

HUMAN SERVICES

OFFICE OF PROGRAM INTEGRITY AND ACCOUNTABILITY

Manual of Standards for Community Care Residences

Proposed Readoption with Amendments: N.J.A.C. 10:44B

Proposed Repeals and New Rules: N.J.A.C. 10:44B-2.3 and 5.2

Proposed New Rules: N.J.A.C. 10:44B-2.4, 2A, 3.2, 6.2, and 6.5

Authorized By: Jennifer Velez, 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 explanation of exception to calendar requirement.

Proposal Number: PRN 2012-150.

Submit comments in writing by December 14, 2012 to:

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The agency proposal follows:

Summary

The Department of Human Services (Department) is proposing to readopt N.J.A.C. 10:44B, Manual of Standards for Community Care Residences, with amendments, new rules, repeals, and recodifications. This chapter constitutes the general physical and program requirements for community care residences, which are licensed by the Department to serve the

developmentally disabled in private homes. The chapter sets minimum requirements in the areas of general provisions, management of the residence, records, care of the individual, habilitation, health services, and physical plant and safety. The rules are necessary to implement the Department's statutory mandate to license community care residences for individuals with developmental disabilities. The Department has reviewed the rules and has determined that they are necessary, adequate, reasonable, efficient, understandable, and responsive to the purposes for which they were originally promulgated, as proposed for change. The Department recently proposed to readopt this rule without amendment (see 43 N.J.R. 950(a)). That rulemaking was intended to maintain that chapter in effect until such time as the Department could work with stakeholders to develop substantive changes. The Department has consulted with representatives of the regulated community and consumer advocacy groups to develop the substantive amendments proposed within this rulemaking action.

The existing rules proposed for readoption are summarized as follows:

Subchapter 1 specifies general provisions, including purpose and scope (N.J.A.C. 10:44B-1.1); severability (N.J.A.C. 10:44B-1.2); definitions (N.J.A.C. 10:44B-1.3); application for community care licensure (N.J.A.C. 10:44B-1.4); licenses and inspections (N.J.A.C. 10:44B-1.5); and options on non-compliance with standards (N.J.A.C. 10:44B-1.6).

Subchapter 2 specifies requirements for administrative policies and practices, including licensee requirements (N.J.A.C. 10:44B-2.1); placements and departures (N.J.A.C. 10:44B-2.2); and records (N.J.A.C. 10:44B-2.3).

Subchapter 3 specifies requirements for care of the individual, including individual rights, and responsibilities (N.J.A.C. 10:44B-3.1); personal health, hygiene and grooming (N.J.A.C. 10:44B-3.2); food (N.J.A.C. 10:44B-3.3); and clothing (N.J.A.C. 10:44B-3.4).

Subchapter 4 specifies requirements for habilitation, including an Individualized Habilitation Plan (N.J.A.C. 10:44B-4.1); and day programs (N.J.A.C. 10:44B-4.2).

Subchapter 5 specifies requirements for health services, including general medical and health care (N.J.A.C. 10:44B-5.1); and medication and drugs (N.J.A.C. 10:44B-5.2).

Subchapter 6 specifies requirements for physical plant and safety, including general home requirements (N.J.A.C. 10:44B-6.1); fire safety (N.J.A.C. 10:44B-6.2); and individual rooms (N.J.A.C. 10:44B-6.3).

The proposed amendments, new rules, repeals, and recodifications are described below.

N.J.A.C. 10:44B-1.1 describes the scope and scope of this chapter and is amended so as to be reflective of the use of “person–centered” language, and to include individuals with traumatic brain injury as added as a definition in this chapter.

N.J.A.C. 10:44B-1.3 defines the terms and words used in this chapter. Amendments are being proposed to several definitions for the purpose of clarification, to reflect people first language, or for the purpose of consistency with amendments being proposed elsewhere in the chapter. These include the definitions of “abuse,” “advocate,” “case manager,” “community care residence,” “community residence for the developmentally disabled,” “community services,” “exploitation,” “licensee,” “negative licensing sanction,” “personal guidance,” “skill development program,” “substantial non-compliance,” “variance,” and “waiver.”

Several new definitions are proposed, which are used throughout the rules and that require explanation. These include the definitions of “alternate,” “applicant,” “barrier-free design,” “census,” “close,” “confidentiality,” “day activities,” “development agency,” “Division,” “domicile,” “falsification,” “family,” “firearm,” “goal,” “guardian,” “habilitation,” “medication,” “non-compliance,” “occupant,” “person,” “physical abuse,” “placing agency,”

“plan of correction,” “plan coordinator,” “service plan,” “sexual abuse,” “terms of the license,” “traumatic brain injury,” “Uniform Construction Code,” “unusual incident,” and “verbal abuse, psychological abuse, or mistreatment.”

Three definitions are being proposed as new as they are new requirements set forth by legislation or organizational restructuring occurring since the chapter was last amended; these include the definitions of “Central Registry,” “Danielle’s Law,” and the “Special Response Unit.”

The definition of “abuse” is amended, beyond as discussed above, to include the terms and definitions of physical, sexual, and verbal abuse.

The definition of “alternate” is proposed and means a person 18 years of age or older who has been selected and identified by the licensee to the licensing agency and the placing and/or development agency and who accepts the responsibility to provide care and supervision for individuals who require supervision.

The definition of “applicant” is proposed and means a person 18 years of age or older who satisfactorily initiates and completes the application process in order to obtain a license to operate a community care residence.

The definition of “barrier-free design” is proposed and means any design in the residence necessary to accommodate individuals with physical disabilities, which include, but are not limited to: ramps, handrails in bathroom areas, corridors or doorways, or rooms and doorways with space enough to accommodate individuals in wheelchairs.

The definition of “case manager” is amended to more clearly define a specific job classification within the Division.

The definition of “census” is proposed and means the number of individuals or boarders currently residing in the residence. The census of the home shall count towards the capacity of the home.

The definition of “Central Registry” is proposed and means the Central Registry of Offenders Against Individuals with Developmental Disabilities established pursuant to N.J.A.C. 10:44D.

The definition “close” is proposed and means a final licensing action by the Department of Human Services in which an applicant or a licensee is prohibited from operating a community care residence for individuals with developmental disabilities or persons with traumatic brain injuries.

The definition of “community care residence” is amended to clarify that the licensee contracts with the Department of Human Services to provide care training and supervision.

The definition of “confidentiality” is proposed to clarify individuals’ records are to be maintained in a safe manner and no unauthorized person is to have access.

The definition of “Danielle’s Law” denotes the law requiring persons working with a person with a developmental disabled or traumatic brain injury to call 911 in the event of a life threatening emergency pursuant to N.J.S.A. 30:6D-5.1 et seq. and N.J.A.C. 10:42A.

The definition of “day activities” is proposed and means an organized schedule or program of education, habilitation, rehabilitation, or employment in the community.

The definition of “development agency” is proposed and means an agency under contract with the Department, which recruits, trains, and supports licensees to operate a community care residence.

The definition of “Division” is proposed to mean the Division of Developmental Disabilities.

The definition of “domicile” is proposed and means the permanent established residence of the applicant.

The definition of “exploitation” is amended to include the term willful, exploitation of the person’s resources, and the examples provided are new.

The definition of “falsification” is proposed and means intentionally falsifying a record or a document, giving a false appearance to a record or a document, or making a false statement.

The definition of “family” is proposed and includes all individuals identified in the existing definition of “immediate family” and is expanded to include: great-grandchildren, cousins, nephews, nieces, aunts, uncles, adopted children, civil union partners, and domestic partners.

The definition “firearm” is proposed and means any firearm as defined in N.J.A.C. 13:54-1.2

The definition of “goal” is proposed and means a written statement of attainable, measurable, behavioral, or service objectives with an outcome that is expected to be achieved, partially or completely, within the year the service plan is put into effect. Goals must be related to the personal outcomes desired by the individual.

The definition of “guardian” is proposed and means a person or agency appointed by a court of competent jurisdiction or otherwise legally authorized and responsible to act on behalf of a minor or incapacitated adult to assure the health, safety, and welfare of that individual and to protect his or her rights.

The definition of “habilitation” is proposed and means services designed to assist individuals with developmental disabilities in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to function successfully in a residential-, day-program-, or other community-based settings. Habilitation services are long-term supports usually provided to individuals with developmental disabilities that are distinguished from rehabilitation services in terms of length of treatment, goals of treatment, and the nature of the recipient.

The definition of “individual” is amended in keeping with people first language, and to include an individual with traumatic brain injury.

The definition of "interdisciplinary team" (IDT) is amended in keeping with current identified team composition and practice by defining the members that may be part of the group and identifying their expertise.

The definition of “licensee” is amended to clarify that providers are equally responsible for the overall operation of the community care residence.

The definition of “licensing agency” is amended to be reflective of the administrative movement of the Office of Licensing from the Division of Developmental Disabilities to the Office of Program Integrity and Accountability within the Department of Human Services.

The definition of “medication” is proposed and means all medications, medicated creams, vitamins, treatments, and supplements prescribed by a physician.

The definition of “negative licensing sanction" is amended to include the sanction of reduction in the licensure term of the residence and to clarify sanctions are not limited to the examples given.

The definition of "neglect" is amended to include the concept that any person, who is responsible for the welfare of an individual and who fails to provide needed supports and services to ensure the health, safety, and welfare of the individual, may be considered to have been neglectful. Also added is clarification that the supports and services needed by the individual may or may not be defined in the individual's plan of care, or as otherwise required by law or rule. Additionally, language is added that stipulates that neglect includes acts that are intentional, unintentional, or careless, regardless of the incidence of harm. New examples of shelter, food, clothing, supervision, personal hygiene, medical care, and protection from health and safety hazards are included.

The definition "non-compliance" is proposed and means that an applicant or licensee has not complied with a rule contained in this chapter.

The definition "occupant" is proposed and means any person residing in the residence who is not an individual or boarder requiring care from the licensee.

The definition of "person" is proposed and means a human being, as opposed to a corporation (an "artificial" or "legal" person).

The definition of "personal guidance" is amended to include boarder as a person that might require assistance or personal guidance.

The definition "placing agency" is proposed and is the entity or authority that is responsible for the placement of and payment for an individual in a community care residence.

The definition of "plan of correction (POC)" is proposed and is defined as the written response from the licensee to the licensing agency addressing identified non-compliance.

The definition of "plan coordinator" is proposed and now means a person designated to coordinate the development of the individual's service plan.

The definition of "skill development program" is amended to use current terminology replacing "individual habilitation plan" with "service plan."

The definition of "substantial non-compliance" is amended to replace the term well-being with welfare.

The definition of "Special Response Unit" is proposed as that component of the Department of Human Services responsible for investigating allegations of serious abuse, neglect, and exploitation, as well as alleged violations of Danielle's Law in community programs licensed and/or regulated by the Department or contracted by the Division.

The definition of "terms of the license" identifies the capacity of the licensee's premises, the named licensee(s), the vendor identification number (VID#), the licensee's address, and the dates during which the license is effective as the terms contained on the license.

The definition of "traumatic brain injury" is proposed and defined as an acquired injury to the brain, but does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to trauma.

The definition of "Uniform Construction Code" is proposed and means N.J.S.A. 52:27D-119 et seq. and N.J.A.C. 5:23.

The definition of "unusual incident" is proposed as an occurrence involving the care, supervision, or actions of an individual that is adverse in nature or has the potential to have an adverse impact on the health, safety, and the welfare of the individual or others. Unusual incidents shall include, but are not limited to: abuse, neglect, assault, contraband, criminal activity, Danielle's Law violations, death, exploitation, injury, medical incidents, unauthorized restraint use, violation of rights, sexual assault or contact, suicide attempt, elopement (criminal or non-criminal status), and operational breakdown.

The definition of "variance" is amended to require that variances are to be requested in writing by the licensee and granted in writing by the licensing agency.

The definition of "waiver" is amended to require that waivers are to be requested in writing by the licensee and granted in writing by the licensing agency.

N.J.A.C. 10:44B-1.4(a) is proposed for amendment by adding that initial inquiries for licensure may also be made directly to development agencies. The Department's web address link is added to this subsection as an option for obtaining regional office locations and contact information.

N.J.A.C. 10:44B-1.4(b) is added to state the intent to stipulate that only persons with a domicile, that is their primary residence, in New Jersey, are eligible to apply for licensure as a community care residence.

Recodified N.J.A.C. 10:44B-1.4(c) is proposed for amendment to stipulate that all applicants shall complete an initial application packet, which shall include an original signature and date.

New N.J.A.C. 10:44B-1.4(c)1 requires that applicants present photo identification at the time of the submission of the application.

New N.J.A.C. 10:44B-1.4(c)2 requires that an applicant present an alien registration card or United States Citizenship and Immigration Service documentation as evidence of legal residency and approval to work in the United States, if the individual is not a citizen of the United States.

New N.J.A.C. 10:44B-1.4(d) is added to require that the applicant provide the Division or developing agency with a medical examination that is current within one year of the application.

Moreover, nurse practitioners are deemed to be a health professional who may complete and sign the annual medical form.

New N.J.A.C. 10:44B-1.4(d)1 provides that the applicant may be required to demonstrate their ability to provide any physical assistance that may be required by the individual.

New N.J.A.C. 10:44B-1.4(e) proposes all applicants and occupants 18 years and older of the home shall be interviewed as a part of the initial review of the home.

New N.J.A.C. 10:44B-1.4(f) proposes that the regional office or development agency representative shall conduct a visit to the home during the application process (Home Study) to ascertain that it meets licensure requirements as indicated in N.J.A.C. 10:44B-1.4. The regional office or development agency shall make recommendations regarding the capacity of the home during the application process.

New N.J.A.C. 10:44B-1.4(f)1 requires that the applicant shall provide a copy of a certificate of occupancy, if required by local ordinances, during the application process.

New N.J.A.C. 10:44B-1.4(g) provides that the applicant, and all occupants of the household who are 18 years of age or older, shall be fingerprinted through the appropriate regional office or development agency.

New N.J.A.C. 10:44B-1.4(h) is proposed to state that, except as otherwise provided in the Rehabilitated Offenders Act, N.J.S.A. 2A:168A-1 et seq., no license shall be issued to any person when that person, or any occupant of the household 18 years of age or older, has at any time been convicted of specific criminal offenses, which are detailed in six categories.

New N.J.A.C. 10:44B-1.4(i) provides the specifics of the provisions to be submitted to the regional office or developing agency by an applicant who has been convicted of a crime listed in N.J.A.C. 10:44B-1.4(h).

New N.J.A.C. 10:44B-1.4(j) proposes that no license shall be issued when the name of the applicant or the name of any occupant of the applicant's home appear on the Central Registry.

New N.J.A.C. 10:44B-1.4(k) proposes that three professional references are required to be submitted by the applicant, which is required at existing subsection (b).

Recodified N.J.A.C. 10:44B-1.4(l) proposes two new requirements that training and orientation programs, and any subsequent modifications to the training regimen or orientation program, shall be jointly reviewed and approved by the Division and the licensing agency; and any orientation and training program conducted by any development agency other than the Division shall be re-evaluated every two years by the Division.

New N.J.A.C. 10:44B-1.4(m) provides that all applicants must be able to read and write English sufficiently to provide care to the individual and comply with N.J.A.C. 10:44B-1.4.

New N.J.A.C. 10:44B-1.4(n) provides that any falsification of information during the application process will result in the termination of the application.

N.J.A.C. 10:44B-1.5(a) is proposed for deletion to remove the language specifying the components of the application package. The replacement subsection provides the specific citation of the rule that lists all the required components of an application package.

New N.J.A.C. 10:44B-1.5(a)1 requires that the applicant shall be interviewed by the licensing agency during the inspection of the provider premises in order to ascertain the applicant's understanding of the duties of a licensed provider.

New N.J.A.C. 10:44B-1.5(a)2 provides that the physical conditions of the provider home shall be subject to inspection and full access to all areas of the home and property shall be granted by the applicant or licensee to the licensing representative.

N.J.A.C. 10:44B-1.5(b) is proposed for amendment adding that if the applicant has demonstrated that he or she has sufficient knowledge of the duties required of a licensed provider, an initial provisional license shall be issued.

N.J.A.C. 10:44B-1.5(b)1 is recodified from subsection (c) and amended to provide that an initial provisional license is valid for a six-month period (rather than a maximum of a six-month period), within which the licensee is to demonstrate his or her ability to comply with this rule.

New N.J.A.C. 10:44B-1.5(b)2 requires that the initial capacity of the home shall not exceed two individuals.

New N.J.A.C. 10:44B-1.5(b)3 provides that no individual shall be placed in any residence before an initial inspection is conducted and the residence is approved for licensure.

New N.J.A.C. 10:44B-1.5(c) requires that the residence shall be inspected annually, or at any time deemed necessary, and to allow for the review of the licensed facility's records, the equipment contained therein, the safety conditions of the premises, its sanitary conditions, accommodations, and the management standards of the individuals and the residence.

New N.J.A.C. 10:44B-1.5(d) states that after each inspection, the licensee shall be provided with a copy of the inspection report, and shall be obligated to provide a plan of correction as required by the licensing agency, where warranted.

New N.J.A.C. 10:44B-1.5(d)1 and 2 set forth the timelines, generally not to exceed 30 days from the issuance of the inspection report, for submitting plans of correction which are identified by the licensing agency. The rule further provides that at the discretion of the licensing agency, unannounced inspections may occur to verify that deficiencies of a significant nature have been corrected.

New N.J.A.C. 10:44B-1.5(d)3 notes that correction of all deficiencies shall be verified at the time of the next inspection.

New N.J.A.C. 10:44B-1.5(d)4 provides that failure to make such corrections uncovered by the inspection, or failure to submit the plan of correction within the required time frame, shall be considered grounds for action against the licensee.

Recodified N.J.A.C. 10:44B-1.5(e) is proposed to stipulate that the license is issued to a person/persons, is not transferable, is the property of the Department, and shall be returned upon termination.

Existing N.J.A.C. 10:44B-1.5(e) is proposed for deletion and replaced with new subsection (g), removing the language that stipulates maximum bed capacity of the home and the need for a written agreement signed by the Regional Administrator of Community Services and the director of the placing agency when a boarder is served in the home. The new language stipulates the license shall specify the total bed capacity of the home, excluding family members, and that capacity shall not be exceeded.

New N.J.A.C. 10:44B-1.5(f) requires that the license shall be kept on the premises at all times and made available upon request.

Recodified N.J.A.C. 10:44B-1.5(h) is proposed for amendment to remove the language that the residence shall be the licensee's primary "address"; this language is replaced by the stipulation that the community care residence shall be the licensee's primary "domicile."

Existing N.J.A.C. 10:44B-1.5(h) through (l) are proposed for deletion, as the information in subsection (h) is relocated to subsection (c); the information in subsection (i) is relocated to subsection (f); subsection (j) is proposed for deletion; subsection (k) is proposed for deletion as language stipulating access to the home is now located at N.J.A.C. 10:44B-2.1(e); subsection (l)

relating to the failure of an applicant or licensee to cooperate with the licensing agency, is proposed for deletion as that language is now located at N.J.A.C. 10:44B-1.6(e).

N.J.A.C. 10:44B-1.5(j) is proposed for deletion to remove the language stipulating that Department of Human Services may revoke the license whenever the licensee is in violation of any State or Federal law pertaining to community residences for the developmentally disabled, or failing to comply with the minimum standards.

Recodified N.J.A.C. 10:44B-1.5(j) is proposed with language regarding waivers or variances of specific standards. Recodified paragraphs (j)1 through 4 are proposed to list the guidelines for which a waiver or variances may be requested and issued

N.J.A.C. 10:44B-1.6(a) is proposed for deletion, removing the language regarding plans of corrections, which is now located at N.J.A.C. 10:44B-1.5(d). New subsection (a) pertains to suspension or revocation of a license in response to: a violation of law, failure to meet minimum standards, or pending the results of an inspection, investigation, or allegation that may affect the health or welfare of the individuals residing in the licensed facility.

N.J.A.C. 10:44B-1.6(b) is proposed for amendment adding the word “any” inspection in lieu of “the” inspection and includes investigation or inquiry as additional activities that may generate reports that may reveal substantial or willful noncompliance upon which the Department may act.

N.J.A.C. 10:44B-1.6(c) is proposed with a technical amendment.

New N.J.A.C. 10:44B-1.6(d) is proposed to add language regarding falsification of any information in an application, during any inspection, investigation, or inquiry.

New N.J.A.C. 10:44B-1.6(e) delineates what happens should an applicant or licensee fail to cooperate with an inspection, investigation, or inquiry by representatives of the Department.

Recodified N.J.A.C. 10:44B-1.6(f) is proposed with technical amendments.

The Subchapter 2 heading is replaced with “Management of the Residence.”

N.J.A.C. 10:44B-2.1(a) is proposed for amendment removing the terms “with developmental disabilities” in defining persons residing in the community care residence.

N.J.A.C. 10:44B-2.1(a)1 provides that, except as stipulated by the Rehabilitated Offenders Act, N.J.S.A. 2A:168A-1 et seq., no individual shall be licensed to operate a community care residence in which any occupant, at any time, has been convicted of any criminal offense listed in N.J.A.C. 10:44B-1.4(h)1 through 5. The examples of crimes were removed.

N.J.A.C. 10:44B-2.1(a)2 has been amended by adding additional language requiring that the licensee shall speak, in addition to read, write, and understand English in a manner sufficient to provide care, support, and supervision to residents of the community care facility.

N.J.A.C. 10:44B-2.1(a)3i is amended to require that the licensee have a yearly physical examination instead of a bi-annual one. The amended rule now allows for a nurse practitioner to complete and date the appropriate medical form attesting to the licensee’s physical and psychological health and the licensee’s ability to perform the duties of care, and identify any physical, emotional, or mental limitations. Also added, is that the Department may require additional physical, emotional, or mental examinations of the licensee as deemed appropriate.

New N.J.A.C. 10:44B-2.1(a)3ii provides that the Department may require the licensee to demonstrate the ability to provide any type of physical assistance that may be required by an individual who is placed in the licensee’s residence.

Existing N.J.A.C. 10:44B-2.1(b) is proposed for deletion removing falsification of information language, which is now located at N.J.A.C. 10:44B-1.6(d); subsection (c) is

proposed for deletion removing language requiring the applicant to advise the welfare agency or board of social services of his or her application, as well as information on the allowable rates of reimbursement as this information is now in N.J.A.C. 10:44B- 2.1(g); subsection (d) is proposed for deletion regarding alternates and notification to the placing and licensing agency; and subsection (e) is proposed for deletion removing the language regarding individuals approved unsupervised time.

New N.J.A.C. 10:44B-2.1(b) provides that the licensee shall ensure that all occupants 18 years or older residing or visiting the home for 30 days or longer are fingerprinted through the Division or development agency. It also provides that, at the discretion of the placing, development, or licensing agency, fingerprinting of other persons regularly visiting the home may be required.

New N.J.A.C. 10:44B-2.1(c) provides that a license will not be issued where the licensee, or any occupant of the residence, has been adjudged civilly or criminally liable for abuse, neglect, or exploitation of another person, or whose name appears on the Central Registry.

New N.J.A.C. 10:44B-2.1(d) states the licensee shall not pay another person to perform the duties for which they are licensed, unless approved by the placing agency and in the person's service plan.

New N.J.A.C. 10:44B-2.1(e) states that the licensee shall not deny access to the home to any authorized representative of the Department, placing, or developing agency.

New N.J.A.C. 10:44B-2.1(f) adds language regarding required courses of instruction.

New N.J.A.C. 10:44B-2.1(g) states the public assistance notification requirements, formerly located at N.J.A.C. 10:44B-2.1(c).

New N.J.A.C. 10:44B-2.1(h) states that no licensee shall serve as an alternate while his or her license is suspended or revoked.

Recodified N.J.A.C. 10:44B-2.1(i) is relocated from N.J.A.C. 10:44B-2.1(f) and is proposed for amendment for syntax.

Recodified N.J.A.C. 10:44B-2.1(i)2 mandates that the licensee shall not direct or allow individuals to discipline, assist in fire drill evacuation, train, supervise or in any way care for other individuals, occupants, family members, children, or others requiring care. This clarifies the responsibility of the licensee as having non-delegable roles.

Existing N.J.A.C. 10:44B-2.1(f)3 is proposed for deletion because reporting is now set forth at N.J.A.C. 10:44B-2.4(b).

Existing N.J.A.C. 10:44B-2.1(g) is proposed for deletion removing the circumstances and notification requirements as they are now located in N.J.A.C. 10:44B-2.4(b) through (e).

Existing N.J.A.C. 10:44B-2.1(h) is proposed for deletion removing the circumstances and five-day notification requirements as this language is now in N.J.A.C. 10:44B-2.4(b) through (e).

Existing N.J.A.C. 10:44B-2.1(i) is proposed for deletion as this prohibition is now included in recodified subsection (i).

N.J.A.C. 10:44B-2.1(j) is proposed for deletion to remove the language prohibiting the charging for services to clients beyond those contracted and actually provided.

Recodified N.J.A.C. 10:44B-2.1(j) contains the stipulation that no licensee, relative of the licensee, or any household member, shall be the legal guardian, representative payee, or beneficiary of an insurance policy for, or reap financial or personal gain from, any individual receiving services.

New N.J.A.C. 10:44B-2.1(k) requires that the licensee's work activities, interests, and/or volunteer work shall not interfere with the individuals' care and habilitation.

New N.J.A.C. 10:44B-2.1(l) requires the licensee to participate in annual service plan meetings.

New N.J.A.C. 10:44B-2.1(m) is proposed to state that the licensee shall not accept any remuneration from the individual's family for services rendered.

N.J.A.C. 10:44B-2.2(a), which defines the number of people who require care and assistance who may reside in the residence, is proposed for amendment replacing the word "natural" with "biological" in referencing a licensee's child.

Recodified N.J.A.C. 10:44B-2.2(b) is proposed with technical amendments and stipulates that no more than four individuals shall be placed in any one community care residence.

Existing N.J.A.C. 10:44B-2.2(b) is proposed for deletion as this requirement is relocated to N.J.A.C. 10:44B-1.5(g); subsection (c) is proposed for deletion because the Department is delegating to the licensee the duty to monitor the residence; subsection (d) is proposed for deletion to remove the prohibition of third floor occupancy of a licensed facility to accommodate special circumstances; and subsection (e) is proposed for deletion as the substance of this subsection is relocated to N.J.A.C. 10:44B-6.3(b).

New N.J.A.C. 10:44B-2.2(c) stipulates that the licensee shall not accept any placement or allow any occupant into the home whose presence may negatively impact the health, safety, welfare, or rights of the individuals receiving services.

New N.J.A.C. 10:44B-2.2(d) states that the provider is required to obtain written permission from the regional administrator of the placing agency to have boarders in the home.

Recodified N.J.A.C. 10:44B-2.2(e) contains the caveat that the licensee may only accept individuals for whom he or she can provide adequate care.

N.J.A.C. 10:44B-2.2(e)1 is amended for syntax, thus, “physical, emotional, mental, or spiritual needs” replaced the terms “physical or mental condition.”

N.J.A.C. 10:44B-2.2(g) is proposed for deletion.

Recodified N.J.A.C. 10:44B-2.2(f) requires the licensee to notify the placing agency (rather than the regional office) in writing, 30 days prior, of any intention to have an individual depart (rather than discharged) from the residence (rather than home).

New N.J.A.C. 10:44B-2.3, Alternates, provides for greater clarity than the existing scattered rules on alternates. N.J.A.C. 10:44B-2.3 includes an expansion of existing N.J.A.C. 10:44B-2.1(d)1 through 5, with changes in syntax and grammar establishing the criteria for being the alternate for a licensee and the parameters of that responsibility.

New N.J.A.C. 10:44B-2.4, Reporting requirements, is proposed as an expansion of existing N.J.A.C. 10:44B-2.1(g) and (h), with changes in syntax and grammar. Specific reporting requirements include alleged or suspected mistreatment; death or removal of an individual or boarder; admission of individual or boarder to a hospital, crisis center, or treatment in an emergency room; an individual or boarder unaccounted for or missing beyond their approved unsupervised time; injuries, including sutures, fractures, lost teeth, and other injuries that require medical attention; grossly negative impact of any individual’s visit to or with family or friends; a lapse in the individual’s participation or attendance in their day activity that exceeds a duration of five consecutive days; change in a licensee’s health status; police activity; significant damage to residence or operational breakdown; change in occupants; change of licensee’s home telephone number; and change in licensee’s work or volunteer hours.

New N.J.A.C. 10:44B-2A, Records, is proposed to expand upon existing N.J.A.C. 10:44B-2.3.

New N.J.A.C. 10:44B-2A.1, Licensee records, expands upon existing N.J.A.C. 10:44B-2.3(h). N.J.A.C. 10:44B-2A.1 state the requirement to maintain copies of the licensee's and alternate's annual medical form, record of all trainings completed, and record of all admissions, along with other required documents.

New N.J.A.C. 10:44B-2A.2, Individual records, expands upon existing N.J.A.C. 10:44B-2.3(a) through (f), for greater clarity with changes to syntax and grammar.

Existing N.J.A.C. 10:44B-3.1(b) is proposed for deletion as this information is now relocated at subsection (c), with amendments.

Recodified N.J.A.C. 10:44B-3.1(b) states the list of identified rights in the pamphlet "Personal Rights," which establishes the right of disabled individuals in a community care setting to basic civil rights and humane physical and emotional care. Existing subsections (c) through (k) are proposed for deletion as these topics are now contained in the list of rights enumerated at recodified subsection (b). Existing N.J.A.C. 10:44B-3.1(l), regarding the handling of money by an individual is deleted and proposed to be relocated at N.J.A.C. 10:44B-3.1(h) for better flow of the rule.

New N.J.A.C. 10:44B-3.1(c) is proposed to replace existing N.J.A.C. 10:44B-3.1(b) and pertains to "house rules." The new regulation is proposed for amendment from existing subsection (b) with only technical changes, not affecting the substance of the regulation.

New N.J.A.C. 10:44B-3.1(d) is added to stipulate that there shall be no restrictions on the individual's movement or access to any area inside or outside of the home that is currently used

by the licensee and occupants of the home. These changes are made to better reflect the purpose of the chapter.

New N.J.A.C. 10:44B-3.1(e) is proposed to indicate that the licensee shall provide or make arrangements to facilitate the individual's participation in all such community involvement. The subsection also reflects that the licensee shall make arrangements for the individual to celebrate holidays, birthdays, and/or special events of their choice. Additionally, language is added to indicate that individuals whose religion requires them not to eat certain food products shall be accommodated at no additional expense to the individual. Finally, this new subsection reflects that individuals may be left unsupervised when there is documentation of such approval by the IDT in the service plan, with details of specific amounts of time and the locations for the unsupervised time.

New N.J.A.C. 10:44B-3.1(f) states that there shall be restrictions on the individual's use of any household appliance or device inside or outside of the home commonly used by the licensee and occupants, except as necessary for safety of the individual as determined by the IDT and recorded in the service plan.

New N.J.A.C. 10:44B-3.1(g) contains language relocated from existing N.J.A.C. 10:44B-3.1(h). This new subsection is changed from existing subsection (h) to add that individual shall be afforded privacy during outgoing and incoming telephone calls and assistance shall be provided if requested. These changes are made to provide better clarity of regulatory purpose.

New N.J.A.C. 10:44B-3.1(i) indicates that individuals shall have full access to their personal clothing and possessions, unless a restriction for behavioral or safety reasons has been approved by the IDT and documented in the service plan.

New N.J.A.C. 10:44B-3.1(j) indicates that individuals shall have full, unrestricted access to food in the home, unless directed in writing by a physician or determined by the IDT and documented in the service plan.

New N.J.A.C. 10:44B-3.1(k) states that individuals shall be treated in an age appropriate manner with regard to communication, dress, activities, personal possessions, or any other aspect of daily living with personal preferences taken into consideration. New N.J.A.C.

10:44B-3.2, Personal funds, is proposed to include: that personal funds shall be used solely for that specific individual; the licensee shall not commingle any individual's personal funds; there shall be no loans of finances, resources, or property from an individual residing in the licensee's residence to the licensee, the licensee's family member, or any other individual or person; funds in excess of \$100.00 shall be maintained in a separate bank account accessible only to the individual and the licensee; the IDT shall determine the individual's ability to manage funds; and a list of specific expenses and the responsible party is included.

Existing N.J.A.C. 10:44B-3.2 is proposed for recodification with technical amendments as N.J.A.C. 10:44B-3.3. Further, new subsection (c) is proposed and pertains to the maintenance of hygiene and grooming articles.

Existing N.J.A.C. 10:44B-3.3 is proposed for recodification as N.J.A.C. 10:44B-3.4 with amendments. The section now includes that the licensee shall demonstrate knowledge of the individual's medically prescribed diets and the licensee shall not withhold food, drinks, or snacks as a form of punishment. Further, information regarding the four basic food groups has been removed as this model is antiquated. Finally, the recodified rule will also set standards regarding dining space accommodations.

Existing N.J.A.C. 10:44B-3.4 is proposed for recodification as N.J.A.C. 10:44B-3.5, with technical amendments. Additionally, the requirements for the storage of clothing and use of incontinence undergarments have been added for greater clarity.

The heading of N.J.A.C. 10:44B-4.1 is proposed for amendment to replace “Individual Habilitation Plan” with “service plan.”

N.J.A.C. 10:44B-4.1(a) is proposed for amendment with changes to syntax and grammar. Additionally, the documentation requirements at existing N.J.A.C. 10:44B-4.1(b) are now included in N.J.A.C. 10:44B-4.1(a).

N.J.A.C. 10:44B-4.1(b) is proposed for amendment to include language regarding the individual’s ability to remain unsupervised; the amount of money the individual can manage; and the individual’s ability to self-medicate be included in the service plan. This change is being made to better reflect the purpose of the chapter.

N.J.A.C. 10:44B-4.1(c) is proposed for amendment to replace the word “home” with “residence.” Further, language is included so that changes to the service plan shall be approved by the IDT and documented in the service plan. This change is being made to better reflect the purpose of the chapter.

N.J.A.C. 10:44B-4.1(d) is proposed for deletion as the language regarding monthly reports is proposed to be relocated to N.J.A.C. 10:44B-3.2(d).

New N.J.A.C. 10:44B-4.1(d) includes that a written plan shall be developed by the IDT at least 30 days prior to an individual’s move into a new home.

N.J.A.C. 10:44B-4.1(e) is proposed for replacement with changes to syntax and grammar with the inclusion of “shall include all necessary information.”

The heading of N.J.A.C. 10:44B-4.2 is proposed for amendment to replace the word “programs” with “activities.”

N.J.A.C. 10:44B-4.2(a) is proposed for amendment to add the word “education” in the list of organized programs, as well as adding “in the community” to the end of the sentence for greater clarity. This change is being made to better reflect the purpose of the chapter.

N.J.A.C. 10:44B-4.2(a)1 is proposed for amendment to change that every individual between the ages three and 21 (rather than 22) shall receive appropriate education in accordance with Federal and State laws.

N.J.A.C. 10:44B-4.2(a)2 is proposed for deletion as the language is no longer necessary.

New N.J.A.C. 10:44B-4.2(a)2 is modified from, and replaces, N.J.A.C. 10:44B-4.2(a)3. The age of “55” is being placed with “60.” Thus, an individual of 60 years of age who attends a day activity or program or is employed may elect to retire. It is also proposed that the language “the licensee shall assist the individual to participate” be replaced with “the licensee shall assist the individual to participate in age appropriate activities outside the residence, as requested.”

N.J.A.C. 10:44B-4.2(b) is proposed to replace the language “shall be paid for productive work, except for assisting with” with “may assist.” Further, “in accordance with their abilities as assessed by the IDT” has been added for greater clarity.

N.J.A.C. 10:44B-5.1(a) is proposed for amendment with changes to syntax and grammar.

N.J.A.C. 10:44B-5.1(b) is proposed to include the language existing in N.J.A.C. 10:44B-5.1(b)2 with changes to syntax and grammar. In addition, the term “nurse practitioner” is added to be consistent with other parts of the rule. Further, “on the placing agency medical form” has been added.

N.J.A.C. 10:44B-5.1(b)1 is proposed for deletion as the requirement is antiquated.

N.J.A.C. 10:44B-5.1(c) is proposed to include the language at existing N.J.A.C. 10:44B-5.1(c)3 with changes to syntax and grammar. In addition, “every three years” is replaced with “annually” to reflect the current requirements.

N.J.A.C. 10:44B-5.1(c)1 is proposed for amendment to replace “three-year intervals” with “yearly” for consistency with other parts of the rule. Additionally, “immediately” is added for greater clarity.

N.J.A.C. 10:44B-5.1(c)2 is proposed for amendment to add that a Mantoux skin test can be performed by a physician “or nurse practitioner” and replace that the test must be performed “initially and at three-year intervals” with “yearly” for consistency with other parts of the rule.

New N.J.A.C. 10:44B-5.1(d) states that the licensee shall assure that a medical examination and Mantoux skin test are completed within three business days of the date of placement for any individual who has not had a physical examination and Mantoux skin test within one year prior to placement.

Recodified N.J.A.C. 10:44B-5.1(e) is proposed for amendment to replace the “least” with “a minimum” as per the requirement that an individual in a community care residence have an annual “oral or” dental examination to better reflect the purpose of the chapter.

New N.J.A.C. 10:44B-5.1(e)2 is proposed for amendment to include the requirements necessary for an individual that is edentulous. This change is being made to better reflect the purpose of the chapter and provide greater clarity.

N.J.A.C. 10:44B-5.1(e) is proposed to be deleted as the language is now found at N.J.A.C. 10:44B-5.1(g).

N.J.A.C. 10:44B-5.1(f) is proposed to be deleted as the language is replaced with requirement to call 9-1-1 in accordance with Danielle’s Law and N.J.A.C. 10:42A.

New N.J.A.C. 10:44B-5.1(g) is proposed to include language from existing N.J.A.C. 10:44B-5.1(e) with the changes in syntax and grammar. In addition the phrase “but not limited to” has been added. The language regarding the licensee’s responsibility to maintain documentation has been added to better reflect the purpose of the chapter

Recodified N.J.A.C. 10:44B-5.1(h) is proposed with changes to syntax and grammar. For greater clarity, language has been added to indicate that there shall be no expired items; medication shall not be maintained in the first aid kit and an adequate supply of only the items identified in the rule shall be in the first aid kit. New N.J.A.C. 10:44B-5.1(h)8, 9, and 10 have been added to reflect that disposable gloves, hot/cold pack and tweezers are now required to be in the first aid kit.

New N.J.A.C. 10:44B-5.1(i) is proposed for amendment to include that the licensee’s religious or personal preferences shall not interfere with an individual receiving medical care as required by the individual’s physician or nurse practitioner. This subsection is being added to better reflect the purpose of the chapter and provide greater clarity.

Existing N.J.A.C. 10:44B-5.2 is proposed for repeal because it is out of date and in need of clarification, as well as restructuring. The substance of the existing N.J.A.C. 10:44B-5.2 is preserved in new N.J.A.C. 10:44B-5.2, with changes updating the rule to more current procedures that are designed to protect service recipients by formalizing the administration and recording of medications’ usage. New language is added to include “due to intellectual or behavioral disabilities, as determined by the IDT and recorded in the service plan.” There is now required a documentation of the proper code for instances when medication is not administered and a list of all known allergies has been included. Errors in medication documentation or administration shall be recorded on the medication record at the time of their occurrence.

Medications may be changed or discontinued only upon written documentation from the physician or nurse practitioner, which shall be maintained in the individual's file.

To expand upon documentation of individuals that are capable of self-medicating for greater clarity, individuals who have the potential to be self-medicating shall be assessed by the IDT and the results of this assessment shall be recorded in the service plan and reviewed annually by the IDT. Those individuals who have been determined by the IDT to be self-medicating, and who have documentation of such in their service plan, which shall include a current Self-Medication Assessment, shall administer their own medications. Added for clarity was the requirement to maintain copies of prescriptions/physician's orders for current medications prescribed to an individual, as well as documentation from the physician for any changes and/or discontinuation of medications. The licensee shall be familiar with all medications being taken by the individual who self-medicates, their side effects, and where they are stored. The licensee shall dispose of expired and discontinued medications in such a manner so that they cannot be ingested or used by anyone in or out of the home.

Medications obtained from a pharmacist shall include a pharmacy label on which shall be the individual's name, medication name, prescribed frequency of use, and the dosage amount, in accordance with the physician's prescription. The use of pill planners is forbidden and the licensee may not repackaging medications from one container to another container for administration by another person. Medications that are to be administered by another person shall be maintained in the original container that was obtained directly from the pharmacy. The licensee shall be familiar with all medications being administered to the individual, their purpose, and side effects.

N.J.A.C. 10:44B-6.1(a) is proposed for amendment to change the word “occupants” of the home to “all persons in the residence.” This change is made to better reflect the inclusion of all persons in the home as the subsection pertains to the licensee’s obligation to protect them from harm. Additionally, the word “welfare” was added for consistency with other parts of the chapter. Further, “arising from” is replaced by “that can be attributed to” for syntax.

N.J.A.C. 10:44B-6.1(b) is proposed for amendment to change the word “any” to “all” pertaining to one- and two-family dwellings that are subject to the requirements of the New Jersey Uniform Construction Code (UCC). This change is being made to reflect a clear meaning for the requirement. Additionally, it is proposed to correct the terminology of the UCC Use Group. The word “use” and “category” have been deleted. Further the UCC Use Group “R-3” has been replaced with “R-5.”

New N.J.A.C. 10:44B-6.1(c) is proposed to explain the requirement to use licensed contractors and obtain permits, as required, when modification, renovations, or upgrades to heating, plumbing, and electrical systems are required. This change is being made to better reflect the purpose of the chapter.

New N.J.A.C. 10:44B-6.1(d) is proposed to explain the requirement that whenever a licensee moves, he or she shall obtain a copy of the Certificate of Occupancy as required by local ordinance. This change is being made to better reflect the purpose of the chapter.

N.J.A.C. 10:44B-6.1(e) is proposed for recodification from N.J.A.C. 10:44B-6.1(c) with amendments. The word “homes” is replaced by the word “residences” for consistency with the chapter. This change is being made to better reflect the purpose of the chapter. Existing N.J.A.C. 10:44B-6.1(c)1 is proposed to be deleted as the language is no longer necessary required and existing N.J.A.C. 10:44B-6.1(c)2 is proposed to be merged into subsection (e).

N.J.A.C. 10:44B-6.1(f) is proposed for recodification from N.J.A.C. 10:44B-6.1(d) with amendments for syntax and grammar. The word “home” is replaced by the word “residence” for consistency with the chapter. Further, several changes are proposed to add greater emphasis on the purpose of the chapter. Specifically, “operated” and “in any part of the home” are included. In paragraph (f)1, the word “must” is replaced with “shall” and “guards or insulated” is replaced by “covers.”

New N.J.A.C. 10:44B-6.1(g) states that air conditioners and fans shall be installed and operated in a safe manner. This change is being made to better reflect the purpose of the chapter.

New N.J.A.C. 10:44B-6.1(h) is proposed to include that plumbing, drains, and sewer lines or septic systems must be installed and maintained in good and safe working condition. This change is being made to better reflect the purpose of the chapter. New N.J.A.C. 10:44B-6.1(h)1 is proposed to include the minimum and maximum water temperatures permitted in the residence. This change is being made to better reflect the purpose of the chapter.

Existing N.J.A.C. 10:44B-6.1(e) is proposed for recodification as N.J.A.C. 10:44B-6.1(h)2 without change and requires that hot and cold running potable water shall be available in adequate supply at all times.

Existing N.J.A.C. 10:44B-6.1(f) is proposed for recodification as N.J.A.C. 10:44B-6.1(i) with technical amendments and clarifies that a community service residence contain an operable telephone, which means a hardwired landline with a corded handset.

Recodified N.J.A.C. 10:44B-6.1(i)1 is proposed with deletion of the need to maintain the telephone number of the nearest hospital, fire department, ambulance service, and police department. It is now required that the telephone number of the Division hotline be readily

accessible by the primary telephone in the residence. This change is made as the licensee shall dial 911 in an emergency.

Existing N.J.A.C. 10:44B-6.1(g) is proposed for recodification as N.J.A.C. 10:44B-6.1(j) with the addition of “in good repair” as the requirement for maintaining stair treads and landings to better reflect the purpose of the chapter.

Existing N.J.A.C. 10:44B-6.1(h) is proposed for recodification as N.J.A.C. 10:44B-6.1(k) without change and requires that stair treads be at least nine inches deep and have no risers that exceed the height of 8 ¼ inches.

Existing N.J.A.C. 10:44B-6.1(i) is proposed for deletion as the crux of this subsection is proposed as new N.J.A.C. 10:44B-6.1(m).

Existing N.J.A.C. 10:44B-6.1(j) is proposed for recodification as N.J.A.C. 10:44B-6.1(l) without change and requires that stairways shall be a minimum of two feet eight inches wide from handrail to handrail or wall.

Existing N.J.A.C. 10:44B-6.1(k) is proposed for deletion as the language referencing windows and ventilation in a residence is relocated to N.J.A.C. 10:44B-6.1(p).

New N.J.A.C. 10:44B-6.1(m) replaces N.J.A.C. 10:44B-6.1(i) with changes in syntax and grammar for better clarity of the rule.

Existing N.J.A.C. 10:44B-6.1(l) is proposed for recodification as N.J.A.C. 10:44B-6.1(n) with changes in syntax and grammar. The word “secure” as it pertains to railings, is added for greater clarity of the rule.

Existing N.J.A.C. 10:44B-6.1(m) is proposed for recodification as N.J.A.C. 10:44B-6.1(o) and is proposed for amendment to delete the word “outside,” to include all stairways to better reflect the purpose of the chapter.

Existing N.J.A.C. 10:44B-6.1(n) is proposed for deletion as this regulation is relocated to N.J.A.C. 10:44B-3.4(e)2.

New N.J.A.C. 10:44B-6.1(p) is relocated from Existing N.J.A.C. 10:44B-6.1(k).

Existing N.J.A.C. 10:44B-6.1(o) is proposed for recodification as N.J.A.C. 10:44B-6.1(q) and is proposed for amendment with the term “bathroom” replacing the “every toilet, lavatory, bathtub, or shower” and requires that every residence must have at least one full bathroom, which must contain a door for privacy. Also, for clarity, the new subsection includes that the bathtub and shower shall be maintained in good sanitary condition .

New N.J.A.C. 10:44B-6.1(q)4 is proposed to include that bathroom fixtures, lighting, and mirrors shall be in good condition and securely fastened to the wall, ceiling, or floor to better reflect the purpose of the chapter.

Existing N.J.A.C. 10:44B-6.1(q) is proposed for recodification as N.J.A.C. 10:44B-6.1(r) and prohibits the accumulation of garbage, waste, or clutter in the home and surrounding property. New N.J.A.C. 10:44B-6.1(r)1 includes language from existing N.J.A.C. 10:44B-6.1(p) and is amended to include that the garbage containers shall be “maintained in good condition” for greater clarity and emphasis of the rule. New N.J.A.C. 10:44B-6.1(r)2 includes language from existing N.J.A.C. 10:44B-6.1(p) and is amended to pertain to only outside garbage containers and requires that they shall be provided with tight fitting covers. Also, language pertaining to containers smaller than a certain size not requiring lids is proposed for deletion. This change is to better reflect the purpose of the chapter.

Existing N.J.A.C. 10:44B-6.1(r) is proposed for deletion as this language is replaced and expanded upon in new N.J.A.C. 10:44B-6.1(t).

Existing N.J.A.C. 10:44B-6.1(s) is proposed for deletion as the language is relocated and expanded upon at N.J.A.C. 10:44B-6.2(e).

Existing N.J.A.C. 10:44B-6.1(t) is proposed for deletion as the language can now be found at N.J.A.C. 10:44B-6.2(a).

New N.J.A.C. 10:44B-6.1(t) is relocated and expanded upon from N.J.A.C. 10:44B-6.1(r). The relocation is proposed for better flow of the rule.

New N.J.A.C. 10:44B-6.1(t)1 is proposed to include a minimum list of items that shall be prohibited. This includes, light bulb wattage in excess of manufacturer's recommendations; piggybacking electrical cords; overloaded outlets; broken light fixtures; missing outlet or switch plate covers; cellophane wrapping on lampshades; water leaks or accumulation of stagnant water; frayed or unsecured carpeting; electrical cords running under carpeting or through doorways; improper use or maintenance of electrical devices; improperly wired holiday decorations; unsecured or overloaded shelving; exposed wiring; broken furniture; and tripping hazards. These additions are to provide clarity and greater emphasis of the rule.

New N.J.A.C. 10:44B-6.1(t)2 is proposed to state that all fuse boxes, circuit breakers, control panels, junction boxes, and exterior electrical receptacles shall be provided with protective covers and maintained in good operating condition. This addition is made to better reflect the purpose of the chapter.

New N.J.A.C. 10:44B-6.1(t)3 is proposed to state that major electrical equipment or appliances that require high wattage, including, but not limited to, refrigerators, washers, dryers, air conditioners, or home theatre equipment, shall be plugged directly into an outlet or heavy duty surge protector. This addition is made to better reflect the purpose of the chapter.

New N.J.A.C. 10:44B-6.1(u) is proposed to provide that specific locks are prohibited in the residence. New N.J.A.C. 10:44B-6.1(u)1 is proposed to identify the type of locks permitted on doors.

New N.J.A.C. 10:44B-6.1(v) is proposed to allow only for the use of commercially available security devices for use with sliding glass exit doors. This change is proposed to provide clarity of what devices are allowable.

Existing N.J.A.C. 10:44B-6.1(u) is proposed for recodification as N.J.A.C. 10:44B-6.1(w) with only one technical amendment.

Existing N.J.A.C. 10:44B-6.1(v) is proposed to be deleted and relocated to N.J.A.C. 10:44B-6.1(z) and N.J.A.C. 10:44B-6.1(v)1 is proposed to be deleted as the language is no longer necessary in the rule.

Existing N.J.A.C. 10:44B-6.1(w) is proposed to be deleted as the language is no longer necessary in the rule. New N.J.A.C. 10:44B-6.1(x) is proposed to include the licensee's responsibility to ensure that pets pose no danger to occupants or visitors to the household.

New N.J.A.C. 10:44B-6.1(y) is proposed to ensure that occupants of the home who own a firearm have a valid license. The subsection further establishes how the weapon will be secured and stored.

New N.J.A.C. 10:44B-6.1(z) is relocated from existing N.J.A.C. 10:44B-6.1(v) with changes to syntax and grammar and pertains to barrier-free design.

Existing N.J.A.C. 10:44B-6.1(w)1 is proposed for recodification as N.J.A.C. 10:44B-6.1(aa) with changes to syntax and grammar. New N.J.A.C. 10:44B-6.1(aa)1 is proposed to state that basements without two independent means of egress may not be occupied.

Existing N.J.A.C. 10:44B-6.1(x) is proposed to be recodified as N.J.A.C. 10:44B-6.1(bb) with amendments. Recodified N.J.A.C. 10:44B-6.1(bb)1 through 8, referencing how food and food-related utensils should be maintained within the residence are proposed with amendments to expand upon the existing requirements to include “appliances” and specify certain products that food shall not be stored near.

N.J.A.C. 10:44B-6.2, General exterior residence requirements, expands on and provides greater clarity for the safety of the exterior portion of the residence. The new rule includes language from existing N.J.A.C. 10:44B-6.1(r), (s), and (t). Further additions include standards for lighting at the front and rear of the home, house number visibility from the street, and maintenance of fencing, roofs, gutters, and downspouts.

Existing N.J.A.C. 10:44B-6.2 is proposed for recodification as N.J.A.C. 10:44B-6.3(a) and is proposed to include the word “hardwired” and “smoke” when referring to smoke detectors. For better clarity, “on the ceiling” is added to identify the required placement of smoke detectors. Recodified N.J.A.C. 10:44B-6.3(a)2 is proposed for an amendment to replace “general” living area with “main” living area for clarity. New N.J.A.C. 10:44B-6.3(a)3 and 4 require that a smoke detector be installed in the basement of the home and mandate that smoke detectors be installed in attic areas that contain storage. Recodified New N.J.A.C. 10:44B-6.3(a)5 is proposed with the deletion of additional units “ may be required” referencing the installment of additional smoke detectors in high hazard areas or areas lacking adequate coverage.

Recodified N.J.A.C. 10:44B-6.3(b) is proposed to add the word “all” when referencing that smoke detectors shall be properly maintained and be in operating condition (rather than “good” operating condition).

New N.J.A.C. 10:44B-6.3(c) is proposed to include the requirement for carbon monoxide detectors and the specific conditions in which the detectors are required.

Recodified N.J.A.C. 10:44B-6.3(d) is proposed for amendment to include carbon monoxide detectors that are required to be tested monthly. Further, language has been added to require documentation of monthly testing, even when there are no individuals residing in the home.

Recodified N.J.A.C. 10:44B-6.3(e) is proposed to include language that the fire extinguisher shall be “fully charged, as indicated by the gauge.”

Recodified N.J.A.C. 10:44B-6.3(f) is proposed to replace the language “a knowledge of” with “competency in” the use of the fire extinguisher.

Existing N.J.A.C. 10:44B-6.2(f) is proposed for deletion as this information is now located in other sections of the rules.

Recodified N.J.A.C. 10:44B-6.3(g) is proposed for amendment to indicate that fire drills must be “unannounced” monthly fire drills and must occur when “individuals are in the home.”

Existing N.J.A.C. 10:44B-6.2(g)1 and 2 are proposed for deletion. Recodified N.J.A.C. 10:44B-6.3(g)1 is proposed for amendment to add “and, at a minimum, one drill a year shall be conducted while the individuals are asleep.” New N.J.A.C. 10:44B-6.3(g)2 is relocated from existing N.J.A.C. 10:44B-6.2(g)4, and proposed for amendment to add “the licensee shall vary the exit routes from the home.”

New N.J.A.C. 10:44B-6.3(h) is relocated from existing N.J.A.C. 10:44B-6.2(g)2 and proposed for amendment to provide that the evacuation time be changed from “2 1/2 minutes” to “three minutes.” Further, it is proposed that language “from the sound of the smoke detector to the last person exiting the home” be added.

New N.J.A.C. 10:44B-6.3(h)1 states that fire drills shall be timed exactly utilizing a timing device that measures time to the second.

New N.J.A.C. 10:44B-6.3(i) is relocated from existing N.J.A.C. 10:44B-6.2(g)1 and is amended to indicate that the documentation of the fire drill, including the date and time thereof, the length of time it took to evacuate the premises, the hypothetical fire location, and the names the persons who participated therein, shall now be on the licensing agency's form and filed in the licensee's administrative records. Further it is proposed to include the exit(s) used during the fire drill.

Existing N.J.A.C. 10:44B-6.2(g)3 is proposed for recodification as N.J.A.C. 10:44B-6.3(j) and is proposed for amendment to state that a fire drill be conducted within 24 hours of any admission to the home and to add "and within 24 hours of a fire drill exceeding three minutes."

Existing N.J.A.C. 10:44B-6.2(g)5 is proposed for recodification as N.J.A.C. 10:44B-6.3(k). It is proposed that "the Department" be replaced with "the development agency" as the Division and/or the development agency will observe the fire drills, but it is the development agency that will make recommendations. The subsection is further amended to add "and follow all recommendations made by the development agency" regarding problems with evacuation time.

Existing N.J.A.C. 10:44B-6.2(h) is proposed for deletion and is replaced with new N.J.A.C. 10:44B-6.3(l). The new subsection mandates that combustible materials must be kept at least three feet away from the furnace, hot water heater, fireplace, or wood or pellet burning stoves (rather than just the furnace or hot water heater).

Existing N.J.A.C. 10:44B-6.2(i) is proposed for recodification as N.J.A.C. 10:44B-6.3(m) and is proposed for amendment to include that “halogen lights,” along with portable area or space heaters shall also be prohibited in the home.

New N.J.A.C. 10:44B-6.3(n) requires that extension cords shall be UL approved and only used with small appliances and/or indoor holiday decorations in accordance with manufacturer’s instructions.

Existing N.J.A.C. 10:44B-6.2(j) is proposed for recodification as N.J.A.C. 10:44B-6.3(o) and is proposed for amendment to add that those persons who reside or visit the home and smoke do so in safe manner. It is further proposed for amendment that smoking in bed shall be prohibited.

Existing N.J.A.C. 10:44B-6.2(k) is proposed for recodification as N.J.A.C. 10:44B-6.3(p) and is proposed for amendment to replace “wood burning” with “wood and pellet” burning stoves. Further, the rule is proposed for amendment to replace “inspection” with “installation” for clarity of the rule.

New N.J.A.C. 10:44B-6.3(q) is proposed to state that fireplaces and wood or pellet burning stoves and all components shall be kept clean and well maintained. Existing N.J.A.C. 10:44B-6.2(k)1 is proposed for recodification as N.J.A.C. 10:44B-6.3(q)1 with the addition that an A-rated fire extinguisher be available in the same room where a pellet burning stove or fireplace are located. This change is made to be consistent with other parts of the chapter.

Existing N.J.A.C. 10:44B-6.2(k)2 is proposed for recodification as N.J.A.C. 10:44B-6.3(q)2 with the addition that protective screens or covers shall be provided, so as to prevent occupants in the home from coming into direct contact with the fire and/or to prevent sparks from flying into the home from the fireplace.

New N.J.A.C. 10:44B-6.3(q)3 is proposed to indicate that fireplaces, if used, must be professionally inspected, and cleaned if necessary, annually, and documentation of such shall be maintained.

Existing N.J.A.C. 10:44B-6.2(l) is proposed for recodification as N.J.A.C. 10:44B-6.3(r) and pertains to the storage of combustible materials. Recodified N.J.A.C. 10:44B-6.3(r) also contains existing N.J.A.C. 10:44B-6.2(m) and the recodified subsection is proposed with changes to syntax and grammar.

Existing N.J.A.C. 10:44B-6.2(n) is proposed for recodification as N.J.A.C. 10:44B-6.3(s) and is proposed for amendment to indicate that there shall be at least two means of egress from the residence (as opposed to two ground level doors), as approved by the licensing agency.

Existing N.J.A.C. 10:44B-6.2(o) is proposed for deletion as this information is contained in recodified N.J.A.C. 10:44B-6.4.

New N.J.A.C. 10:44B-6.3(t) is proposed to indicate that electric and gas clothes dryers shall be maintained and used in a safe manner. New N.J.A.C. 10:44B-6.3(t)1 is proposed to indicate that lint trap screens in clothes dryers shall be maintained in good repair and cleaned after each use. New N.J.A.C. 10:44B-6.3(t)2 is proposed to indicate that the dryer vent tubes shall be maintained in good repair, remain unblocked, and uncrushed, and properly connected to the dryer. New N.J.A.C. 10:44B-6.3(t)3 is proposed to indicate that the area around the dryer shall be maintained free of lint, clothing, and garbage. Finally, new N.J.A.C. 10:44B-6.3(t)4 is proposed to indicate that the exterior dryer vent exhausts shall be kept clean, free of lint, and provided with a commercially made protective cover that is designed to prevent pests from entering the dryer vent.

New N.J.A.C. 10:44B-6.3(u) is proposed to indicate that candles shall only be used with a noncombustible shield surrounding the candle and the flame, and kept at least 12 inches away from anything that can burn. Further, the use of candles in bedrooms or sleeping areas, in utility rooms or in rooms adjacent to utility rooms, for emergency lighting, or left unattended, is prohibited.

Existing N.J.A.C. 10:44B-6.3 is proposed for recodification as N.J.A.C. 10:44B-6.4, and the heading is amended to change “rooms” with “bedrooms.”

New N.J.A.C. 10:44B-6.4(a) is relocated from existing N.J.A.C. 10:44B-2.2(c) with changes to syntax and grammar.

New N.J.A.C. 10:44B-6.4(b) is relocated from existing N.J.A.C. 10:44B-2.2(e). It is proposed for amendment to replace “non-ambulatory individuals” with “individuals that use wheelchairs and do not ambulate.” It is further proposed for amendment to delete “unless a specific waiver is granted by the licensing agency.”

New N.J.A.C. 10:44B-6.4(c) is relocated from existing N.J.A.C. 10:44B-6.2(o), with only a technical change.

New N.J.A.C. 10:44B-6.4(d) is relocated from existing N.J.A.C. 10:44B-6.3(c)1 is proposed with changes to syntax and grammar.

New N.J.A.C. 10:44B-6.4(e) is relocated from exiting N.J.A.C. 10:44B-2.2(d) and is proposed with a technical change.

Existing N.J.A.C. 10:44B-6.3(a) is proposed for recodification as N.J.A.C. 10:44B-6.4(f), with changes to grammar. Recodified N.J.A.C. 10:44B-6.4(f)3 is proposed for amendment to indicate that plastic or any other form of covering on a licensed bedroom window shall be prohibited. New N.J.A.C. 10:44B-6.4(f)4 is proposed to indicate that window treatments, such

as curtains, blinds, window shades, etc., shall be installed on the windows to afford privacy and shall be maintained in good condition.

Existing N.J.A.C. 10:44B-6.3(b) is proposed for deletion as this rule is contained within new N.J.A.C. 10:44B-6.4(g).

Existing N.J.A.C. 10:44B-6.3(c) is proposed for deletion as it is relocated to N.J.A.C. 10:44B-6.4(d).

New N.J.A.C. 10:44B-6.4(g) is proposed to indicate that the licensed bedrooms shall be provided with a solid surface entry door in good condition that opens easily, latches securely, and that has a doorknob. These doors shall not be prevented from opening completely or be blocked in any way. New N.J.A.C. 10:44B-6.4(g)1 is proposed to indicate that the doorknob must be one that can be unlocked readily from the inside. Where doorknob locks require a key or other device to open from the outside, such a key or device shall be placed in close proximity to the door for emergency entry into the room. New N.J.A.C. 10:44B-6.4(g)2 is proposed to indicate that bedrooms shall not be a means of access to any other rooms, except for a private bathroom that is only used that that bedroom's occupants.

Existing N.J.A.C. 10:44B-6.3(d) is proposed for recodification as N.J.A.C. 10:44B-6.4(h) and is amended to include N.J.A.C. 10:44B-6.3(e). The new subsection is proposed replace "three individuals" with "two individuals" assigned to a bedroom in the home and to delete existing N.J.A.C. 10:44B-6.3(e)3 pertaining to the size of a room containing three people.

New N.J.A.C. 10:44B-6.4(i) provides that male and female individuals shall not share the same licensed bedroom unless there is documentation in each of the individuals' service plans that this arrangement has been requested by both individuals and approved by their IDTs.

Existing N.J.A.C. 10:44B-6.3(f) is proposed for recodification as N.J.A.C. 10:44B-6.4(j) and is proposed for amendment with changes to syntax and grammar. The word “licensed” was inserted as a modifier when referencing the bedroom.

Existing N.J.A.C. 10:44B-6.3(g) is proposed for recodification as N.J.A.C. 10:44B-6.4(k) and is proposed for amendment with the addition of the provision “for the individual(s) to read, dress, or engage in hobbies or desired activities” for greater clarity.

Existing N.J.A.C. 10:44B-6.3(g)1 is proposed for deletion as this regulation is proposed to be contained elsewhere in the chapter.

New N.J.A.C. 10:44B-6.4(l) is proposed to state that the licensee shall not store bedroom personal belongings of any other persons in the licensed bedroom besides the individuals occupying the licensed room. Licensees may temporarily use an unoccupied licensed bedroom for their own minimal storage while the room is vacant, but shall remove all belongings prior to placement of an individual into the bedroom.

New N.J.A.C. 10:44B-6.4(m) is proposed to indicate that at no time shall an occupant of the home, family member, or visitor occupy a licensed room while it is being occupied by individuals. A vacant licensed room may be temporarily occupied by someone other than individuals only upon written request by the licensee and approval by the placing and licensing agency.

Existing N.J.A.C. 10:44B-6.3(h) is proposed for recodification as N.J.A.C. 10:44B-6.4(n) and is proposed with changes to syntax and grammar. It is also proposed that that the licensee shall be responsible to provide the specific items to the individual. This change is made for clarity of the rule. Recodified N.J.A.C. 10:44B-6.4(n)1ii is proposed with changes to syntax and grammar. It is further amended to add additional types of beds that are prohibited. New N.J.A.C.

10:44B-6.4(n)1iv is added to permit the use of vinyl or fabric mattress and/or box spring protectors provided they are designed for that purpose and are made of fire-resistant material. Shipping plastic or any other form of covering is prohibited. New N.J.A.C. 10:44B-6.4(n)1v is added to provide that the protective railings around a bed may not be utilized unless the individual has a medical condition that warrants their use and there is written authorization by the physician and documentation in the service plan.

New N.J.A.C. 10:44B-6.4(n)2 is relocated from existing N.J.A.C. 10:44B-6.3(h)7 and is proposed for amendment with changes to syntax and grammar. In addition, it is proposed to include the minimum number of sheets, pillowcases, and blankets per individual and that bed linen shall be changed before each new admission.

Recodified N.J.A.C. 10:44B-6.4(n)3 is proposed with changes to syntax and grammar and to add an additional materials requirement for the protection of service recipients..

Recodified N.J.A.C. 10:44B-6.4(n)4 is proposed with changes to syntax and grammar.

Existing N.J.A.C. 10:44B-6.3(h)6 is proposed for deletion as this requirement has been relocated to another area of the chapter.

New N.J.A.C. 10:44B-6.4(n)5 is added to require that an individual residing in the home be provided by the licensee with an enclosed closet or free standing sturdy wardrobe large enough to accommodate the individual's clothing and that has doors or enclosures that are operable and maintained in good condition.

Recodified N.J.A.C. 10:44B-6.4(n)6 is proposed for amendment with the added language of "for the individual to dress and view him- or herself and which is secured so that it cannot be knocked over or broken."

New N.J.A.C. 10:44B-6.4(n)7 provides that a nightstand or side bed stand is required in an individual's bedroom.

New N.J.A.C. 10:44B-6.4(o) provides that the licensee shall assist an individual in maintaining or decorating his or her room according to the individual's personal taste and preference.

New N.J.A.C. 10:44B-6.4(p) requires that the licensee shall assist an individual in maintaining his or her bedroom in a safe and clean manner. New N.J.A.C. 10:44B-6.4(p)1 provides that if the individual refuses or does not have the ability to learn to maintain his or her bedroom in a safe and clean manner, it shall be the licensee's responsibility to ensure that the room is maintained in a safe and clean manner. New N.J.A.C. 10:44B-6.4(p) 2 mandates that the licensee shall ensure that the individual has sufficient space to move about the room safely, and that garbage or waste is disposed of on a regular basis.

New N.J.A.C. 10:44B-6.5, Transportation and vehicle safety, is proposed. New N.J.A.C. 10:44B-6.5(a) is proposed to indicate that the vehicles that the licensee uses to transport individuals shall comply with all applicable safety and licensing rules established by the New Jersey Motor Vehicle Commission, including, but not limited to, valid vehicle liability insurance; a current inspection sticker; and a current registration. New N.J.A.C. 10:44B-6.5(b) is proposed to indicate that the licensees who drive shall have a driver's license valid in the State of New Jersey and that licensees who do not possess a driver's license shall identify to the placing, development, and licensing agencies, a designated driver, with a valid driver's license, to transport individuals. New N.J.A.C. 10:44B-6.5(c) is proposed to indicate that the interior of vehicles shall be free of obstacles preventing clear passage to operable doors. New N.J.A.C. 10:44B-6.5(d) is proposed to indicate that the vehicle shall be equipped with working seatbelts

for all passengers. New N.J.A.C. 10:44B-6.5(e) is proposed to indicate that individuals shall be supervised while in vehicles in accordance with the determination of the IDT and as stated in the service plan.

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

Social Impact

The rules proposed for re Adoption with amendments, new rules, repeals, and recodifications will have a positive social impact by ensuring that community care 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 above, licensees will continue to be required to comply with rules specifying general provisions, administrative policies and practices, care of the individual, habilitation, health services, and physical plant and safety.

Economic Impact

The Department believes that the rules proposed for re Adoption with amendments, new rules, repeals, and recodifications will have no adverse economic impact upon participants in the community care residence program. The rules proposed for re Adoption with amendments, new rules, repeals, and recodifications will affect the nearly 700 community care residences that serve approximately 1,000 individuals with developmental disabilities, funded by and contracted with the Division. The rules proposed for re Adoption with amendments, new rules, repeals, and

recodifications will have no significant economic impact. Some additional supplies, equipment, or costs are expected to be required for licensees as a result of the rules proposed for readoption with amendments, new rules, repeals, and recodifications. The rules require that expenditures be made to meet a set of standards that will help to ensure the safety of both the licensees and service recipients in a residence; these requirements are currently present in many non-community care residence households. Any additional accommodations made for the conveniences of service recipients are, generally, those already present in the home, or expenditures that could be made from the developmentally disabled client's Social Security Income payment. The costs of these requirements are necessary for the health and safety of the individuals that live in community care residences and most of the expenses have been considered in the payments made to the providers of services by funding from the Department.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) require State agencies that adopt, readopt, or amend any State rule that exceeds any Federal standards or requirements to include in the rulemaking document a Federal standards analysis. The amendments to the rules being proposed are not promulgated under the authority of or in order to implement, comply with, or participate in any program established under Federal law or a State statute that incorporates or refers to Federal law, standards, or requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. (P.L. 1995, c. 65) do not require a Federal standards analysis of the rules proposed for readoption with amendments, new rules, repeals, and recodifications.

Jobs Impact

The rules proposed for readoption with amendments, new rules, repeals, and recodifications will not result in the generation or loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments, new rules, repeals, and recodifications will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

Community care residences that are licensed by the Department should not be considered small businesses, as defined in the Regulatory Flexibility Act (Act), N.J.S.A. 52:14B-16 et seq., as they are private homes. However, if, for the purposes of the Act, the licensees are considered to be small businesses, then the following analysis applies. The chapter does require reporting, recordkeeping, and other compliance requirements, as discussed in the Summary above.

The costs, which are discussed in the Summary and Economic Impact statements above, of these requirements are necessary for the health and safety of the developmentally disabled individuals that live in community care residences and are covered by the payments made to the providers of services by funding from the Department. There are no professional services required by the rules, and the sponsors are reimbursed for expenses they incur on behalf of consumers.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments, new rules, repeals, and recodifications will have no impact on affordable 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 community care residence licensing program.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments, new rules, repeals, and recodifications will have an insignificant impact on smart growth. There is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to the Department's community care residence licensing program.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:44B.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 10:44B-2.3 and 5.2.

Full text of the proposed amendments, new rules and recodifications follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

10:44B-1.1 Purpose and scope

The purpose of this chapter is to provide [for the protection of persons with developmental disabilities who require such supervision and to provide for overall improvement of the quality of life for individuals] **minimum standards that protect the health, safety, welfare and rights of individuals with developmental disabilities and persons with traumatic brain injuries** residing in community care residences [for the developmentally disabled]. If all persons living in a [particular place of] **community care** residence [are developmentally disabled], **except the licensee and members of the licensee's family, are persons with a developmental disability or are persons who have sustained a traumatic brain injury**, and [where] **if** all such [individuals] **persons** do not require personal guidance, as determined by the interdisciplinary team[s] (**IDT**), licensure is available on a voluntary basis **to New Jersey residents** in accordance with the expressed preferences of the [developmentally disabled individuals] **persons' with a developmental disability and/or traumatic brain injury or their legal guardian.**

10:44B-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] **an** act or omission of an act that [willfully] **will** deprive[s] [a resident] **an individual** of his or her rights, [or] which may[cause or causes actual physical injury or emotional harm, and is not limited to physical injury. Examples of abuse are acts that cause pain, cuts, bruises, temporary loss of a body function, temporary or permanent disfigurement, death; striking with a closed or open hand; pushing to the ground or shoving aggressively; twisting a limb; pulling hair; dousing with water; intentionally ignoring a resident; withholding food; forcing an individual with developmental disabilities to eat obnoxious

substances; or use of verbal or other communication to curse, vilify, degrade an individual or threaten an individual with physical injury. This list is by no means exhaustive.] **include but are not limited, physical abuse, sexual abuse, and/or verbal abuse, psychological abuse, or mistreatment.**

"Advocate" means a public or private officer, agency, or organization designated by [state] **State** legislation, [state] **the State** plan, or the [governor] **Governor** to represent the interests of [persons] **individuals** with developmental disabilities [and] **or persons with traumatic brain injuries** to speak on behalf of such individuals.

...

["Autism" means a behaviorally-defined syndrome affecting both children and adults. The essential features are typically manifested prior to five years of age and include: disturbances of developmental rates and sequences; disturbances of responses to sensory stimuli; disturbances of speech, language-cognition, and non-verbal communication; and disturbances of the capacity to relate appropriately to people, events and objects. 2]

“Alternate” means a person 18 years of age or older who has been selected and identified by the licensee to the licensing agency and the placing and/or development agency and who accepts the responsibility to provide care and supervision for individuals who require supervision.

“Applicant” means a person age 18 or older who satisfactorily initiates and completes the application process in order to obtain a license to operate a community care residence.

“Barrier-free design” means any design in the residence necessary to accommodate individuals with physical disabilities which include, but are not limited to: ramps,

handrails in bathroom areas, corridors or doorways, or rooms and doorways with space enough to accommodate individuals in wheelchairs.

...

"Case manager" means [the authorized representative of any] **an employee of the Division or of a contracted** agency who coordinates the [provision of social services and/or habilitation services to boarders or developmentally disabled individuals] **implementation of programs, supports, and/or services to facilitate the achievement of the outcomes, goals, and/or objectives identified in the service plan. A case manager provides assistance to the individual in gaining access to needed State plan services, medical, social, educational, and other services, regardless of the funding source for the services. Activities of the case manager may include assessment, service/support planning, arrangement of services, coordination of service providers, and/or monitoring and overseeing the provision of services.**

["Cerebral Palsy" means a persisting qualitative motor disturbance appearing before the age of three, due to non-progressive damage of the brain.]

“Census” means the number of individuals or boarders currently residing in the residence. The census of the home shall count towards the capacity of the home.

“Central Registry” means the Central Registry of Offenders Against Individuals with Developmental Disabilities enacted pursuant to N.J.S.A. 30:6D-77 and N.J.A.C. 10:44D.

...

“Close” means a final licensing action by the Department in which an applicant or a licensee is prohibited from operating a community care residence for individuals with developmental disabilities or persons with traumatic brain injuries.

"Community care residence" means a private [home] **house** or apartment in which [an adult] **a person 18 years or older** or family contracts **with the Department** to provide [developmentally disabled] **individuals with developmental disabilities** or persons **with traumatic brain injury** with care and[/or] **a level of training and supervision that is based upon the documented needs and wishes of the individuals placed in the residence.**

"Community residence for the developmentally disabled" means any community residential facility housing up to 16 [developmentally disabled persons which] **individuals with a developmental disability that** also provides food, shelter, personal guidance, and/or training for[developmentally disabled persons] **individuals with a developmental disability** who require assistance, temporarily or permanently, in order to live independently in 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. 26:2H-1 et seq.) and shall include, but not be limited to, group homes, halfway houses, supervised apartment living arrangements, hostels, and community care residences (formerly skill development homes, family care homes, and respite homes).

"Community Services" means a component of the Division of Developmental Disabilities [which] **that provides housing and supportive services,** work and training programs[, housing and supportive services] to [aid persons] **individuals** with developmental disabilities [in establishing themselves] **and traumatic brain injuries who are residing** in the community.

“Confidentiality” means maintaining records of individuals in a secure manner pursuant to State and Federal law so that no unauthorized persons have access to the contents therein.

“Danielle’s Law” means N.J.S.A. 30:6D-5.1 and the rules promulgated thereunder, N.J.A.C. 10:42A, which requires any person working with individuals with developmental disabilities or traumatic brain injury at a community care residence or other facility for persons with developmental disabilities or persons with traumatic brain injuries to call 911 in the event of a life threatening emergency.

“Day activities” means an organized schedule for an individual or program of education, habilitation, and/or rehabilitation, engaged in by that individual or said individual’s employment in the community.

...

“Development agency” means an agency, under contract with the Department, which recruits, trains, and supports licensees that operate community care residences.

"Developmental disability" means a severe, chronic disability of a person, which:

1. - 3. (No change.)

4. Results in substantial functional limitations in three or more of the following areas of major **life** activity[; self care]: **self-care**, receptive and/or expressive language, learning, mobility, self-direction[; and], capacity for independent living, [or] **and** economic self-sufficiency; and

5. (No change.)

["Epilepsy" means a chronic disease of the central nervous system characterized by convulsions and often unconsciousness.]

“Division” means the Division of Developmental Disabilities, within the Department.

“Domicile” means the permanent, established residence of the applicant or licensee.

"Exploitation" means any **willful**, unjust, or improper use of [another person for one's] **an individual or their resources for the benefit, profit, or advantage of another and/or condoning and/or encouraging the exploitation of said individual by another person. Examples of exploitation include, but are not limited to, appropriating, borrowing, or taking without authorization, personal property/funds belonging to the individual or requiring the latter to perform functions or activities that are normally conducted by persons employed by or contracted with the Division or other agencies, or the performance of which are done solely for the convenience of others.**

["Family care program" means a private home or apartment in which the community care licensee contracts to provide developmentally disabled persons with room, board, and personal guidance.

"Immediate family" means the licensee's spouse, parents, step-parents, children, step-children, grandchildren, and grandparents.]

“Falsification” means intentionally making a record or a document false, giving a false appearance to a record or a document, or making a false statement.

“Family” means the licensee’s spouse, siblings, parents, stepparents, children, stepchildren, adopted children, grandchildren, great-grandchildren, grandparents, cousins, nephews, nieces, aunts, uncles, civil union partners, and domestic partners.

“Firearm” means any firearm as defined in N.J.A.C. 13:54-1.2.

“Goal” means a written statement of attainable, measurable, behavioral or service objectives with an outcome that is expected to be achieved partially or completely within

the year the service plan is in effect. Goals must be related to the personal outcomes desired by the individual.

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

“Habilitation” means services designed to assist individuals with developmental disabilities in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to function successfully in residential-, day-program-, and other-community-based settings. Habilitation services are long-term supports usually provided to individuals with developmental disabilities that are distinguished from rehabilitation services in terms of length of treatment, goals of treatment, and recipient of treatment.

"Individual" means a person with developmental disabilities or a person with traumatic brain injury residing in a licensed community residence [for the developmentally disabled] and who receives services from the Department. "Individual with developmental disabilities" or “individual with traumatic brain injury” will be used as necessary to distinguish between such persons and others, such as staff of the agency or staff of the Division [of Developmental Disabilities] or the Department.

["Interdisciplinary team" (IDT) means a group of persons with a variety of skills and services knowledge who assist in the development of a habilitation plan appropriate to a specific individual who is being served.

"Individual Habilitation Plan" (IHP) means a document that provides an evaluation of the individual's capabilities and needs and sets forth clearly-defined goals and measurable,

behaviorally-stated objectives describing an individualized program of care, training, treatment, and therapies designed to attain and/or maintain the physical, social, emotional, educational and vocational functioning of which the individual is presently or potentially capable.]

"Interdisciplinary team" (IDT) means a group that shall minimally consist of the individual receiving services, the plan coordinator, the legal guardian, and/or the Division case manager. IDT members may include the parents or family member at the preference of the individual or guardian. In addition, IDT members may include: advocates and friends, those persons who work most directly with the individual, and professionals and representatives of service areas, who are relevant to the identification of the individual's needs and preferences and the design and evaluation of programs to meet them.

"License" means the authorization issued by the Department [of Human Services] for a period of up to one year to operate a community residence providing services to [developmentally disabled persons] **individuals with developmental disabilities or traumatic brain injuries**. A license can be denied, revoked, suspended, or can be placed on provisional status by the Department [of Human Services] for violations of minimum standards promulgated herein.

"Licensee" means one or more adults, **age 18 or older**, otherwise known as providers, responsible for the overall operation of the [home,] **community care residence** and who are named on the license.

"Licensing agency" means Developmental Disabilities Licensing, within the Office of [Licensing] **Program Integrity and Accountability, within the** Department of Human Services.

["Natural person" means an individual human being, as opposed to a corporation (an "artificial" or "legal" person).]

“Medication” means all medications, medicated creams, vitamins, treatments, and supplements prescribed by a physician.

“Negative licensing sanction” means an action taken, which imposes a restriction on a licensee and [may] includes, **but is not limited to:** suspension of admissions **into the home**, issuance of a provisional license, [a] reduction in the licensed capacity **of the home**, **reduction in the licensure term of the residence**, [a] non-renewal of the license, [a] suspension of the license, or [a] revocation of the license.

"Neglect" means the failure of **any person responsible for the welfare of** an individual to provide [for or maintain the care and safety of individuals under his or her supervision, including, but not limited to, failure to provide and maintain proper and sufficient food, clothing, health care, shelter, and/or adult supervision.] **the needed supports and services to ensure the health, safety, and welfare of the individual. These supports and services may or may not be defined in a plan of care for the individual, or otherwise required by law or rule. Neglect includes acts that are intentional, unintentional, or careless, regardless of the incidence of harm inflicted on the individual. Examples include, but are not limited to, the failure to provide needed care such as shelter, food, clothing, supervision, attention to personal hygiene, medical care, and protection from health and safety hazards.**

“Non-compliance” means that an applicant or licensee has not complied with this chapter.

“Occupant” means any person residing in the residence who is not an individual or boarder requiring care from the licensee.

"Pattern of non-compliance" means [the] **a pattern of** recurrences of licensing violations over time.

“Person” means a human being, as opposed to a corporation (an “artificial” or “legal” person).

"Personal guidance" means the assistance provided to an individual [with developmental disabilities] **or boarder** in activities of daily living because he or she routinely requires [help] **assistance in** completing **these** activities; [of daily living] and/or cannot direct someone to complete such activities when physical handicaps 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 IDT shall determine the need for personal guidance for each individual.

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

“Physical abuse” means a physical act directed at an individual of a type that may cause, or actually causes, pain, injury, anguish, and/or suffering. Such acts include, but are not limited to: restraining, kicking, pinching, biting, punching, slapping, hitting, pushing, and/or striking with a thrown or held object.

“Placing agency” means the entity or authority that is responsible for the placement of and payment for an individual in a community care residence.

“Plan of correction” (POC) means the written response from the licensee to the licensing agency addressing identified non-compliance.

“Plan coordinator” means a person designated to coordinate the development of the individual’s service plan.

...

“Service plan” means a written individualized habilitation plan consistent with the requirements of N.J.S.A. 30:6D-10 through 12, developed with the individual and/or his or her legal guardian and the IDT. 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 agency 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 Division-approved and can include, but shall not be limited to: individual habilitation plan (IHP); essential lifestyle plan (ELP); or individual service plan (ISP).

“Sexual abuse” means any act of a sexual nature, which may include, but is not limited to: acts of lewdness, touching, or contact with private body areas for the purpose of sexual arousal, gratification, sexual molestation, sexual exploitation, or sexual penetration by a person with an individual with a developmental disability, which is non-consensual or for which the developmentally disabled person lacks the capacity to consent, by one or more parties.

"Skill development program" means care and training conducted in accordance with [an Individual Habilitation Plan] a service plan and overseen by the case manager, provided in a private home or apartment to developmentally disabled persons by an adult person or family under contract with the Department as a community care residence.

"Substantial non-compliance" [exists when not meeting] **means that a licensee's failure to meet** licensing requirements directly endangers the health, safety, or [well-being] **welfare** of an individual[(s)] **or individuals**, when the unmet requirements exist in significant number; when the degree of the condition(s) is severe; when one or more requirements have been left unmet with great frequency; and/or when the terms of the license have been violated.

"Special Response Unit" or "SRU" means that component of the Department responsible for investigating allegations of serious abuse, neglect, and exploitation, as well as alleged violations of Danielle's Law in community programs licensed and/or regulated by the Department or contracted by the Division.

"Terms of the license" means the capacity of the licensed venue, the named licensee(s), the Vendor Identification Number (VID #), the licensee's address, and the dates during which the license is effective.

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

"Uniform Construction Code" refers to the statutory provisions contained in N.J.S.A. 52:27D-119 et seq. and its regulatory scheme contained in N.J.A.C. 5:23.

"Unusual incident" means an occurrence involving the care, supervision, or actions of an individual that is adverse in nature or has the potential to have an adverse impact on the health, safety, and the welfare of the individual or others. Unusual incidents shall include, but are not limited to: abuse, neglect, assault, contraband, criminal activity, Danielle's Law violations, death, exploitation, injury, medical incidents, unauthorized

restraint use, violation of rights, sexual assault or contact, suicide attempt, elopement (criminal or non-criminal status), and operational breakdown.

"Variance" means recognition that the licensee has complied with the intent of a standard in a Department-approved alternative manner, **which is requested in writing by the licensee and granted in writing by the licensing agency.**

“Verbal abuse, psychological abuse, or mistreatment” means any verbal or non-verbal acts, conditions, or omission of acts or conditions that may have or have had a negative impact on an individual and/or may inflict or have inflicted emotional harm, mental distress, fear, and/or humiliation, intimidation, degradation, or is demeaning to a person with a developmental disability. The latter types of abuse or mistreatment include, but are not limited to: teasing, cursing, yelling, name-calling, bullying, and utterances of racial slurs, threats, intimidating gestures, and verbal assault.

"Waiver" [shall] means the temporary suspension of a standard, which is **requested in writing by the licensee and is granted in writing by the licensing agency.**

"Willful non-compliance" exists when the applicant or licensee has knowledge of conditions [which] **that** are in violation of licensing rules and/or terms of the license, has been advised of the consequences of not achieving compliance, and has not achieved compliance after being given an adequate opportunity to do so.

10:44B-1.4 Application for community care licensure

(a) All initial inquiries for a license to operate a community care residence shall be made to the appropriate [Regional Office] **regional office** of the Division [of Developmental Disabilities.] **or development agency. Current regional offices addresses and telephone numbers may be**

found by visiting the Department's website at www.state.nj.us/humanservices. Regional offices cover the following counties:

Regional Office:

Northern Regional Office

Upper Central Regional Office

Lower Central Regional Office

Southern Regional Office

Counties of Jurisdiction:

Sussex, Morris, Warren, Passaic, Bergen, Hudson

Essex, Somerset, Union

Middlesex, Monmouth, Mercer, Ocean, Hunterdon,

Camden, Atlantic, Gloucester, Cumberland,

Salem, Cape May, Burlington

(b) Only persons who have a domicile in the State of New Jersey are eligible to apply for licensure as a community care residence. The residence proposed for licensure shall be the applicant's primary domicile.

[(b)] **(c) All applicants shall complete an [Initial Application] initial application [and submit three personal/professional references and one medical reference], which shall include the applicant's original signature and date.**

[(c) An initial interview and review of the applicant's home ("Home Study") shall be conducted.]

1. The applicant shall provide a current official photo identification, such as a valid driver's license, employment identification, motor vehicle identification card, passport, or any other form of official documentation.

2. If the applicant is not a citizen of the United States, he or she shall provide an alien registration card or United States Citizenship and Immigration Service documentation as evidence of legal residency and approval to work in the United States.

(d) The applicant shall provide the Division's or development agency's approved medical examination form, current within one year, which has been completed and signed by the applicant's physician or nurse practitioner confirming that the applicant is physically, mentally, and emotionally capable of providing care to individuals.

1. The applicant may be required to demonstrate to the development or placing agency, his or her ability to provide any physical assistance that may be required by individuals.

(e) The applicant and all occupants of the household 18 years of age or older shall participate in the interview process.

(f) The regional office or development agency representative shall conduct a visit to the home during the application process (Home Study) to ascertain that it meets licensure requirements. The regional office or development agency shall make recommendations regarding the capacity of the home during the application process.

1. The applicant shall provide a copy of a certificate of occupancy, if required by local ordinances, during the application process.

(g) The applicant and all occupants of the household who are 18 years of age or older shall be fingerprinted through the appropriate regional office or development agency.

(h) Except as otherwise provided in the Rehabilitated Offenders Act, N.J.S.A. 2A:168A-1 et seq., no license shall be issued to any person when that person, or any occupant of the household 18 years of age or older, at any time has been convicted of any of the following offenses:

1. Crimes against a person or persons, including, but not limited to:

i. Murder;

- ii. Manslaughter;**
- iii. Death by auto;**
- iv. Simple assault;**
- v. Aggravated assault;**
- vi. Recklessly endangering another person;**
- vii. Terroristic threats;**
- viii. Kidnapping;**
- ix. Interference with custody of children;**
- x. Sexual assault;**
- xi. Criminal sexual contact;**
- xii. Lewdness; or**
- xiii. Robbery;**

2. Any crime against children or incompetents as set forth in N.J.S.A. 2C:24-1 et seq., including, but not limited to:

- i. Endangering the welfare of a child; or**
- ii. Endangering the welfare of an incompetent person;**

3. A crime or offense involving the manufacture, transportation, sale, possession, or habitual use of a controlled dangerous substance, as defined in N.J.S.A. 24:21-1 et seq.;

4. Financial crimes, such as fraud, theft, bribery, embezzlement, forgery, counterfeiting, identity theft, or burglary;

5. Conduct committed in any other state or jurisdiction, which, if committed in New Jersey, would constitute any of the crimes described in (h)1, 2, or 3 above; or

6. Any other civil or criminal action similar to (h)1 through 5 above.

(i) Upon submission by the person or occupant of the nature and seriousness of the crime; the circumstances under which the crime occurred; the date of the crime; the age of the person when the crime was committed; whether the crime was an isolated or repeated incident; the social conditions that may have contributed to the crime; any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in a correctional work-release program, or the recommendation of persons who have or have had the applicant under their supervision; and/or evidence of a pardon or of the expungement of a criminal conviction, pursuant to N.J.S.A. 2A:164-28, or of a certificate of the Federal or State parole board, or of the Chief Probation Officer of a United States District Court or of a county who has supervised the occupant's probation, that the occupant has achieved a degree of rehabilitation such that their licensure would not be incompatible with the welfare of individuals, the Department may issue a license to a person with a criminal record, or may allow a person to operate a community care residence with occupants with a criminal record.

(j) No license shall be issued when the name of the applicant or the name of any occupant of the applicant's home appear on the Central Registry.

(k) The applicant shall, at a minimum, provide three professional/personal references.

[(d)] (l) Applicants shall attend and successfully complete a training and orientation program conducted [or otherwise] and/or approved by the Division [of Developmental Disabilities].

1. The orientation and training program, and any subsequent modifications, shall be jointly reviewed and approved by the Division and the licensing agency.

2. The orientation and training program conducted by any development agency other than the Division shall be re-evaluated every two years by the Division.

(m) The applicant shall read, write, speak, and understand English in a manner sufficient to provide care, support, and supervision to individuals, and to comply with licensing standards.

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

10:44B-1.5 Licenses and inspection

[(a) Upon receipt of the Initial Provider Application, personal and medical references, Home Study Report, and training evaluation, a licensure inspection shall be arranged by:

Office of Licensing

Developmental Disabilities Licensing

Department of Human Services

PO Box 726

Trenton, New Jersey 08625-07265]

(a) Upon receipt of, and approval by, the licensing agency of the application package, which demonstrates compliance with N.J.A.C. 10:44B-1.4(c) through (l), an initial inspection shall be arranged by the licensing agency.

1. The applicant or licensee shall be interviewed by the licensing agency during the inspection to ascertain his or her understanding of the duties of a licensed provider.

2. The physical conditions of the home shall be subject to inspection and full access to all areas of the home and property shall be granted by the applicant or licensee to the licensing representative.

(b) [A] **An initial provisional license shall be issued if the applicant has demonstrated that he or she has sufficient knowledge of the duties required of a licensed provider and if the inspection provides reasonable assurance that the home will be operated in the manner required by the standards.**

[(c)] **1. The initial provisional license shall permit a licensee to operate for a [maximum six month] six-month period in which [to] he or she shall demonstrate [their] his or her ability to comply with [minimum standards] the applicable provisions of this chapter.**

2. The initial capacity of the home shall not exceed two individuals.

3. No individual shall be placed in any residence before an initial inspection is conducted and the residence is approved for licensure.

(c) **The residence shall be subject to inspection by the licensing agency at least annually, and at any other time as deemed necessary, without prior notice and without limitation, to allow for inquiry into the records, equipment, safety, sanitary conditions, accommodations, and management of the individuals and the residence.**

(d) **After each inspection, the licensee shall be provided with a copy of the inspection report. At the discretion of the licensing agency, it shall be the obligation of the licensee to provide a plan of correction.**

1. Unless a plan for earlier correction is required, the plan of correction shall be provided within 30 days of the issuance of the report.

2. The licensing agency may conduct unannounced inspections to verify that deficiencies of a significant nature have been corrected.

3. Correction of all deficiencies shall be verified at the time of the next inspection.

4. Failure to make such corrections or failure to submit the plan of correction within the required time frame shall be considered grounds for action against the licensee.

[(d)] **(e)** The license shall be issued by the Department [of Human Services] only to [natural] **a person or persons** and is not transferable to any other person or address. All licenses remain the property of the Department [of Human Services] and shall be returned upon termination.

[(e)] The license shall specify the maximum bed capacity of the home, including boarders and individuals with developmental disabilities. Although individuals receiving services of another agency may reside in the home, there shall be written agreement signed by the Regional Administrator of Community Services and the director of the placing agency serving the boarder.]

(f) The license shall be kept on the premises at all times and shall be made available upon request.

(g) The license shall specify the total bed capacity of the home, excluding family members. The licensee shall at no time exceed the licensed bed capacity of the residence.

[(f)] **(h)** The community care residence shall be the licensee's primary [address] **domicile.**

[(g)] **(i)** (No change in text.)

[(h)] The residence shall be subject to inspection by the licensing agency at least annually, and as deemed necessary, without limitation or notice, to allow for inquiry into the facilities, records, equipment, sanitary conditions, accommodations, and management of the individuals.

(i) The license shall be kept on the premises at all times and be available upon request.

(j) The Department of Human Services may revoke the license whenever the licensee shall be found to be violating any State or Federal law pertaining to community residences for the developmentally disabled, or whenever such residence shall fail to comply with the minimum standards established by the Department of Human Services.

(k) A licensee shall not deny access to a community residence to any individual or group with proper identification and statutory authority to protect the rights of, and advocate on behalf of, the individuals placed in the residence. Such persons may include, but not be limited to, the case manager, guardian, or guardianship worker, and licensing personnel.

(l) Failure of an applicant or licensee to provide necessary information in connection with an inspection or investigation by representatives of the Department shall be considered grounds for denial, suspension, revocation, or refusal to renew a license.]

[(m)] **(j)** Waivers or variances of specific standards may be granted at the discretion of the Department, provided that:

1. - 2. (No change.)

3. The waiver or variance is in accordance with the particular needs of an individual(s);

i. (No change.)

ii. Verification that the waiver or variance [is in accordance] **comports** with **the** individual needs **of the person(s) residing in the residence** may be requested from the case manager by the licensing agency; and

4. (No change.)

10:44B-1.6 Options on non-compliance with standard

[(a) After each inspection, the licensee shall be provided with a copy of the inspection report. At the discretion of the licensing agency, it shall be the obligation of the provider to provide a plan of correction within 30 days of the issuance of the report. Unless a plan for earlier correction is required, all deficiencies shall be corrected by the time of the next inspection. Failure to make such corrections shall be considered grounds for action against the licensee.]

(a) The Department may revoke a license whenever the licensee shall be found to be violating any State or Federal law pertaining to community care residences, or whenever such residence shall fail to comply with the minimum standards established by the Department. The Department may suspend the license, pending the outcome of an inspection, investigation, or inquiry by the Department, when an allegation is received that may affect the health, safety, and/or welfare of an individual(s).

(b) If [the] **any** inspection [report indicates], **investigation, or inquiry by the Department reveals** substantial non-compliance [and/or] **or** willful non-compliance with the [regulations] **rules** contained in this [manual] **chapter**, or if any [of the regulations not met] **non-compliance** represents a threat to the health, safety, or rights of the individuals or boarders, licensure may be denied or revoked, following [30 day] **30-day** notice to the provider of such intent. Any subsequent application may be denied.

(c) In cases of non-compliance where licensure denial or revocation may be deemed by the Department to be too harsh an action, intermediate sanctions may be invoked following [30 day] **30-day** notice to the licensee of such intent. These include removal of individuals from the residence, imposition of a [moratorium or] suspension of admissions [into] **to** the home, reduction of capacity, or licensure term of the residence.

(d) Falsification of any information contained in the application or provided during any inspection, investigation, or inquiry shall be sufficient grounds for licensure denial, suspension, revocation, or non-renewal.

(e) Failure of an applicant or licensee to cooperate and/or provide necessary information in connection with an inspection, investigation, or inquiry by representatives of the Department shall be considered sufficient grounds for licensure denial, suspension, revocation, or non-renewal.

[(d)] **(f) [Licensees] Any licensee** whose license has been suspended, revoked, or non-renewed, or who [have] **has** had any intermediate sanctions invoked against [them have] **him or her, has** the right to appeal [the] **such negative** licensing [agency's decision in accordance with] **action pursuant to N.J.A.C. 10:48.**

SUBCHAPTER 2. [ADMINISTRATIVE POLICIES AND PRACTICES] MANAGEMENT OF THE RESIDENCE

10:44B-2.1 Licensee requirements

(a) The licensee shall have overall responsibility for the individuals [with developmental disabilities] and boarders in the residence.

1. Except as otherwise provided in the Rehabilitated Offenders Act, **N.J.S.A. 2A:168A-1 et seq.**, no license will be issued to any person [who, at any time,] **in whose home or community care residence there is found to be any occupant who** has been convicted of [forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud, crimes against the person or other like offense(s)]. Additionally, no license shall be

issued for a residence in which any occupant has been adjudged civilly or criminally liable for abuse of another person.] **any offenses listed at N.J.A.C. 10:44B-1.4(h)1 through 5.**

2. The licensee shall read, write, **speak**, and understand English [or otherwise demonstrate that he or she can sufficiently] **in a manner sufficient to provide care, support, and supervision to individuals, and to** comply with the licensing requirements.

3. The licensee and members of the licensee's family participating in individual care shall be of sound physical and emotional health.

i. [Every two years] **Annually**, the licensee shall [provide a statement from] **have** his or her physician [to the effect that he or she is physically] **or nurse practitioner complete, sign, and date the Division's or development agency's required medical form, attesting that the licensee is** capable of performing his or her duties **and is able to provide care to the individuals placed in the residence. The form shall also identify any physical, emotional, or mental limitations of the licensee. The Department, at its discretion, may require additional physical, and/or psychological examinations of the licensee to be provided by the licensee should any evidence of physical, emotional, or mental limitations of the licensee occur between annual attestations.**

ii. **The Department may require the licensee to demonstrate the ability to provide any physical assistance that may be required by an individual who is placed in the licensee's residence.**

[(b) Falsification of any information contained in the application or provided during any inspection shall be sufficient grounds for licensure denial, suspension, revocation, or non-renewal.

(c) Any applicant who receives or applies, subsequent to licensure, for public assistance shall document in writing to the licensing agency that he or she has notified the welfare agency or board of social services of his or her intention to seek licensure as a community residence for the developmentally disabled, as well as information on the allowable rates for reimbursement in the program.

(d) In instances where the licensee must be absent, a person 18 years of age or older shall be identified to assume the licensee's responsibility.

1. An alternate shall be available in case of emergency.

2. The use of an alternate for more than six hours daily is prohibited unless the following conditions are met:

- i. The alternate shall complete an approved training and orientation program as designated by the placing and/or licensing agency;

- ii. The alternate shall meet the requirements of (a)3i above;

- iii. The alternate shall be a family member that resides at the residence; and

- iv. The alternate shall only be used during an individual's normal bedtime hours.

3. The alternate must be familiar with the individuals, the licensee's residence, and all emergency procedures.

4. The alternate shall meet the requirements of (a) above with the exception of (a)3i above.

5. The licensee shall provide the name, address, and telephone number of the alternate to representatives of both the placing agency and the licensing agency.

- i. Whenever the licensee changes the alternate, the placing and licensing agencies shall be notified in writing.

(e) An individual(s) may be permitted to be left unsupervised for specific amounts of time with documented approval of the Interdisciplinary Team. Additionally, approval must be documented in the IHP.]

(b) The licensee shall assure that any occupant of the household 18 years of age or older, residing in the home or visiting in the home for a period of 30 days or longer, is fingerprinted through the Division or development agency. At the discretion of the placing, development, or licensing agency, fingerprinting of other persons regularly visiting the home may be required.

(c) No license shall be issued for a community care residence in which the licensee or any occupant has been adjudged civilly or criminally liable for abuse, neglect, or exploitation of another person, or whose name appears on the Central Registry.

(d) The licensee shall not enter into a contract with another person or entity to provide supervision, care, or habilitation of individuals for which the licensee has contracted and is receiving payment from the placing agency, unless such contract is specifically approved in writing by the placing and/or development agency and the need for these services is clearly identified in the service plan.

(e) The licensee shall not deny access to any part of a community care residence to any person(s) with proper identification and statutory authority to protect the rights of, and advocate on behalf of, the individuals placed in the residence. Such persons include, but are not limited to, the case manager, legal guardian, guardianship worker, representatives of the licensing agency, the Department, the Division, the placing agency, the developing agency, and the Special Response Unit.

(f) The licensee shall be required to successfully complete all courses of instruction that are required or deemed necessary by the placing and/or licensing agency.

(g) Any licensee who receives or applies for public assistance shall document in writing to the licensing agency that he or she has notified the county welfare agency or board of social services that they are a licensed community care provider with the Department and the allowable rates for reimbursement as a community care provider.

(h) No licensee shall serve as an alternate while his or her license is suspended or revoked.

[(f)] (i) Physical [and] abuse; verbal abuse, psychological abuse, or mistreatment; sexual abuse; neglect; exploitation; corporal punishment[.]; physical discipline[.]; violation of the rights, isolation, or the use of unapproved aversive stimuli[, neglect, and exploitation]; or mechanical or physical restraint shall be prohibited.

1. (No change.)

2. [Individuals] **The licensee shall not [be] direct[ed] or allow[ed] individuals to discipline, assist in fire drill evacuation, train, supervise, or in any way care for other individuals [in the residence], occupants, family members, children, or others requiring care.**

[3. All alleged and suspected mistreatment of individuals shall be reported immediately to the responsible placing agency representatives.

i. After normal working hours, the Regional Office of the Division of Developmental Disabilities can be reached at the appropriate hotline number.

ii. In the case of minors, allegations of abuse or neglect shall be reported to the local district office of the Division of Youth and Family Services or the Office of Child Abuse Control (800-792-8610) as well as the Division of Developmental Disabilities.

iii. Suspected abuse or neglect of a person 60 years of age or older who resides in living arrangements other than their own home shall be reported to the New Jersey Office of the Ombudsman.]

[(g) The licensee shall immediately notify the responsible placing agency representative in the case of:

1. Death of an individual or a boarder;
2. Admission of the individual or boarder to a hospital or treatment in an emergency room;
3. Emergency removal of an individual or a boarder;
4. An individual or boarder missing for more than two hours, or an individual's returning from a home or other visit two hours or more past scheduled time;
5. Injuries to an individual or boarder involving sutures, fractures, lost teeth, etc.;
6. Any fire requiring the services of a fire department; or
7. The disruption of any vital utility, for example, heat, water, electricity, telephone, etc.

(h) The licensee shall notify the placing agency within five days of:

1. Any disruption of day program;
2. The grossly negative impact of any individuals' visits to or with family or friends;
3. An increase in the number of family members in the residence; or
4. Any change of the licensee's telephone number.

(i) The use of unapproved mechanical restraints or isolation shall be prohibited.

(j) There shall be no charge for any services to the individual beyond those contracted and actually provided.]

[(k)] **(j)** No licensee, **or** his or her relative, **or any household member** shall be the legal guardian, representative payee, or beneficiary of an insurance policy for, **or reap financial or personal gain from**, any individual [residing in the licensee's residence] **receiving services**.

[(l)] The licensee shall be required to complete all courses of instruction that are required or deemed necessary by the placing agency and/or licensing agency.]

(k) The licensee's work activities, interests, and/or volunteer work shall not interfere with the individuals' care and habilitation.

(l) The licensee shall participate as a member of the IDT in annual service plan meetings of the individuals residing in his or her home.

(m) The licensee shall not accept any remuneration from the individual's family for services rendered.

10:44B-2.2 Placements and departures

(a) There shall be no more than five persons in the residence requiring care and assistance, including, but not limited to, family members, children ([natural] **biological**, adopted, or foster), individuals, and boarders.

[1.] **(b)** No more than four individuals [receiving services from the Division of Developmental Disabilities] shall be placed in any one residence.

[(b)] The Department shall set the total bed capacity of the home, excluding family members.

(c) The licensee shall at no time exceed the licensed bed capacity of the residence. Individuals shall only occupy bedrooms that have been inspected and/or approved by the licensing agency.

(d) Third floor occupancy by individuals shall be prohibited.

(e) Non-ambulatory individuals shall not have bedrooms above or below the first floor of any residence, unless a specific waiver is granted by the licensing agency.]

(c) The licensee shall assure that they do not accept any placement or allow any occupant into the home whose presence may negatively impact the health, safety, welfare, or rights of the individuals receiving services.

(d) For all boarders there shall be a written agreement signed by the assigned regional administrator of community services and the director of the placing agency serving the boarder, a copy of which shall be maintained at the residence.

[(f)] **(e)** The licensee shall accept only individuals for whom he or she can provide adequate care.

1. If an [individual, because of a changed] **individual's** physical [or], **emotional**, mental [condition is no longer suitable for the living arrangement], **or spiritual needs cannot be met**, he or she shall not be maintained in the residence after consultation between the licensee and the placing agency representative.

2. Individuals requiring [skilled] nursing care shall not be maintained in the residence unless the following requirements are met:

i. [The] **All** licensees shall have a valid LPN or RN license; and

ii. [The] **All** alternates shall have a valid LPN or RN license.

[(g)] The licensee shall notify the Regional Office 60 days in advance of any intention to voluntarily cease to operate a community residence.]

[(h)] **(f)** The licensee shall notify the [Regional Office] **placing agency** in writing, 30 days prior, of any intention to have an individual [discharged] **depart** from the [home] **residence**.

10:44B-2.3 Alternates

(a) The licensee shall identify an alternate, or alternates, 18 years of age or older to assume the licensee's responsibilities when the licensee is absent.

1. The licensee shall provide the name, address, and telephone number of all alternates to the placing agency, development agency, and the licensing agency.

i. Whenever the licensee changes, adds, or removes an alternate, the placing, development, and licensing agencies shall be notified immediately.

ii. Only persons identified to the licensing agency, placing agency, and development agency shall act as an alternate or alternates.

2. An alternate shall be available in case of emergency.

3. The licensee shall not delegate skill training responsibilities to the alternate or alternates.

4. The alternate or alternates shall read, write, speak, and understand English sufficiently to assume the licensee's responsibilities.

5. The alternate shall be of sound physical, mental, and emotional health.

6. Only alternates who have successfully completed training arranged by the Division or development agency shall administer medications to an individual or individuals.

(b) The Department may allow alternates with a criminal record to provide care to individuals in a community care residence, only in accordance with the terms of the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq.

(c) No person shall serve as an alternate who has been adjudged civilly or criminally liable for abuse, neglect, or exploitation of another person, or whose name appears on the Central Registry.

(d) At a minimum, the licensee shall assure that all alternates are familiar with the licensee's residence, the individual, their needs and capabilities, the requirement that all information regarding individuals is kept confidential, emergency procedures (including, but not limited to, fire evacuation procedures), and the requirement to call 911 in the event of a life-threatening emergency in accordance with Danielle's Law.

(e) The regular use of an alternate for more than six consecutive hours is prohibited unless the following conditions are met:

1. The alternate has completed an approved training in accordance with N.J.A.C. 10:44B-1.4(k);

2. The alternate provides an annual medical form, which shall meet the requirements of N.J.A.C. 10:44B-2.1(a)3i;

3. The alternate is an occupant of the licensee's residence; and

4. The alternate is only used during the normal bedtime hours of the individuals placed into the home.

10:44B-2.4 Reporting requirements

(a) Any alleged or suspected mistreatment of individuals or boarders shall be reported by the licensee immediately upon discovery to the Division and any other responsible placing agency representatives.

1. After normal business hours, the regional office of the Division shall be contacted at the appropriate hotline number.

2. In the case of minors, allegations of abuse or neglect shall be reported to the Department of Children and Families at 1-877-NJABUSE, as well as to the Division.

3. Suspected abuse or neglect of a person 18 years of age or older who resides in the residence shall be reported to Adult Protective Services at the hotline number and to the Division or placing agency.

(b) The licensee shall immediately notify the responsible placing agency in the event of:

- 1. The death or emergency removal of an individual or boarder;**
- 2. The admission of the individual or boarder to a hospital, crisis center, or treatment in an emergency room;**
- 3. An individual or boarder being unaccounted for or missing beyond their approved unsupervised time (as reflected in the service plan) for more than one hour;**
- 4. Injuries to an individual or boarder involving sutures, fractures, lost teeth, etc., or other serious injury requiring medical attention;**
- 5. The grossly negative impact of any individual's visits to or with family or friends;**
and
- 6. A lapse in the individual's participation or attendance in their day activity that exceeds a duration of five consecutive days, with the exception of a planned vacation and or a documented medical reason.**

(c) The licensee shall immediately notify the placing agency and licensing agency in the event of:

- 1. Any change in the licensee's health status, which could negatively affect the licensee's ability to care for the individual;**
- 2. Any police activity in the home or arrest of any occupant of the household; and**

3. Significant damage to the residence, such as flooding or fire, mandatory emergency evacuation, or operational breakdown, such as disruption of any vital utility, for example, heat, water, electricity, telephone, etc.

(d) The licensee shall notify the placing agency, development agency, and the licensing agency no later than the next business day in the event of any change in:

- 1. The occupants in the residence;**
- 2. The licensee's home telephone number; or**
- 3. The licensee's work or volunteer hours.**

(e) The licensee shall notify the placing agency, development agency, and licensing agency no less than 60 days prior to any intent to move, including the new address, telephone number, and date of move, or of any intent to voluntarily cease to operate the home as a community care residence.

SUBCHAPTER 2A. RECORDS

10:44B-2A.1 Licensee records

(a) The licensee shall keep on file at the residence, in a location separate from the individual's records, the following administrative records:

- 1. The current contract/placement agreement from each placing agency, which shall include the name of the licensee(s), the terms of the agreement, and the rate of payment;**
- 2. A record of all admissions, including names and dates of arrival and departure, for the previous 12-month period;**
- 3. A current copy of this chapter;**

4. A record of monthly fire evacuation drills and smoke detector and carbon monoxide detector checks, as specified at N.J.A.C. 10:44B-6.3(d);

5. The current license;

6. A copy of the licensee's annual medical form, in accordance with N.J.A.C. 10:44B-2.1(a)3i;

7. A copy of the alternate's annual medical form, in accordance with N.J.A.C. 10:44B-2.3(e)2;

8. A record of all trainings successfully completed by the licensee; and

9. For all respite placements within the past year, each individual's Adaptive Behavior Summary or HSRS, and Medication Administration Records.

10:44B-2A.2 Individual records

(a) Each individual's records shall be maintained in the licensee's residence in a separate, organized binder clearly marked with his or her name. The licensee may not store any other information other than that of the individual in this binder.

1. Maintenance of the individual's records in any place other than the licensee's residence, either permanently or temporarily, is prohibited.

2. Errors in documentation shall be amended by the use of a single strike through; no text-obliterating means, such as white out, shall be permitted.

(b) Individual's records are the property of the placing agency, and shall be relinquished to the placing agency's representative upon the individual's departure or transfer from the licensee's residence, or as otherwise necessary to safeguard the records.

(c) The licensee and alternate shall protect and maintain the confidentiality of all individual records in accordance with N.J.A.C. 10:41.

1. Individual's records shall be stored in such a manner as to maintain confidentiality and to provide access only to the individual, the individual's legal guardian, the licensee, the alternate, the placing agency, the agency providing case management services, the licensing agency, or other persons authorized by law or a court of competent jurisdiction.

2. The licensee shall not discard any records. If necessary, the licensee shall request assistance from the placing agency in removing records not pertinent to the individual's current care and habilitation.

3. The licensee shall not make copies or allow copies to be made of individual's records without written permission of the agency providing case management services and the individual's legal guardian indicating specifically which records are to be duplicated and for whom.

(d) The record for each individual residing in the home (except respite placements) shall include:

- 1. The full name and date of birth of the individual;**
- 2. The date of placement into the residence;**
- 3. The names and addresses of all personal physicians and dentists;**
- 4. The name, address, and telephone numbers of the individual's legal guardian, family members, and other interested person(s);**
- 5. Monthly reports completed by the licensee, which shall include the individual's social and behavioral status, medication changes, medical events, activities attended,**

community exposure, and progress or lack of progress on objectives that is behaviorally measurable and which corresponds to the objectives identified in the current service plan;

6. A seizure record, if applicable, of all seizure activity, including date, time, duration, surrounding circumstances, and treatment given;

7. A copy of the current service plan with the signatures of all members who participated in its development;

8. Annual physical examination and the date and results of the annual Mantoux Skin Test for tuberculosis or annual statement from the physician or nurse practitioner indicating the individual is free from tuberculosis;

9. A medication record, as required by N.J.A.C. 10:44B-6.2(a)1i through vii, if the individual receives any medication prescribed by a physician and if the individual is not self-medicating.

i. An Over-the-Counter Medication sheet current within a year and completed and signed by the individual's physician or nurse practitioner.

ii. Copies of prescriptions for all medications administered to the individual, current within one year;

10. Documentation of an annual oral or dental examination;

11. Documentation of any medical treatment as required by the physician, nurse practitioner, or dentist;

12. Authorization for emergency medical treatment signed by the legally appointed guardian of an individual or the parent of a minor, as applicable, current within two years;

13. Medical insurance information;

14. For children, an immunization record;

15. All records related to the individual's personal funds and assets, in accordance with N.J.A.C. 10:44B-4.2; and

16. An inventory of personal property, maintained continuously throughout the placement.

(e) The record for each individual residing in the home as a respite placement shall include:

1. A placing agency's placement agreement, which indicates each individual's name, placement, and departure dates from the home;

2. The current assessment document utilized for service planning by the placing agency; and

3. The Medication Administration Records for the duration of the respite.

SUBCHAPTER 3. CARE OF THE INDIVIDUAL

10:44B-3.1 Individual rights [and responsibilities]

(a) Individuals' civil, human, and legal rights shall not be abridged solely on the basis of their diagnosis[, nor] **or** without due process.

1. The exercise of individuals' rights shall not be prohibited or be used as a cause for retribution against the individual.

[(b) The licensee may establish reasonable house rules which shall not infringe on the rights of the individuals.

1. These rights shall include provisions to ensure that individuals exercise their rights in such a way as not to infringe upon the rights of or endanger others.

2. The licensee shall make certain that the private life of the individual is respected at all times.

i. The licensee shall avoid any unreasonable schedule concerning the hours at which individuals shall rise or retire.

ii. Individuals shall be permitted to rest in their homes for such periods as may be consistent with personal needs.

iii. Complete privacy shall be afforded during visits.

3. Visiting is to be permitted during reasonable hours.

(c) Individuals shall have the opportunity to associate with members of the opposite sex.

(d) Individuals shall have the right to participate in social, religious, or community groups of their choice.

1. Licensees shall not impose their religious beliefs on individuals under their care.

2. Licensees shall provide each individual with adequate substitutes for foods which the individual's religious beliefs forbid him or her to eat.

(e) Individuals shall have an opportunity to register and vote.

(f) Individuals shall have free use of all living areas within the residence without infringing on the privacy of others.

(g) Individuals shall have the right to use the community for recreation, education, shopping, and employment.

(h) Individuals shall have access to a telephone for unmonitored incoming and outgoing calls.

(i) Individuals shall have the right to open their own mail and packages without surveillance.

(j) Licensees shall not read individuals' incoming or outgoing mail unless requested by the individual.

(k) If the individual requests, he or she shall receive assistance in reading and writing letters.

(l) Individuals shall be allowed to handle their own money consistent with their ability as determined by the case manager, licensee, and guardian (guardianship worker).]

[(m)] **(b)** [Individuals] **Licensees** shall [be] **assure that individuals are** permitted to exercise all those rights outlined in the pamphlet "[Your] **Personal Rights**[as a Developmentally Disabled Person]," distributed by the Division [of Developmental Disabilities]. **Individuals shall have the right to:**

- 1. Privacy and respect;**
- 2. Keep and use their own clothes, money, and personal things, and to have a place to put them so that no one else may use them;**
- 3. Associate with members of the opposite sex;**
- 4. Practice the religion of their choice or choose not to practice any religion;**
- 5. Send and receive mail without it being opened or read by other people and to receive assistance, should they want it, in reading or written correspondence;**
- 6. Make or receive private phone calls during set times;**
- 7. Have a healthy diet;**
- 8. Have visitors of their choice during reasonable set times;**
- 9. Request release from a program or transfer to another program;**
- 10. Register and vote in all elections;**
- 11. Share in developing their service plan designed specifically for them and to help decide what kinds of programs would be best for them in that plan;**
- 12. Have their service plan and all records kept private, unless they or their legal guardian give permission for someone else to see them;**

13. Regular educational instruction if they are between the ages of three and 21 years old and to participate in learning and recreational activities at any age;

14. Receive guardianship services, if they are an adult who needs them;

15. Be informed of the condition of their health and to be able to contact their doctor;

16. Be free from unnecessary medical tests or treatment;

17. Be free from unnecessary restraints or from being isolated; and

18. Be free from physical punishment.

(c) The licensee may establish reasonable house rules, which shall not infringe on the rights of the individuals.

1. These house rules shall include provisions to assure that individuals exercise their rights in such a way as to not infringe upon the rights of or endanger others.

2. The licensee shall avoid any unreasonable schedule concerning the hours at which individuals shall rise or retire.

3. Individuals shall be permitted to rest in their homes for such periods as may be consistent with their personal needs or preferences.

4. Complete privacy shall be afforded to individuals during visits with their guests.

i. Visiting is to be permitted during reasonable hours.

(d) There shall be no restrictions on the individual's movement or access to any area inside or outside of the home that is commonly used by the licensee and the occupants of the home, other than those areas that are not routinely used by all the members of the household, such as the licensee or family member's personal bedrooms.

(e) Individuals shall have the right to access the community for recreation, education, shopping, employment, and to participate in social, religious, advocacy, or other groups of their choice.

1. The licensee shall provide or make arrangements to facilitate the individual's participation in all such community involvement.

2. Licensees shall not impose their religious beliefs on individuals under their care.

3. Licensees shall make arrangements for the individual to celebrate holidays, birthdays, and/or special events of the individual's choice.

4. When the individual's religious beliefs forbid him or her to eat certain food or foods, the licensee shall provide each individual with adequate substitutes for these foods at no additional expense to the individual.

5. Individuals may be unsupervised when there is documented approval of such by the IDT in the service plan, and which details the specific amounts of time and the locations for the unsupervised time.

(f) There shall be no restrictions on the individual's use of any household appliance or device in any area inside or outside of the home commonly used by the licensee and the occupants of the home, except as necessary for the safety of the individual as determined by the IDT and recorded in the service plan.

(g) Individuals shall have access to a telephone for incoming and outgoing calls, and shall be afforded privacy during these conversations. Assistance shall be provided by the licensee if requested by the individual.

(h) Individuals shall manage their own money consistent with their ability as determined by the IDT and as documented in the service plan.

(i) Individuals shall have full access to their personal clothing and possessions unless a restriction for behavioral or safety reasons has been approved by the IDT and documented in the service plan.

(j) Individuals shall have full, unrestricted access to food in the home unless otherwise directed in writing by a physician or determined by the IDT and documented in the service plan.

(k) Individuals shall be treated in an age appropriate manner with regard to communication, dress, activities, personal possessions, or any other aspect of daily living, taking into consideration the individual's personal preferences.

10:44B-3.2 Personal funds

(a) The individual's personal funds shall be used solely for the individual.

(b) The licensee shall not commingle any individual's personal funds with those of the licensee or any other person or entity.

(c) There shall be no loans of finances, resources, or property from an individual to the licensee, licensee's family member, or any other individual or person.

(d) Unless otherwise determined by the IDT, an individual's personal funds in excess of \$100.00 shall be maintained in a separate bank account in the individual's name, accessible only by the individual and the licensee.

(e) When the individual has been determined by the IDT to be able to manage a specific amount of personal funds, and the amount is documented in the service plan, the licensee shall disburse such amounts to the individual accordingly. The licensee shall obtain the individual's signature for such personal funds disbursed to the individual.

(f) For all personal funds that the individual is not capable of managing on his or her own, the licensee shall maintain an accurate record of all transactions of the individual's personal funds on the placing agency's approved form. The record shall include:

1. All personal funds transactions, whether received, expended, or disbursed, including, but not limited to: wages; personal needs allowance (PNA); personal trust funds (PTF); private trust funds; monetary gifts; reimbursements and tax rebates, Maximus payments, payments of bills, and purchases; and personal funds disbursed to the individual;

2. The full date, amount, and a specific description of each transaction; and

3. Receipts related to all disbursements and expenditures. Receipts shall be either computer or register generated, or if not so provided by the vendor, legibly handwritten, containing the name, signature, location, and/or telephone number of the vendor or selling party.

(g) The licensee shall maintain all other documents related to the individual's finances, including, but not limited to, bank statements, bank passbooks, paycheck stubs, and income tax returns.

(h) The licensee shall not charge the individual for services or supplies that the licensee is obligated to provide by the licensing standards or by the provider agreement between the development and/or placing agency and the licensee.

1. The licensee shall not charge the individual for telephone usage other than long distance telephone calls or a separate private telephone number that is provided strictly for the individual's use.

2. The licensee shall not charge the individual for heating or cooling the residence or any portion thereof, electricity, hot and cold water, sewage, or gas for the car.

3. Charges to the individual for cable, satellite television, or cell phones shall be approved by the IDT, and included in the service plan, to be reviewed annually.

4. Grooming supplies, such as soap or other personal cleansing products, shampoo and conditioner, shaving cream, toothpaste, washcloths, towels, facial tissues, and toilet tissue shall be available to the individual at the licensee's expense.

5. Individual toothbrushes, razors, hair combs, brushes, styling products, accessories, cosmetics and fragrances, deodorant, lotion, and feminine products shall be available to the individual at his or her own expense.

6. Snacks and drinks shall be available to the individual at the licensee's expense.

7. The licensee shall be responsible for the cost of meals purchased in the community when the individual dines with the licensee and/or the licensee's family. Exceptions shall be approved by the IDT, documented in the service plan and reviewed annually.

8. The licensee shall provide laundry services and supplies, including the use of the laundromat or wash and fold services, without additional charge to the individual.

9. Dry cleaning services may be provided and paid for at the individual's expense when approved by the IDT and documented in the service plan.

10:44B-[3.2]3.3 Personal health, hygiene, and grooming

(a) (No change.)

(b) Within the [home] **residence, the licensee shall ensure that** each individual [shall have] **has** the opportunity for personal care, with assistance if necessary, to include:

1. – 2. (No change.)

3. Opportunity to shave, **as necessary**;

4. Care of fingernails and toenails; [and]

5. [Grooming] **Cutting, styling, or grooming** of hair[.], **as necessary; and**

6. Toileting.

[(c) Individual toilet articles – soap, washcloths, towels and toilet tissue – shall be available without additional expense to individuals.

(d) Individual toothbrushes, hair brushes, combs and razors shall be available for each individual at their own expense.]

(c) Hygiene and grooming articles shall be maintained separately from all medications, food, household cleaning supplies and chemicals and stored in a safe and sanitary manner either in the bathroom or in the individual's bedroom.

[(e)] **(d)** Female individuals shall be assisted [as necessary to attain maximum independence in caring for menstrual] **by the licensee as necessary in caring for personal feminine needs.**

10:44B-[3.3]**3.4** Food

(a) The licensee shall ensure that an individual [receiving services] is provided with three **nutritionally balanced meals, varied in nature, and a sufficient amount of liquids for hydration,** daily, either in the residence [itself] or in the community.

(b) (No change.)

(c) [Snacks] **Food, snacks, and liquids** shall be [available for] **readily accessible to** individuals [who desire them] **as desired**, unless [there is a documented medical or programmatic reason not to supply them] **limitations have been deemed necessary by the individual's physician.**

[(d) The daily diet for each individual shall include foods from the four basic food groups:

1. Milk, cheese, and other dairy products;
2. Bread, cereal, grains;
3. Vegetables, fruits; and
4. Meats, fish, poultry, and eggs.]

[(e)] **(d)** Food shall be [wholesome] **fresh**, stored in a manner to keep it clean and safe for consumption[, prepared in the form that meets the medical and dietary needs of the individual].

Food shall be discarded upon spoilage or upon the expiration date of the package.

[(f)] **(e)** [Individual(s)] **Individuals** shall dine with the licensee's family on a regular basis, **unless the individual expresses a desire to dine elsewhere, as approved by the IDT and the individual's guardian, and recorded in the service plan.**

1. There shall be sufficient seating and room at the dining table to accommodate all occupants of the household so that they may dine together.

2. There shall be sufficient supply of eating utensils, plates, cups, etc., for all occupants of the household.

[(g)] **(f)** If a medically prescribed diet is required, the menu planning **and food preparation** shall be [appropriate to] **consistent with the individual's medical and dietary needs**[, and be properly documented].

1. The licensee shall demonstrate knowledge of the individual's medically prescribed diets.

[(h)] (g) [Licensees] **The licensee shall make a reasonable attempt to comply with food preferences and snacks requested by the [individual(s) residing in the home] individual, without charge to the individual.**

(h) The licensee shall not withhold food, drinks, or snacks as a form of punishment.

10:44B-[3.4]3.5 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.

[(a)] 1. (No change in text.)

[1. Each individual shall have adequate, clean, well-fitting and attractive clothing appropriate to age, gender, individual needs, community standards, and season.]

2. The licensee shall assist the individual in maintaining a [good] **neat appearance, in dressing appropriately for the season and weather conditions, and in using [their] the individual's personal money [properly] to make [reasonable] clothing purchases.**

[(b) The licensee shall provide laundry services without additional charge to the individuals.]

(b) Individuals shall have unlimited access to their clothing, unless otherwise determined by the IDT and documented in the current service plan.

1. Clothing shall be stored neatly in the individual's bedroom. Out-of-season clothing may be stored in a place in the residence other than the individual's bedroom.

(c)[Individuals'] **An individual's clothing and undergarments shall be changed daily [and outerwear changed at least three times a week]. Incontinence undergarments shall be utilized only as specified in writing by a physician or nurse practitioner and changed as needed.**

SUBCHAPTER 4. HABILITATION

10:44B-4.1 [Individualized Habilitation Plan] **Service plan**

(a) [An Individual Habilitation Plan] **A service plan** shall be developed for each individual **by the interdisciplinary team** in accordance with N.J.S.A. 30:6D-10, 11, and 12 and shall be kept on file in the [home] **residence. Documentation of who participated in the plan shall be provided on the sign-in sheet page of the service plan.** A current copy of the Individual Education Plan for [school age] individuals **attending school** shall [also] be [kept on file in the home] **maintained in the individual's record.** (These requirements do not apply to Respite Care Programs).

(b) [Each] **The service** plan shall [be developed by an interdisciplinary team consisting of those persons providing service to the individual. Documentation of who participated in the plan shall be provided on the sign-in sheet page of the IHP.] **include a clear statement regarding the individual's ability to remain unsupervised, the amount of money the individual can independently manage, and the individual's ability to self-medicate.**

(c) Training received by an individual in the [home] **residence** shall be consistent with the [Individual Habilitation Plan] **goals and objectives identified in the service plan. Changes to the service plan shall be approved by the IDT and documented in the service plan.**

[(d) Written monthly progress notes shall be available at the residence and correspond to the IHP goals and objectives currently being implemented for each individual. The progress notes shall sufficiently describe the individual's progress or regression to give a clear picture of the individual's functioning in the skill area.

(e) If an individual is to be transferred or discharged, the Individual Habilitation Plan shall specify the plan to be followed upon his/her transfer or discharge. Except in an emergency, the Individual Habilitation Plan shall be prepared at least 30 days prior to the time the actual discharge or transfer takes place.]

(d) Except in an emergency, a written plan shall be developed by the IDT at least 30 days prior to an individual's move into a new home.

(e) The service plan shall be reviewed and modified by the IDT not longer than 30 days subsequent to a move, discharge, and or transfer and shall include all necessary information.

10:44B-4.2 Day [programs] **activities**

(a) Each individual shall be afforded an opportunity to participate in an organized program of **education, habilitation, rehabilitation, or employment in the community.**

1. Every individual between the ages of three and [22] **21** years shall receive an appropriate education in accordance with Federal and State laws.

[2. All individuals over 22 years of age shall be provided with a program, unless a physician certifies in writing that such activity is medically inadvisable.

3. If employed, individuals 55 years or older may elect to retire; however, involvement in age-appropriate activities outside the residence shall be encouraged by the licensee.]

2. If an individual is age 60 years or older and attends a day activity or program, or employment, they may elect to retire; however, the licensee shall assist the individual to participate in age-appropriate activities outside the residence, as requested.

(b) The individual [shall be paid for productive work, except for assisting] **may assist** with normal chores within the home **in accordance with their abilities as assessed by the IDT.**

SUBCHAPTER 5. HEALTH SERVICES

10:44B-5.1 General medical and health care

(a) [A] **Each individual shall have a** personal, primary physician, **nurse practitioner,** or medical group [shall be provided for each individual].

(b) Each individual shall have an annual medical examination. **Documentation of this examination shall be completed, signed, and dated by the physician or nurse practitioner on the placing agency approved medical form and maintained on file in the individual's record.**

[1. No licensee shall accept into his or her residence any individual being placed directly from an institution who has not been certified by a physician to be contagion-free within 24 hours prior to placement, and who has not had a complete physical examination within 30 days prior to placement.

2. A copy of the annual examination, signed and dated by the physician, shall be kept on file at the residence.]

(c) A Mantoux Skin Test shall be administered **annually** to every individual [every three years]. **Documentation from the physician or nurse practitioner shall include their signature, the date, and the results of the Mantoux Skin Test, and shall be maintained in the individual's records.**

1. If the Mantoux Skin Test for tuberculosis is negative, the test shall be repeated [at three-year intervals] **yearly, or immediately** upon exposure to [a case of] tuberculosis.

2. If the Mantoux Skin Test for tuberculosis is positive, certification by a physician **or nurse practitioner** that the individual is free of contagion shall be obtained [initially and at three-year intervals] **yearly**.

[3. A copy of the complete examination signed and dated by the physician, shall be kept on file at the residence.]

(d) For any individual who has not had a physical examination and Mantoux Skin Test within one year prior to placement, the licensee shall assure a medical examination and Mantoux are completed within three business days of the date of placement.

[(d)] **(e)** Each individual shall have [at least], **at a minimum**, an annual **oral or** dental examination.

1. (No change.)

2. In the event that the individual is edentulous, a physician or nurse practitioner may conduct the oral examination. Documentation of this examination and findings or treatment shall be provided by the physician or nurse practitioner conducting the exam.

[(e) The licensee shall follow-up on all individual health needs, including medical treatment, pharmaceutical, dental, or other needed services.

(f) The licensee shall make arrangements for medical care to be available for emergencies.]

(f) The licensee or alternate shall immediately call 9-1-1 in the event of a life-threatening emergency, in accordance with Danielle's Law.

(g) The licensee shall follow-up on all individual health needs, including, but not limited to: medical care, pharmaceutical, podiatrist, dental, and therapeutic or other health services.

The licensee shall maintain documentation of all such follow-ups in the individual's file.

[(g)] **(h)** The licensee shall have a first aid kit[to include], **which is maintained in a sanitary manner. There shall be no expired items. Medications shall not be maintained in the first aid kit. The first aid kit shall contain an adequate supply of the following items only:**

1. (No change.)
2. Sterile rolled gauze bandage [(kerlix)];
3. (No change.)
4. [Adhesive] **First aid** tape or surgical **cloth tape**;
5. (No change.)
6. Adhesive bandage[,] (for example, band aids) [or ribbon tape]; [and]
7. A **standard or digital** thermometer [(standard or digital).];
8. **Disposable gloves (latex or non-latex);**
9. **Hot/cold pack; and**
10. **Tweezers.**

(i) The licensee's religious or personal preferences shall not interfere with an individual receiving medical care as required by the individual's physician or nurse practitioner.

10:44B-5.2 Medication

(a) When an individual cannot administer his or her own medication due to intellectual or behavioral disabilities, as determined by the IDT and recorded in the service plan, the licensee or his or her alternate shall give it to the individual to take exactly as prescribed, and assure that the medication is taken.

1. The licensee shall maintain a medication administration record of all medications taken where assistance is required. The licensee shall complete the medication

administration record as he or she was trained to do by the development agency. The medication record shall include:

i. The signature of any persons administering medication followed by his or her initials;

ii. The brand name and, if applicable, generic name of the medication;

iii. The dosage;

iv. The date and time of administration;

v. A record of each dosage at the time it is administered, identified by the initials of the person administering the medication;

vi. Documentation of the proper code for instances when a medication is not administered; and

vii. A list of all known allergies.

2. Errors in medication documentation or administration shall be recorded on the medication record at the time of their occurrence.

3. Medications may be changed or discontinued only upon written documentation from the physician or nurse practitioner, which shall be maintained in the individual's file.

(b) Individuals who have the potential to be self-medicating shall be assessed by the IDT and the results of this assessment shall be recorded in the service plan and reviewed annually by the IDT.

1. Only those individuals who have been determined by the IDT to be self-medicating, and who have documentation of such in their service plan, which shall include a current Self-Medication Assessment, shall administer their own medications.

2. Upon determination by the IDT as documented in the service plan that an individual is capable of self-medication, no daily medication administration record is required; however, the licensee shall maintain in the individual's record all copies of prescriptions/physician's orders for currently prescribed medications, as well as all documentation from the physician for any changes and/or discontinuations of medications.

3. The licensee shall be familiar with all medications being taken by the individual who self-medicates, their side effects, and where they are stored.

4. Medications administered by injection may be self-administered if there is documentation of the individual's successful training by licensed medical personnel. This determination shall be approved by the IDT and included in the service plan.

5. Only a licensee who has documentation of successful completion of training from licensed medical personnel may administer medication by injection.

(c) Medications shall only be administered to or used by the person for whom they are prescribed.

(d) The licensee shall ensure that an adequate supply of medication is maintained for the individual at all times.

(e) The licensee shall dispose of expired and discontinued medications in such a manner so that they cannot be ingested or used by anyone in or out of the home.

(f) The licensee shall supervise the storage and accessibility of all medication, assuring access only by authorized persons.

1. Medication shall be stored separately from all food, household cleaners, insecticides, poisons, etc.

2. All medications shall be kept in their original containers and shall be properly identified.

i. Medications obtained from a pharmacist shall include a pharmacy label with the individual's name, medication name, frequency of dosing, and dosage amount, in accordance with the physician's prescription.

ii. Medications available over-the-counter shall include the manufacturer's label identifying the content and strength of the medication, exactly matching the physician's order.

3. Pill planners shall not be utilized.

4. The licensee may not repackage medications from one container to another container for administration by another person. Medications that are to be administered by another person shall be maintained in the original container that has been obtained directly from the pharmacy.

(g) The licensee shall be familiar with all medications being administered to the individual, their purpose, and side effects.

(h) Medication errors and drug reactions shall be reported at the time of the occurrence to the individual's physician or nurse practitioner and case manager and documented in the individual's file.

SUBCHAPTER 6. PHYSICAL PLANT AND SAFETY

10:44B-6.1 General home requirements

(a) The licensee shall take such measures [as may be reasonably necessary] to protect [the occupants] **all persons in the residence** from hazards to health, [and] safety [arising from], **and welfare that can be attributed to** the location or environment of the residence.

(b) [Any] **All** one or two family dwellings shall be subject to the requirements of the New Jersey Uniform Construction Code [(Use] Group [Category] R-3[]).

(c) **All modifications, renovations or upgrades requiring heating, plumbing, or electrical modifications shall be completed by licensed contractors and the required permits and inspections obtained as required by local ordinances.**

(d) **Whenever the licensee moves, he or she shall obtain a copy of the Certificate of Occupancy as required by local ordinances.**

[(c)] (e) In [single family homes which] **single-family residences that** have been subdivided into more than two apartments, [the following shall apply: 1. If the licensee is renting, he or she shall obtain a copy of the Certificate of Occupancy. 2. If] **if** the licensee is the owner, the building shall comply with the Uniform Construction Code Use Group Category R-2 (Multi-family dwelling).

[(d)] (f) Every [home] **residence** shall [have] **be provided with** heating facilities [and plumbing which] **that** are [properly] installed, maintained, **and operated** in good and safe working condition[s. Heating facilities shall be] **and which are** capable of maintaining all habitable rooms at a temperature of 65 degrees Fahrenheit [(18 degrees C) when the outdoor temperature is 0 degrees Fahrenheit (-18 degrees C)].

1. Heat sources exceeding 110 degrees Fahrenheit [43 degrees C), which] **in any part of the home that** are accessible to individuals[, must] **shall** be equipped with protective [guards or insulated] **covers** to prevent individuals from coming into direct contact with the heat source.

(g) Air conditioners and fans shall be installed and operated in a safe manner.

(h) The home shall be equipped with plumbing, drains, and sewer lines or septic systems that are installed and maintained in good and safe working conditions.

1. The hot water temperature in the home shall register no lower than 105 degrees Fahrenheit and shall not exceed 120 degrees Fahrenheit at the tap.

[(e)] **2.** (No change in text.)

[(f)] **(i)** [The licensee] **A hardwired, landline telephone with a corded handset** shall [have an] **be operable [telephone] in the residence.**

1. The telephone number of the Division [of Developmental Disabilities] hotline[, as well as the nearest hospital, fire department, ambulance service, and police department] shall be readily accessible by the primary telephone.

[(g)] **(j)** All stair treads and landings shall be equipped with non-slip surfaces **in good repair.**

[(h)] **(k)** (No change in text.)

[(i)] All stairways and hallways shall be kept free and clear of obstructions at all times.]

[(j)] **(l)** (No change in text.)

[(k)] From May through October, all openable windows and doors used for natural ventilation shall be provided with insect screening in good condition.]

(m) All stairways, hallways, and exits shall be maintained in good repair and kept free and clear of obstructions or tripping hazards at all times.

[(l)] **(n)** Every [porch,] balcony, staircase, or place higher than 30 inches off the ground [accessible to individuals] shall be provided with adequate **and secure** railings. Such railings shall be no less than 30 inches [nor] **or** more than 34 inches in height.

[(m)] **(o)** All [outside] stairways consisting of four or more steps shall be provided with a secure handrail.

[(n)] Separate living and dining areas shall be provided which are large enough to provide seating for all occupants of the residence at one time.]

(p) All operable windows and doors used for natural ventilation shall be provided with insect screening maintained in good condition.

[(o)] **(q)** Every residence shall be provided with **at least one full bathroom consisting of a door for privacy**, one flush type toilet, [lavatory] **sink**, and bathtub or shower **maintained in good sanitary condition and available** for every eight persons living in the residence.

1. [Every toilet, lavatory, bathtub, or shower] **Bathrooms** shall be accessible without passing through any [other] sleeping unit and shall be available within one floor above or below the individual's room, unless it is a "master bedroom" type suite for the sole use of that bedroom's occupants.

2. - 3. (No change.)

4. All bathroom fixtures, lighting, and mirrors shall be in good condition and securely fastened to the wall, ceiling, or floor.

[(p)] **(r)** The accumulation of garbage [or], waste, **or clutter in any area of the residence or property** shall be prohibited.

1. Garbage containers shall be non-corrosive [and], non-combustible, **and** leak-proof[,] and **maintained in good condition.**

2. **Outside garbage containers shall be** provided with tight fitting covers. [Any garbage container 13 gallons or less used inside the residence will not require a lid.]

[(q)] **(s)** (No change in text.)

(r) The interior and exterior of the residence shall be maintained free of hazards to the health, safety, and welfare of the individuals.

(s) Swimming pools shall meet the requirements of all local ordinances and the State Uniform Construction Code.

(t) Outside walkways shall be kept clean of ice, snow, leaves, and other hazards.]

(t) The interior and exterior of the residence shall be maintained free of hazards to the health, safety, and welfare of the occupants.

1. The following, at a minimum, shall be prohibited:

i. Light bulb wattage in excess of manufacturers' recommendations;

ii. Piggybacking electrical cords;

iii. Overloaded outlets;

iv. Broken light fixtures;

v. Missing outlet or switch plate covers;

vi. Cellophane wrapping on lampshades;

vii. Water leaks or accumulation of stagnant water;

viii. Frayed or unsecured carpeting;

ix. Electrical cords running under carpeting or through doorways;

x. Improper use or maintenance of electrical devices;

xi. Improperly wired holiday decorations;

xii. Unsecured or overloaded shelving;

xiii. Exposed wiring;

xiv. Broken furniture; and,

xv. Tripping hazards.

2. All fuse boxes, circuit breakers, control panels, junction boxes, and exterior electrical receptacles shall be provided with protective covers and maintained in good operating condition.

3. Major electrical equipment or appliances that require high wattage, including, but not limited to, refrigerators, washers, dryers, air conditioners, or home theatre equipment, shall be plugged directly into an outlet or heavy duty surge protector.

(u) Chain locks, hook, and eye locks, slide locks, or other locks that cannot be readily opened from either side shall be prohibited on all doors.

1. Locks on egress doors shall be of the type that can be unlocked from the inside without the use of a key.

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

[(u)] (w) Exterminator services shall be arranged, and documentation retained, by the licensee [when] whenever there is evidence of infestation.

[(v) If the residence is to house individuals using wheelchairs, it shall incorporate barrier-free design appropriate to the individual, for example, ramps; handrails in bathroom areas; and corridors, doorways, and rooms of adequate size to accommodate wheelchairs.

1. Design of the residence shall be approved by the licensing agency prior to placement of such individuals.

(w) Basements may be used for storage, laundry, heating, water supply equipment, and other utilities.]

(x) The licensee shall ensure that pets kept at the home pose no danger to the health, safety, or welfare of all of the occupants or visitors to the household.

(y) Any occupant of the home who owns a firearm shall have a valid New Jersey license to own a firearm.

1. Firearms shall be secured in a locked steel gun vault and all ammunition shall be secured in a locked area separate from the firearm storage vault.

(z) The home shall incorporate barrier-free design, as necessary, for individuals in the home with physical disabilities.

[1.] **(aa)** Basements may be used as activity rooms [so long as they are] **by individuals provided the basement is dry, warm, [and] adequately lighted, and have two independent means of egress.**

1. Basements without two independent means of egress may not be occupied.

[(x)] **(bb)** Kitchen facilities requirements are as follows:

1. Storage space shall be clean and well ventilated.

[1.] **2.** Containers of food shall be covered and appropriately stored above the floor on shelves or other clean surfaces, **and away from household cleaners, insecticides, poisons, etc.**

Recodify existing 2., 3., and 4. as **3., 4, and 5.** (No change in text.)

[5.] **6.** All **appliances**, equipment, and utensils used for eating, drinking, preparation, and serving of food shall be kept clean and in good condition.

[1.] **7.** All equipment and utensils used for eating, drinking, preparation, and serving of food shall be thoroughly washed after each use.

[6.] **8.** (No change in text.)

10:44B-6.2 General exterior residence requirements

(a) Outside walkways shall be kept clean of ice, snow, leaves, debris, and clutter. There shall be no uneven walkways or holes on the property.

(b) Lighting that is maintained in safe working condition shall be provided at the front and rear exits of the home.

(c) House numbers shall be visible from the street.

(d) Fencing, roofs, gutters, and downspouts shall be maintained in good condition.

(e) Swimming pools shall meet the requirements of all local ordinances.

1. Swimming pools shall be equipped with a ring buoy with a rope, extension pole, or other device to rescue a swimmer in distress.

2. Swimming pools shall be equipped with a cover, which shall be maintained in good condition when the pool is not in use.

10:44B-[6.2]6.3 Fire safety

(a) Independent battery or **hardwired** electric [powered] smoke detectors shall be securely mounted on the ceiling, at least four inches from the wall or according to manufacturers' instructions. [Detectors] **Smoke detectors** shall be installed on **the ceiling on** each floor, including the basement **ceiling**, and located in the following areas:

1. (No change.)
2. One unit in the [general] **main** living area of the residence;
3. **One unit in the basement;**
4. **One unit in attic areas that contain storage; and**

[3.] **5.** Additional units [may be required] in areas designated as high hazard or without adequate coverage.

(b) [Smoke] **All smoke** detectors shall be properly maintained and be in [good] operating condition.

(c) **For residences supplied with gas or oil heat and/or that have an attached garage, one battery operated or electric powered carbon monoxide detector shall be installed according to manufacturers' instructions in any hallway where there are sleeping areas, or where there is no hallway, next to the sleeping area.**

[(c)] **(d)** The licensee shall test all smoke detectors **and carbon monoxide detectors** monthly, **even when there are no individuals residing in the home. Documentation of these tests shall be maintained as part of the fire drill record.**

[(d)] **(e)** One 1A:10B:C rated fire extinguisher shall be maintained in the kitchen[, stored] in clear view, **fully charged as indicated by the gauge**, and readily accessible.

[(e)] **(f)** The licensee shall demonstrate [a knowledge of] **competency in** the use of the fire extinguisher.

[(f)] The licensee shall develop and have available for review a written diagram for fire evacuation that indicates exits and evacuation routes.]

(g) [Fire drills] **The licensee** shall [be] conduct[ed] **and record unannounced fire drills** once a month **when individuals are in the home.**

1. Drills shall be held at varying times of the day and night **and, at a minimum, one drill a year shall be conducted while the individuals are asleep.**

[1. Records of these drills shall be maintained and shall include the date and time of the drill, time required for evacuation, and names of persons involved.

2. Evacuation time shall be 2 1/2 minutes or less.]

2. The licensee shall vary the exit routes from the home and the location of the hypothetical fire.

(h) The evacuation time shall be three minutes or less, from the sound of the smoke detector to the last person exiting the home.

1. Fire drills shall be timed exactly utilizing a timing device that measures time to the second.

(i) Documentation of the fire drills shall be maintained on the licensing agency's form, filed in the licensee's administrative records, and shall include:

- 1. The date and time of the fire drill;**
- 2. The exact time required for evacuation;**
- 3. The location of the hypothetical fire and exit(s) used; and**
- 4. The names of persons involved.**

[3.] **(j) A fire drill shall be conducted within 24 hours of any admission to the home and within 24 hours of a fire drill exceeding three minutes.**

[4. Locations of the hypothetical fire shall vary.]

[5.] **(k) If there is any reason to believe that an evacuation problem exists, the licensee shall contact a representative of the Division of Developmental Disabilities and/or the [Department shall] development agency to observe a fire drill conducted in the residence, and follow all recommendations made by the development agency.**

[h] Combustible materials shall not be stored within three feet of the furnace or hot water heater.]

(l) An area of at least three feet surrounding the furnace, hot water heater, fireplace, or wood or pellet burning stove shall be maintained free from combustible materials/items of any kind.

[(i)] **(m) Portable area or space heaters and halogen lights shall be prohibited.**

(n) Extension cords shall be UL approved and only used with small appliances and/or indoor holiday decorations in accordance with manufacturer's instructions.

[(j)] **(o) The licensee shall [establish smoking rules on the basis of fire safety] ensure that any occupant, visitor, or individual in the home who smokes does so in a safe manner, and shall provide [ash trays] ashtrays in all areas where smoking is permitted. Smoking in bed shall be prohibited.**

[(k)] **(p) [Woodburning] Wood or pellet burning stoves shall be permitted only if proof of [inspection] its proper installation is provided by the local building official [is provided].**

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

1. An A-rated fire extinguisher shall be available in the same room as the [woodburning] **wood or pellet burning stove or fireplace.**

2. Protective screening **or covers** shall be provided **so as [necessary] 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.**

3. Fireplaces, if used, must be professionally inspected, and cleaned if necessary, **annually, and documentation of such shall be maintained.**

[(l)] **(r)** Combustive materials shall be stored in non-combustible containers. [(m)] The accumulation of combustible materials in [attics, basements or other] **any** part[s] of the residence is prohibited.

[(n)] **(s)** There shall be **at least** two [ground level doors for] **means of egress from the residence, as approved by the licensing agency.**

[(o)] The licensee's bedroom shall be located within one floor of an individual(s) bedroom.]

(t) Electric and gas clothes dryers shall be maintained and used in a safe manner.

1. Lint trap screens in clothes dryers shall be maintained in good repair and cleaned after each use.

2. Dryer vent tubes shall be maintained in good repair, remain unblocked and uncrushed, and properly connected to the dryer.

3. The area around the dryer shall be maintained free of lint, clothing, and garbage.

4. Exterior dryer vent exhausts shall be kept clean, free of lint, and provided with a commercially made protective cover that is designed to prevent pests from entering the dryer vent.

(u) Candles shall only be used with a noncombustible shield surrounding the candle and the flame, and kept at least 12 inches away from anything that can burn. The use of candles in bedrooms or sleeping areas, in utility rooms, or in rooms adjacent to utility rooms, for emergency lighting, or left unattended, is prohibited.

10:44B-[6.3]**6.4** Individual [rooms] **bedrooms**

(a) Individuals shall occupy only those bedrooms that have been inspected and approved by the licensing agency.

(b) Individuals that use wheelchairs and do not ambulate shall not have bedrooms above or below the first floor of any residence.

(c) The licensee's bedroom shall be located within one floor of an individual's bedroom.

(d) Licensed bedrooms shall be limited to floors on or above grade level, however, under certain conditions, below grade level occupancy may be permitted if more than half the height of the room is above grade level, and it is provided with two or more independent means of egress, at least one of which leads directly outside; and there are no other conditions that hinder the health, safety, or welfare of the individual.

(e) Third floor bedroom occupancy by individuals shall be prohibited.

[(a)] (f) Every [individual] licensed bedroom shall be provided with at least one fully accessible, unblocked, and operable window opening directly outdoors.

1. First floor windows shall have an operable window space of five square feet.

2. Second floor windows shall have an operable window space of 5.7 square feet.

[2.] 3. Plastic or any other form of covering on [an individual's] a licensed bedroom window shall be prohibited.

4. Window treatments, such as curtains, blinds, window shades, etc., shall be installed on the windows to afford privacy and maintained in good condition.

[(b) Individuals' bedrooms shall not be a means of access to any other room. The primary access to an individual's bedroom shall not be accessible through a bathroom or other bedroom.

(c) Individual occupancy shall be limited to floors on or above grade level. However, under certain conditions, basement occupancy may be permitted.

1. Such occupancy shall be allowed if:

i. More than half the height of the room is above grade level;

ii. The basement is provided with two or more independent means of egress, at least one of which leads directly outside; and

iii. There are not other conditions which hinder the health, safety, or welfare of the individual.]

(g) Licensed bedrooms shall be provided with a solid surface entry door in good condition that opens easily, latches securely, and that has a doorknob. These doors shall not be prevented from opening completely or be blocked in any way.

1. The doorknob must be one that can be unlocked readily from the inside. Where doorknob locks require a key or other device to open from the outside, such key or device shall be placed in close proximity to the door for emergency entry into the room.

2. Licensed bedrooms shall not be a means of access to any other room, except a bathroom that is for sole use of the bedroom's occupants. The primary access to an individual's bedroom shall not be through a bathroom or other bedroom.

[(d)] **(h)** There shall be a limit of [three] **two** individuals to a bedroom[.

(e) Bedrooms used by individuals], **which** shall contain the following minimum areas [per person]:

1. 70 square feet for occupancy by one person; **and**

2. 130 square feet for occupancy by two people[;].

[3. 190 square feet for occupancy by three people.]

(i) Male and female individuals shall not share the same licensed bedroom unless there is documentation in each of the individuals' service plans that this arrangement has been requested by both individuals and approved by their IDTs.

[(f)] **(j)** At least one half of the floor area of [every individual's] **the licensed** room shall have a ceiling height of **at least 7 ½ feet but shall be no less than five feet**. The floor area of that part of any room where the ceiling is less than five feet shall not be considered in determining allowable floor space.

[(g)] **(k)** Every [individual room] **licensed bedroom** shall be provided with sufficient electrical outlets and lamps or light fixtures **for the individual(s) to read, dress, or engage in hobbies or desired activities**.

[1. No temporary wiring shall be used except U.L.-listed extension cords, which do not run under rugs, through walls, or through doorways.]

(l) **The licensee shall not store personal belongings of any other persons, in a licensed bedroom, besides the individuals occupying the licensed room. Licensees may temporarily use an unoccupied licensed bedroom for their own minimal storage while the room is vacant, but shall remove all belongings prior to placement of an individual into the bedroom.**

(m) **At no time shall an occupant of the home, family member, or visitor occupy a licensed room while it is being occupied by individuals. A vacant licensed room may be temporarily occupied by someone other than individuals, only upon written request by the licensee and approval by the placing and licensing agency.**

[(h)] **(n)** [Each individual] **The licensee shall [be] provide[d] each individual with the following:**

1. A separate bed, **maintained in good, firm, sanitary condition and which consists of a clean, fire-resistant mattress no less than four-inches thick, which is of proper size and height for [his or her convenience] the individual's comfort.**

i. [High hospital] **Hospital** beds shall [not] be [used except for physically handicapped persons requiring them] **utilized only for individuals requiring them and upon documentation from the physician.**

[i.] ii. [The bed may not be of the fold-up] **Fold-up** or convertible type[. Roll-aways] **beds, roll away beds, cots, futons, hide-a-beds, trundle beds, [double deck beds, and day beds] bunk beds, Vail beds, air beds, and mattresses on the floor** shall be prohibited[;].

[2. A clean, comfortable mattress of fire resistant material not less than four inches thick;]

[3.] iii. A [bed] **clean and well maintained box** spring [in good repair, unless] **shall be in use on all beds, except when the bed has a bed spring or is a platform bed** [is being utilized;].

iv. **The use of vinyl or fabric mattress and/or box spring protectors is permitted provided they are designed for that purpose and are of fire-resistant material. Shipping plastic or any other form of covering is prohibited.**

v. **Protective railings around the bed may not be utilized unless the individual has a medical condition that warrants their use and there is written authorization by the physician and documentation in the service plan;**

2. **At least two sets of sheets, pillowcases, and blankets per individual in good, clean condition, which shall be changed and washed a minimum of once a week. Bed linens shall be changed before each new admission;**

[4.] 3. **A standard size or larger pillow made of fire resistant material, [of] and non-allergenic material if necessary;**

[5.] 4. [Drawers and an enclosed closet for the storage of] **A dresser or sufficient drawer space for each individual to neatly store personal [possessions, and in-season] items**

or clothing and which is maintained in good condition. Out-of-season clothing may be stored in a place other than the individual's bedroom;

[6. Sufficient light for reading or hobbies;

7. Adequate sheets and blankets;

i. Bed linen shall be changed a minimum of once a week; and]

5. An enclosed closet or free standing sturdy wardrobe large enough to accommodate the individual's clothing and that has doors or enclosures that are operable and maintained in good condition;

[8.] **6. [One] A mirror that is of sufficient size for the individual to dress and view him- or herself and which is secured so that it cannot be knocked over or broken[.]; and**

7. A nightstand or side bed stand.

(o) The licensee shall assist an individual in maintaining or decorating his or her room according to the individual's personal taste and preference.

(p) The licensee shall assist an individual in maintaining his or her bedroom in a safe and clean manner.

1. If the individual refuses or does not have the ability to learn to maintain his or her bedroom in a safe and clean manner, it shall be the licensee's responsibility to ensure that the room is maintained in a safe and clean manner.

2. The licensee shall assure that the individual has sufficient space to move about the room safely and that garbage or waste is disposed of on a regular basis.

10:44B-6.5 Transportation and vehicle safety

(a) The vehicles that the licensee uses to transport individuals shall comply with all applicable safety and licensing rules established by the New Jersey Motor Vehicle Commission, including, but not limited to, the following:

- 1. Valid vehicle liability insurance;**
- 2. Current inspection sticker; and**
- 3. Current registration.**

(b) The licensees who drive shall have a driver's license valid in the State of New Jersey.

1. Licensees who do not possess a driver's license shall identify to the placing, development, and licensing agencies, a designated driver, with a valid driver's license, to transport individuals.

(c) The interior of vehicles shall be free of obstacles preventing clear passage to operable doors.

(d) The vehicle shall be equipped with working seatbelts for all passengers.

(e) Individuals shall be supervised while in vehicles in accordance with the determination of the IDT and as stated in the service plan.