fire] **fire** official designated to enforce the Uniform Fire Safety Act (N.J.S.A. [52:27-197] **52:27D-192** et seq.)

1. (No change.)

(b) Fire extinguishers, [and] battery-operated smoke detectors, **and stand-alone carbon monoxide detectors** shall be checked quarterly by staff to ensure all extinguishers and [smoke] 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-[7]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 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) Exit/evacuation areas to be used for mass evacuation shall not be permitted through furnace areas, storage areas or bedrooms.]

[(b)] (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 [licensing agency] 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 [65] 68 degrees Fahrenheit ([18°C] 20°C) when the outdoor temperature is [0] 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 [; and].

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 [IDT] 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 [chosen by the individual], 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, [and] which can be readily opened from the outside in an emergency, **and with only appropriate staff having access to the key, as needed.** Hooks and eyes, bolts, bars, and other similar devices shall not be used on bathroom doors.
- (e) Bathrooms shall be clean and ventilated.**

10:44A-6.15 Kitchens

- (a) Kitchens shall be clean and [well] ventilated.
- (b)-(c) (No change.)
- (d) Refrigeration and storage of food shall be provided at [not] **no** more than [45] **40** degrees Fahrenheit ([seven] **four** degrees Celsius). Freezer compartments shall operate at no more than [32] **zero** degrees Fahrenheit ([zero] **-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, [adequately lighted and have been approved, in writing, for such use by the local construction official] **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.)

(a)

OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY

Manual of Standards for Community Care Residences

Proposed Amendments: N.J.A.C. 10:44B-1.3, 1.4, 1.5, 2.1, 2.2, 2.3, 2.4, 2A.1, 2A.2, 3.1, 3.2, 3.3, 3.4, 3.5, 4.1, 4.2, 5.1, 5.2, 6.1, 6.3, 6.4, and 6.5

Authorized By: Sarah Adelman, Commissioner, Department of Human Services.

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

Calendar Reference: See Summary below for an explanation of the exception to the rulemaking calendar requirement.

Proposal Number: PRN 2022-086.

Submit comments in writing by August 20, 2022, to:

Douglas Swan
 Office of Program Integrity and Accountability
 Department of Human Services
 PO Box 700
 Trenton, New Jersey 08625-0700
Doug.swan@dhs.nj.gov

The agency proposal follows:

Summary

This chapter is proposed for amendment pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. This chapter contains the rules to establish minimum requirements for the provision of residential services to individuals with developmental disabilities residing in community care residences. The Department of Human Services (Department) is proposing the following amendments to update the rules to be consistent with best practices and to include provisions for the Fee-for-Service Initiative; the Centers for Medicare and Medicaid Services’ guidelines for funding; the Central Registry of Offenders against Individuals with Developmental Disabilities (N.J.S.A. 30:4D-77); P.L. 2017, c. 328 (an act concerning background checks and licensing of certain entities); Stephen Komminos’ Law (P.L. 2017, c. 238); and updated organizational changes. To that end, the Department is proposing these substantive amendments to this chapter.

The Department has reviewed the rules and has determined these amendments to be reasonable and proper for the purposes for which they are proposed, as required pursuant to N.J.S.A. 30:6-32 et seq. The rules set minimum requirements that are necessary to implement the Department’s statutory mandate to license community care residences for individuals with developmental disabilities.

The following are summaries of the amendments to be made to the subchapters of N.J.A.C. 10:44B:

General revisions: Throughout the chapter, references to “development agency” and some references to “the Division (the Division of Developmental Disabilities)” are being replaced with “placing agency.” The functions of the development agency have been incorporated into the definition and role of the placing agency. Similarly, some references to the Division of Developmental Disabilities (Division) are removed because use of the term “placing agency” incorporates these references. Additionally, references to “habilitation plan” are being replaced with “service plan” to be consistent with Department terminology and practices. Finally, all references to the “licensing agency” have been changed to “Office of Licensing” to reflect current terminology.

Subchapter 1, General Provisions, provides the purpose and scope of the chapter, which is to protect the health, safety, welfare, and rights of individuals with developmental disabilities when living in community care residences.

N.J.A.C. 10:44B-1.3 defines the terms used throughout the chapter. The proposed amendments redefine “abuse” and “neglect” to reflect the definitions in the Central Registry statute (N.J.S.A. 30:4D-77). The definition of “Alternate” has been revised to require placing agencies to approve alternate providers. Community care residences are redefined to conform with the Federal guidelines in the Home and Community Based